

Trust twelve months written notice to terminate this Agreement.

95) If the Secretary of State has cause to serve a notice on the Academy Trust 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 94 may be shortened to a period deemed appropriate by the Secretary of State.

96) A "Special Measures Termination Event Occurs" when:

- a) the Chief Inspector gives a notice to the Academy Trust 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
- b) 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
- c) the Secretary of State shall have requested the Academy Trust to deliver within 10 Business Days a written statement (a "Further Action Statement") of the action the Academy Trust 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
- d) the Secretary of State, having considered the Further Action Statement, is not satisfied that any action proposed to be taken by the Academy Trust 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.

97) If a Special Measures Termination Event occurs, the Secretary of State may:

- a) by notice in writing to the Academy Trust terminate this Agreement forthwith; or
- b) appoint such Further Governors to the Academy Trust as he thinks fit in accordance with the Articles and/or may provide up to 12 months' notice in writing to terminate this Agreement.

98) In the event that the Secretary of State appoints Further Governors in accordance with clause 97(b), the Academy Trust must, upon the request of the Secretary of State, procure the resignation of the Governors appointed in accordance with the Article 50 of the Articles of Association.

- 98A) The parties acknowledge that the Secretary of State may appoint Additional Governors to the Academy Trust in accordance with the Articles.
- 99) The Secretary of State may at any time by notice in writing terminate this Agreement forthwith on the occurrence of any of the following events:-
- a) the Academy Trust calls a meeting of its creditors (whether formal or informal) or enters into any composition or arrangement (whether formal or informal) with its creditors; or
  - b) the Academy Trust proposes a voluntary arrangement within Section 1 of the Insolvency Act 1986; or
  - c) the Academy Trust is unable to pay its debts within the meaning of Section 123 of the Insolvency Act 1986 provided that, for the purposes of this clause, Section 123 (1)(a) of the Insolvency Act 1986 shall have effect as if the amount of £10,000 was substituted for £750. The Academy Trust shall not be deemed unable to pay its debts for the purposes of this clause if any such demand as is mentioned in the said Section is being contested in good faith by the Academy Trust; or
  - d) the Academy Trust has a receiver and manager (with the exception of Receivers and Managers or Interim Managers appointed by the Charity Commission under the Charities Act 1993 or any subsequent re-enactment of that Act), administrator or administrative receiver appointed over all or any part of its undertakings, assets or income; or
  - e) any distraint, execution or other process is levied or enforced on any of the Academy Trust's property and is not paid out, withdrawn or discharged within fifteen Business Days; or
  - f) the Academy Trust has passed a resolution for its winding up; or
  - g) an order is made for the winding up or administration of the Academy Trust.
- 100) The Academy Trust shall notify the Secretary of State as soon as possible after receiving any petition which may result in an order for the winding up or administration of the Academy Trust and shall provide an explanation to the Secretary of State of the circumstances giving rise to the service of such a petition.
- 101) If, following the exercise of the Secretary of State's powers to appoint Additional Governors or Further Governors, pursuant to the Articles of Association the Members pass an ordinary or special resolution to remove one or more of those Additional or

Further Governors appointed by the Secretary of State, the Secretary of State may give the Academy Trust 12 months, or such lesser period as he considers appropriate in the circumstances, written notice to terminate this Agreement.

- 102) The Secretary of State's right to terminate this Agreement under clause 101 shall cease if he removes any of the Additional Governors or Further Governors which he has appointed pursuant to the Articles of Association.

### **Change of Control of the Academy Trust**

- 102A) The Secretary of State may at any time by notice in writing, subject to clause 102C) below, terminate this Agreement forthwith (or on such other date as he may in his absolute discretion determine) in the event that there is a change:

(a) in the Control of the Academy Trust;

(b) in the Control of a legal entity that Controls the Academy Trust

PROVIDED THAT where a person ("P") is a member or director of the body corporate (as a corporation sole or otherwise) by virtue of an office, no change of Control arises merely by P's successor becoming a member or director in P's place.

