

SCHEDULE 1

MODEL SUPPLEMENTAL AGREEMENT

THIS AGREEMENT made 3 August 2011

BETWEEN

(1) THE SECRETARY OF STATE FOR EDUCATION; and

(2) CAMBRIDGE MERIDIAN ACADEMIES TRUST

IS SUPPLEMENTAL TO THE MASTER FUNDING AGREEMENT made between the same parties and dated 2011 (the "Master Agreement").

1 DEFINITIONS AND INTERPRETATION

1.1 Except as expressly provided in this Agreement words and expressions defined in the Master Agreement shall have the same meanings in this Agreement as were ascribed to them in the Master Agreement.

1.2 The following words and expressions shall have the following meanings:

"the Academy" means the Nene Park Academy established at Oundle Road, Orton Longueville, Peterborough, Cambridgeshire, PE2 7EA.

"Chief Inspector" means Her Majesty's Chief Inspector of Education, Children's Services and Skills or his successor;

"the Land" means the land (including for the avoidance of doubt all buildings, structures landscaping and other erections) situated at Oundle Road, Orton Longueville, Peterborough, Cambridgeshire, PE2 7EA and registered under CB276548".

1.3 Reference in this Agreement to clauses and Annexes shall, unless otherwise stated, be to clauses and annexes of this Agreement.

2 **THE ACADEMY**

- 2.1 The Company will establish and maintain, and carry on or provide for the carrying on of the Academy in accordance with the Master Agreement and this Agreement.
- 2.2 The curriculum provided by the Academy to pupils up to the age of 16 shall be broad and balanced with an emphasis in its secondary education on science and enterprise.
- 2.3 The requirements for the admission of pupils to the Academy are set out at Annex 1.

ACADEMY OPENING DATE

- 2.4 The Academy shall open as a school on 1 September 2011 replacing Orton Longueville School (a foundation school) (the Predecessor School) which shall cease to be maintained by the Local Authority on that date, which date shall be the conversion date within the meaning of the Academies Act 2010.
- 2.5 The planned capacity of the Academy is 1100 in the age range 11-19, including a sixth form of 200 places.

3 **CAPITAL GRANT**

- 3.1 Pursuant to clause 38 of the Master Funding Agreement, the Secretary of State may, in his absolute discretion provide Capital Expenditure funding in accordance with any arrangements he considers appropriate.

4 **GAG AND EAG**

- 4.1 The Secretary of State agrees to pay GAG and EAG to the Company in relation to the Academy in accordance with the Master Agreement.

5 **TERMINATION**

- 5.1 Either party may give not less than seven Academy Financial Years' written notice to terminate this Agreement, such notice to expire on 31 August 2018 or any subsequent anniversary of that date.
- 5.2 If the Secretary of State is of the opinion that the Academy no longer has the characteristics set out in clause 12 of the Master Agreement or that the conditions and requirements set out in clauses 14-35 of the Master

Agreement are not being met, or that the Company is otherwise in material breach of the provisions of this Agreement or the Master Agreement, the Secretary of State may give notice of his provisional intention to terminate this Agreement.

- 5.3 Any such notice shall be in writing and shall:
- 5.3.1. state the grounds on which the Secretary of State considers the Academy no longer has the characteristics set out in clause 12 of the Master Agreement or is not meeting the conditions and requirements of clauses 13-34 of the Master Agreement or the Company is otherwise in material breach of the provisions of this Agreement or the Master Agreement;
 - 5.3.2. specify the measures needed to remedy the situation or breach;
 - 5.3.3. specify a reasonable date by which these measures are to be implemented; and
 - 5.3.4. state the form in which the Company is to provide its response and a reasonable date by which it must be provided.
- 5.4 If no response is received by the date specified in accordance with clause 5.3.4, the Secretary of State may give the Company 12 months, or such lesser period as he considers appropriate in the circumstances, written notice to terminate this Agreement.
- 5.5 If a response is received by the date specified in accordance with clause 5.3.4, the Secretary of State shall consider it, and any representations made by the Company, and shall, within three months of its receipt, indicate that:
- 5.5.1. he is content with the response and/or that the measures which he specified are being implemented; or
 - 5.5.2. he is content, subject to any further measures he reasonably specifies being implemented by a specified date or any evidence he requires that implementation of such measures have been successfully completed; or

