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2011

THE COMPANIES ACT 2006

A COMPANY LIMITED BY GUARANTEE

ARTICLES OF ASSOCIATION

OF

LISLE MARSDEN CHURCH OF ENGLAND PRIMARY ACADEMY

COMPANY NUMBER: 07808707

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INTERPRETATION

1. In these Articles:-

- a. "Academy" means the school referred to in Article 4 and established by the Academy Trust;
- b. "Academy Financial Year" means the academic year from 1st of September to 31st of August in any year;
- c. "Academy Trust" means the company intended to be regulated by these Articles and referred to in Article 2;
- d. "Additional Governors" means the Governors appointed pursuant to Article 62 and 62A;
- e. "the Articles" means these Articles of Association of the Academy Trust;
- f. "Chief Inspector" means Her Majesty's Chief Inspector of Education, Children's Services and Skills or his successor;
- g. "Clear Days" in relation to the period of a notice means the period excluding the day when the notice is given or deemed to be given and the day on which it is given or on which it is to take effect;
- h. "Diocese" means the Church of England diocese in which the Academy is situated;
- i. "Diocesan Board of Education" means that body constituted under the Diocesan Boards of Education Measure 1991 for the relevant diocese and any successor body;

- j. "Diocesan Board of Finance" means the Diocesan Board of Finance for the Diocese;
- k. "Financial Expert" means an individual, company or firm who is authorised to give investment advice under the Financial Services and Markets Act 2000;
- l. "Funding Agreement" means the agreement made under section 1 of the Academies Act 2010 between the Academy Trust and the Secretary of State to establish the Academy;
- m. "Further Governors" means the Governors appointed pursuant to Article 63 ;
- n. "Governors" means the directors of the Academy Trust (and "Governor" means any one of those directors), subject to the definition of this term at Article 6.9(b) in relation to Articles 6.2-6.9;
- o. "the Incumbent(s)" means:
 - a) The incumbent or the licensed priest in charge for the time being of the Benefice of Grimsby St Augustine; and
 - b) The incumbent or licensed priest in charge for the time being of Great Grimsby (St Mary & St James) Team Ministry or in the case of a vacancy or unwillingness of either of these incumbents to act such person as may be appointed to act in that incumbent's stead by the Archdeacon of Lincoln after consultation with the Rural Dean of Grimsby and Cleethorpes.
- p. "LA" means the local authority covering the area in which the Academy is situated;
- q. "LA Governor" means the Governor who may be appointed pursuant to Article 51;
- r. "Local Authority Associated Persons" means any person associated with any local authority within the meaning given in section 69 of the Local Government and Housing Act 1989;
- s. "Member" means a member of the Academy Trust and someone who as such is bound by the undertaking contained in Article 8 ;
- t. "Memorandum" means the Memorandum of Association of the Academy Trust;
- u. "Office" means the registered office of the Academy Trust;

- v. "Parent Governors" means the Governors appointed pursuant to Articles 53 to 58 inclusive;
- w. "Parish" means the Church of England parish in which the Academy is situated or one which it serves;
- x. "Principal" means the head teacher of the Academy;
- y. "Principal Regulator" means the body or person appointed as the Principal Regulator under the Charities Act 2006;
- z. "seal" means the common seal of the Academy Trust if it has one;
- aa. "Secretary" means the secretary of the Academy Trust or any other person appointed to perform the duties of the secretary of the Academy Trust, including a joint, assistant or deputy secretary;
- bb. "Secretary of State" means the Secretary of State for Education or successor;
- cc. "Staff Governor" means an employee of the Academy Trust who may be appointed as a Governor pursuant to Article 50A;
- dd. "Teacher" means a person employed under a contract of employment or a contract for services or otherwise engaged to provide his services as a teacher at the Academy;
- ee. "Trustees" means those trustees holding the school site and providing it to the Academy Trust for use and occupation by the Academy¹;
- ff. "United Kingdom" means Great Britain and Northern Ireland;
- gg. words importing the masculine gender only shall include the feminine gender. Words importing the singular number shall include the plural number, and vice versa;
- hh. subject as aforesaid, words or expressions contained in these Articles shall, unless the context requires otherwise, bear the same meaning as in the Companies Act 2006, as appropriate;
- ii. any reference to a statute or statutory provision or measure shall include any statute

¹ There are various references in this Memorandum and Articles of Association to the involvement we consider the Trustees should have in relation to the running of the Academy whether or not the Trustees (as defined) are also members of the Academy Trust.

or statutory provision or measure which replaces or supersedes such statute or statutory provision or measure including any modification or amendment thereto.

2. The company's name is Lisle Marsden Church Of England Primary Academy (and in this document it is called "**the Academy Trust**").
3. The Academy Trust's registered office is to be situated in England and Wales.

OBJECTS

4. The Academy Trust's object ("**the Object**") is specifically restricted to the following: to advance for the public benefit education in the United Kingdom, in particular but without prejudice to the generality of the foregoing by establishing, maintaining, carrying on, managing and developing a school with a designated Church of England religious character offering a broad and balanced curriculum conducted in accordance with the principles, practices and tenets of the Church of England both generally and in particular in relation to arranging for religious education and daily acts of worship (as required by the Funding Agreement), and in having regard to the advice of the Diocesan Board of Education("the Academy").
5. In furtherance of the Object but not further or otherwise the Academy Trust may exercise the following powers:-
 - (a) to draw, make, accept, endorse, discount, execute and issue promissory notes, bills, cheques and other instruments, and to operate bank accounts in the name of the Academy Trust;
 - (b) to raise funds and to invite and receive contributions provided that in raising funds the Academy Trust shall not undertake any substantial permanent trading activities and shall conform to any relevant statutory regulations;
 - (c) (subject to such further consents as may be required by law or as may be required from the Trustees as landlord/licensor where this is the case) to acquire, alter, improve and charge or otherwise dispose of property;
 - (d) subject to Article 6 below to employ such staff, as are necessary for the proper pursuit of the Object (including the maintenance of an effective Church of England ethos) and to make all reasonable and necessary provision for the payments of pensions and superannuation to staff and their dependants;

- (e) to establish or support, whether financially or otherwise, any charitable trusts, associations or institutions formed for all or any of the Object;
- (f) to co-operate with other charities, other independent and maintained schools, voluntary bodies and statutory authorities operating in furtherance of the Object and to exchange information and advice with them;
- (g) to pay out of funds of the Academy Trust the costs, charges and expenses of and incidental to the formation and registration of the Academy Trust;
- (h) to establish, maintain, carry on, manage and develop the Academy at Lansdowne Avenue, Grimsby, North East Lincolnshire, DN32 0DF.
- (i) to offer scholarships, exhibitions, prizes and awards to pupils and former pupils, and otherwise to encourage and assist pupils and former pupils;
- (j) to provide educational facilities and services to students of all ages and the wider community for the public benefit;
- (k) to carry out research into the development and application of new techniques in education in particular in relation to the areas of curricular specialisation of the Academy and to its approach to curriculum development and delivery and to publish the results of such research, and to develop means of benefiting from application of the experience of industry, commerce, other schools and the voluntary sector to the education of pupils in academies;
- (l) subject to such consents as may be required from the Trustees or otherwise required by law and/or by any contract entered into by or on behalf of the Academy Trust to borrow and raise money for the furtherance of the Object in such manner and on such security as the Academy Trust may think fit;
- (m) to deposit or invest any funds of the Academy Trust not immediately required for the furtherance of its Object (but to invest only after obtaining such advice from a financial expert as the Governors consider necessary and having regard to the suitability of investments and the need for diversification);
- (n) to delegate the management of investments to a financial expert, but only on terms that:

- (i) the investment policy is set down in writing for the financial

- expert by the Governors;
 - (ii) every transaction is reported promptly to the Governors;
the performance of the investments is reviewed regularly with the Governors;
 - (iii) the Governors are entitled to cancel the delegation arrangement at any time;
 - (iv) the investment policy and the delegation arrangement are reviewed at least once a year;
 - (v) all payments due to the financial expert are on a scale or at a level which is agreed in advance and are notified promptly to the Governors on receipt; and
 - (vi) the financial expert must not do anything outside the powers of the Governors.
- (o) to arrange for investments or other property of the Academy Trust to be held in the name of a nominee company acting under the control of the Governors or of a financial expert acting under their instructions, and to pay any reasonable fee required;
- (p) to provide indemnity insurance to cover the liability of Governors which by virtue of any rule of law would otherwise attach to them in respect of any negligence, default, breach of trust or breach of duty of which they may be guilty in relation to the Academy Trust: Provided that any such insurance shall not extend to any claim arising from any act or omission which the Governors knew to be a breach of trust or breach of duty or which was committed by the Governors in reckless disregard of whether it was a breach of trust or breach of duty or not and provided also that any such insurance shall not extend to the costs of any unsuccessful defence to a criminal prosecution brought against the Governors in their capacity as Governors;
- (q) to establish subsidiary companies to carry on any trade or business for the purpose of raising funds for the Academy Trust;
- (r) to do all such other lawful things as are necessary for or are incidental to or conducive to the achievement of the Object and appropriate to the religious character of the Academy.

6.1 The income and property of the Academy Trust shall be applied solely towards the

promotion of the Object.

6.2 None of the income or property of the Academy Trust may be paid or transferred directly or indirectly by way of dividend bonus or otherwise by way of profit to any member of the Academy Trust. Nonetheless a Member of the Academy Trust who is not also a Governor may:

- a) benefit as a beneficiary of the Academy Trust;
- b) be paid reasonable and proper remuneration for any goods or services supplied to the Academy Trust;
- c) be paid rent for premises let by the Member of the Academy Trust if the amount of the rent and other terms of the letting are reasonable and proper; and
- d) be paid interest on money lent to the Academy Trust at a reasonable and proper rate, such rate not to exceed 2 per cent per annum below the base lending rate of a UK clearing bank selected by the Governors, or 0.5%, whichever is the higher.

6.3 A Governor may benefit from any indemnity insurance purchased at the Academy Trust's expense to cover the liability of the Governors which by virtue of any rule of law would otherwise attach to them in respect of any negligence, default or breach of trust or breach of duty of which they may be guilty in relation to the Academy Trust: Provided that any such insurance shall not extend to any claim arising from any act or omission which the Governors knew to be a breach of trust or breach of duty or which was committed by the Governors in reckless disregard to whether it was a breach of trust or breach of duty or not and provided also that any such insurance shall not extend to the costs of any unsuccessful defence to a criminal prosecution brought against the Governors in their capacity as directors of the Academy Trust.

6.4 A company, which has shares listed on a recognised stock exchange and of which any one Governor holds no more than 1% of the issued capital of that company, may receive fees, remuneration or other benefit in money or money's worth from the Academy Trust.

6.5 A Governor may at the discretion of the Governors be reimbursed from the property

of the Academy Trust for reasonable expenses properly incurred by him or her when acting on behalf of the Academy Trust, but excluding expenses in connection with foreign travel.

6.6 No Governor may:

- (a) buy any goods or services from the Academy Trust;
- (b) sell goods, services, or any interest in land to the Academy Trust;
- (c) be employed by or receive any remuneration from the Academy Trust (other than the Principal and any Staff Governor whose employment and/or remuneration is subject to the procedure and conditions in Article 6.8)
- (d) receive any other financial benefit from the Academy Trust;

unless:

- (i) the payment is permitted by Article 6.7 and the Governors follow the procedure and observe the conditions set out in Article 6.8; or
- (ii) the Governors obtain the prior written approval of the Charity Commission and fully comply with any procedures it prescribes.

6.7 Subject to Article 6.8, a Governor may:

- a) receive a benefit from the Academy Trust in the capacity of a beneficiary of the Academy Trust.
- b) be employed by the Academy Trust or enter into a contract for the supply of goods or services to the Academy Trust, other than for acting as a Governor.
- c) receive interest on money lent to the Academy Trust at a reasonable and proper rate not exceeding 2% per annum below the base rate of a clearing bank to be selected by the Governors, or 0.5%, whichever is the higher.
- (d) receive rent for premises let by the Governor to the Academy Trust if the amount of the rent and the other terms of the lease are reasonable and proper.

6.8 The Academy Trust and its Governors may only rely upon the authority provided by Article 6.7 if each of the following conditions is satisfied:

- (a) the remuneration or other sums paid to the Governor do not exceed an amount that is reasonable in all the circumstances.
- (b) the Governor is absent from the part of any meeting at which there is discussion of:
 - i) his or her employment, remuneration, or any matter concerning the contract, payment or benefit; or
 - ii) his or her performance in the employment, or his or her performance of the contract; or
 - iii) any proposal to enter into any other contract or arrangement with him or her or to confer any benefit upon him or her that would be permitted under Article 6.7; or
 - (iv) any other matter relating to a payment or the conferring of any benefit permitted by Article 6.7.
- (c) the Governor does not vote on any such matter and is not to be counted when calculating whether a quorum of Governors is present at the meeting.
- (d) save in relation to employing or contracting with the Principal (a Governor pursuant to Articles 46 and 52) the other Governors are satisfied that it is in the interests of the Academy Trust to employ or to contract with that Governor rather than with someone who is not a Governor. In reaching that decision the Governors must balance the advantage of employing a Governor against the disadvantages of doing so (especially the loss of the Governor's services as a result of dealing with the Governor's conflict of interest).
- (e) the reason for their decision is recorded by the Governors in the minute book.
- (f) a majority of the Governors then in office have received no such payments or benefit.