- 102B) The Academy Trust shall, as soon as it is reasonably practicable to do so after it has become aware of any change or proposed change of Control within the meaning of clause 102A), give written notice to the Secretary of State of such change or proposed change of Control.

- 102C) When notifying the Secretary of State further to clause 102B), the Academy Trust may seek the Secretary of State's agreement that, if he is satisfied that the person assuming Control is suitable, he will not in those circumstances exercise his right to terminate this Agreement further to clause 102A).

### **Effect of Termination**

- 103) In the event of the termination of this Agreement however occurring the Secretary of State shall procure that his nominee (if any) shall resign as a member of the Academy Trust and shall co-operate in making any associated amendments to the Articles.
- 104) 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.

- 105) Subject to clause 106, if the Secretary of State terminates this Agreement for reasons other than:
- a) that a Special Measures Termination Event occurs,
  - b) that the Academy no longer has the characteristics set out in clause 10 of this Agreement, or is no longer meeting the conditions and requirements set out in clauses 12-33 of this Agreement or
  - c) this Agreement is terminated under clause 60A or
  - d) that the Academy Trust is otherwise in material breach of the provisions of this Agreement or
  - e) that the Academy Trust is in material breach of the provisions of the Governing Body Agreement and/or Principal Agreement,
- the Secretary of State shall indemnify the Academy Trust.
- 106) The amount of any such indemnity shall be determined by the Secretary of State having regard to any representations made to him by the Academy Trust, and shall be paid at such times and in such manner as the Secretary of State may reasonably think fit.
- 107) The categories of expenditure incurred by the Academy Trust in consequence of the termination of this Agreement in respect of which the Secretary of State shall indemnify the Academy Trust 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.
- 108) Subject to clause 109, on the termination of this Agreement however occurring, the Academy Trust 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 108(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.

109) The Secretary of State may waive in whole or in part the repayment due under clause 108(b) if:

a) The Academy Trust 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.

110) If any land or premises of the Academy were acquired by the Academy Trust 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 Academy Trust 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 Academy Trust and the LA from which the land was transferred before giving or withholding that consent.

## **GENERAL**

### **Information**

111) Without prejudice to any other provision of this Agreement, the Secretary of State acting reasonably may from time to time call for information on, inter alia, the Academy's:

a) curriculum;

b) arrangements for the assessment of pupils;

c) teaching staff including numbers, qualifications, experience, salaries, and teaching loads;

d) class sizes;

e) outreach work with other schools and the local community;

f) operation of the admission criteria and over subscription arrangements for the

Academy including numbers of applications for places and the number and characteristics of pupils accepted for admission;

- g) numbers of pupils excluded (including permanent and fixed term exclusions);
- h) levels of authorised and unauthorised absence;
- i) charging and remissions policies and the operation of those policies;
- j) organisation, operation and building management;
- k) financial controls; and
- l) membership and proceedings of the Governing Body.

112) The Academy Trust shall make such information available to the Secretary of State, in such form and manner and at such times as may reasonably be required. The Secretary of State shall provide the Academy Trust with such information as it may reasonably require of him for the running of the Academy.

#### **Access by the Secretary of State's Officers**

113) The Academy Trust shall allow access to the premises of the Academy at any reasonable time to DfE officials. All records, files and reports relating to the running of the Academy shall be available to them at any reasonable time. The Academy Trust shall provide the Secretary of State in advance with papers relating to the Academy prepared for meetings of the Governing Body and of the members of the Academy Trust. Two DfE officials shall be entitled to attend and to speak at all such meetings, but shall withdraw from any discussion of the Academy's or the Academy Trust's relationship with the Secretary of State or any discussion of bids for funding to the Secretary of State. The Academy Trust shall take any steps which are required to secure its compliance with the obligations imposed by this clause of this Agreement.

114) The Academy Trust shall ensure that:

- a) the agenda for every meeting of the Governing Body;
- 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 made available for inspection by any interested party at the Academy and, as soon as is reasonably practicable, sent to the Secretary of State.

115) There may be excluded from any item required to be made available for inspection

by any interested party and to be sent to the Secretary of State by virtue of clause 114, 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 Academy Trust is satisfied should remain confidential.

