

SCHEDULE 1 TO THE MASTER FUNDING AGREEMENT

**SUPPLEMENTAL FUNDING AGREEMENT FOR
WAINFLEET MAGDALEN CHURCH OF ENGLAND AND METHODIST SCHOOL**

THIS AGREEMENT made *31st March* 2014

BETWEEN

- (1) **THE SECRETARY OF STATE FOR EDUCATION;** and
- (2) **LINCOLN ANGLICAN ACADEMY TRUST**

IS SUPPLEMENTAL TO THE MASTER FUNDING AGREEMENT made between the same parties and dated 24 December 2013 (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 Wainfleet Magdalen Church of England and Methodist School to be established at Magdalen Road, Wainfleet, Skegness, Lincolnshire PE24 4DD.

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

"the Land" means the publicly funded land (including for the avoidance of doubt all buildings, structures landscaping and other erections) situated at and known as the playing fields of Wainfleet Magdalen Church of England and Methodist School, Magdalen Road, Wainfleet, Skegness, Lincolnshire PE24 4DD and registered under Title Number LL132093.

1.3 References 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 11 shall be broad and balanced.
- 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 April 2014 replacing The Wainfleet Magdalen Church of England/ Methodist 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 210 in the age range 4 - 11.

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.

4A NOT USED

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 2021 or any subsequent anniversary of that date.

Termination Warning Notice

- 5.2 The Secretary of State shall be entitled to issue to the Company a written notice of his intention to terminate this Agreement ("Termination Warning Notice") where he considers that:

- a) the Academy is no longer meeting the requirements referred to in clause 12 of the Master Agreement (subject to clause 5.9 of this Agreement);
- b) the conditions and requirements set out in clauses 13-34B of the Master Agreement are no longer being met;
- c) the standards of performance of pupils at the Academy are unacceptably low;
- d) there has been a serious breakdown in the way the Academy is managed or governed;
- e) the safety of pupils or staff is threatened (whether by breakdown of discipline or otherwise); or
- f) the Company is otherwise in material breach of the provisions of this Agreement or the Master Agreement.

5.3 A Termination Warning Notice issued by the Secretary of State in accordance with clause 5.2 shall specify:

- a) reasons for the Secretary of State's issue of the Termination Warning Notice;
- b) the remedial measures which the Secretary of State requires the Company to carry out, with associated deadlines, in order to rectify the defaults identified ("Specified Remedial Measures"); and
- c) the date by which the Company must respond to the Termination Warning Notice providing its representations with regard thereto or confirm that it accepts and agrees to undertake the Specified Remedial Measures.

5.4 The Secretary of State shall consider any response and representations from the Company which are received by the date specified in accordance with clause 5.3(c) and shall confirm whether he considers that:

- a) in the light of the Company's representations in response to the Termination Warning Notice, some or all of the Specified Remedial Measures are not required to be implemented (and if so which) and/or the Specified Remedial Measures are being or will be implemented within the specified timeframe; or
- b) subject to any further measures he reasonably requires ("Further Remedial Measures") being implemented by a specified date or any evidence he

requires being provided, the implementation of such measures has been or will be successfully completed within the specified timeframes; or

- c) he is not satisfied that the Company will rectify the defaults identified in the Termination Warning Notice within the specified timeframes. (In such circumstances, the Secretary of State may notify the Company of his intention to terminate the Agreement on a specified date.)

5.5 The Secretary of State may by notice in writing terminate this Agreement with effect from a specified date in the event that:

- a) the Company has not, by the date specified in clause 5.3(c), responded to the Termination Warning Notice either confirming that it accepts and agrees to undertake the Specified Remedial Measures or providing its representations with regard to the Specified Remedial Measures; or
- b) the Company has not carried out the Specified Remedial Measures and/or Further Remedial Measures within the specified timeframes,

provided that having considered any representations made by the Academy Trust pursuant to clause 5.3(c), the Secretary of State remains satisfied that it is appropriate to terminate the Agreement.

Notice of Intention to Terminate

5.6 The Secretary of State may at any time give written notice of his intention to terminate this Agreement where the Chief Inspector gives notice to the Company in accordance with section 13(3) of the Education Act 2005 stating that in the Chief Inspector's opinion –

- (a) special measures are required to be taken in relation to the Academy; or
- (b) the Academy requires significant improvement.

5.7 Any notice issued by the Secretary of State in accordance with clause 5.6 shall invite the Company to respond with any representations within a specified timeframe.

5.8 Where the Secretary of State has given notice of his intention to terminate this Agreement in accordance with clauses 5.6 and 5.7 and –

- (a) he has not received any representations from the Company within the timeframe specified in clause 5.7; or
- (b) having considered the representations made by the Company pursuant to clause 5.7, the Secretary of State remains satisfied that it is appropriate to terminate this Agreement,

he may by notice in writing terminate this Agreement with effect from a specified date.