6.8A The provision in clause 6.6 (c) that no Governor may be employed by or receive any remuneration from the Academy Trust (other than the Principal or a Staff Governor) does not apply to an existing employee of the Academy Trust who is subsequently elected or appointed as a Governor save that this clause shall only allow such a Governor to receive remuneration or benefit from the Academy Trust in his capacity as an employee of the Academy Trust and provided that the procedure as set out in Articles 6.8(b)(i), (ii) and 6.8 (c) is followed.

6.9 In Articles 6.2-6.9:

- (a) "Academy Trust" shall include any company in which the Academy

Trust:

- holds more than 50% of the shares; or
- controls more than 50% of the voting rights attached to the shares; or
- has the right to appoint one or more directors to the board of the company.

(b) “Governor” shall include any child, stepchild, parent, grandchild, grandparent, brother, sister or spouse of the governor or any person living with the governor as his or her partner

(c) the employment or remuneration of a Governor includes the engagement or remuneration of any firm or company in which the Governor is:

- (i) a partner;
- (ii) an employee;
- (iii) a consultant;
- (iv) a director;
- (v) a member; or
- (v) a shareholder, unless the shares of the company are listed on a recognised stock exchange and the Governor holds less than 1% of the issued capital.

7. The liability of the members of the Academy Trust is limited.

8. Every Member of the Academy Trust undertakes to contribute such amount as may be required (not exceeding £10) to the Academy Trust’s assets if it should be wound up while he or she is a Member or within one year after he or she ceases to be a Member, for payment of the Academy Trust’s debts and liabilities before he or she ceases to be a Member, and of the costs, charges and expenses of winding up, and for the adjustment of the rights of the contributories among themselves.

9. If the Academy Trust is wound up or dissolved and after all its debts and liabilities (including any under section 483 of the Education Act 1996) have been satisfied there remains any property it shall not be paid to or distributed among the Members of the Academy Trust, but shall be given or transferred to some other charity or charities having objects similar to the Object which prohibits the distribution of its or their income and property to an extent at least as great as is imposed on the

Academy Trust by Article 6 above, chosen by the Members of the Academy Trust at or before the time of dissolution and if that cannot be done then to some other charitable object.

10. No alteration or addition shall be made to or in the provisions of the Articles without the written consent of the Secretary of State, the Trustees and the Diocesan Board of Education²
11. No alteration or addition shall be made to or in the provisions of the Articles which would have the effect (a) that the Academy Trust would cease to be a company to which section 60 of the Companies Act 2006 applies; or (b) that the Academy Trust would cease to be a charity or (c) that it might weaken the maintenance of an effective Church of England ethos at the Academy.

MEMBERS

12. The Members of the Academy Trust shall comprise

(a) the signatories to the Memorandum³ who are:

- (i) the Lincoln Diocesan Trust and Board of Finance Limited (company number 97256) acting on behalf of the Lincoln Diocesan Board of Education;

²The reference to the requirement that the consent of the Trustees and the Diocesan Board of Education be obtained (whether they are members or otherwise) corresponds to the requirement for maintained schools that the consent of these bodies be obtained prior to a change to the Instrument of Government under the Schools Governance (Constitution) (England) Regulations 2007

³ There must be no less than 3 signatories to the Memorandum of Association and in the case of a Church of England academy we consider only Church of England members should be the initial signatories and should ensure that they will together constitute the majority of the Members at all times. **THIS IS FUNDAMENTAL.** For a Church of England school converting to an academy we recommend the starting point for choosing who the Church of England members should be would be those Church of England corporate bodies, or corporate persons who are responsible for the appointment of foundation governors to the predecessor school. The following are potential corporate members: (a) The Diocesan Board of Education (if it is an incorporated body) or any other corporate body established in association with it, or otherwise the Diocesan Board of Finance (with the DBE acting on its behalf if the DBE is not a corporate body) **[in fact we recommend that the DBE, or a corporate body established in association with it or the DBF be a member whether or not they had a role as appointing foundation governors in the predecessor school]** (b) any relevant PCC (c) any relevant Incumbent (d) any relevant Area Dean (e) the Trustees (f) the Diocesan Bishop. Advice should be taken as to appropriate members in each situation. It is important that corporate bodies or persons demonstrably acting in their corporate capacity are chosen as members. There are two points to make here: (1) New members can only be appointed by unanimous agreement of the other members so having corporate persons avoids problems of death and ensures automatic succession (2) The Memorandum and Articles of Association constitutes a contract between the members and the academy trust so it is important that those who previously had powers of appointment of foundation governors in the predecessor school now actually are the members themselves. They can appoint an individual as a representative to represent them at meetings.

- (ii) the incumbent or the licensed priest in charge for the time being of the Benefice of Grimsby St Augustine; and
- (iii) the incumbent or licensed priest in charge for the time being of Great Grimsby (St Mary & St James) Team Ministry.

(b)1 person appointed by the Secretary of State, in the event that the Secretary of State appoints a person for this purpose;

(c) the chairman of the Governors; and

(d) any person appointed under Article 16;

12A. The Secretary of State's appointed Member (further to Article 12 c) shall become a Member upon the Secretary of State delivering, or posting (by registered post), to the Office of the Academy Trust a notice appointing a person as his Member.

13. Each of the persons entitled to appoint Members in Article 12 shall have the right from time to time by written notice delivered to the Office to remove any Member appointed by them and to appoint a replacement Member to fill a vacancy whether resulting from such removal or otherwise.

14. If any of the persons entitled to appoint Members in Article 12:

- a) in the case of an individual, die or become legally incapacitated;
- a) in the case of a corporate entity, cease to exist and are not replaced by a successor institution; or
- b) becomes insolvent or makes any arrangement or composition with their creditors generally

their right to appoint Members under these Articles shall vest in the remaining Members.

15. Membership will terminate automatically if:

- a) a Member (which is a corporate entity) ceases to exist and is not replaced by a successor institution;
- b) a Member (which is an individual) dies or becomes incapable by reason of mental disorder, illness or injury of managing and administering his own affairs;

or

c) a Member becomes insolvent or makes any arrangement or composition with that Member's creditors generally.

16. The Members with the written consent of the Diocesan Board of Education may agree unanimously in writing to appoint such additional Members as they think fit and may unanimously (save that the agreement of the Member(s) to be removed shall not be required) in writing agree to remove any such additional Members.
17. Every person nominated to be a Member of the Academy Trust shall either sign a written consent to become a Member or sign the register of Members on becoming a Member.
18. Any individual (but not corporate) Member may resign provided that after such resignation the number of Members is not less than three. A Member shall cease to be one immediately on the receipt by the Academy Trust of a notice in writing signed by the person or persons entitled to remove him under Articles 13 or 16 provided that no such notice shall take effect when the number of Members is less than three unless it contains or is accompanied by the appointment of a replacement Member.⁴

GENERAL MEETINGS

19. The Academy Trust shall hold an Annual General Meeting each year in addition to any other meetings in that year, and shall specify the meeting as such in the notices calling it; and not more than fifteen months shall elapse between the date of one Annual General Meeting of the Academy Trust and that of the next. Provided that so long as the Academy Trust holds its first Annual General Meeting within eighteen months of its incorporation, it need not hold it in the year of its incorporation or in the following year. The Annual General Meeting shall be held at such time and place as the Governors shall appoint. All meetings other than Annual General Meetings shall be called General Meetings.
20. The Governors may call general meetings and, on the requisition of Members pursuant to the provisions of the Companies Act 2006, shall forthwith proceed to convene a general meeting in accordance with that Act. If there are not within the United Kingdom sufficient Governors to call a general meeting, any Governor or any Member of the Academy Trust may call a general meeting.

⁴ Resignations which threaten Church of England members losing their majority should be avoided.
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NOTICE OF GENERAL MEETINGS

21. General meetings shall be called by at least fourteen clear days' notice but a general meeting may be called by shorter notice if it is so agreed by a majority in number of Members having a right to attend and vote and together representing not less than 90% of the total voting rights at that meeting.

The notice shall specify the time and place of the meeting and the general nature of the business to be transacted and, in the case of an Annual General Meeting, shall specify the meeting as such. The notice shall also state that the Member is entitled to appoint a proxy.

The notice shall be given to all the Members, to the Governors and auditors.

22. The accidental omission to give notice of a meeting to, or the non-receipt of notice of a meeting by, any person entitled to receive notice shall not invalidate the proceedings at that meeting.

PROCEEDINGS AT GENERAL MEETINGS.

23. No business shall be transacted at any meeting unless a quorum is present. A Member counts towards the quorum by being present either in person or by proxy. Two persons entitled to vote upon the business to be transacted, each being a Member or a proxy of a Member or a duly authorised representative of a Member organisation shall constitute a quorum.
24. If a quorum is not present within half an hour from the time appointed for the meeting, or if during a meeting a quorum ceases to be present, the meeting shall stand adjourned to the same day in the next week at the same time and place or to such time and place as the Governors may determine.
25. The chairman, if any, of the Governors or in his absence some other Governor nominated by the Governors shall preside as chairman of the meeting, but if neither the chairman nor such other Governor (if any) be present within fifteen minutes after the time appointed for holding the meeting and willing to act, the Governors present shall elect one of their number to be chairman and, if there is only one Governor present and willing to act, he shall be the chairman.
26. If no Governor is willing to act as chairman, or if no Governor is present within fifteen minutes after the time appointed for holding the meeting, the Members present and

entitled to vote shall choose one of their number to be chairman.

27. A Governor shall, notwithstanding that he is not a Member, be entitled to attend and speak at any general meeting.
28. The chairman may, with the consent of a majority of the Members at a meeting at which a quorum is present (and shall if so directed by the meeting), adjourn the meeting from time to time and from place to place, but no business shall be transacted at any adjourned meeting other than the business which might properly have been transacted at the meeting had the adjournment not taken place. When a meeting is adjourned for fourteen days or more, at least seven clear days' notice shall be given specifying the time, date and place of the adjourned meeting and the general nature of the business to be transacted. Otherwise it shall not be necessary to give any such notice.
29. A resolution put to the vote of the meeting shall be decided on a show of hands unless before, or on the declaration of the result of the show of hands a poll is duly demanded. Subject to the provisions of the Companies Act 2006, a poll may be demanded:-
 - i. by the chairman; or
 - ii. by at least two Members having the right to vote at the meeting; or
 - iii. by a Member or Members representing not less than one-tenth of the total voting rights of all the Members having the right to vote at the meeting.
30. Unless a poll is duly demanded a declaration by the chairman that a resolution has been carried or carried unanimously, or by a particular majority, or lost, or not carried by a particular majority and an entry to that effect in the minutes of the meeting shall be conclusive evidence of the fact without proof of the number or proportion of the votes recorded in favour of or against such resolution.
31. The demand for a poll may be withdrawn, before the poll is taken, but only with the consent of the chairman. The withdrawal of a demand for a poll shall not invalidate the result of a show of hands declared before the demand for the poll was made.
32. A poll shall be taken as the chairman directs and he may appoint scrutineers (who need not be Members) and fix a time, date and place for declaring the results. The result of the poll shall be deemed to be the resolution of the meeting at which the poll

was demanded.

33. A poll demanded on the election of the chairman or on a question of adjournment shall be taken immediately. A poll demanded on any other question shall be taken either immediately or at such time, date and place as the chairman directs not being more than thirty days after the poll is demanded. The demand for a poll shall not prevent continuance of a meeting for the transaction of any business other than the question on which the poll is demanded. If a poll is demanded before the declaration of the result of a show of hands and the demand is duly withdrawn, the meeting shall continue as if the demand had not been made.
34. No notice need be given of a poll not taken immediately if the time, date and place at which it is to be taken are announced at the meeting at which it is demanded. In other cases at least seven clear days' notice shall be given specifying the time, date and place at which the poll is to be taken.
35. A resolution in writing agreed by such number of Members as required if it had been proposed at a general meeting shall be as effectual as if it had been passed at a general meeting duly convened and held provided that a copy of the proposed resolution has been sent to every Member. The resolution may consist of several instruments in the like form each agreed by one or more Members.

VOTES OF MEMBERS

36. On the show of hands every Member present in person shall have one vote. On a poll every Member present in person or by proxy shall have one vote.
37. Not used.
38. No Member shall be entitled to vote at any general meeting unless all moneys then payable by him to the Academy Trust have been paid.
39. No objections shall be raised to the qualification of any person to vote at any general meeting except at the meeting or adjourned meeting at which the vote objected to is tendered, and every vote not disallowed at the meeting shall be valid. Any objection made in due time shall be referred to the chairman whose decision shall be final and conclusive.
40. An instrument appointing a proxy shall be in writing, signed by or on behalf of the appointer and shall be in the following form (or in a form as near thereto as

circumstances allow or in any other form which is usual or which the Governors may approve) -.