## **Notices**

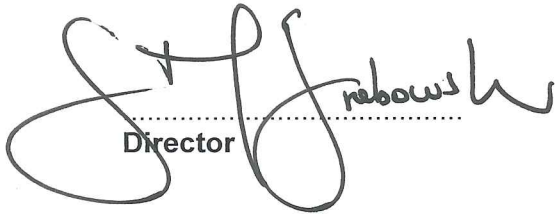
- 116) Any notice or other communication concerning this Agreement shall be sent, in the case of a notice or communication from the Secretary of State to the Academy Trust at its registered office or such other addressee/address as may be notified in writing from time to time by the Academy Trust and, in the case of a notice or communication from the Academy Trust to the Secretary of State to Head of Academies Division, Department for Education, Sanctuary Buildings, Great Smith Street, London SW1P 3BT; or such other address as may be notified from time to time by the Secretary of State and where any such notice or communication is sent by post, unless the contrary is proved, it shall be deemed, subject to satisfactory proof of posting, to be effected at the time at which the letter would be received in the ordinary course of post.
- 117) The service by the Secretary of State of a notice of termination of this Agreement shall not prejudice the ability of the Academy Trust (if it wishes to do so) during the notice period to admit pupils to the Academy in accordance with the provisions of this Agreement and to receive GAG and EAG in respect of them.

## **General**

- 118) This Agreement shall not be assignable by the Academy Trust.
- 119) The Secretary of State and the Academy Trust recognise the difficulties in catering in this Agreement for all the circumstances which may arise in relation to the Academy and undertake in good faith to conduct such consultations as may from time to time be desirable in order to promote the interests of the Academy throughout the currency of this Agreement.

This Agreement was executed as a Deed on 26 November 2012

Executed on behalf of St Michael's Catholic College by:

  
.....  
Director

  
.....  
Director/Secretary

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

  
.....

Duly Authorised





## **Annex A**

### **Memorandum and Articles of the Academy Trust**

*(copy of the Memorandum of Association lodged at Companies House)*

## COMPANY NOT HAVING A SHARE CAPITAL

Memorandum of Association of

St. Michael's Catholic College

Each subscriber to this Memorandum of Association wishes to form a company under the Companies Act 2006 and agrees to become a member of the company.

Name of each subscriber	Authentication by each subscriber
Mrs Marjorie Bannister St. Michael's Catholic College Llewellyn Street LONDON SE16 4UN United Kingdom	Mrs Marjorie Bannister
Mr Matthew Dickens Archbishop's House 150 St. George's Road LONDON SE1 6HX United Kingdom	Mr Matthew Dickens
Monsignor Martin Lee Archbishop's House 150 St. George's Road LONDON SE1 6HX United Kingdom	Monsignor Martin Lee

Dated 27/7/2012

THE COMPANIES ACT 2006

I

A COMPANY LIMITED BY GUARANTEE

ARTICLES OF ASSOCIATION

OF

ST. MICHAEL'S CATHOLIC COLLEGE

THE COMPANIES ACT 2006  
COMPANY LIMITED BY GUARANTEE  
ARTICLES OF ASSOCIATION  
OF  
ST. MICHAEL'S CATHOLIC COLLEGE

INTERPRETATION

1. In these Articles:-

- a. "the Academy" means the school referred to in Article 4 and established by the Academy Trust;
- b. "Academy Financial Year" means the academic year from 1<sup>st</sup> of September to 31<sup>st</sup> of August in any year;
- c. "the 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 62A and 62C;
- e. "the Articles" means these Articles of Association of the Academy Trust;
- f. "Catholic" means in full communion with the See of Rome;
- g. "Chief Inspector" means Her Majesty's Chief Inspector of Education, Children's Services and Skills or his successor;
- h. "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;
- i. "DFE Principal Agreement" means the principal agreement entered into by the Secretary of State, the Academy Trust and the LA in connection with the Academy;
- j. "DFE Principal Agreement Warning Notice" means any warning notice given to the Academy by the Secretary of State dealing with any of the matters listed in Article 62B
- k. "Governing Body Agreement" dated 13 May 2009 made between (1) the Governing Body of St Michael's Catholic School, (2) the Trustees of the Diocese of Southwark