Termination with Immediate Effect

- 5.9 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, he may terminate this Agreement by notice in writing to the Company such termination to take effect on the date of the notice.

Notice of Intention to Terminate by Company

- 5.10 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 73 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.
- 5.11 Any notice given by the Company under clause 5.10 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 5.10 above, within six weeks after the Secretary of State shall have done so. The notice must specify:

- 5.11.1. 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
 - 5.11.2. 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
 - 5.11.3. a detailed budget of income and expenditure for the Academy during the Critical Year (the "**Projected Budget**").
- 5.12 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.
- 5.13 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.

- 5.14 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 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.
- 5.15 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.

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 Sections 1 and 1A of the Academies Act 2010.
- 6.2 Subject to clauses 6.3 and 6.4, if the Secretary of State terminates this Agreement pursuant to clause 5.1 of this Agreement, the Secretary of State shall indemnify the Company. If the Secretary of State terminates this Agreement otherwise than pursuant to clause 5.1 of this Agreement, the Secretary of State may in his absolute discretion indemnify or (to such extent if any as he may in his absolute discretion consider appropriate) compensate the Company.
- 6.3 The amount of any such indemnity or compensation 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 (where the Secretary of State terminates this Agreement pursuant to clause 5.1) indemnify

the Company and may (where the Secretary of State terminates this Agreement otherwise than pursuant to clause 5.1) in his absolute discretion indemnify or compensate 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 any 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 at a later date; 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 The sale or disposal by other means of publicly funded land held for the purposes of an Academy is now governed by Part 3 of Schedule 1 to the Academies Act 2010.

6A LAND

Restrictions on Land transfer

Recognising that they are or will be receiving publicly funded land at nil consideration (which for the purposes of this transaction shall include leases granted at a peppercorn rent) 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 RX1 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 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(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(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(a), hereby consents to the entering of the restriction referred to in 6A(a) in the register by the Secretary of State (under s. 43(1)(b) of the Land Registration Act 2002); and
- e) shall not, without the consent of the Secretary of State, apply to dis-apply, modify or remove (by cancellation or otherwise) a restriction entered in accordance with clause 6A(a) or 6A(d) above, whether by itself, a holding company, a subsidiary company, or a receiver, administrator or liquidator acting in the name of the Company.

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.

8.2 Not used.

9 GENERAL

9.1 This Agreement shall not be assignable by the Company.

9.2 No delay, neglect or forbearance on the part of the Secretary of State in enforcing (in whole or in part) any provision of this Agreement or in exercising (in whole or in part) any right or remedy conferred on him by this Agreement shall be or be deemed to be a waiver of such provision or right or remedy or a waiver of any other provision or right or remedy or shall in any way prejudice any right or remedy of the Secretary of State under this Agreement or shall amount to an election not to enforce such provision or exercise such right or remedy (including, for the avoidance of doubt, any right to terminate this Agreement). No single or partial exercise of such right or remedy shall preclude or restrict the further exercise of that or any other right or remedy.

9.3 Termination of this agreement, for any reason, shall not affect the accrued rights, remedies, obligations or liabilities of the parties existing at termination.

9.4 This deed may be executed in any number of counterparts, each of which when executed and delivered shall constitute a duplicate original, but all the counterparts shall together constitute the one agreement.

9.5 This Agreement and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with the law of England and Wales.

9.6 The parties irrevocably agree that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim that arises out of or in connection with this agreement or its subject matter or formation (including non-contractual disputes or claims).

This Agreement was executed as a Deed on 31st March 2014

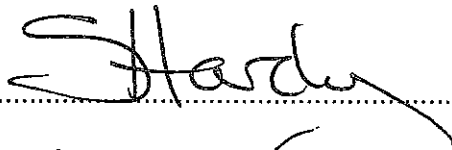
Executed on behalf of LINCOLN ANGLICAN ACADEMY TRUST by:


.....

Director

In the presence of:

Witness signature


.....

Witness name

SIMON HARDY
.....

Address

29 WOLD VIEW
.....

NETTLEHAM
.....

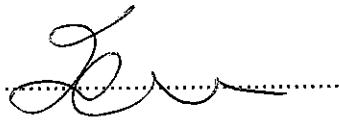
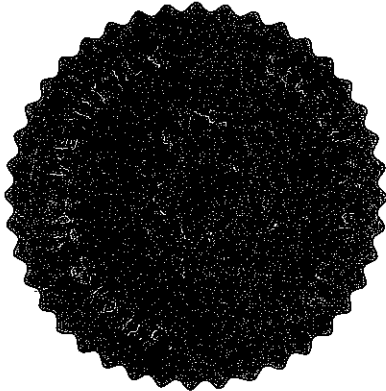
LINCOLN LN2 2SY
.....