"I/We,, of, being a Member/Members of the above named Academy Trust, hereby appoint of, or in his absence, of as my/our proxy to vote in my/our name[s] and on my/our behalf at the annual general meeting/ general meeting of the Academy Trust to be held on20[], and at any adjournment thereof.

Signed on 20[]"

41. Where it is desired to afford Members an opportunity of instructing the proxy how he shall act the instrument appointing a proxy shall be in the following form (or in a form as near thereto as circumstances allow or in any other form which is usual or which the Governors may approve)-

"I/We,, of, being a Member/Members of the above-named Academy Trust, hereby appoint of, or in his absence, of, as my/our proxy to vote in my/our name[s] and on my/our behalf at the annual general meeting/ general meeting of the Academy Trust, to be held on 20[], and at any adjournment thereof.

This form is to be used in respect of the resolutions mentioned below as follows:

Resolution No. 1 *for * against

Resolution No. 2 *for * against.

- Strike out whichever is not desired.

Unless otherwise instructed, the proxy may vote as he thinks fit or abstain from voting.

Signed on 20[]"

42. The instrument appointing a proxy and any authority under which it is signed or a copy of such authority certified by a notary or in some other way approved by the Members may -

(a) be deposited at the office or at such other place within the United Kingdom as is specified in the notice convening the meeting or in any instrument of proxy sent

out by the Academy Trust in relation to the meeting not less than 48 hours before the time for holding the meeting or adjourned meeting at which the person named in the instrument proposes to vote, or

(b) in the case of a poll taken more than 48 hours after it is demanded, be deposited as aforesaid after the poll has been demanded and not less than 24 hours before the time appointed for the taking of the poll;

(c) where the poll is not taken forthwith but is taken not more than 48 hours after it was demanded, be delivered at the meeting at which the poll was demanded to the chairman or to the Secretary or to any Governor;

and an instrument of proxy which is not deposited or delivered in a manner so permitted shall be invalid.

43. A vote given or poll demanded by proxy or by the duly authorised representative of a corporation shall be valid notwithstanding the previous determination of the authority of the person voting or demanding a poll unless notice of the determination was received by the Academy Trust at the office or at such other place at which the instrument of proxy was duly deposited before the commencement of the meeting or adjourned meeting at which the vote given or the poll demanded or (or in the case of a poll taken otherwise than on the same day as the meeting or adjourned meeting) the time appointed for taking the poll.
44. Any organisation which is a Member of the Academy Trust may by resolution of its board of directors or other governing body authorise such person as it thinks fit to act as its representative at any meeting of the Academy Trust, and the person so authorised shall be entitled to exercise the same powers on behalf of the organisation which he represents as that organisation could exercise if it were an individual Member of the Academy Trust.⁵

GOVERNORS

45. The number of Governors shall be not less than three but (unless otherwise

⁵ Church of England bodies that become corporate members of academy companies will need to use this power to appoint individuals to attend meetings and act on their behalf.

determined by ordinary resolution) shall not be subject to any maximum.

46. Subject to Articles 48-49 and 64, the Academy Trust shall have the following Governors:¹

- a. Not less than 9 Governors, appointed under Article 50
- b. Up to 3 Staff Governors, if appointed under Article 50A²
- c. 2 Parent Governors appointed under Articles 53-58 ;
- d. the Principal;
- e. any Additional Governors, if appointed under Article 62, 62A or 68A; and
- f. any Further Governors, if appointed under Article 63 or Article 68A;

47. The Academy Trust may also have any Co-opted Governor appointed under Article 59.

48. The first Governors shall be those persons named in the statement delivered pursuant to sections 9 and 12 of the Companies Act 2006.

49. Future Governors shall be appointed or elected, as the case may be, under these Articles. Where it is not possible for such a Governor to be appointed or elected due to the fact that an Academy has not yet been established or the Principal has not been appointed, then the relevant Article or part thereof shall not apply.

APPOINTMENT OF GOVERNORS

50. The Members shall appoint a minimum of 9 Governors to comprise the following:

- (i) the Incumbents;
- (ii) 6 Governors who are members of the Church of England (or members in good standing of another Christian denomination) appointed after consultation

¹ Care needs to be taken here to ensure that at all times including if Co-Opted Governors are appointed pursuant to Article 59 Governors appointed by Church bodies are in the majority. Since Staff Governors and the LA Governor are optional a decision on their numbers needs to be taken into account.

² It is a requirement of the DfE that the model Memorandum and Articles of Association permit up to one-third of the total number of Governors (disregarding appointments by the Secretary of State) to be Staff Governors so staff numbers may amount to no more than one-third of the total number of Governors. Note however that the DfE do not require any Staff Governors to be appointed. They are optional.

with Grimsby St Augustine and Grimsby St Mary & St James Parochial Church Councils. Four of the Governors appointed under this Articles 50(ii) should be parents of registered pupils at the Academy but where there is unwillingness on the part of such parents to act then the Governors should be parents of former registered pupils at the Academy or, where there is unwillingness on the part of these parents to act then the Governors should be appointed from the parents of children of or under compulsory school age;

- (iii) 1 Governor appointed after consultation with the Churches Together in North East Lincolnshire.

50A. The Members may appoint 3 Staff Governors through such process as they may determine⁸,

51. 52. The Principal shall be treated for all purposes as being an ex officio Governor.

53. Subject to Article 57, the Parent Governors shall be elected by parents of registered pupils at the Academy. A Parent Governor must be a parent of a pupil at the Academy at the time when he is elected.

54. The Governing Body shall make all necessary arrangements for, and determine all other matters relating to, an election of Parent Governors, including any question of whether a person is a parent of a registered pupil at the Academy. Any election of Parent Governors which is contested shall be held by secret ballot.

55. The arrangements made for the election of a Parent Governor shall provide for every person who is entitled to vote in the election to have an opportunity to do so by post or, if he prefers, by having his ballot paper returned to the Academy Trust by a registered pupil at the Academy.

56. Where a vacancy for a Parent Governor is required to be filled by election, the Governing Body shall take such steps as are reasonably practical to secure that every person who is known to them to be a parent of a registered pupil at the Academy is informed of the vacancy and that it is required to be filled by election, informed that he is entitled to stand as a candidate, and vote at the election, and given an opportunity to do so.

57. The number of Parent Governors required shall be made up by Parent Governors

appointed by the Governing Body if the number of parents standing for election is less than the number of vacancies.

58. In appointing a Parent Governor the Governing Body shall appoint a person who is the parent of a registered pupil at the Academy; or where it is not reasonably practical to do so, a person who is the parent of a child of compulsory school age.

CO-OPTED GOVERNORS

59. The Governors appointed under Article 50 with the consent of the Diocesan Board of Education may appoint up to 2 Co-opted Governors for such term (not exceeding four years) and otherwise upon such conditions as they shall think fit. A 'Co-opted Governor' means a person who is appointed to be a Governor by being Co-opted by Governors who have not themselves been so appointed. The Governors may not co-opt an employee of the Academy Trust as a Co-opted Governor if thereby the number of Governors who are employees of the Academy Trust would exceed one third of the total number of Governors (including the Principal).

APPOINTMENT OF ADDITIONAL GOVERNORS

60. The Secretary of State may give a warning notice to the Governors (which he shall copy to the Diocesan Board of Education) where he is satisfied—

- i) that the standards of performance of pupils at the Academy are unacceptably low, or
- ii) that there has been a serious breakdown in the way the Academy is managed or governed, or
- iii) that the safety of pupils or staff of the Academy is threatened (whether by a breakdown of discipline or otherwise).

61. For the purposes of Article 60 a 'warning notice' is a notice in writing by the Secretary of State to the Academy Trust delivered to the Office setting out—

- a) the matters referred to in Article 60;
- b) the action which he requires the Governors to take in order to remedy those matters; and

⁸ Please refer to footnote 8 above
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- c) the period within which that action is to be taken by the Governors ('the compliance period').
62. The Secretary of State may appoint such Additional Governors as he thinks fit (after consultation with the Diocesan Board of Education) if the Secretary of State has:
- a) given the Governors a warning notice in accordance with Article 60; and
 - b) the Governors have failed to comply, or secure compliance, with the notice to the Secretary of State's satisfaction within the compliance period.
- 62A The Secretary of State may also appoint such Additional Governors (after consultation with the Diocesan Board of Education) where following an Inspection by the Chief Inspector in accordance with the Education Act 2005 (an "Inspection") the Academy Trust receives an Ofsted grading (being a grade referred to in The Framework for School Inspection or any modification or replacement of that document for the time being in force) which amounts to a drop, either from one Inspection to the next Inspection or between any two Inspections carried out within a 5 year period, of two Ofsted grades. For the purposes of the foregoing the grade received by Lisle Marsden Church of England Aided Primary School shall be regarded as the grade received by the Academy.
63. The Secretary of State may also appoint such Further Governors as he thinks fit (after consultation with the Diocesan Board of Education) if a Special Measures Termination Event (as defined in the Funding Agreement) occurs in respect of the Academy.
64. Within 5 days of the Secretary of State appointing any Additional or Further Governors in accordance with Articles 62, 62A or 63, any Governors appointed under Article 50 and holding office immediately preceding the appointment of such Governors, shall resign immediately and the Members' power to appoint Governors under Article 50 shall remain suspended until the Secretary of State removes one or more of the Additional or Further Governors.

TERM OF OFFICE

65. The term of office for any Governor (other than Co-opted Governors under Article 59) shall be 4 years, save that this time limit shall not apply to the Principal, and the Incumbent(s). Subject to remaining eligible to be a particular type of Governor, any Governor may be re-appointed or re-elected.

RESIGNATION AND REMOVAL

- 66. A Governor shall cease to hold office if he resigns his office by notice to the Academy Trust (but only if at least three Governors will remain in office when the notice of resignation is to take effect).
- 67. A Governor shall cease to hold office if he is removed by the person or persons who appointed him. This Article does not apply in respect of a Parent Governor.
- 68. Where a Governor resigns his office or is removed from office, the Governor or, where he is removed from office, those removing him, shall give written notice thereof to the Secretary.
- 68A. Where an Additional or Further Governor appointed pursuant to Articles 62, 62A or 63 ceases to hold office as a Governor for any reason, other than being removed by the Secretary of State, the Secretary of State shall be entitled to appoint an Additional or Further Governor in his place.

DISQUALIFICATION OF GOVERNORS

- 69. No person shall be qualified to be a Governor unless he is aged 18 or over at the date of his election or appointment. No current pupil of the Academy shall be a Governor.
- 70. A Governor shall cease to hold office if he becomes incapable by reason of mental disorder, illness or injury of managing or administering his own affairs.
- 71. A Governor shall cease to hold office if he is absent without the permission of the Governors from all their meetings held within a period of six months and the Governors resolve that his office be vacated.
- 72. A person shall be disqualified from holding or continuing to hold office as a Governor if—
 - a) his estate has been sequestrated and the sequestration has not been discharged, annulled or reduced; or
 - b) he is the subject of a bankruptcy restrictions order or an interim order.
- 73. A person shall be disqualified from holding or continuing to hold office as a Governor at any time when he is subject to a disqualification order or a disqualification

undertaking under the Company Directors Disqualification Act 1986 or to an order made under section 429(2)(b) of the Insolvency Act 1986 (failure to pay under county court administration order).

74. A Governor shall cease to hold office if he ceases to be a Governor by virtue of any provision in the Companies Act 2006 or is disqualified from acting as a trustee by virtue of section 72 of the Charities Act 1993 (or any statutory re-enactment or modification of that provision).
75. A person shall be disqualified from holding or continuing to hold office as a Governor if he has been removed from the office of charity trustee or trustee for a charity by an order made by the Charity Commission or the High Court on the grounds of any misconduct or mismanagement in the administration of the charity for which he was responsible or to which he was privy, or which he by his conduct contributed to or facilitated.
76. A person shall be disqualified from holding or from continuing to hold office as a Governor at any time when he is:
- a) included in the list kept by the Secretary of State under section 1 of the Protection of Children Act 1999; or
 - b) disqualified from working with children in accordance with Section 35 of the Criminal Justice and Court Services Act 2000; or
 - c) barred from regulated activity relating to children (within the meaning of section 3(2) of the Safeguarding Vulnerable Groups Act 2006)
77. A person shall be disqualified from holding or continuing to hold office as a Governor if he is a person in respect of whom a direction has been made under section 142 of the Education Act 2002 or is subject to any prohibition or restriction which takes effect as if contained in such a direction.
78. A person shall be disqualified from holding or continuing to hold office as a Governor where he has, at any time, been convicted of any criminal offence, excluding any that have been spent under the Rehabilitation of Offenders Act 1974 as amended, and excluding any offence for which the maximum sentence is a fine or a lesser sentence except where a person has been convicted of any offence which falls under section 72 of the Charities Act 1993.