- 5.5.3. he is not satisfied, that he does not believe that he can be reasonably satisfied, and that he will proceed to terminate the Agreement.
- 5.6 In the circumstances of clause 5.5.3 the Secretary of State shall notify the Company why he believes that he cannot be reasonably satisfied and, if so requested by the Company within thirty days from such notification, he shall meet a deputation including representatives from directors of the Company and the Local Governing Body of the Academy to discuss his concerns. If following such meeting he has good reasons for remaining satisfied that the Academy does not and will not have the characteristics set out in clause 12 of the Master Agreement or does not and will not meet the conditions and requirements set out in clauses 13-34 of the Master Agreement or the Company is in material breach of the provisions of this Agreement or the Master Agreement and such breach will not be remedied to his reasonable satisfaction, he shall give the Company twelve months written notice to terminate this Agreement.
- 5.7 If the Secretary of State has cause to serve a notice on the Company under section 165 of the Education Act 2002 and a determination (from which all rights of appeal have been exhausted) has been made that the Academy shall be struck off the Register of Independent Schools, the period of twelve months notice referred to in clause 5.6 may be shortened to a period deemed appropriate by the Secretary of State.
- 5.8 The Secretary of State shall, at a date preceding the start of each Academy Financial Year, provide to the Company an indication of the level of funding to be provided by the Secretary of State to the Company by way of GAG and EAG in the next following Academy Financial Year (the "**Indicative Funding**"). If the Company is of the opinion that, after receipt of the Indicative Funding for the next following Academy Financial Year (the "**Critical Year**") and of the taking into account all other resources available and likely to be available to the Academy, including such funds as are set out in clause 79 of the Master Agreement and such other funds as are and likely to be available to the Academy from other academies operated by the Company ("**All Other Resources**"), it is likely that the cost of running the Academy during the Critical Year would cause the Company, on the basis of the Indicative Funding, to become insolvent (and for this reason only) then the Company

may give notice of its intention to terminate this Agreement at the end of the then current Academy Financial Year.

- 5.9 Any notice given by the Company under clause 5.8 shall be in writing and shall be served on the Secretary of State not later than 28 February preceding the Critical Year or, if the Secretary of State shall not have given notice of the Indicative Funding to the Company on or before the date specified in clause 5.8 above, within six weeks after the Secretary of State shall have done so. The notice must specify:
- 5.9.1. the grounds upon which the Company's opinion is based and include the evidence of those grounds and any professional accounting advice the Company has received and including a detailed statement of steps which the Company proposes to take with a view to ensuring that as soon as reasonably practicable the costs of running the Academy are reduced sufficiently to ensure that such costs are less than the Indicative Funding and All Other Resources and the period of time within which such steps will be taken; and
 - 5.9.2. the shortfall in the Critical Year between the Indicative Funding and All Other Resources expected to be available to the Company to run the Academy and the projected expenditure on the Academy; and
 - 5.9.3. a detailed budget of income and expenditure for the Academy during the Critical Year (the "**Projected Budget**").
- 5.10 Both parties undertake to use their best endeavours to agree whether or not the cost of running the Academy during the Critical Year would cause the Company, on the basis of the Indicative Funding and All Other Resources, to become insolvent. Both parties recognise that they will need to engage in a constructive dialogue at the time about how best to provide education for the pupils at the Academy and undertake to use their best endeavours to agree a practical solution to the problem.
- 5.11 If no agreement is reached by 30 April (or such other date as may be agreed between the parties) as to whether the cost of running the Academy during the Critical Year on the basis of the Indicative Funding and All Other Resources would cause the Company to become insolvent, then that question shall be referred to an independent expert (the "**Expert**") for

resolution. The Expert's determination shall be final and binding on both parties. The Expert shall be requested to specify in his determination the amount of the shortfall in funding (the "**Shortfall**"). The Expert shall be an insolvency practitioner with significant professional experience of educational institutions or academies. If the parties fail to agree upon the appointment of the Expert then the Expert shall be appointed by the President for the time being of the Institute of Chartered Accountants in England and Wales. The Expert's fees shall be borne equally between the parties.