Occupation

SCHOOLS AND ACADEMIES DEVELOPMENT MANAGER
.....

Multi Academy Model
Mainstream

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

A handwritten signature in black ink, consisting of a stylized 'L' followed by a horizontal line and a small flourish.

Duly Authorised

ANNEX TO THIS SUPPLEMENTAL AGREEMENT

Requirements for the Admission for pupils at the Academy

Annex 1

Annex 1 to the SUPPLEMENTAL FUNDING AGREEMENT

REQUIREMENTS FOR THE ADMISSION OF PUPILS TO

WAINFLEET MAGDALEN CHURCH OF ENGLAND AND METHODIST SCHOOL

GENERAL

1. This annex may be amended in writing at any time by agreement between the Secretary of State and the Company.
 2. Except as provided in paragraphs 2A to 2B below the Company will act in accordance with, and will ensure that an Independent Appeal Panel is trained to act in accordance with, all relevant provisions of the School Admissions Code, and the School Admission Appeals Code published by the Department for Education ("the Codes") as they apply at any given time to maintained schools and with equalities law and the law on admissions as they apply to maintained schools. For this purpose, reference in the Codes or legislation to "admission authorities" shall be deemed to be references to the Directors of the Company.
- 2A. The Company is permitted to determine admission arrangements (subject to consultation in accordance with the School Admissions Code) that give priority for admission (but not above looked after children¹ and previously looked after children) to other children attracting the pupil premium, including the service premium ('the pupil premium admission criterion'). Where a Company exercises this freedom it will provide information in its admission arrangements of eligibility for the premiums.
- 2B. For the purposes of applying the pupil premium admission criterion only, sections 1.9(f) and 2.4(a) of the School Admissions Code do not apply insofar as they prevent admission authorities from giving priority to children according to the financial or occupational status of parents or using supplementary forms that ask for:
- any personal details about their financial status; or
 - whether parents are serving in the armed forces (of any nation), stationed in England, and exercising parental care and responsibility for the child in question.

¹ As defined in the School Admissions Code

3. Notwithstanding the generality of paragraph 2 of this Annex, the Company will participate in the co-ordinated admission arrangements operated by the Local Authority (LA) and the local Fair Access Protocol.
4. Notwithstanding any provision in this Annex, the Secretary of State may:
 - (a) direct the Company to admit a named pupil to Wainfleet Magdalen Church of England and Methodist School on application from an LA. This will include complying with a School Attendance Order². Before doing so the Secretary of State will consult the Company;
 - (b) direct the Company to admit a named pupil to Wainfleet Magdalen Church of England and Methodist School if the Company has failed to act in accordance with this Annex or has otherwise failed to comply with applicable admissions and equalities legislation or the provisions of the Codes;
 - (c) direct the Company to amend its admission arrangements where they fail to comply with the School Admissions Code or the School Admission Appeals Code.

- 4A. Wainfleet Magdalen Church of England and Methodist School is a joint Church of England/ Methodist Academy in the diocese of Lincoln.

Note: Lincoln Diocesan Board of Education is the body which (a) has to be consulted on admission arrangements (b) has the right to issue guidance on the adoption of faith criteria and (c) has the right of objection to admission arrangements. CE Dioceses also have to approve the disposal of land or premises of CE Academies.

5. The Company shall ensure that parents and 'relevant children'³ will have the right of appeal to an Independent Appeal Panel if they are dissatisfied with an admission

² Local authorities are able to issue school attendance orders if a child is not attending school. These are legally binding upon parents. Such an order might, for instance, be appropriate where a child has a place at an Academy but his/her parents are refusing to send him/her to school. The order will require a parent to ensure his/her child attends a specified school.

³ 'relevant children' means:

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

decision of the Company. The Independent Appeal Panel will be independent of the Company. The arrangements for appeals will comply with the School Admission Appeals Code published by the Department for Education as it applies to Foundation and Voluntary Aided schools. The determination of the appeal panel is binding on all parties.

Relevant Area

6. Subject to paragraph 7, the meaning of “Relevant Area” for the purposes of consultation requirements in relation to admission arrangements is that determined by the local authority for maintained schools in the area in accordance with the Education (Relevant Areas for Consultation on Admission Arrangements) Regulations 1999.
7. If the Company does not consider the relevant area determined by the local authority for the maintained schools in the area to be appropriate, it must apply to the Secretary of State by 1 August for a determination of the appropriate relevant area for the Academy, setting out the reasons for this view. The Secretary of State will consult the Company and the LA in which the Academy is situated in reaching a decision.