79. After the Academy has opened, a person shall be disqualified from holding or continuing to hold office as a Governor if he has not provided to the chairman of the Governors a criminal records certificate at an enhanced disclosure level under section 113B of the Police Act 1997. In the event that the certificate discloses any information which would in the opinion of either the chairman or the Principal confirm their unsuitability to work with children that person shall be disqualified. If a dispute arises as to whether a person shall be disqualified, a referral shall be made to the Secretary of State to determine the matter. The determination of the Secretary of State shall be final.
80. Where, by virtue of these Articles a person becomes disqualified from holding, or continuing to hold office as a Governor; and he is, or is proposed, to become such a Governor, he shall upon becoming so disqualified give written notice of that fact to the Secretary.
81. Articles 69 to 80 and Articles 98-99 also apply to any member of any committee of the Governors who is not a Governor.

SECRETARY TO THE GOVERNORS

82. The Secretary shall be appointed by the Governors for such term, at such remuneration and upon such conditions as they may think fit; and any Secretary so appointed may be removed by them. The Secretary shall not be a Governor or a Principal. Notwithstanding this Article, the Governors may, where the Secretary fails to attend a meeting of theirs, appoint any one of their number or any other person to act as Secretary for the purposes of that meeting.

CHAIRMAN AND VICE-CHAIRMAN OF THE GOVERNORS

83. The Governors shall each school year, at their first meeting in that year, elect a chairman and a vice-chairman from among their number. A Governor who is employed by the Academy Trust shall not be eligible for election as chairman or vice-chairman.
84. Subject to Article 85, the chairman or vice-chairman shall hold office as such until his successor has been elected in accordance with Article 86.
85. The chairman or vice-chairman may at any time resign his office by giving notice in writing to the Secretary. The chairman or vice-chairman shall cease to hold office if—

- a) he ceases to be a Governor;
 - b) he is employed by the Academy Trust;
 - c) he is removed from office in accordance with these Articles; or
 - c) in the case of the vice-chairman, he is elected in accordance with these Articles to fill a vacancy in the office of chairman.
86. Where by reason of any of the matters referred to in Article 85, a vacancy arises in the office of chairman or vice-chairman, the Governors shall at their next meeting elect one of their number to fill that vacancy.
87. Where the chairman is absent from any meeting or there is at the time a vacancy in the office of the chairman, the vice-chairman shall act as the chair for the purposes of the meeting.
88. Where in the circumstances referred to in Article 87 the vice-chairman is also absent from the meeting or there is at the time a vacancy in the office of vice-chairman, the Governors shall elect one of their number to act as a chairman for the purposes of that meeting, provided that the Governor elected shall not be a person who is employed by the Academy Trust.
89. The Secretary shall act as chairman during that part of any meeting at which the chairman is elected.
90. Any election of the chairman or vice-chairman which is contested shall be held by secret ballot.
91. The Governors may remove the chairman or vice-chairman from office in accordance with these Articles.
92. A resolution to remove the chairman or vice-chairman from office which is passed at a meeting of the Governors shall not have effect unless—
- a) it is confirmed by a resolution passed at a second meeting of the Governors held not less than fourteen days after the first meeting; and
 - b) the matter of the chairman's or vice-chairman's removal from office is specified as an item of business on the agenda for each of those meetings.

93. Before the Governors resolve at the relevant meeting on whether to confirm the resolution to remove the chairman or vice-chairman from office, the Governor or Governors proposing his removal shall at that meeting state their reasons for doing so and the chairman or vice-chairman shall be given an opportunity to make a statement in response.

POWERS OF GOVERNORS

94. Subject to provisions of the Companies Act 2006, the Articles and to any directions given by special resolution, the business of the Academy Trust shall be managed by the Governors who may exercise all the powers of the Academy Trust. No alteration of the Articles and no such direction shall invalidate any prior act of the Governors which would have been valid if that alteration had not been made or that direction had not been given. The powers given by this Article shall not be limited by any special power given to the Governors by the Articles and a meeting of Governors at which a quorum is present may exercise all the powers exercisable by the Governors.
95. In addition to all powers hereby expressly conferred upon them and without detracting from the generality of their powers under the Articles the Governors shall have the following powers, namely:
- a) to expend the funds of the Academy Trust in such manner as they shall consider most beneficial for the achievement of the Object and to invest in the name of the Academy Trust such part of the funds as they may see fit and to direct the sale or transposition of any such investments and to expend the proceeds of any such sale in furtherance of the Object; and
 - b) to enter into contracts on behalf of the Academy Trust.
96. In the exercise of their powers and functions, the Governors may consider any advice given by the Principal and any other executive officer.
97. Any bank account in which any money of the Academy Trust is deposited shall be operated by the Governors in the name of the Academy Trust. All cheques and orders for the payment of money from such an account shall be signed by at least two signatories authorised by the Governors.

CONFLICTS OF INTEREST

98. Any Governor who has or can have any direct or indirect duty or personal interest (including but not limited to any Personal Financial Interest) which conflicts or may conflict with his duties as a Governor shall disclose that fact to the Governors as soon as he becomes aware of it. A Governor must absent himself from any discussions of the Governors in which it is possible that a conflict will arise between his duty to act solely in the interests of the Academy Trust and any duty or personal interest (including but not limited to any Personal Financial Interest).
99. For the purpose of Article 98, a Governor has a Personal Financial Interest in the employment or remuneration of, or the provision of any other benefit to, that Governor as permitted by and as defined by articles 6.5-6.9.

THE MINUTES

100. The minutes of the proceedings of a meeting of the Governors shall be drawn up and entered into a book kept for the purpose by the person acting as Secretary for the purposes of the meeting; and shall be signed (subject to the approval of the Governors) at the same or next subsequent meeting by the person acting as chairman thereof. The minutes shall include a record of:
- a) all appointments of officers made by the Governors; and
 - b) all proceedings at meetings of the Academy Trust and of the Governors and of committees of Governors including the names of the Governors present at each such meeting.

COMMITTEES

101. Subject to these Articles, the Governors may establish any committee. Subject to these Articles, the constitution, membership and proceedings of any committee shall be determined by the Governors. The establishment, terms of reference, constitution and membership of any committee of the Governors shall be reviewed at least once in every twelve months. The membership of any committee of the Governors may include persons who are not Governors, provided that a majority of members of any such committee shall be Governors. The Governors may determine that some or all of the members of a committee who are not Governors shall be entitled to vote in any proceedings of the committee. No vote on any matter shall be taken at a meeting of a committee of the Governors unless the majority of members of the committee present are Governors.

DELEGATION

102. The Governors may delegate to any Governor, committee, the Principal or any other holder of an executive office, such of their powers or functions as they consider desirable to be exercised by them. Any such delegation may be made subject to any conditions the Governors may impose and may be revoked or altered.
103. Where any power or function of the Governors is exercised by any committee, any Governor, Principal or any other holder of an executive office, that person or committee shall report to the Governors in respect of any action taken or decision made with respect to the exercise of that power or function at the meeting of the Governors immediately following the taking of the action or the making of the decision.

PRINCIPAL AND STAFF

104. The Governors [after having consulted the Diocesan Director of Education and having made use of their powers under s124A of the School Standards and Framework Act 1998) or [with the consent of the Diocesan Board of Education and having made use of their powers under s124A of the School Standards and Framework Act 1998⁹ shall appoint the Principal. The Governors may delegate such powers and functions as they consider are required by the Principal for the internal organisation, management and control of the Academy (including the implementation of all policies approved by the Governors and for the direction of the teaching and curriculum at the Academy).
- 104A. In appointing staff the governors will have regard to their powers under s124A of the School Standards and Framework Act 1998 and to their power to declare a Genuine Occupational Requirement for non-teaching appointments where they believe this to be justified.

MEETINGS OF THE GOVERNORS

105. Subject to these Articles, the Governors may regulate their proceedings as they think fit.
106. The Governors shall hold at least three meetings in every school year. Meetings of the Governors shall be convened by the Secretary. In exercising his functions under

⁹ This second version of this provision is optional and might be considered too centralist by schools
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this Article the Secretary shall comply with any direction—

a) given by the Governors; or

b) given by the chairman of the Governors or, in his absence or where there is a vacancy in the office of chairman, the vice-chairman of the Governors, so far as such direction is not inconsistent with any direction given as mentioned in (a).

107. Any three Governors may, by notice in writing given to the Secretary, requisition a meeting of the Governors; and it shall be the duty of the Secretary to convene such a meeting as soon as is reasonably practicable.

108. Each Governor shall be given at least fourteen clear days before the date of a meeting –

a) notice in writing thereof, signed by the Secretary, and sent to each Governor at the address provided by each Governor from time to time; and

b) a copy of the agenda for the meeting;

provided that where the chairman or, in his absence or where there is a vacancy in the office of chairman, the vice-chairman, so determines on the ground that there are matters demanding urgent consideration, it shall be sufficient if the written notice of a meeting, and the copy of the agenda thereof are given within such shorter period as he directs.

109. The convening of a meeting and the proceedings conducted thereat shall not be invalidated by reason of any individual not having received written notice of the meeting or a copy of the agenda thereof.

110. A resolution to rescind or vary a resolution carried at a previous meeting of the Governors shall not be proposed at a meeting of the Governors unless the consideration of the rescission or variation of the previous resolution is a specific item of business on the agenda for that meeting.

111. A meeting of the Governors shall be terminated forthwith if—

(a) the Governors so resolve; or

(b) the number of Governors present ceases to constitute a quorum

for a meeting of the Governors in accordance with Article 114, subject to Article 116.

112. Where in accordance with Article 111 a meeting is not held or is terminated before all the matters specified as items of business on the agenda for the meeting have been disposed of, a further meeting shall be convened by the Secretary as soon as is reasonably practicable, but in any event within seven days of the date on which the meeting was originally to be held or was so terminated.
113. Where the Governors resolve in accordance with Article 111 to adjourn a meeting before all the items of business on the agenda have been disposed of, the Governors shall before doing so determine the time and date at which a further meeting is to be held for the purposes of completing the consideration of those items, and they shall direct the Secretary to convene a meeting accordingly.
114. Subject to Article 116 the quorum for a meeting of the Governors, and any vote on any matter thereat, shall be any three Governors, or, where greater, any one third (rounded up to a whole number) of the total number of Governors holding office at the date of the meeting. If the Secretary of State has appointed Additional or Further Governors then a majority of the quorum must be made up of Additional or Further Governors.
115. The Governors may act notwithstanding any vacancies in their number, but, if the numbers of Governors is less than the number fixed as the quorum, the continuing Governors may act only for the purpose of filling vacancies or of calling a general meeting.
116. The quorum for the purposes of—
 - a. appointing a parent Governor under Article 57;
 - b. any vote on the removal of a Governor in accordance with Article 67;
 - c. any vote on the removal of the chairman of the Governors in accordance with Article 91;shall be any two-thirds (rounded up to a whole number) of the persons who are at the time Governors entitled to vote on those respective matters.

117. Subject to these Articles, every question to be decided at a meeting of the Governors

shall be determined by a majority of the votes of the Governors present and voting on the question. Every Governor shall have one vote.

118. Subject to Article 114-116, where there is an equal division of votes, the chairman of the meeting shall have a casting vote in addition to any other vote he may have.
119. The proceedings of the Governors shall not be invalidated by
 - a. any vacancy among their number; or
 - b. any defect in the election, appointment or nomination of any Governor.
120. A resolution in writing, signed by all the Governors entitled to receive notice of a meeting of Governors or of a committee of Governors, shall be valid and effective as if it had been passed at a meeting of Governors or (as the case may be) a committee of Governors duly convened and held. Such a resolution may consist of several documents in the same form, each signed by one or more of the Governors.
121. Subject to Article 122, the Governors shall ensure that a copy of:
 - a. the agenda for every meeting of the Governors;
 - b. the draft minutes of every such meeting, if they have been approved by the person acting as chairman of that meeting;
 - c. the signed minutes of every such meeting; and
 - d. any report, document or other paper considered at any such meeting,are, as soon as is reasonably practicable, made available at the Academy to persons wishing to inspect them.
122. There may be excluded from any item required to be made available in pursuance of Article 121, any material relating to—
 - a. a named teacher or other person employed, or proposed to be employed, at the Academy;
 - b. a named pupil at, or candidate for admission to, the Academy; and
 - c. any matter which, by reason of its nature, the Governors are satisfied should remain confidential.

123. Any Governor shall be able to participate in meetings of the Governors by telephone or video conference provided that:

a. he has given notice of his intention to do so detailing the telephone number on which he can be reached and/or appropriate details of the video conference suite from which he shall be taking part at the time of the meeting at least 48 hours before the meeting; and

b. the Governors have access to the appropriate equipment if after all reasonable efforts it does not prove possible for the person to participate by telephone or video conference the meeting may still proceed with its business provided it is otherwise quorate.

PATRONS AND HONORARY OFFICERS

124. The Governors may from time to time appoint any person whether or not a Member of the Academy Trust to be a patron of the Academy Trust or to hold any honorary office and may determine for what period he is to hold such office.

THE SEAL

125. The seal, if any, shall only be used by the authority of the Governors or of a committee of Governors authorised by the Governors. The Governors may determine who shall sign any instrument to which the seal is affixed and unless otherwise so determined it shall be signed by a Governor and by the Secretary or by a second Governor.

ACCOUNTS

126. Accounts shall be prepared in accordance with the relevant Statement of Recommended Practice as if the Academy Trust was a non-exempt charity and Parts 15 and 16 of the Companies Act 2006 and shall file these with the Secretary of State and the Principal Regulator by 31 December each Academy Financial Year.