- 5.12 The Expert shall be required in reaching his determination to take account of advice from an educational specialist who is professionally familiar with the issues arising from the budget management of large schools. If the parties fail to agree upon the appointment of the educational specialist then the educational specialist shall be appointed by the Chairman for the time being of the Specialist Schools and Academies Trust. The educational specialist's fees shall be borne equally between the parties.
- 5.13 If the Expert determines that the cost of running the Academy during the Critical Year would cause the Company, on the basis of the Indicative Funding and All Other Resources, to become insolvent, and the Secretary of State shall not have agreed to provide sufficient additional funding to cover the Shortfall, then the Company shall be entitled to terminate this Agreement, by notice expiring on 31 August prior to the Critical Year. Any such notice shall be given within 21 days after (a) the Expert's determination shall have been given to the parties or (b), if later, the Secretary of State shall have given written notice of his refusal to provide sufficient additional funding for the Academy to cover the Shortfall.
- 5.14 If the Company shall have given notice to terminate the Agreement under 5.13, the Secretary of State may by notice in writing to the Company require the Company to appoint up to two persons as directors of the Company in accordance with the Articles.
- 5.15 The Secretary of State may at any time by notice in writing terminate this Agreement forthwith if the Academy has ceased (except where such cessation occurs temporarily by reason of an event beyond the reasonable control of the Company) to operate as an Academy within the meaning of Section 1 of the Academies Act 2010.

5.16 A "Special Measures Termination Event Occurs" when:

- 5.16.1. the Chief Inspector gives a notice to the Company in accordance with section 13(3) of the Education Act 2005 (the "Special Measures Notice") stating that in his opinion special measures are required to be taken in relation to the Academy; and
 - 5.16.2. the Chief Inspector carries out a subsequent inspection of the Academy in accordance with the Education Act 2005 and makes a report in accordance with the Education Act 2005 stating that the Academy has made inadequate progress since the date of the Special Measures Notice; and
 - 5.16.3. the Secretary of State shall have requested the Company to deliver within 10 Business Days a written statement (a "Further Action Statement") of the action the Company proposes to take, and the period within which it proposes to take such action, or, if it does not propose to take any action, the reasons for not doing so; and
 - 5.16.4. the Secretary of State, having considered the Further Action Statement, is not satisfied that any action proposed to be taken by the Company is sufficient in all the circumstances, or, if no Further Action Statement shall have been given to the Secretary of State within the requested timeframe or otherwise.
- 5.17 If a Special Measures Termination Event occurs, the Secretary of State may:
- 5.17.1. by notice in writing to the Company terminate this Agreement forthwith; or
 - 5.17.2. subject to clause 109 of the Master Agreement, appoint such Further Directors to the Company as he thinks fit in accordance with the Articles and/or may provide up to 12 months' notice in writing to terminate this Agreement.
- 5.18 In the event that the Secretary of State appoints Further Directors in accordance with clause 5.17.2, the Company must, upon the request of the Secretary of State, procure the resignation of the Directors appointed in accordance with Article 50 of the Articles of Association.

6 EFFECT OF TERMINATION

- 6.1 In the event of termination of this Agreement however occurring, the school shall cease to be an Academy within the meaning of Section 1 of the Academies Act 2010.
- 6.2 Subject to clause 6.3, if the Secretary of State terminates this Agreement for reasons other than that a Special Measure Termination Event occurs, the Academy no longer has the characteristics set out in clause 12 of the Master Agreement, or is no longer meeting the conditions and requirements set out in clauses 13-34 of the Master Agreement or that the Company is otherwise in material breach of the provisions of this Agreement or the Master Agreement, the Secretary of State shall indemnify the Company.
- 6.3 The amount of any such indemnity shall be determined by the Secretary of State having regard to any representations made to him by the Company, and shall be paid at such times and in such manner as the Secretary of State may reasonably think fit.
- 6.4 The categories of expenditure incurred by the Company in consequence of the termination of the Agreement in respect of which the Secretary of State shall indemnify the Company include (but not by way of limitation), staff compensation and redundancy payments, compensation payments in respect of broken contracts, expenses of disposing of assets or adapting them for other purposes, legal and other professional fees, and dissolution expenses.
- 6.5 Subject to clause 6.6, on the termination of this Agreement however occurring, the Company shall in respect of any of its capital assets at the date of termination:
- (a) promptly transfer a proportion of the assets to a person nominated by the Secretary of State, if the Secretary of State considers that all or some of those assets need to be used for educational purposes by that nominee. The proportion of the assets to be transferred shall be the same as the proportion of the capital contribution made by the Secretary of State to the original value of those assets, whether that contribution was made on the establishment of the Academy or later; or
- (b) if the Secretary of State confirms that a transfer under clause 6.5(a) is