Requirement to admit pupils

8. Pupils on roll in any predecessor maintained or independent school will transfer automatically to the Academy on opening. All children already offered a place at any predecessor school will be admitted.
9. The Company will:
 - a. subject to its right of appeal to the Secretary of State in relation to a named pupil, admit all pupils with a statement of special educational needs naming the Academy; and
 - b. determine admission oversubscription criteria for the Academy that give highest priority to looked after children and previously looked after children, in accordance with the relevant provisions of the School Admissions Code.

Oversubscription criteria, admission number, consultation, determination and objections.

10. The Academy admission arrangements will include oversubscription criteria, and an admission number for each relevant age group.⁴ The Company will consult on the Academy's admission arrangements and determine them in line with the requirements within the School Admissions Code.
11. The Office of the School's Adjudicator (OSA) will consider objections to the Academy's admission arrangements⁵. The Company should therefore make it clear, when determining the Academy's admission arrangements, that objections should be submitted to the OSA.
12. A determination of an objection by the OSA will be binding upon the Academy and the Company will make appropriate changes as quickly as possible.

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

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

**MODEL CHURCH SUPPLEMENTAL AGREEMENT
(MULTI ACADEMY MODEL)**

WAINFLEET MAGDALEN CHURCH OF ENGLAND/METHODIST SCHOOL

CHURCH SUPPLEMENTAL AGREEMENT

Relating to Wainfleet Magdalen Church of England/Methodist School

[insert date]

31st March 2014

**MODEL CHURCH SUPPLEMENTAL AGREEMENT
(MULTI ACADEMY MODEL)**

WAINFLEET MAGDALEN CHURCH OF ENGLAND/METHODIST SCHOOL

CHURCH SUPPLEMENTAL AGREEMENT

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**MODEL CHURCH SUPPLEMENTAL AGREEMENT
(MULTI ACADEMY MODEL)**

INTRODUCTION

- 1) This Agreement is being entered into in acknowledgement of the consent hereby given by the Lincoln Diocesan Board of Education and the Methodist Council to the conversion of Wainfleet Magdalen Church of England/Methodist School to an academy and the completion of a Supplemental Funding Agreement (the "Supplemental Funding Agreement") which, with its Master Funding Agreement (the "Master Funding Agreement") dated 23rd December 2013 (together (the "Funding Agreement") are made under section 1 of the Academies Act 2010 each between the Secretary of State for Education ("the Secretary of State") and Lincoln Anglican Academy Trust a company limited by guarantee registered at Companies House with company number 08737412 ("the Company").
- 2) This Agreement is made between
 - a) the Secretary of State and
 - b) The Executive Trustees And
 - c) The Trustees for Methodist Church Purposes being a charitable body corporate established by the Methodist Church Act 1939 and registered charity number 1136358 of Central Buildings, Oldham Street, Manchester M1 1JQ and the Lincoln Diocesan Trust and Board of Finance ("DBF") a company limited by guarantee and registered at Companies House with company number 001097256) (together being "the Board") in its capacity as holding trustee of the Land
- 3)
 - a) The Board of Education of the Diocese of Lincoln established pursuant to the Diocesan Boards of Education Measure 1991 (the "appropriate diocesan authority" for the Academy for the purposes of the Education Acts (which shall include the Academies Act 2010)) is also a party to this Agreement in recognition of its role in relation to the Academy ("the Diocesan Authority").
 - b) Methodist Academies and School Trust (Company Registration Number 07881901) ("the appropriate Methodist Authority" for the Academy for the purpose of the Education Acts (which shall include the Academies Act 2010)) is also a party to this Agreement in recognition of its role in relation to the Academy ("the Methodist Authority")

**MODEL CHURCH SUPPLEMENTAL AGREEMENT
(MULTI ACADEMY MODEL)**

4) The Company is also a party to this Agreement and acknowledges the commitments made by the Secretary of State, the Diocesan Authority, the Methodist Authority and the Executive Trustees as well as itself making certain commitments.

5) In this Agreement the following words and expressions shall have the following meanings:-

"Articles of Association" means the Memorandum and Articles of Association of the Company for the time being in force;

"Authorities" shall mean the Diocesan Authority and the Methodist Authority;

"Capital Grant" has the meaning given to it in clause 37 of the Master Funding Agreement;

"DfE" means Department for Education and any successor;

"Directors" means the directors of the Company appointed pursuant to the Articles of Association;

"Executive Trustees" shall mean the Diocesan Authority and the Methodist Authority as appointed by a declaration of trust dated ;

"Insured Risks" means fire, lightning, explosion, earthquake, storm, tempest, flood, subsidence, landslip, heave, impact, terrorism, bursting or overflowing of water tanks and pipes, damage by aircraft and other aerial devices or articles dropped there from, riot and civil commotion, labour disturbance and malicious damage and such other risks as the Company insures against from time to time subject in all cases to any exclusions or limitations as may from time to time be imposed by the insurers or underwriters;

"Land" means the land (including for the avoidance of doubt all buildings, structures landscaping and other erections) held by the Board (as custodian trustee) and of which the Executive Trustees are the managing trustees and situated at and known as "Land and Buildings at Wainfleet Magdalen Church of England/Methodist School " and registered under title number from which the Academy operates.