Education Trust, (3) the Archbishop of Southwark and (4) the LA and includes any agreement varying the same including for the avoidance of doubt the Deed of Novation and Variation agreement to be entered into between (1) the LA, (2) the Governing Body of St Michael's Catholic School, (3), the Trustees of the Diocese of Southwark Education Trust (4), the Archbishop of Southwark and (5) the Academy Trust relating to the provision of facilities and services to the Academy Trust;

- l. "Diocese" means the Roman Catholic Diocese of Southwark;
- m. "Archbishop" means the Archbishop of Southwark and includes any person or office exercising ordinary jurisdiction in his name;
- n. "Vicar General" means the Vicar General for the time being of the Roman Catholic Diocese of Southwark;
- o. "Diocesan Financial Secretary" means the financial secretary for the time being of the Roman Catholic Diocese of Southwark;
- p. "financial expert" means an individual, company or firm who is authorised to give investment advice under the Financial Services and Markets Act 2000;
- q. "Foundation Governors" means a Governor appointed by the Archbishop pursuant to Article 50;
- r. "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;
- s. "Further Governors" means the Governors appointed pursuant to Article 63;
- t. "the 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;
- u. "the LA" means the local authority covering the area in which the Academy is situated;
- v. "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;
- w. "Local Governor" means a governor appointed by the Governing Body pursuant to Article 51 who shall be a person who is resident in, works in, or is representative of the community served by the Academy.

- x. "Member" means a member of the Academy Trust and someone who as such is bound by the undertaking contained in Article 8 ;
- y. "the Memorandum" means the Memorandum of Association of the Academy Trust;
- z. "Normal Payment Matters" has the meaning given to it in the DFE Principal Agreement;
- aa. "Office" means the registered office of the Academy Trust;
- bb. "the Parent Governors" means the Governors elected or appointed pursuant to Articles 53 to 58 inclusive;
- cc. Does not apply.
- dd. Does not apply
- ee. "Principal" means the head teacher of the Academy;
- ff. "Principal Regulator" means the body or person appointed as the Principal Regulator under the Charities Act 2006;
- gg. "the seal" means the common seal of the Academy Trust if it has one;
- hh. "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;
- ii. "Secretary of State" means the Secretary of State for Education or successor;
- jj. "Staff Governor" means an employee of the Academy Trust who may be appointed as a Governor pursuant to Article 50A;
- kk. "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;
- ll. "Trustees" means any one or more of (including all of) those persons who for the time being are the Trustees of a trust established by a Deed dated 21<sup>st</sup> October 1927 (which Deed was signed by Bishop Peter Amigo and others, and the said Trust is now known as the Roman Catholic Diocese of Southwark Diocesan Trust and is registered as a charity with the Charity Commission, no. 235468), and it also means The Trustees of the Diocese of Southwark Education Trust, an exempt charity, the Trustees of which are incorporated under the provisions of the 1993 Charities Act. As the Trustees of the Diocesan Trust are unincorporated, they use a corporate body as the Custodian Trustee of the lands and properties of the Trust. This body is The

Southwark Roman Catholic Diocesan Corporation, Companies House registration number 00393665.

mm. "the United Kingdom" means Great Britain and Northern Ireland;

nn. words importing the masculine gender only shall include the feminine gender. Words importing the singular number shall include the plural number, and vice versa;

oo. 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;

pp. any reference to a statute or statutory provision or measure shall include any statute 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 St. Michael's Catholic College (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 Catholic school designated as such ("**the Academy**") which shall offer a broad and balanced curriculum and shall be conducted in accordance with the principles, practices and tenets of the Catholic Church and all Catholic canon law applying thereto including any trust deed governing the use of land used by the Academy both generally and in particular in relation to arranging for religious education and daily acts of worship and having regard to any advice and following directives issued by the Archbishop.