ANNUAL REPORT

127. The Governors shall prepare its Annual Report in accordance with the Statement of Recommended Practice as if the Academy Trust was a non-exempt charity and shall file these with the Secretary of State and the Principal Regulator by 31 December each Academy Financial Year.

ANNUAL RETURN

128. The Governors shall comply with their obligations under Part 24 of the Companies Act 2006 (or any statutory re-enactment or modification of that Act) with regard to the preparation of an annual return to the Registrar of Companies and in accordance with the Statement of Recommended Practice as if the Academy Trust was a non-exempt charity and to the Secretary of State and the Principal Regulator by 31 December each Academy Financial Year.

NOTICES

129. Any notice to be given to or by any person pursuant to the Articles (other than a notice calling a meeting of the Governors) shall be in writing or shall be given using electronic communications to an address for the time being notified for that purpose to the person giving the notice. In these Articles, "Address" in relation to electronic communications, includes a number or address used for the purposes of such communications.
130. A notice may be given by the Academy Trust to a Member either personally or by sending it by post in a prepaid envelope addressed to the Member at his registered address or by leaving it at that address or by giving it using electronic communications to an address for the time being notified to the Academy Trust by the Member. A Member whose registered address is not within the United Kingdom and who gives to the Academy Trust an address within the United Kingdom at which notices may be given to him, or an address to which notices may be sent using electronic communications, shall be entitled to have notices given to him at that address, but otherwise no such Member shall be entitled to receive any notice from the Academy Trust.
131. A Member present, either in person or by proxy, at any meeting of the Academy Trust shall be deemed to have received notice of the meeting and, where necessary, of the purposes for which it was called.
132. Proof that an envelope containing a notice was properly addressed, prepaid and posted shall be conclusive evidence that the notice was given. Proof that a notice contained in an electronic communication was sent in accordance with guidance issued by the Institute of Chartered Secretaries and Administrators shall be conclusive evidence that the notice was given. A notice shall be deemed to be given at the expiration of 48 hours after the envelope containing it was posted or, in the

case of a notice contained in an electronic communication, at the expiration of 48 hours after the time it was sent.

INDEMNITY

133. Subject to the provisions of the Companies Act 2006 every Governor or other officer or auditor of the Academy Trust shall be indemnified out of the assets of the Academy Trust against any liability incurred by him in that capacity in defending any proceedings, whether civil or criminal, in which judgment is given in favour or in which he is acquitted or in connection with any application in which relief is granted to him by the court from liability for negligence, default, breach of duty or breach of trust in relation to the affairs of the Academy Trust.

RULES

134. The Governors may from time to time make such rules or bye laws as they may deem necessary or expedient or convenient for the proper conduct and management of the Academy Trust, and in particular but without prejudice to the generality of the foregoing, they may by such rules or bye laws regulate:

- a. the setting aside of the whole or any part or parts of the Academy Trust's premises at any particular time or times or for any particular purpose or purposes;
- b. the procedure at meetings of the Governors and committees of the Governors in so far as such procedure is not regulated by the Articles; and
- c. generally, all such matters as are commonly the subject matter of company rules.

135. The Academy Trust in general meeting shall have power to alter, add or to repeal the rules or bye laws but only with the consent of the Diocesan Board of Education. Provided that no rule or bye law shall be inconsistent with, or shall affect or repeal anything contained in the Articles.

AVOIDING INFLUENCED COMPANY STATUS

136. Notwithstanding the number of Members from time to time, the maximum aggregate number of votes exercisable by Local Authority Associated Persons shall never exceed 19.9% of the total number of votes exercisable by Members in general meeting and the votes of the other Members having a right to vote at the meeting will

be increased on a pro-rata basis.

137. No person who is a Local Authority Associated Person may be appointed as a Governor if, once the appointment had taken effect, the number of Governors who are Local Authority Associated Persons would represent 20% or more of the total number of Governors. Upon any resolution put to the Governors, the maximum aggregate number of votes exercisable by any Governors who are Local Authority Associated Persons shall represent a maximum of 19.9% of the total number of votes cast by the Governors on such a resolution and the votes of the other Governors having a right to vote at the meeting will be increased on a pro-rata basis.
138. No person who is a Local Authority Associated Person is eligible to be appointed to the office of Governor unless his appointment to such office is authorised by the local authority to which he is associated.
139. If at the time of either his becoming a Member of the Academy Trust or his first appointment to office as a Governor any Member or Governor was not a Local Authority Associated Person but later becomes so during his membership or tenure as a Governor he shall be deemed to have immediately resigned his membership and/or resigned from his office as a Governor as the case may be.
140. If at any time the number of Governors or Members who are also Local Authority Associated Persons would (but for Articles 136 to 139 inclusive) represent 20% or more of the total number of Governors or Members (as the case may be) then a sufficient number of the Governors or Members (as the case may be) who are Local Authority Associated Persons shall be deemed to have resigned as Governors or Members (as the case may be) immediately before the occurrence of such an event to ensure that at all times the number of such Governors or Members (as the case may be) is never equal to or greater than 20% of the total number of Governors or Members (as the case may be). Governors or Members (as the case may be) who are Local Authority Associated Persons shall be deemed to have resigned in order of their appointment date the most recently appointed resigning first.
141. The Members will each notify the Academy Trust and each other if at any time they believe that the Academy Trust or any of its subsidiaries has become subject to the influence of a local authority (as described in section 69 of the Local Government and Housing Act).

Annex B

REQUIREMENTS FOR THE ADMISSION OF PUPILS TO THE LISLE MARSDEN CHURCH OF ENGLAND PRIMARY ACADEMY

GENERAL

1. This annex may be amended in writing at any time by agreement between the Secretary of State and the Academy Trust.
2. 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.
3. Notwithstanding the generality of paragraph 2 of this Annex, the Academy Trust will take part in any mandatory Admissions Forum set up by the local authority ("LA") in which they are situated and have regard to its advice; and will participate in the co-ordinated admission arrangements operated by the 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 the Lisle Marsden Church of England Primary Academy on application from an LA. This will include complying with a School Attendance Order¹. Before doing so the Secretary of State will consult the Academy Trust.
 - (b) direct the Academy Trust to admit a named pupil to the Lisle Marsden Church of England Primary Academy 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 Admission Appeals Code.

¹ 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.

Single Academy Model

4A

Lisle Marsden Church of England Primary Academy is a faith Academy in the diocese of Lincoln.

5. The Academy Trust shall ensure that parents and 'relevant children'² 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 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 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 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. adopt admission oversubscription criteria that give highest priority to looked after children, in accordance with the relevant

² 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.

Single Academy Model

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 group³. The Academy will consult on its admission arrangements and determine them in line with the requirements within the School Admissions Code.

11. The Young People's Learning Agency (YPLA) may consider objections on the Secretary of State's behalf. The Academy Trust should therefore make it clear, when determining the Academy's admission arrangements, that objections should be submitted to the YPLA.

12. A determination of an objection by the YPLA on behalf of the Secretary of State, or by the Secretary of State will be binding upon the Academy.

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

**Arrangements for pupils with Special Educational Needs
(‘SEN’) and disabilities at Lisle Marsden Church of England
Primary Academy**

Duties in relation to pupils with SEN

1. The Governing Body of the Academy Trust must comply with all of the duties imposed upon the governing bodies of maintained schools in:
 - Part 4 of the Education Act 1996 as amended from time to time¹;
 - The Education (Special Educational Needs) (Information) Regulations 1999 as amended from time to time;
 - The Education (Special Educational Needs Co-ordinators) (England) (Amendment) Regulations 2008 as amended from time to time².
2. Notwithstanding any provision in this Agreement, the Secretary of State may (whether following a complaint made to him or otherwise) direct the Academy Trust to comply with an obligation described in this Annex where the Academy Trust has failed to comply with any such obligation.
3. Where a child who has SEN is being educated in the Academy, those concerned with making special educational provision for the child must secure that the child engages in the activities of the school together with children who do not have SEN, so far as is reasonably practicable and is compatible with:
 - (a) the child receiving the special educational provision which his learning difficulty calls for,
 - (b) the provision of efficient education for the children with whom he will be educated, and
 - (c) the efficient use of resources.
4. In addition to complying with the duties imposed upon the governing bodies of maintained schools set out in The Education (Special Educational Needs) (Information) Regulations 1999 (as amended from time to time), the Academy Trust must ensure that the Academy’s website includes details of the arrangements for the admission of disabled pupils; the steps taken to prevent disabled pupils from being treated less favourably than other pupils; and the facilities provided to assist access to the Academy by disabled pupils (disabled pupils meaning pupils who are disabled for the purposes of the Equality Act

¹ Currently these duties are in sections 313 (Duty to have regard to the Special Educational Needs Code of Practice 2001); 317 (Duties in relation to pupils with special educational needs), 317A (Duty to advise parents that special educational provision is being made); and 324(5)(b) (Duty to admit the child where a school is named in the statement).

² These Regulations are amended by The Education (Special Educational Needs Co-ordinators) (England) (Amendment) Regulations 2009 (SI 2009 No 1387).

Single Academy Model

2010³).

Admissions

5. The Academy Trust must ensure that pupils with SEN are admitted on an equal basis with others in accordance with its admissions policy.
6. Where a local authority ("LA") proposes to name the Academy in a statement of SEN made in accordance with section 324 of the Education Act 1996, it must give the Academy Trust written notice that it so proposes. Within 15 days of receipt of the LA's notice that it proposes to name the Academy in a statement, the Academy Trust must consent to being named, except where admitting the child would be incompatible with the provision of efficient education for other children; and where no reasonable steps may be made to secure compatibility. In deciding whether a child's inclusion would be incompatible with the efficient education of other children, the Academy Trust must have regard to the relevant guidance issued by the Secretary of State to maintained schools.
7. If the Academy Trust determines that admitting the child would be incompatible with the provision of efficient education, it must, within 15 days of receipt of the LA's notice, notify the LA in writing that it does not agree that the Academy should be named in the pupil's statement. Such notice must set out all the facts and matters the Academy relies upon in support of its contention that: (a) admitting the child would be incompatible with efficiently educating other children; and (b) the Academy Trust cannot take reasonable steps to secure this compatibility.
8. After service by the Academy Trust on the LA of any notice (further to paragraph 7 above) stating that it does not agree with the LA's proposal that the Academy be named, the Academy Trust must seek to establish from the LA, as soon as is reasonably practicable, whether or not the LA agrees with the Academy Trust. If the LA notifies the Academy that it does not agree with the Academy Trust's response, and names the Academy in the child's statement, the Academy Trust must admit the child to the school on the date specified in the statement or on the date specified by the LA.
9. Where the Academy Trust consider that the Academy should not have been named in a child's statement, they may ask the Secretary of State to determine that the LA has acted unreasonably in naming the Academy and to make an order directing the LA to reconsider.
10. The Secretary of State's determination shall, subject only to any right of appeal which any parent or guardian of the child may have to the First-tier Tribunal (Special Educational Needs and Disability), be final.
11. If a parent or guardian of a child in respect of whom a statement is maintained by the local authority appeals to the First-tier Tribunal

³ For the meaning of 'disabled', see section 6 of the Equality Act 2010.

Single Academy Model

(Special Educational Needs and Disability) either against the naming of the Academy in the child's SEN statement or asking the Tribunal to name the Academy, then the decision of the Tribunal on any such appeal shall be binding and shall, if different from that of the Secretary of State under paragraph 9 above, be substituted for the Secretary of State's decision.

12. Where the Academy, the Secretary of State or the First-tier Tribunal (Special Educational Needs and Disability) have determined that it should be named, the Academy Trust shall admit the child to the Academy notwithstanding any provision of Annex B to this agreement.

Annex D

Serious incidents of misbehaviour leading to fixed period or permanent exclusion

1. Subject to the exceptions in paragraph 5, the Academy Trust shall act and shall ensure that the Principal and the governing body act in accordance with the law on exclusions as if the Academy were a maintained school. For this purpose, reference in the law on exclusions to the Head Teacher and Governing Body shall respectively be deemed to be the Principal and Governing Body of the Academy Trust.
2. Without limiting the generality of paragraph 1, the Academy Trust shall ensure that the Local Authority in which the Academy is located and, where the pupil concerned resides in the area of a different Local Authority, the Local Authority in which the pupil is ordinarily resident is informed of an exclusion decision in the same circumstances, and within the same timescale as a the head teacher of a maintained school is required to inform the Local Authority (or Local Authorities) of an exclusion.
3. Subject to the exception in paragraph 5, the Academy Trust shall ensure that the Principal and the Governing Body of the Academy have regard to the Secretary of State's guidance on exclusions when excluding, or reviewing the exclusion of a pupil and in relation to any appeals or review process as if the Academy were a maintained school¹.
4. The Academy Trust shall make arrangements for enabling appeals against, or review of any decision of the Governing Body to permanently exclude a pupil in accordance with the functions assigned to the Local Authority in relation to a maintained school. The Academy Trust shall ensure that appeal/review panels are impartial, and are constituted in accordance with the Secretary of State's guidance. The Academy Trust shall comply with any decision of an appeals panel, or direction of a review panel².
5. The exception to the duties imposed under paragraphs 1 and 3 is:
 - the Governing Body of the Academy Trust is not expected to seek the advice of a Local Authority officer when considering an

¹References in this annex to the Secretary of State's guidance are to "Improving Behaviour and Attendance: Guidance on Exclusion from Schools and Pupil Referral Units", which is published on the DfE website at: <http://www.teachernet.gov.uk/wholeschool/behaviour/exclusion/2008guidance/>. The guidance may be subject to amendment, and the Academy is required to have regard to the guidance as it stands at any given time.