not required, promptly repay to the Secretary of State a sum equivalent to the percentage of the value of the assets at the date of termination, or, by agreement with the Secretary of State, at the date of subsequent disposal of those assets. Such percentage to be the same as the percentage of the capital contribution made by the Secretary of State to the original value of those assets, whether that contribution was made on the establishment of the Academy or later.

- 6.6 The Secretary of State may waive in whole or in part the repayment due under clause 6.5(b) if:
- a) The Company obtains his permission to invest the proceeds of sale for its charitable objects; or
 - b) The Secretary of State directs all or part of the repayment to be paid to the LA.
- 6.7 If any land or premises of the Academy were acquired by the Company from an LA by a scheme under Paragraph 1 of Schedule 1 of the Academies Act 2010 or otherwise at less than the market value of the land at the date of acquisition, and the Secretary of State does not make a scheme as provided for in Paragraph 6 of Schedule 1 of the Academies Act 2010, the Company may dispose of its interest in that land or premises but only with the consent of the Secretary of State, who shall have regard to any representations from the Company and the LA from which the land was transferred before giving or withholding that consent.

6A LAND: Restrictions on Land transfer

6A.1 The Company:

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

No disposition of the registered estate by the proprietor of the registered estate, or by the proprietor of any registered charge, not being a charge registered before the entry of this restriction is to be registered without a

written consent signed by the Secretary of State for Education, of Sanctuary Buildings, Great Smith Street, London SW1P 3BT

- b) shall take any further steps required to ensure that the restriction referred to in clause 6A.1(a) is entered on the proprietorship register,
- c) shall provide the Secretary of State with confirmation of the entry of the restriction referred to in clause 6A.1(a) as soon as practicable after it receives notification from the Land Registry,
- d) in the event that it has not registered the restriction referred to in clause 6A.1(a), hereby consents to the entering of the restriction referred to in 6A.1(a) in the register by the Secretary of State (under s. 43(1)(b) of the Land Registration Act 2002),
- e) shall not, without the consent of the Secretary of State, apply to dis-apply, modify or remove (by cancellation or otherwise) a restriction entered in accordance with clause 6A.1(a) or 6A.1(d) above.

7 **ANNEX**

- 7.1 The Annex to this Agreement forms part of and is incorporated into this Agreement.

8 **THE MASTER AGREEMENT**

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

9 **ENGLISH LAW**

9.1 This Agreement shall be governed by and interpreted in accordance with English law.

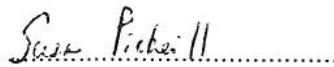
This Agreement was executed as a Deed on 8 August 2011

Executed on behalf of Cambridge Meridian Academies Trust by:


Director


Director/Secretary

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


.....

Duly Authorised



ANNEX TO THIS SUPPLEMENTAL AGREEMENT

Requirements for the Admission for pupils at the
Academy Annex 1

ADMISSION ARRANGEMENTS

1 Introduction

- 1.1 These arrangements are established in accordance with Annex 1 of the Academy's Supplemental Funding Agreement.
- 1.2 The Academy provides for pupils aged 11-19 and has a single Normal Point of Entry, at the start of the Year 7 school year. Applications for admission at the normal point of admission will be co-ordinated by Peterborough City Council in accordance with its common application procedures and Paragraphs 3, 4, 5, 6 and 7 below. Arrangements for late admission into Year 7 and for admission to other year groups will be co-ordinated by the Academy's Governing Body in accordance with paragraphs 7, 8 and 9 below.

2 Admission Number

- 2.1 The Academy's Published Admission Number is set at 180, and at least 180 pupils will be admitted each year to Year 7 at the Normal Point of Entry provided sufficient eligible applications have been received. Where fewer than 180 applications have been received, all applicants will be admitted.