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) to acquire, alter, improve and (subject to such consents as may be required by law) to 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 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 St. Michael's Catholic College, Llewelyn Street, Bermondsey SE16 4UN
- (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 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;
- (iii) the performance of the investments is reviewed regularly with the Governors;
- (iv) the Governors are entitled to cancel the delegation arrangement at any time;
- (v) the investment policy and the delegation arrangement are reviewed at least once a year;
- (vi) 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
- (vii) 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 or a 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 (unless present solely in his or her capacity as an employee); 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 or a Staff Governor (a Governor pursuant to Articles 46, 50A 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 (except to a member that is itself a charity), 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 consents of the Secretary of State, the Trustees and the Archbishop.
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 altered the Object of the Academy Trust.

## MEMBERS

12. The Members of the Academy Trust shall comprise
  - a. The three persons who at the time of incorporation are the Vicar General, Diocesan Financial Secretary and Chair of Governors, who will be the signatories to the Memorandum.
  - b. Three ex officio members, the Vicar General, Diocesan Financial Secretary and Chair of Governors,
  - c. 1 person appointed by the Secretary of State, in the event that the Secretary of State appoints a person for this purpose;
  - d. any further persons appointed by the Archbishop;
- 12A. The Secretary of State's appointed Member (further to Article 12c) 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;
  - b) in the case of the holder of an office, that office ceases to exist and is not replaced by a successor office; or
  - c) in the case of a corporate entity, cease to exist and are not replaced by a successor institution; or
  - d) 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. Does not apply.
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 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.

#### GENERAL MEETINGS

19. The Academy Trust shall hold an Annual General Meeting every 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.

#### 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:-
- (a) by the chairman; or
  - (b) by at least two Members having the right to vote at the meeting; or
  - (c) 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 on .....20[ ], 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 Governors 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.

#### GOVERNORS

45. The number of Governors shall be not less than three but (unless otherwise determined by ordinary resolution) shall not be subject to any maximum.
- 45A. All Governors shall upon their appointment or election give a written undertaking to the Trustees and the Archbishop to uphold the Object of the Academy Trust.
46. Subject to Articles 48-49 and 64, the Academy Trust shall have the following Governors:
- a. Eight Foundation Governors, appointed under Article 50
  - b. Two Staff Governors, appointed under Article 50A;
  - c. One Local Governor, appointed under Article 51;
  - d. Two Parent Governors elected or appointed under Articles 53-58;
  - e. the Principal;
  - f. any Additional Governors, if appointed under Article 62, 62A, 62C or 68A; and
  - g. any Further Governors, if appointed under Article 63 or Article 68A;
47. The Academy Trust may also have up to two Co-opted Governors 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 Archbishop shall appoint eight Foundation Governors.
- 50A. The Governing Body may appoint Staff Governors through such process as they may determine, provided that the total number of Governors (including the Principal) who are employees of the Academy Trust does not exceed one third of the total number of Governors and Article 58A shall apply.
- 51. The Governing Body may appoint one Local Governor.
- 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.
- 58A. The Staff Governors shall be elected by a secret ballot of all staff employed under a contract of employment or a contract for services or otherwise engaged to provide services to the Academy (excluding the Principal). All arrangements for the calling and the conduct of the election and resolution of questions as to whether any person is an eligible candidate shall be determined by the Governors. If a Staff Governor ceases to work at the Academy then he shall be deemed to have resigned and shall cease to be a Governor automatically on termination of his work at the Academy. Any election of a Staff Governor which is contested shall be held by secret ballot.

#### CO-OPTED GOVERNORS

59. The Governors may appoint up to 2 Co-opted Governors provided that if any such Governors are appointed the number of Foundation Governors permitted by Articles 46 and 50 shall increase proportionately to ensure that the number of Foundation Governors always exceeds the total number of other governors by at least two. 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 Archbishop and Trustees 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

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 Trustees and the Archbishop) 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 Trustees and the Archbishop) 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 St. Michael's Catholic College shall be regarded as the grade received by the Academy.