² A parent may seek a judicial review of a decision of an appeal/review panel relating to their child. A parent of a child excluded from an Academy may not complain to the Commissioner for Local Administration (the Local Government Ombudsman) about maladministration. This is because the Commissioner's remit is limited to considering the conduct of appeal panels constituted by Local Authorities.

Single Annex D Exclusions

exclusion, although a Local Authority officer may attend any meeting to consider an exclusion (including an appeal hearing or review) at the request of a parent; and

- subject to the Academy Trust's obligations under clause 30 of this Agreement relating to an agreement with the LA on the flow of funds following an exclusion, the arrangements for money to follow pupils who have been permanently excluded from school does not apply.

APPENDIX 1

PLAN OF THE LAND

Location Map



Algrid Assets Limited
Linka One, Linka Business Centre
Old Woking Road, Old Woking
Surrey GU22 8BF

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Details			Rev	No
Lisle Maraden Land				
NLPG	Scale	Date		
11077690	1:1250 @A3	03/08/2011	2	
File / Pathname / Project / Drawing No				

www.algrid-assets.co.uk

DATED 31 October 2011

(1) NORTH EAST LINCOLNSHIRE BOROUGH COUNCIL

**(2) THE GOVERNING BODY OF LISLE MARSDEN
CHURCH OF ENGLAND PRIMARY SCHOOL**

**(3) LISLE MARSDEN CHURCH OF ENGLAND
PRIMARY ACADEMY**

**TRANSFER AGREEMENT
Re: Lisle Marsden Church Of England
Primary Academy**

wilkin chapman
grange
solicitors

THIS AGREEMENT is made

31st October

2011

BETWEEN:

- (1) **NORTH EAST LINCOLNSHIRE BOROUGH COUNCIL** of Municipal Offices, Town Hall Square, Grimsby, DN31 1HU (the "Council");
- (2) **THE GOVERNING BODY OF LISLE MARSDEN CHURCH OF ENGLAND PRIMARY SCHOOL** of Lansdowne Avenue, Grimsby, North East Lincolnshire, DN32 0DF (the "Governing Body");
- (3) **LISLE MARSDEN CHURCH OF ENGLAND PRIMARY ACADEMY** a company limited by guarantee registered in England and Wales (company number 07808707) whose registered office is at Lansdowne Avenue, Grimsby, North East Lincolnshire, DN32 0DF (the "Company").

WHEREAS

- (A) The Council will cease to operate the School from the Transfer Date and the Company will, from the Transfer Date, operate the Academy on the same site as the School.
- (B) The freehold of the site of the School is owned by the Lincoln Diocese and on the Transfer Date the Lincoln Diocese will enter into a Supplemental Agreement permitting the continued use of the site currently occupied by the School.
- (C) Lisle Marsden Childcare Limited shall operate the Childcare Facility from the Transfer Date.

1. DEFINITIONS AND INTERPRETATION

1.1 In this Agreement the following words shall have the following meanings:

"Academy"	means the academy to be run by the Company on the site of the School under the proposed name Lisle Marsden Church of England Primary Academy
"Assets"	means all property, undertaking, rights and assets, whether tangible or intangible, of whatever nature used or held by the Council and/or the Governing Body (as the case may be) for the purposes of the School including, but not limited to, those listed in Schedule 3, but excluding the Excluded Assets;
"Budget Deficit"	has the meaning given to it in clause 9.1A of this Agreement;
"Budget Surplus"	has the meaning given to it in clause 9.1A of this Agreement;
"Childcare Facility"	means the childcare facility current operated at the School;
"Childcare Employees"	means those employees who are employed at the Childcare Facility and whose employment shall transfer to Lisle Marsden Childcare Limited;
"Contractor"	means a contractor providing services to the Company to whom the contract of employment of any Transferring Employee is transferred pursuant to the Regulations on or after the Transfer Date;
"Contracts"	means the contracts entered into by the Council and/or the Governing Body (as the case may be) for the

purpose of operating the School in the ordinary course of business which are still in force at the Transfer Date, being those contracts listed in Schedule 2 (true and accurate copies of which have been disclosed to the Company prior to the Transfer Date);

means the Data Protection Act 1998 ("DPA"), and all applicable laws and regulations relating to processing of personal data and privacy, including where applicable, the guidance and codes of practice issued by the Information Commissioner;

"Directive"

means the Safeguarding of Employees Directive (2001/23/EC) (as amended, re-enacted or extended from time to time)

"Eligible Employees"

means the Transferring Employees who are active members of or eligible to join either the LGPS or the TPS immediately before the Transfer Date;

"Employee Liability Information"

means the information which a transferor is obliged to notify to a transferee pursuant to Regulation 11(2) of the Regulations

"Employee Schedule"

means a list of all School Employees as at the date that the list is provided to the Company (excluding the Childcare Employees) and included at Annex A to this Agreement;

"Encumbrance"

means any mortgage, charge, pledge, lien, equity, option, restriction, right of refusal, right of pre-emption, third party right or interest, any other encumbrance or security interest of any kind, and any other type of preferential arrangement (including title transfer and retention arrangements) having a similar effect;

"Excluded Assets"

means the assets described in Schedule 4 which are excluded from the transfer effected by this Agreement; means a list of all School Employees as at the Transfer Date;

"Final Employee Schedule"

means a funding agreement to be entered into between the Secretary of State for Education and the Company with regard to funding arrangements for the Academy;

"Loss"

means all costs, claims, liabilities and expenses (including reasonable legal expenses) and "Losses" shall be construed accordingly;

"the LGPS"

means a Local Government Pension Scheme established pursuant to regulations made by the Secretary of State in exercise of powers under Sections 7 and 12 of the Superannuation Act 1972 as from time to time amended;

"the Personnel Files"

means in respect of the Transferring Employees copies of all personnel files or records relating to their employment at the School and any previous period of continuous employment with the Council and/or the Governing Body, including without limitation a copy of

	any contractual documentation, any documentation relating to job description, pay information, training records, information relating to sickness absence, a copy of any disciplinary warnings and a copy of any grievances;
"the Pupil Records"	means all the records and information in respect of the pupils at the School who will or who are likely to become pupils at the Academy;
"the Regulations"	means The Transfer of Undertakings (Protection of Employment) Regulations 2006 (as amended or re-enacted from time to time);
"the School"	means Lisle Marsden Church of England Primary School;
"School Employees"	means any employees of the Council or of the Governing Body or of any other persons who are assigned to the School or to services provided in connection with the School;
"Staffing Information"	means, in respect of the School Employees, the information listed in Schedule 1 and included at Annex A to this Agreement;
"the TPS"	means the Teachers' Pension Scheme established pursuant to regulations made by the Secretary of State in exercise of powers under sections 9 and 12 of and Schedule 3 to the Superannuation Act 1972 as from time to time amended;
"Transfer Date"	means the date specified in the Funding Agreement on which the Academy will open;
"Transferring Employees"	means any School Employees (excluding the Childcare Employees) whose employment transfers to the Company or to a Contractor on the Transfer Date pursuant to the Regulations and who are listed in the Employee Schedule;

- 1.2 In this Agreement (except where the context otherwise requires):
- 1.2.1 use of the singular includes the plural (and *vice versa*) and use of any gender includes the other genders;
 - 1.2.2 a reference to a party is to a party to this Agreement and shall include that party's personal representatives, successors or permitted assignees;
 - 1.2.3 a reference to persons includes natural persons, firms, partnerships, bodies corporate and corporations, and associations, organisations, governments, states, foundations, trusts and other unincorporated bodies (in each case whether or not having separate legal personality and irrespective of their jurisdiction of origin, incorporation or residence); and
 - 1.2.4 a reference to a Clause or Schedule is to the relevant clause of or schedule to this Agreement; a reference to a sub-clause or paragraph is to the relevant sub-clause or paragraph of the Clause or Schedule in which it appears.
- 1.3 The Schedules form an integral part of this Agreement and have effect as if set out in full in the body of this Agreement. A reference to this Agreement includes the Schedules.

1.4 In the event of any conflict or inconsistency between the Clauses and the Schedules of this Agreement, the Clauses shall prevail.

1.5 General words are not to be given a restrictive meaning because they are followed by particular examples, and any words introduced by the terms "including", "include", "in particular" or any similar expression will be construed as illustrative and the words following any of those terms will not limit the sense of the words preceding those terms.

1.6 Any reference to a statute, statutory provision or statutory instrument includes a reference to that statute, statutory provision or statutory instrument together with all rules and regulations made under it as from time to time amended, consolidated or re-enacted.

2. CONDITION PRECEDENT

2.1 This Agreement is conditional upon the Funding Agreement being signed by the Company and the Secretary of State.

2A. TRANSFER

2A.1 The Company shall be responsible for the operation of the Academy on and from the Transfer Date and for the avoidance of doubt, the School shall cease to operate on the day preceding the Transfer Date. From the Transfer Date, the Council shall have no further obligations relating to the operation of the Academy.

2A.2 The Company will endeavour (at its discretion (acting reasonably)) to make its premises available for use by the local community from the Transfer Date, provided such use will not prejudice the core responsibility of the Company to provide an Academy in accordance with its constitution, such use to be on reasonable commercial terms to be agreed between the Company and existing and future community users.

3. OPERATION OF THE REGULATIONS

The Parties intend and acknowledge that the closing of the School and the opening of the Academy shall constitute a transfer to which the Directive and the Regulations apply and agree that as a consequence that the contracts of employment made between the current employer and the Transferring Employees (save insofar as such contracts relate to benefits for old age, invalidity or survivors under any occupational pension scheme) shall have effect from and after the Transfer Date as if originally made between the Company or (as the case may be) a Contractor and the Transferring Employees.

4. PROVISION OF STAFFING INFORMATION AND WARRANTIES

4.1 Without prejudice to its obligation pursuant to the Regulations to provide the Employee Liability Information, the Governing Body has provided (to the extent lawfully permitted) the Company with the Employee Schedule and Staffing Information.

4.2 The Governing Body shall notify the Company of any material change to the Employee Schedule and the Staffing Information as soon as is reasonably practicable, and shall upon request by the Company meet the Company to discuss the information disclosed.

4.3 The Governing Body warrants, and in respect of any School Employee employed by the Council, the Council also warrants:

4.3.1 that the information in the Employee Schedule and the Staffing Information shall be complete and accurate and kept up-to-date;

- 4.3.2 that there has not been any material breach of the contract of employment of any of the School Employees nor is any School Employee in material breach of his contract of employment;
- 4.3.3 that none of the School Employees have given or received notice of termination of employment nor are any of the School Employees the subject of any material disciplinary action nor is any School Employee engaged in any grievance procedure; and
- 4.3.4 that it is not engaged in relation to any School Employee in any dispute, claim or legal proceedings, arising under contract or common law or arising out of or relating to any statute including the provisions of the Regulations and any claim or allegation of unlawful discrimination;
- 4.3.5 that all School Employees who carry out teaching are eligible to do so in accordance with the Education (Specified Work and Registration) (England) Regulations 2003;
- 4.3.6 that by the Transfer Date all Transferring Employees will have been checked against List 99 or the Children's Barred List (as appropriate and checked through the Criminal Records Bureau; and
- 4.3.7 that no amendment or variation (or promise to amend or vary) the terms and conditions of employment or engagement of any School Employee has been made.

and the Governing Body, or as the case may be, the Council shall indemnify the Company from and against all Losses incurred by the Company in connection with or as a result of the Council's breach of its obligations under this clause.

5. APPORTIONMENTS

- 5.1 The Governing Body and (in respect of any School Employee employed by the Council) the Council shall be responsible for all emoluments and outgoings in respect of the School Employees (including all wages, bonuses, commission, premiums, subscriptions, PAYE and national insurance contributions and pension contributions) which are attributable in whole or in part to the period up to but not including the Transfer Date and will pay such liabilities prior to the Transfer Date, and will indemnify the Company (both for itself and any Contractor) against all Losses incurred by the Company or any Contractor in respect of the same.
- 5.2 The Company shall be responsible for all emoluments and outgoings in respect of the Transferring Employees (including all wages, bonuses, commission, premiums, subscriptions, PAYE and national insurance contributions and pension contributions) which are attributable in whole or in part to the period from and including the Transfer Date, and will indemnify the Governing Body and/or the Council against Losses in respect of the same.