**MODEL CHURCH SUPPLEMENTAL AGREEMENT
(MULTI ACADEMY MODEL)**

- 6) The Interpretation Act 1978 shall apply for the interpretation of this Agreement as it applies for the interpretation of an Act of Parliament, and references to:

"party" means any party to this Agreement;

"persons" includes a body of persons, corporate or incorporate;

"school" shall where the context so admits be references to the Academy.

- 7) Expressions defined in this Agreement shall have the same meaning where used in any Annex to this Agreement.

LEGAL AGREEMENT FOR USE OF LAND

- 8) In consideration of:

a) the Company undertaking to the Secretary of State to establish and maintain, and to carry on or provide for the carrying on of, an independent school in England to be known as Wainfleet Magdalen Church of England/Methodist School ("the Academy") and having such characteristics as are referred to in clause 12 of the Master Funding Agreement and in the Articles of Association; and

b) the Secretary of State:

i. agreeing to make payments to the Company in accordance with the conditions and requirements set out in the Funding Agreement, and

ii. undertaking to the Executive Trustees and the Authorities as set out in this Agreement;

the Executive Trustees on their own behalf and on behalf of the Board undertake to the Secretary of State to make the Land available for use by the Company in a manner consistent with any restrictions imposed on the Executive Trustees at law and pursuant to any trust deed governing the ownership and use of the Land and with the terms of this Agreement.

- 9) This Agreement shall commence on the date hereof and shall subject to clause 10 (and except in respect of clause 16) continue in force until the earlier of:

a) the termination of the Supplemental Funding Agreement; and

**MODEL CHURCH SUPPLEMENTAL AGREEMENT
(MULTI ACADEMY MODEL)**

- b) the date upon which any termination of this Agreement arises pursuant to clause 24.
- 10) The termination of this Agreement howsoever arising is without prejudice to the rights, duties and liabilities of any party hereto accrued prior to termination.
- 11) Clause 16 of this Agreement shall continue to apply for as long as the Secretary of State has power to exercise any discretion in relation to the Land pursuant to Schedule 1 of the Academies Act 2010.

PARTNERSHIP IN THE PROVISION OF EDUCATION

12) This Agreement recognises the desire of the parties to foster the development and provision of high quality education in particular at the Academy and in the area which it serves and the parties acknowledge the commitment being made by each to this aim. Recognising the Executive Trustees' and the Authorities' respective strategic roles in the provision of education through its family of joint [Church of England and Methodist schools both in relation to the Academy and more generally (which role has been acknowledged in but is not derived from the Education Acts (as defined pursuant to the Education Act 1996)), the Secretary of State acknowledges the value of :

- a) maintaining a good working relationship between the parties at all levels, and
- b) the support (financial and otherwise) provided to the Company by the Executive Trustees and the Authorities; and

agrees:

(A) to consider the use of his intervention powers as set out in the Funding Agreement if requested to do so in writing by the Authorities jointly in consequence of (i) unacceptable standards as measured by the relevant statutory denominational inspection using criteria equivalent to those triggering the right to serve a Termination Warning Notice under the Funding Agreement or (ii) a serious breakdown in the way the Academy is managed or governed such that the ethos requirements of designation or as reflected in the Funding Agreement are no longer being complied with; and

(B) to maintain an open and frank dialogue with the Executive Trustees and the Authorities so that any matters that in the reasonable opinion of the parties may have a significant effect on the running of the Academy as a joint Church of England] and Methodist school shall be discussed in an appropriate manner

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recognising each party's viewpoint.

13) Provided that, whilst recognising the desire of the parties to work together in good faith and with mutual respect, nothing in this Agreement shall:

- a) interfere with the right of each party to arrange its affairs in whatever manner it considers fit in order to perform its obligations under this Agreement in the manner in which it considers to be the most effective and efficient;**
- b) oblige any party to incur any additional cost or expense or suffer any undue loss in the proper performance of its obligations under this Agreement;**
- c) fetter the discretion of either party to meet or fulfil its legal obligations including any statutory obligations.**

PROTECTION OF PUBLIC INVESTMENT IN LAND

14) [Whilst the Academy operates from the Land otherwise than pursuant to a lease between the and in recognition of the funding provided by the Secretary of State to the Company for the running costs of the Academy, including, but not limited to, grant advanced for the purposes of enabling repairs, servicing, maintenance and arranging for appropriate insurance of any buildings on the Land and its grounds, provided that the Company meets the cost of such repairs, servicing, maintenance and insurance, the Executive Trustees will:

- a) facilitate any maintenance, upkeep or replacement of any buildings or facilities on the Land by the Company so that the Company may keep the Land clean and tidy and may make good any damage it causes to the Land and / or any deterioration to the condition of the Land consequent upon its use of the same that may arise from the date of this Agreement;**
- b) facilitate the following:**
 - i) at the Company's expense the maintaining of insurance of the land by the Company in the joint names of the Company, the Trustees for Methodist Church Purposes and the Executive Trustees with a reputable insurance office against loss or damage by the Insured Risks in the sum the Company is advised represents the reinstatement value of**

**MODEL CHURCH SUPPLEMENTAL AGREEMENT
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the Land from time to time;

ii) the payment of the premiums for insurance by the Company promptly as they become due and maintaining in force by the Company of the policies of insurance on the Land;

iii) following the incidence of damage to or destruction of the Land and subject to receipt of all necessary consents licences permissions and the like the application of the proceeds of the policy of the insurance received for those purposes in the rebuilding and reinstating of the Land by the Company (provided that this clause should be satisfied if the Company and/or the Executive Trustees provides premises not necessarily identical to the Land as the same existing prior to such damage or destruction occurring) as soon as may be reasonably practicable;

iv) the production by the Company to the Secretary of State of a copy of the insurance policy whenever reasonably requested and the receipt for the last or other evidence of renewal and up to date details of the amount of cover (but no more often than once in any period of 12 months in both cases);

v) the Company insuring against liability in respect of property owners' and third party risks including occupiers liability;

c) together with the Company not knowingly do anything whereby any policy of insurance relating to the Land may become void or voidable; and

the Company will:

d) keep the Land insured in the joint names of the Company and the Trustees for Methodist Church Purposes and the Executive Trustees with a reputable insurance office against loss or damage by the Insured Risks in the sum the Company is advised represents the reinstatement value of the Land from time to time;

e) pay the premiums for insurance promptly as they become due and maintain in force the policies of insurance on the Land;

f) following the incidence of damage to or destruction of the Land and subject to receipt of all

**MODEL CHURCH SUPPLEMENTAL AGREEMENT
(MULTI ACADEMY MODEL)**

necessary consents licences permissions and the like apply the proceeds of the policy of the insurance received for those purposes in rebuilding and reinstating the Land (provided that this clause should be satisfied if the Company provides premises not necessarily identical to the Land as the same existing prior to such damage or destruction occurring) as soon as may be reasonably practicable;

- g) produce to the Secretary of State a copy of the insurance policy whenever reasonably requested and the receipt for the last or other evidence of renewal and up to date details of the amount of cover (but no more often than once in any period of 12 months in both cases;
- h) not knowingly do anything whereby any policy of insurance relating to the Land may become void or voidable;
- i) insure against liability in respect of property owners' and third party risks including occupiers liability.

15) While the Academy operates from the Land or part of it pursuant to a lease in so far as clause 14 regulates occupation the terms of the lease shall prevail.

16) In the exercise of any discretion that the Secretary of State shall have either in relation to the Land as a consequence of this agreement or pursuant to Schedule 1 of the Academies Act 2010, the Secretary of State agrees to comply with any guidance issued by him in relation to the disposal of publicly funded land that is no longer to be used for the Academy.

17) In relation to any land owned or leased by the Company (excluding any land leased to the Company by the Executive Trustees, the Secretary of State agrees not to give consent to any disposal or grant of security in respect of such land to the Company as envisaged in the Supplemental Funding Agreement without first consulting the Executive Trustees and the Authorities and having due regard to any concerns expressed by the Executive Trustees and the Authorities.

CAPITAL GRANTS

18) The Executive Trustees and the Authorities acknowledge the Secretary of State's power to pay Capital Grant to the Company and in recognition of the Executive Trustees and the Authorities interest in any Capital Grant paid in relation to expenditure on Land, the

**MODEL CHURCH SUPPLEMENTAL AGREEMENT
(MULTI ACADEMY MODEL)**

Secretary of State commits to the following:

- a) to acknowledging the Executive Trustees and the Authorities right to consent to the carrying out of any works to Land which are to be paid for from any Capital Grant;
 - b) to recognise the Executive Trustees and the Authorities interests in ensuring that any works to Land are carried out properly and that the Executive Trustees and the Authorities may be procuring or providing support to the Company in the procurement of such works.
- 19) To the extent that the Secretary of State considers it necessary, in order to protect the value of any future public investment in the Land and in recognition of the Executive Trustees and the Authorities allowing the Land to be used for the purposes of the Academy, then the Secretary of State may require the Company and the Executive Trustees and the Authorities to enter into a further agreement in relation to such further public investment and Capital Grant. If the Secretary of State determines such further agreement is required, then the parties agree to negotiate in good faith with a view to reaching agreement to enable such Capital Grant, and future public investment, to be paid.

