

SCHEDULE 1

SUPPLEMENTAL AGREEMENT FOR LeAF STUDIO SCHOOL

THIS AGREEMENT made 8 August 2012

BETWEEN

(1) **THE SECRETARY OF STATE FOR EDUCATION**; and

(2) **LEAF ACADEMY**

IS SUPPLEMENTAL TO THE MASTER FUNDING AGREEMENT made between the same parties and dated 8 August 2012 (the "**Master Agreement**").

1 **DEFINITIONS AND INTERPRETATION**

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

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

"the Academy" means the LeAF Studio School to be established at Duck Lane, Bournemouth, Dorset, BH11 9JJ;

"Academy Financial Year" means the year from 1st September to 31st August in any year;

"Academy Funding Year" means the year from 1st September to 31st August in any year;

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

"Insured Risks" means fire lightning explosion earthquake storm tempest flood subsidence landslip heave impact terrorism bursting or overflowing of water tanks and pipes earthquake 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;

“the Land” means the land (including for the avoidance of doubt all buildings, structures landscaping and other erections) situated at and known as LeAF Studio School, Duck Lane, Bournemouth, Dorset, BH11 9JJ and registered under DT390777 making up the permanent site of the Academy;

“the Lease” means the leasehold agreement or its equivalent between the Company and the North Bournemouth Learning and Achievement Trust (“the Landlord”) in respect of the permanent site upon which the Academy is situated;

“the Licence” means the Shared Use agreement between the Company and the North Bournemouth Learning and Achievement Trust in respect of temporary site;

“Personal coach” means a member of staff at the school who satisfies the requirements of clause 2.8 of this Agreement and provides personalised support to pupils with their ongoing learning and development needs;

“Start-up Period” means up to a maximum of 4 Academy Funding Years and covers the period up to and including the first Academy Funding Year in which all age groups are presents at the Academy (that is, all the pupil cohorts relevant to the age range of the Academy will have some pupils present.

“the temporary site” means the land (including for the avoidance of doubt all buildings, structures, landscaping and other erections), to be held under the Licence, upon which the Academy is to be situated at the date of opening at Duck Lane, Bournemouth, Dorset, BH11 9JJ and registered under DT390777.

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

2 THE ACADEMY

2.1 The Company will establish and maintain, and carry on or provide for the carrying on of the Academy in accordance with the Master Agreement and this Agreement, except insofar as any provisions in this Agreement conflict with any provisions in the Master Agreement, in which case the provisions of

this Agreement shall prevail over the relevant provisions in the Master Agreement

- 2.2 The curriculum provided by the Academy to pupils up to the age of 16 shall be broad and balanced, and include provision for obtaining employability skills through project based learning.
- 2.3 The requirements for the admission of pupils to the Academy are set out at Annex 1.

ACADEMY OPENING DATE

- 2.4 The Academy shall open as a school on 1 September 2012.
- 2.5 The planned capacity of the Academy is 500 in the age range 14-19, including a sixth form of 270 places.
- 2.6 Not used.

CRIMINAL RECORDS BUREAU CHECKS

- 2.7 In relation to the Academy only, the Company shall, on receipt of information from the Criminal Records Bureau in response to an application for an enhanced criminal record certificate, on request from the Secretary of State or his agents, as soon as possible thereafter submit such information to the Secretary of State in accordance with section 124 of the Police Act 1997.

TEACHERS AND OTHER STAFF

- 2.8 Subject to clause 2.9, and in relation to the Academy only, the Company shall, in accordance with any guidance which the Secretary of State may issue on the qualifications of teaching and other staff in Academies, employ anyone it deems is suitably qualified or is otherwise eligible under a contract of employment or for services to carry out planning and preparing lessons and courses for pupils, delivering lessons to pupils, assessing the development, progress and attainment of pupils, and reporting on the development, progress and attainment of pupils
- 2.9 Clause 2.8 does not apply to anyone who (a) is appointed as the SENCO by the Company under section 317(3A) of the Education Act 1996, who must meet the requirements set out in Regulation 3 of the Education (Special Educational Needs Co-ordinators)(England) Regulations 2008 (SI

2008/2945); or (b) is appointed as a designated teacher for looked after children further to clause 18A of the Master Agreement.

2.10 Not used.

PENSIONS

2.11 In relation to the Academy, the Company shall ensure that all employees at the Academy other than teachers (“Non-teaching Staff”) have access to either the Local Government Pension Scheme in accordance with the Local Government Pension Scheme (Administration) Regulations 2008 [SI 2008/239] (“the Regulations”), where the Regulations require this, or such other pension benefits as those Regulations, or any legislation which may in the future replace the Regulations, require for Non-teaching staff.

MISCELLANEOUS

2.12 Not used.

2.13 In relation to the Academy, the Company shall not make provision in the context of any subject for the teaching, as an evidence-based view or theory, of any view or theory that is contrary to established scientific and/or historical evidence and explanations.

2.14 In relation to the Academy, the Company shall ensure that principles are promoted which support fundamental British values, including: respect for the basis on which the law is made and applied in England; respect for democracy and support for participation in the democratic processes; support for equality of opportunity for all; support and respect for the liberties of all within the law; and respect for and tolerance of different faiths and religious and other beliefs.