6. INFORMATION AND CONSULTATION

- 6.1 The Company shall comply (and shall procure that any Contractor complies) with its obligations under Regulation 13 of the Regulations during the period prior to the Transfer Date.
- 6.2 The Governing Body and (in respect of any School Employee employed by the Council) the Council shall comply with its obligations under Regulations 13 and 14 of the Regulations during the period prior to the Transfer Date, save where the Governing Body or, in respect of any School Employee employed by the Council, the Council is unable to do so as a result of the failure of the Company and/or any Contractor to comply with their duties under Regulation 13 of the Regulations.

7. INDEMNITIES

- 7.1** The Governing Body and (in respect of any School Employee employed or formerly employed by the Council) the Council shall indemnify the Company (either for itself or for or on behalf of any other person to whom the Transferring Employee or any liability relating to them has transferred) against all Losses incurred by the Company in connection with or as a result of:
- 7.1.1** any claim or demand by any School Employee or former School Employee (whether in contract, tort, under statute, pursuant to European law or otherwise) including any claim for unfair dismissal, wrongful dismissal, a redundancy payment, breach of contract, unlawful deduction from wages, discrimination on the grounds of sex, race, disability, age, sexual orientation, religion or religious belief, personal injury, a protective award or a claim or demand of any other nature, in each case arising directly or indirectly from any act, fault or omission of the employer in respect of any School Employee or former School Employee, or any claim relating to the period on and before the Transfer Date (and for the avoidance of doubt, this indemnity shall apply in respect of all Losses incurred by the beneficiary of this indemnity in respect of the period after the Transfer Date where the claim (such as, without limitation, a claim for equal pay) arises out of circumstances which arose on or before the Transfer Date);
 - 7.1.2** any failure by the Council or the Governing Body or any other employer of the School Employees to comply with its obligations under Regulations 13 and 14 of the Regulations, or any award of compensation under Regulation 15 of the Regulations, save where such failure arises from the failure of the Company or any Contractor to comply with its duties under Regulation 13 of the Regulations;
 - 7.1.3** any claim (including any individual employee entitlement under or consequent on such a claim) by any trade union or other body or person representing the School Employees (or other employees of the Council or the Governing Body) arising from or connected with any failure by the Council or the Governing Body or any other employer of the School Employees to comply with any legal obligation to such trade union, body or person; and/or
 - 7.1.4** any claim by any person (other than a Transferring Employee) in respect of which the Company or any Contractor incurs or is alleged to incur responsibility or liability as a result of the operation of the Regulations.
- 7.2** If in connection with the closing of the School and the opening of the Academy it is found or alleged that the employment of any person other than the Transferring Employees has transferred to the Company or a Contractor pursuant to the Directive or the Regulations:
- 7.2.1** the Company may by 4pm on the fifteenth (15th) working day following but excluding the day upon which it becomes aware of that allegation or finding, dismiss the employee with immediate effect; and
 - 7.2.2** the Governing Body (or, in respect of any person whose employment transfers or is alleged to transfer from the Council, the Council) shall indemnify and keep indemnified the Company against all Losses which the Company (or, where applicable, the Contractor) may suffer or incur in respect of that dismissal and the employment of that person up to the date of the dismissal and any other claim brought by or on behalf of that person.
- 7.3** The Company shall (in respect of Transferring Employees employed by the Company), and shall use reasonable endeavours to procure that any Contractor shall

(in respect of Transferring Employees employed by the Contractor), indemnify the Governing Body or, in respect of any School Employee employed by the Council, the Council against all Losses incurred by that party in connection with or as a result of:

- 7.3.1 any claim or demand by any Transferring Employee (whether in contract, tort, under statute, pursuant to European law or otherwise) including any claim for unfair dismissal, wrongful dismissal, a redundancy payment, breach of contract, unlawful deduction from wages, discrimination on the grounds of sex, race, disability, age, sexual orientation, religion or religious belief, a protective award or a claim or demand of any other nature, in each case arising directly or indirectly from any act, fault or omission of the Company or the Contractor, as the case may be, in respect of any Transferring Employee on or after the Transfer Date;
 - 7.3.2 any failure by the Company or the Contractor, as the case may be, to comply with its obligations under Regulation 13 of the Regulations; and/or
 - 7.3.3 any claim or demand by any School Employee arising out of any change or proposed change in the terms and conditions of employment or working conditions of that person on or after their transfer to the Company or the Contractor, as the case may be, on the Transfer Date, where that School Employee would have been a Transferring Employee but for their resignation or decision to treat their employment as terminated under Regulation 4(9) of the Regulations on or before the Transfer Date as a result of any such changes.
- 7.4 The Parties acknowledge and agree that the closing of the School and opening of the Academy shall not constitute a transfer for the purpose of the Childcare Employees whose employment shall transfer to Lisle Marsden Childcare Limited on and from the Transfer Date.
- 8. PENSIONS**
- 8.1 The parties acknowledge that the Company is a "scheme employer" for the purposes of the Local Government Pension Scheme (Administration) Regulations 2008 ("the LGPS Regulations" which expression shall include any regulations amending or replacing the regulations from time to time) and that the LGPS Regulations shall apply to the Company (as the person carrying on the business of the Company).
 - 8.2 The parties acknowledge that the Company is an "employer" for the purposes of the Teachers' Pension Scheme Regulations 1997 SI 1997/3001 ("the TPS Regulations" which expression shall include any regulations amending or replacing the regulations from time to time) and that the TPS Regulations shall apply to the Company (as the person carrying on the business of the Company).
 - 8.3 The Company acknowledges that the Eligible Employees shall be, or as the case may be, remain eligible for membership of the LGPS or the TPS (as the case may be) while employed at the Academy following the Transfer Date subject to the terms of the LGPS Regulations and the TPS Regulations.
 - 8.4 The Company shall be responsible for any LGPS deficit relating to the Eligible Employees' membership of the LGPS referable to service up to and including the Transfer Date.
 - 8.5 The Company shall be responsible for all employer contributions payable to the LGPS and the TPS in respect of the Eligible Employees and any other sum due to the LGPS and the TPS in respect of the Eligible Employees.
 - 8.6 The Company shall:

- 8.6.1 maintain such documents and information as will be reasonably required to manage the pension aspects of any onward transfer of any of the Eligible Employees;
- 8.6.2 promptly provide to the Council such documents and information which the Council may reasonably request in advance of any onward transfer of any person engaged or employed by the Company; and
- 8.6.3 fully co-operate with the reasonable requests of the Council relating to any administrative tasks necessary to deal with the pension aspects of any onward transfer of any person engaged or employed by the Company

9. THE ASSETS AND THE CONTRACTS

- 9.1 On the Transfer Date, but subject to the provisions set out in clauses 9.1A, 9.1B, 9.1C and 9.1D, the Council and/or the Governing Body (as applicable) will transfer (or to the extent that it is not the owner thereof shall procure the transfer of) the legal and beneficial interest in the Assets, free of charge and free from any Encumbrance, to the Company, save for any Encumbrance which has been fully and accurately disclosed to the Company prior to the Transfer Date.
- 9.1A The Council shall, following the dissolution of the School and the completion of due accounting procedures determine the following:
 - 9.1A.1 if, immediately prior to the Transfer Date there was a positive balance remaining in the School's budget (a "Budget Surplus") or, a negative balance remaining in the School's budget (a "Budget Deficit"); and
 - 9.1A.2 in the event of the School having a Budget Surplus, within three (3) calendar months of the Transfer Date, send written notice to the Company setting out the amount of any Budget Surplus; or
 - 9.1A.3 in the event of the School having a Budget Deficit, within three (3) calendar months of the Transfer Date, send written notice to the Company setting out the amount of any Budget Deficit.
- 9.1B The Company shall within one (1) calendar month of receipt of a Budget Surplus notification issued by the Council pursuant to clause 9.1A.2 either:
 - 9.1B.1 confirm its agreement of the amount of the Budget Surplus; or
 - 9.1B.2 request that review of the amount of the Budget Surplus be undertaken by the Secretary of State;

in default of which the Company shall be deemed to have confirmed its agreement of the amount of the Budget Surplus and the Council shall pay the Budget Surplus in accordance with clause 9.1A.D.
- 9.1C The Company may within one (1) calendar month of receipt of a Budget Deficit notification issued by the Council pursuant to clause 9.1A.3 request that a review of the amount of the Budget Deficit be undertaken by the Secretary of State, in default of which the Company shall be deemed to have agreed the Budget Deficit.
- 9.1D The Council shall pay any Budget Surplus to the Company by the date which is one (1) calendar month from the date the Company confirms the amount of the Budget Surplus.
- 9.2 The Council and/or Governing Body (as applicable) undertakes with effect from the Transfer Date to assign to the Company or to procure the assignment to the Company

all the Contracts which are capable of assignment without the consent of other parties to those contracts.

9.3 If any of the Contracts cannot be transferred to the Company except by an assignment made with the consent of another party or by an agreement of novation:

9.3.1 this Agreement shall not constitute an assignment or an attempted assignment of the Contract if the assignment or attempted assignment would constitute a breach of the Contract;

9.3.2 after the Transfer Date the parties shall use their respective reasonable endeavours to obtain the consent of the other party to the assignment, or to procure the novation, of the Contract; and

9.3.3 until the consent or novation is obtained:

(a) the Council or the Governing Body (as the case may be) shall hold the same on trust for the Company and shall (at its cost) do all such acts and things as the Company may reasonably require to enable due performance of the Contract and to provide for the Company the benefits of the Contract (including enforcement of any right of the Council or the Governing Body (as the case may be) against the other party to the Contract arising out of its termination by the other party or otherwise);

(b) the Company shall (if sub-contracting is permissible and lawful under the Contract in question), as the Council's or Governing Body's (as appropriate) sub-contractor, perform all the obligations of the Council (or Governing Body) under such Contract and where sub-contracting is not permissible, the Company shall perform such obligations as agent for the Council or Governing Body (as appropriate); and

(c) unless and until any such Contract is assigned or novated, the Council or Governing Body (as appropriate) shall (so far as it lawfully may) at the Company's cost give all such assistance as the Company may reasonably require to enable the Company to enforce its rights under such Contract, including, providing access to all relevant books, documents and other information in relation to such Contract as the Company may reasonably require from time to time.

9.4 Pending the Transfer Date, possession of the Assets shall be retained by the Council and/or the Governing Body (as the case may be).

9.5 All receipts relating to the Assets and the Contracts and all Losses and outgoings incurred or payable in relation to the Assets and the Contracts up to the Transfer Date ("**Historic Liabilities**") shall belong to, and be paid and discharged by, the Council to the extent that it was the owner of the Asset or party to the Contract immediately prior to the Transfer Date or, as the case may be, by the Governing Body to the extent that it was the owner of the Asset or party to the Contract immediately prior to the Transfer Date. The Council undertakes to indemnify and keep the Company and the Governing Body indemnified against any Historic Liabilities solely attributable to the Council.

9.6 All receipts relating to the Assets and the Contracts and all Losses and outgoings incurred or payable in relation to the Assets and the Contracts as from and including the Transfer Date ("**Future Liabilities**") shall belong to, and be paid and discharged by the Company and the Company undertakes to indemnify and keep the Council and the Governing Body indemnified against any Future Liabilities.

- 9.7 The Company agrees that, following the Transfer Date, it shall provide the Council with sufficient information, as reasonably requested by the Council, to enable the Council to accurately determine and discharge any Historic Liabilities (including, without limitation, any payments relating to the School's accounts). In the event that the Council makes an underpayment or overpayment in relation to any Historic Liabilities (including, without limitation, any payments relating to the School's accounts), the Council and the Company agree to repay any such sums to the other (as appropriate). In the event that the Council has made no payment in relation to any Historic Liabilities but has received payment from the Secretary of State in respect of these, and this amount is an underpayment or an overpayment, the Council and the Company agree to repay any such sums to the other (as appropriate).
- 9.8 The Council and the Governing Body shall on or before the Transfer Date deliver to the Company the Personnel Files and the Pupil Records, to the extent that they are permitted to do so by Data Protection Legislation and to the extent that they are not already in the possession of the Company).
- 9.9 The Company undertakes not to use the Personnel Files or the Pupil Records for any purposes unconnected with the operation and management of the Academy, the purposes for which such information was originally collected or any other lawful purposes.

10. CONDUCT OF CLAIMS

10.1 In respect of the indemnities given in this Agreement:

- 10.1.1 The indemnified party shall give written notice to the indemnifying party as soon as is practicable of the details of any claim or proceedings brought or threatened against it by a third party in respect of which a claim will or may be made under the relevant indemnity;
- 10.1.2 The indemnifying party shall at its own expense have the exclusive right to defend, conduct and/or settle all claims and proceedings which may be brought by a third party to the extent that such claims or proceedings may be covered by the relevant indemnity provided that where there is an impact on the indemnified party, the indemnifying party shall consult with the indemnified party and shall at all times keep the indemnified party informed of all material matters; and
- 10.1.3 The indemnified party shall, at the indemnifying party's expense, provide all reasonable assistance and documentation required by the indemnifying party in connection with, and act as or be joined as a defendant in, any claim or proceedings brought by a third party. The indemnifying party shall reimburse the indemnified party for all reasonable costs and expenses (including legal costs and disbursements) incurred in providing such cooperation and/or arising as a result of the indemnifying party's failure to defend, conduct and/or settle such claims and proceedings.