INTERVENTION AND SUPPORT

- 20) The Executive Trustees and the Authorities acknowledge the Secretary of State's right to terminate either the Supplemental Funding Agreement or the Master Funding Agreement in the circumstances envisaged in the Funding Agreement. The Secretary of State agrees with the Executive Trustees and the Authorities before taking any such action and in particular serving any Termination Warning Notice to notify the Executive Trustees and the Authorities that he intends to take action giving his reasons for such action and to allow the Executive Trustees and the Authorities a reasonable opportunity to make representations regarding such action, including any actions that the Executive Trustees and the Authorities intend to take to remedy any failing of the Academy, which the Secretary of State will have due regard to before finally taking any action.

21) Not used.

- 22) In the spirit of partnership, where the Executive Trustees and/or the Authorities puts forward a school improvement plan, whether or not in the circumstances envisaged in clause 20, the Secretary of State will consider any proposals within it and in good faith will consider any resource or funding implications, without, for the avoidance of doubt,

**MODEL CHURCH SUPPLEMENTAL AGREEMENT
(MULTI ACADEMY MODEL)**

being under any obligation pursuant to this Agreement to agree to fund such proposals.

- 23) The Secretary of State agrees to meet the costs of any relevant statutory denominational inspection proposed by the Executive Trustees and the Authorities] provided these do not occur any more often than once every three years.

TERMINATION

- 24) The Executive Trustees and the Authorities jointly may give not less than two years written notice to the Company and the Secretary of State to terminate this Agreement.
- 25) In the event of any termination of either the Supplemental Funding Agreement or the Master Funding Agreement in circumstances where the Academy would not otherwise be closing, the Secretary of State will have due regard to any wishes of the Executive Trustees and the Authorities with regard to the future of the school as a "voluntary" maintained school for the purposes of the School Standards & Framework Act 1998.
- 26) Notwithstanding any termination or expiry of this Agreement the provisions of clause 25 shall continue to apply.

MISCELLANEOUS

- 27) 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 Executive Trustees and the Authorities at its registered office or such other addressee/address as may be notified in writing from time to time by the Executive Trustees and the Authorities and, in the case of a notice or communication from the Executive Trustees and/or the Authorities 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.
- 28) No term of this Agreement is intended to give any entitlement as against any party to any person who is not a party to this Agreement and no term of this Agreement may be enforced by any person other than a party under the Contracts (Rights of Third Parties) Act 1999.
- 29) The obligations of the parties are several and for the avoidance of doubt none of the

**MODEL CHURCH SUPPLEMENTAL AGREEMENT
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Company the Executive Trustees and the Authorities shall be deemed to be liable in respect of the acts or omissions of the other as between these parties and the Secretary of State.

- 30) For the avoidance of doubt nothing in this Agreement is intended to vary or amend any provision of the Funding Agreement or any obligation arising under it.

THE BOARD'S ROLE

- 31) TMCP agrees to sign and execute deeds and other instruments relating to the Land at the request and direction of the Methodist Authority, provided that in so doing, it assumes no obligations and incurs no liability and has executed this deed to evidence acknowledgment of the commitments given by the Executive Trustees, the Company, the Methodist Authority and the Diocesan Authority and the Secretary of State in this Agreement.
- 32) DBF agrees to sign and execute deeds and other instruments relating to the Land at the request and direction of the Diocesan Authority, provided that in so doing, it assumes no obligations and incurs no liability and has executed this deed to evidence acknowledgment of the commitments given by the Executive Trustees, the Company, the Methodist Authority and the Diocesan Authority and the Secretary of State in this Agreement.
- 33) It is hereby declared and agreed that for as long as the Land is vested in the Board all covenants and other obligations on the part of the Board in this deed shall be construed as being covenants and obligations on the part of the Executive Trustees only and nothing in this deed shall pose any personal or other liability on the Board as holding trustee.
- 34) The Executive Trustees agree to indemnify the Board against all proceedings, liabilities, claims, losses, costs and expenses howsoever arising which the Board may suffer by reason of their being a party to this Agreement or their holding of the Land

This Agreement was executed as a Deed on

31st March 2014

MODEL CHURCH SUPPLEMENTAL AGREEMENT
(MULTI ACADEMY MODEL)

Executed on behalf of the CIRCUIT MEETING
OF THE EAST LINCOLNSHIRE CIRCUIT OF
THE METHODIST CHURCH in its capacity as
a joint Executive Trustee by

✓ A. Edwards x

and

x David M. x

In the presence of:

Witness Cheryl

Address Barkby Fields
Stradbury Road
Halfway Marsh LN30 5JN

Occupation Minister of Religion

In the presence of:

Witness Cheryl

Address Barkby Fields
Stradbury Road
Halfway Marsh LN30 5JN

Occupation Minister of Religion

Executed on behalf of Board by
affixing its Common Seal in the presence of:

.....
Director

.....
Director/Secretary

Executed on behalf of the Diocesan Authority by

.....
Director

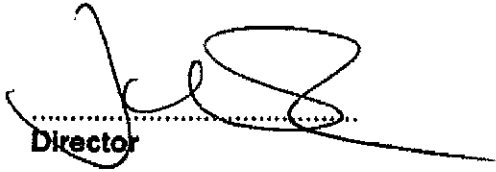
.....
Director/Secretary

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

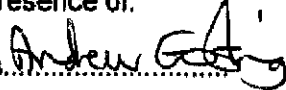
.....
Duly Authorised

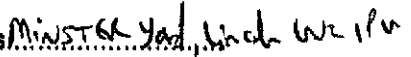
MODEL CHURCH SUPPLEMENTAL AGREEMENT
(MULTI ACADEMY MODEL)

Executed on behalf of the Company by: (LAAT)


.....
Director

In the presence of:

Witness.....

Address.....

Occupation.....

The Common Seal of THE
TRUSTEES FOR METHODIST
CHURCH PURPOSES

was hereunto affixed with the
sanction of the two members
whose signatures are hereto
subscribed

Executed on behalf of METHODIST
ACADEMIES AND SCHOOLS TRUST
by:

.....
Director

In the presence of:

Witness.....

Address.....

Occupation.....

Executed on behalf of the CIRCUIT MEETING
OF THE EAST LINCOLNSHIRE CIRCUIT OF
THE METHODIST CHURCH in its capacity as

MODEL CHURCH SUPPLEMENTAL AGREEMENT
(MULTI ACADEMY MODEL)

a joint Executive Trustee by

C S Clarke

and

(on behalf of the DBE)

X U2

In the presence of:

Witness Andrew Goding

Address Minster Yard Lincoln W2 1PU

Occupation ASSETS & TRUSTS MANAGER

In the presence of:

Witness Andrew Goding

Address Minster Yard Lincoln W2 1PU

Occupation ASSETS & TRUSTS MANAGER

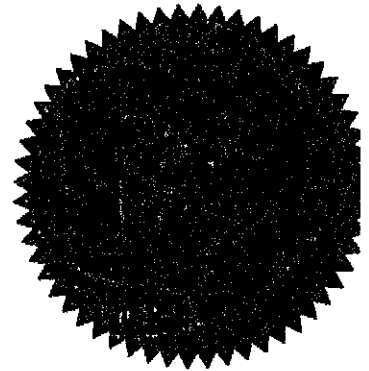
Executed on behalf of Board by (DBF)
affixing its Common Seal in the presence of:

Wintun

Director

X. Howard

Director/Secretary



Executed on behalf of the Diocesan Authority by (DBE)

C S Clarke

Director

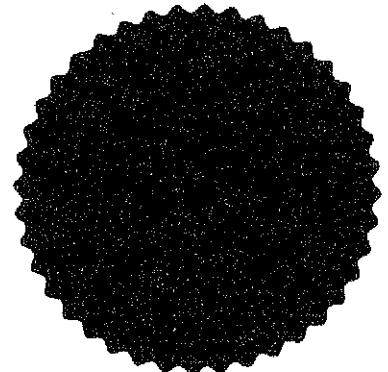
U2

Director/Secretary

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

For

Duly Authorised



MODEL CHURCH SUPPLEMENTAL AGREEMENT
(MULTI ACADEMY MODEL)

Executed on behalf of the Company by:

.....
Director

In the presence of:

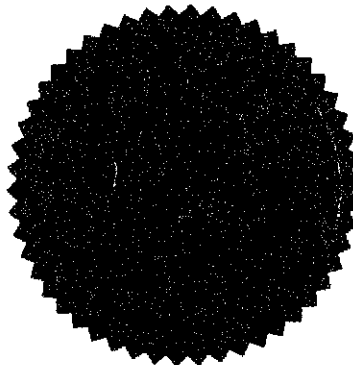
Witness.....

Address.....

Occupation.....

The Common Seal of THE
TRUSTEES FOR METHODIST
CHURCH PURPOSES
was hereunto affixed with the
sanction of the two members
whose signatures are hereto
subscribed

Donna C. Hare



Executed on behalf of METHODIST
ACADEMIES AND SCHOOLS TRUST
by:

x *D. J. Deeks*
Director

In the presence of:

Witness.....

Address.....

Occupation.....

L. W. Knudsen

H W KENDALL

5-SHIELDS AVE. B37-022

RETIRED.