3 Ordinary Applications for the Normal Point of Entry

- 3.1 Application for admission to Year 7 should be made to the local authority in whose area the applicant is normally resident by the closing date of October 31st of the preceding year.
- 3.2 Applications will be co-ordinated by Peterborough City Council who will consult as required with the Academy's Governing Body.
- 3.3 Places will be offered to all successful applicants by Peterborough City Council by March 1st. Where the Academy is oversubscribed, places will be awarded on the basis of the oversubscription criteria set out in Paragraph 8 below.

4 Late Applications for the Normal Point of Entry

- 4.1 Applications received after the closing date and before the Normal Point of Entry will be dealt with by Peterborough City Council in accordance with its procedures for late applications, after places have been awarded to ordinary applications.
- 4.2 Where the Academy is oversubscribed as a result of late applications, these applications will be judged according to the oversubscription criteria.
- 4.3 Places will be offered to successful applicants by March 1st or as soon as possible thereafter and in any case before September 1st.

5 Acceptance of Offer of a Place

- 5.1 Where an offer is made, the applicant should be notified that they have four weeks in which to accept the offer. Where an offer is not accepted by the applicant in writing within four weeks, the Academy's Governing Body reserves the right to withdraw the offer and the offer of a place to be made to the next applicant on the waiting list.

6 Oversubscription Criteria

- 6.1 The Academy will admit children with a statement of special educational needs which names the Academy as the appropriate school for the child.
- 6.2 Remaining places will be allocated according to the following criteria, in order of priority:
 - i. Looked after children

- ii. Children normally resident within the Academy's defined catchment area with a sibling on roll at the point of admission
 - iii. Children normally resident within the Academy's defined catchment area
 - iv. Children with a sibling on roll at the point of admission
 - v. Other children
- 6.3 A map of the Academy's defined catchment area is shown on the Academy's website.
- 6.4 Where places are oversubscribed within any of the above groups, priority will be given to children living nearest to the Academy as measured by a horizontal straight line between the Academy's main entrance and the front door of the dwelling (e.g. house or flat) at which the child is normally resident.
- 6.5 A sibling is defined as a brother or sister, half brother or sister, adopted brother or sister, step brother or sister, or the child of the parent/carer's partner, and in every case the child must be normally resident in the same family unit at the same address.
- 6.6 An offer will not be made to one child normally resident in a particular household unless offers are equally made to the other co-resident children, provided applications have been submitted for all of the children at the same time. In such exceptional circumstances, the number of offers may consequently exceed the Academy's Published Admission Number.

7 Waiting List

- 7.1 Where the Academy is oversubscribed for the Normal Point of Admission, all unsuccessful applicants will be placed on the waiting list which will be administered by Peterborough City Council up to the Normal Point of Admission and thereafter by the Academy's Governing Body, their position in the waiting list determined by application of the oversubscription criteria.
- 7.2 When a vacancy arises it will be offered to the next applicant on the waiting list. Paragraph 5 will apply in respect of acceptance of any places offered in this way.
- 7.3 Parents of children remaining on the waiting list at December 31st in the case of Year 7 or August 31st in any case will be contacted to clarify whether they wish to remain on the list.

8 Post-16 Admissions

- 8.1 All pupils on the Academy's roll in Year 11 will be entitled to continue their education at the Academy into Year 12 provided they meet the minimum criteria for any course/s they wish to follow.
- 8.2 Pupils will not be admitted into Years 12 or 13 from other schools unless the Governing Body judges that it has sufficient remaining capacity in the year group. In this case, applications from individual pupils who meet the minimum criteria for their preferred course/s will be judged on the basis of their suitability to study in the Academy's sixth form and places offered by the Governing Body on a case by case basis, up to the remaining capacity.
- 8.3 Where the Governing Body determines that there are one or more vacancies, an offer of admission to the relevant year group will be made in respect of all applications subsequently received up to the limit of available vacancies.

9 Within-Year Applications for Admission

- 9.1 Throughout the period September to December inclusive during Year 7, and at the start of the school year for all other year groups, the Academy will continue to offer places to applicants until the roll reaches 180.
- 9.2 At other times – that is, for applications received during the course of the academic year - where there are fewer than 180 pupils on roll in the relevant year group, the Governing Body will determine the maximum number of pupils that can be admitted to that year group for the remainder of the year, taking into account the size of

teaching groups, the efficient use of available resources and any Fair Access Protocol agreed by the Academy with Peterborough City Council or with individual schools within Peterborough.