10A. EXCLUDED PUPILS

- 10A.1 In accordance with the Funding Agreement, the Company agrees with the Council that where:
- 10A.1.1 the Company admits a pupil to the Academy who has been permanently excluded from a Council maintained school, the Academy itself, or another academy within Grimsby; or
- 10A.1.2 the Company permanently excludes a pupil from the Academy

payment will flow between the Company and the Council in the same direction and for the same amount that it would, were the Academy a maintained school, under regulations made under section 47 of the School Standards and Framework Act 1998 relating to the addition or deduction of a maintained school's budget following a permanent exclusion of a pupil or the admission of a permanently excluded pupil.

10B. CARBON REDUCTION COMMITMENT (CRC)

- 10B.1 The Council is a participant in the CRC and has to include the energy use/emissions of the Company in its data, evidence pack and annual reports.
- 10B.2 The Company shall co-operate with the Council and provide all information as is reasonably required by the Council relating to the Company's energy use/emissions to properly account for the energy use/emissions of the Company. The Company will notify the Council as soon as reasonably practicable if the Company discovers that any of the information provided to the Council is incorrect, and will provide the correct information/data as soon as reasonably practicable.
- 10B.3 The Council and the Company shall work together on ways to save energy and become more energy efficient at the Academy.

11. CONFIDENTIALITY

Each party undertakes to the other that they will keep the contents of this Agreement confidential as between the parties, except to the extent that disclosure is required by law.

12. THIRD PARTIES

No person who is not a party to this Agreement is intended to reserve a benefit under, or be entitled to enforce, this Agreement pursuant to the Contracts (Rights of Third Parties) Act 1999 (the "Act") save that any Contractor may enjoy the benefit and enforce the terms of this Agreement in accordance with the Act. Notwithstanding this, neither the Council nor the Governing Body nor the Company require the consent of any Contractor to rescind or vary this Agreement at any time, even if that variation or rescission affects the benefits conferred on such Contractor.

13. FORCE MAJEURE

Neither party will be liable to the other for any delay or non-performance of its obligations under this Agreement arising from any cause or causes beyond its reasonable control.

14. GENERAL

- 14.1 No forbearance or delay by either party in enforcing its rights will prejudice or restrict the rights of that party, and no waiver of any such rights or of any breach of any contractual terms will be deemed to be a waiver of any other right or of any later breach.
- 14.2 No variation of this Agreement will be valid unless recorded in writing and signed by or on behalf of each of the parties to this Agreement.
- 14.3 If any provision of this Agreement (or part of any provision) is found by any court or other authority of competent jurisdiction or illegal, the other provisions will remain unaffected and in force.
- 14.4 Nothing in this Agreement will be construed as constituting or evidencing any partnership, contract of employment or joint venture of any kind between either of the parties or as authorising either party to act as agent for the other. Neither party will

have authority to make representations for, act in the name or on behalf of or otherwise to bind the other party in any way.

- 14.5 Neither party will make any announcement relating to this Agreement or its subject matter without the prior written approval of the other party (such approval not to be unreasonably withheld or delayed).
- 14.6 Each party will, at the request of the other party and its own cost, do (or procure others to do) everything necessary to give the other party the full benefit of this Agreement.
- 14.7 Nothing in this Agreement shall oblige the Governing Body to continue in existence where it ceases to do so as a result of the closure of the School or by operation of law or shall place any obligation or liability on the individual members of the Governing Body whether or not the Governing Body continues to exist. Any liabilities identified as being solely the responsibility of the Governing Body pursuant to the terms of this Agreement shall, from the Transfer Date, transfer to and, become the responsibility of, the Company.
- 14.8 Any notice required to be given under this Agreement shall be in writing and shall be delivered personally, or sent by pre-paid first class or recorded delivery or by commercial courier, to each party required to receive the notice at the addresses specified by the relevant party by written notice to the other (and if no such address is specified), the address set out at the front of this Agreement.
- 14.9 Any notice shall be deemed to have been duly received:
- 14.9.1 if delivered personally, when left at the address and for the contract referred to in this Clause; or
- 14.9.2 if sent by pre-paid first class post or recorded delivery, at 9.00 a.m. on the second business day after posting; or
- 14.9.3 if delivered by commercial courier, on the date and at the time that the courier's delivery receipt is signed.
- 14.10 A notice required to be given under this Agreement shall not be validly given if sent by email.
- 14.11 This Agreement may be executed in any number of counterparts, each of which will be an original and all of which will together constitute a single agreement.
- 14.12 Each party shall bear its own costs and expenses (including legal fees) in relation to the preparation and execution of this Agreement.
- 14.13 This Agreement constitutes the entire agreement and understanding between the parties in respect of the matters dealt with in and supersedes any previous agreement between the parties.
- 14.14 Each of the parties acknowledge and agrees that in entering into this Agreement it does not rely on, and will have no remedy in respect of, any statement, representation, warranty or understanding (whether negligently or innocently made) of any person (whether party to this Agreement or not) other than as expressly set out in this Agreement.

15. GOVERNING LAW AND JURISDICTION

- 15.1 This Agreement will be governed by and interpreted in accordance with the law of England.

15.2 Each party irrevocably submits to the exclusive jurisdiction of the courts of England over any claim or matter arising under or in connection with this Agreement.

IN WITNESS whereof the parties have executed this Agreement as a Deed on the date which first appears on this Agreement.

SIGNED AS A DEED IS

THE COMMON SEAL OF NORTH EAST
LINCOLNSHIRE BOROUGH COUNCIL

SIGNED by
WAS HERETO AFFIXED TO THIS DEED
IN THE PRESENCE OF
Duly authorised on behalf of the

COUNCIL:

AUTHORISED SIGNATURE

[Handwritten signature]



SIGNED by *[Signature]*)

DANIEL KINSEY

Duly authorised on behalf of the)

GOVERNING BODY in the presence)

of: *[Signature]*)

ADAM AISTHORPE

SIGNED by *[Signature]*)

GREG HARDEN

Duly authorised on behalf of)

COMPANY in the presence of:)

ADAM AISTHORPE

[Signature]

SCHEDULE 1

STAFFING INFORMATION

- 1. Individual terms and conditions**
 - 1.1 Copies of all current employment contracts, and all other terms and conditions of employment.**
 - 1.2 A schedule comprising in respect of each employee, the following particulars:**
 - (a) full name;**
 - (b) post;**
 - (c) whether the employment is full or part time;**
 - (d) sex;**
 - (e) date of birth;**
 - (f) date of commencement of service;**
 - (g) notice period;**
 - (h) normal retirement age;**
 - (i) remuneration;**
 - (j) pension;**
 - (k) in respect of teachers:**
 - (i) scale point or leadership group spine point;**
 - (ii) assimilation point for the head teacher;**
 - (iii) whether the employee is a post-threshold teacher;**
 - (iv) whether the employee is an honours graduate;**
 - (v) management, recruitment, retention and/or any other allowances payable;**
 - (vi) any applicable assimilation safeguarding,**
 - and all other benefits whether contractual or otherwise.**
 - 1.3 Details of any recent or proposed or anticipated changes of terms and conditions in relation to any employee.**
 - 1.4 Copies of any employee handbooks, rules and other policies, procedures, arrangements or agreements in relation to:**
 - (a) redundancy procedures and payments;**
 - (b) redeployment procedures;**
 - (c) sickness absence and sick pay entitlements;**

(d) equal opportunities;

(e) disciplinary matters;

(f) maternity rights;

and details of whether or not each of the above are discretionary or contractual.

1.5 Copies of any job descriptions.

1.6 Details of any practices or customs which although not written down form part of employees' terms and conditions of employment.

2. Collective bargaining

2.1 Details of the names of all trade union and other employee representatives, with the name of the trade union, the position held and how long the position was held.

2.2 Details of any trade union recognised by the Council / Governing Body, giving the date and details of the recognition agreement (and a copy if available), with brief details of current and historic labour relations and any pending negotiations.

2.3 Details of any other agreement, whether school, local or national, with any trade union or other body of employee representatives (and copies if available) including any informal recognition and procedure arrangements and other arrangements honoured by "custom and practice".

2.4 Details of which, if any, of the terms of any collective agreement form part of individuals' terms and conditions of employment.

3. Disputes

3.1 Details of any dispute with any employee whether brought under the Council / Governing Body's disciplinary or grievance procedure or otherwise and any matters which might give rise to such.

3.2 Details of any litigation threatened or pending against the Council / Governing Body, including any court, employment tribunal or arbitration claims or any matters which might give rise to such.

3.3 Details of any enquiry, correspondence or contact between the Council / Governing Body and the Equality and Human Rights Commission, a Health and Safety Inspector and the HM Revenues and Custom concerning employees.

3.4 Details of any court judgment or current employment tribunal award in respect of any employee dispute.

3.5 Details, and, if available, copies, of any warnings given to employees under the Council / Governing Body's disciplinary or capability procedures.

4. Dismissals

4.1 Details of all dismissals/resignations within the last 12 months including reasons for the dismissal/resignation.

4.2 Details of all employees recruited within the last 12 months.

- 5. Working Time Regulations 1998**
 - 5.1 Copies of any individual, collective and workforce agreements entered into pursuant to the Working Time Regulations.
- 6. Health and Safety**
 - 6.1 Details of any health and safety committees/representatives.
 - 6.2 Details of any health and safety complaints or recommendations or claims within the last 5 years.
- 7. Trainees/Consultants**
 - 7.1 Details of all individuals in the undertaking working on training, work experience or similar schemes.
 - 7.2 Details of all consultancy agreements or self-employed personnel who are or may actually be employees.
- 8. Absent employees**
 - 8.1 Details of all employees who have notified the Council / Governing Body that they are pregnant or who are currently absent on maternity leave.
 - 8.2 Details of all employees on long term sick leave together with confirmation of the nature of their illness and the duration and dates of their absence(s) due to that condition.
- 9. Job Evaluation Scheme**
 - 9.1 A copy of any job evaluation scheme.
- 10. Contractor Employees**
 - 10.1 Details of any individuals employed by contractors working in the school.
- 11. Pension**
 - 11.1 A list of all pension schemes (both occupational and personal) applicable to the employees.
 - 11.2 Details of any current or pending applications for early retirement.

SCHEDULE 2
THE CONTRACTS

COMPANY NAME	ADDRESS	BUSINESS TYPE
Biffa Waste Services Ltd	PO box 645 High Wycombe HP12 3WF	Waste collection
Tulip Healthcare Ltd	Unit 2, Pegasus Square Innovation Way Grimsby DN37 9TJ	Washroom services
MFL	5 Westlands Avenue Tetney DN36 5LP	Grounds maintenance
Adcock Refrigeration & Air Conditioning Ltd	Lincoln House Enterprise Way Kings Lynn Norfolk PE30 4LJ	Air conditioning maintenance
Trend Control Systems Ltd	Albery House Springfield Road Horsham West Sussex RH12 2PQ	Boiler control panel maintenance
United Carlton Office Systems Ltd	Meadow Court Dukes Way Team Valley Trading Estate Gateshead Tyne & Wear NE11 0HZ	Photocopiers
Tucasi Ltd	Wessex House Upper Market Street Eastleigh SO50 9FD	Schools cash office
PHS Group plc	Western Industrial Estate Caerphilly CF83 1XH	Washroom services
British Gas Business	1600 Parkway Court Oxford Business Park South Garsington Road Oxford OX4 2JY	Gas supplier
N Power Business	PO Box 8201 Oldbury West Midlands B69 2RH	Electric supplier
NELC	Civic Offices, Cleethorpes, DN35 8NX	Service level agreements: • Security, to include alarm monitoring, alarm maintenance, alarm transmission with 'Dualcom', key holding and call outs.

SCHEDULE 3

THE ASSETS

1. All equipment, furniture, fixtures and fittings on the site of the School ("**the loose plant and equipment**"), subject to all contractual obligations in respect of any part of the loose plant and equipment which is the subject of any leasing, hire or hire purchase agreements except, for the avoidance of doubt, the Excluded Assets.
2. All rights to use the name of the School and all logos and domain names used exclusively by the School. All copyrights, database rights and other intellectual property rights owned by the Council or Governing Body (as appropriate) and used exclusively by the School.
3. All rights of the Council or Governing Body (as appropriate) in respect of computer software used by the School whether granted by licence or otherwise.
4. Any balance remaining from the School's budget following completion of due accounting procedures.
5. The Budget Surplus.

SCHEDULE 4
THE EXCLUDED ASSETS

The following assets are excluded from this transfer:

1. The freehold titles (whether registered or unregistered) to the site of the School which will be dealt with by separate agreement.
2. Cash in hand or at bank other than the Budget Surplus.
3. The benefit of any grants made to the School in respect of periods before the Transfer Date.
4. Any assets identified in writing by the Council to the Company within twelve (12) calendar months of the Transfer Date and which are subsequently agreed by the parties acting reasonably as assets which should have been identified as Excluded Assets on the Transfer Date. The Company agrees to transfer, or procure the transfer to the Council of any such assets identified by the Council pursuant to this paragraph 4.