62B The Secretary of State may give a DFE Principal Agreement Warning Notice to the Governors where<sup>1</sup>:

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<sup>1</sup> see footnote in respect of 62C for a discussion of this provision



- a) the Secretary of State is under a liability to make payment to the LA pursuant to the DFE Principal Agreement in respect of any Normal Payment Matters; or
- b) the Secretary of State considers that in the immediately preceding 12 month period, the aggregate of payments made by the Academy Trust to the LA pursuant to the DFE Principal Agreement in respect of Normal Payment Matters has reached a level which the Secretary of State considers to be excessive and which may (assessed objectively) cause the Academy Trust material financial difficulties; or
- c) NOT USED; or
- d) the Secretary of State considers (acting reasonably) that the Academy Trust's compliance with its obligations under the Governing Body Agreement and/or the DFE Principal Agreement (including its approach to contract management and cooperation) is such that claims and/or disputes under such contracts are of a number and/or nature likely to materially and adversely impact on the provision of educational services at the Academy; or
- e) the Academy Trust has committed a material breach of the Governing Body Agreement and/or the DFE Principal Agreement

62C The Secretary of State may appoint Additional Governors as he thinks fit if<sup>2</sup>:

- a) the LA has recovered any sums from the Secretary of State pursuant to the DFE Principal Agreement; or
- b) where the Academy Trust has received a DFE Principal Agreement Warning Notice pursuant to Article 62B and the Academy Trust has not, within 10

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<sup>2</sup> The intention of the warning notice and flooding arrangements in Article 62B and 62C is to provide the Department with an ability to exercise varying degrees of control over the Academy, and in so doing enable the Department to manage and mitigate its potential exposure under the Normal Payment Matters in the DFE Principal Agreement. Readers are advised to review the Department standard form Principal Agreement, and drafting and footnotes therein for further information. In the event that difficulties in the Authority / Academy relationship arise, the Department anticipates in most circumstances submitting a suitable DFE Principal Agreement Warning Notice to the Academy, thereby allowing the Academy the opportunity to rectify and/or remedy the circumstances. In the event that the issues are not resolved, and the Department remains concerned, it will have the ability to flood the Governing Body and thereby influence decision making. The DFE, however, retains the ability to flood the Governing Body without having first provided a warning notice if it considers such action necessary in the circumstances. Readers will note that the flooding triggers in Article 62C are carefully scoped, and intended to apply directly to the features of the Governing Body Agreement and DFE Principal Agreement. They are also deliberately widely drafted, so as to allow the Department flexibility as to exercising its rights.

working days of such notice provided a remediation plan: (i) setting out the Academy Trust's proposals to improve compliance with the Governing Body Agreement and/or the DFE Principal Agreement; (ii) setting out a response by way of explanation to the description of the breach or other circumstances which gave rise to the DFE Principal Agreement Warning Notice and (iii) dealing with such other matters as may be the subject of the relevant DFE Principal Agreement Warning Notice, such plan to be acceptable to the Secretary of State (acting reasonably); or

- c) the Academy Trust has failed to comply with a material recommendation of the auditors appointed by the Secretary of State under clause 69 of the Funding Agreement where such recommendation relates to the implementation of any statement of any recommended accounting practice required to be adopted by the Academy Trust
- d) the Academy Trust has committed a material breach of the Governing Body Agreement or the DFE Principal Agreement (whether or not such breach has been the subject of a DFE Principal Agreement Warning Notice); or
- e) the circumstances envisaged by clauses 60A.9 and 60A.10 of the Funding Agreement in respect of EAG funding are applicable;

provided that the Secretary of State may only appoint such additional persons if to do so is in the interests of the Academy.

- 63. The Secretary of State may also appoint such Further Governors as he thinks fit (after consultation with the Trustees and the Archbishop) 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, 62C or 63, any Governors appointed under Articles 50 and 51 and holding office immediately preceding the appointment of such Governors, shall resign immediately and the Archbishop's and Governors' power to appoint Governors under Articles 50 and 51 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 shall be 4 years, save that this time limit shall not

apply to the Principal. Subject to remaining eligible to be a particular type of Governor, any Governor may be re-appointed or re-elected for up to three terms in total.

#### 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, 62C 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