Safeguarding

2.15 (i) The Academy will abide by the requirements of and have regard to any guidance issued by the Secretary of State on:

(a) safeguarding, in particular that contained in the guidance document entitled “Safeguarding Children and Safer Recruitment in Education”, as

amended from time to time; and

(b) the employment and work placement/work experience opportunities for pupils, in particular that contained in the document entitled “Guidance on the Employment of Children”, as amended from time to time.

2.15 (ii) The Academy will take appropriate steps to ensure that any employment and work placement/work experience opportunities for pupils are suitable, so as to safeguard the health, safety and welfare of pupils whilst employed or on work placement/work experience either on or off the school premises.

3 CAPITAL GRANT

3.1 In relation to the Academy, and notwithstanding clause 35 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, subject to clauses 4.2 to 4.10 below.

4.2 Subject to clauses 4.8-4.9, GAG for each Academy Funding Year for the Academy will include:

4.2.1 Funding equivalent to that which would be received by a maintained school with similar characteristics, determined by the Secretary of State and notified in the annual letter of funding or its equivalent, taking account of the number of pupils at the Academy;

4.2.2 Funding for the cost of functions which would be carried out by the local authority if the Academy were a maintained school, such funding to be determined at the discretion of the Secretary of State;

4.2.3 Funding for matters for which it is necessary for the Academy to incur extra costs, to the extent that those costs are deemed in the discretion of the Secretary of State to be necessary; and

4.2.4 Payments equivalent to further, specific grants made available to maintained schools, where the Academy meets the requisite conditions and criteria necessary for a maintained school to receive these grants, such payments to be at the discretion of the Secretary of

State;

- 4.3 Subject to clause 4.3AA, the basis of the pupil number count for the purposes of determining GAG for an Academy Funding Year will be the Company's most recent estimate provided in accordance with clause 4.3A.
- 4.3A The Secretary of State shall in advance of each Academy Funding Year for the Academy, at such time or times as he shall determine, request that the Company provides an estimate of the number of pupils on roll in the following September for the Academy for the purposes of determining GAG for an Academy Funding Year, and the Company shall provide the requested estimate (such estimate to be based on an objective assessment of numbers) to the Secretary of State as soon as reasonably practicable.
- 4.3AA Once the condition specified in clause 4.4 has been satisfied with respect to the Academy for the Academy Funding Year for which funding is being calculated, the basis of the pupil number count for the purpose of determining GAG for the Academy will be:
- a) for the pupil number count for pupils in Year 11 and below, the Schools Census for the October preceding the Academy Funding Year in question;
- and
- b) for the pupil number count for pupils in Year 12 and above, the formula which for the time being is in use for maintained schools for the calculation of pupil numbers for pupils in Year 12 and above for the purpose of calculating their level of funding
- 4.4 For the purpose of clause 4.3AA, the condition is satisfied 4 Academy Funding Years after the Academy opening date (the opening date being the date set out in clause 2.4).
- 4.5 For any Academy Funding Year in which GAG for the Academy has been calculated in accordance with clauses 4.3 and 4.3A, an adjustment may be made to the following Academy Funding Year's formula funding element of GAG for the Academy to recognise any variation from that estimate greater than or lower than 2.5%. The Secretary of State may for the purpose of calculating any adjustment to the formula funding element of GAG under this

clause, use the January census for the Academy Funding Year in question as a means of determining pupil numbers in an Academy Funding Year. The additional or clawed-back grant will be only that amount relevant to the number of pupils beyond the 2.5% variation.

- 4.6 For any Academy Funding Year in which GAG for the Academy is calculated in accordance with clause 4.3AA, no adjustment will be made to the equivalence funding element in the following Academy Funding Year's equivalence funding element of GAG unless the Company demonstrates to the satisfaction of the Secretary of State that there has been a significant impact on costs, such as an extra class. For any other element of GAG the Secretary of State may make adjustments to recognise a variation in pupil numbers from that used to calculate the element of grant in question; the basis of these will be set out in the annual letter of funding or its equivalent.
- 4.7. The Secretary of State may pay further grant in the Start-up period, as determined and specified by him, for costs which cannot otherwise be met from GAG.
- 4.8. The Secretary of State recognises that if he serves notice of intention to terminate this Agreement, the intake of new pupils during the notice period is likely to decline and that in such circumstances payments based simply upon the number of pupils attending the Academy are unlikely to be sufficient to meet the Academy's needs during the notice period. In those circumstances, the Secretary of State may undertake to pay a reasonable and appropriately larger GAG with respect to the Academy in the notice period than would be justified solely on the basis of the methods set out in clauses 4.2-4.6, in order to enable the Academy to operate effectively.
- 4.9 For the avoidance of any doubt, the Secretary of State will not, in relation to the Academy, pay Implementation Grant pursuant to clauses 41A to 41F of the Master Agreement.

4A OTHER LAND

- 4A.1 The Company shall, within 14 days of receiving any order, notice, proposal, demand or any other requirement affecting the ability of the Company to use the Land for the purposes of the Academy from any competent authority, give full particulars by written notice to the Secretary of State and deliver to the

Secretary of State copies of such documents as he may require. Such notice shall state what steps, if any actions are required, the Company intends to take in response to the order, notice, proposal, demand or other requirement affecting the Land.

4A.2 The Company will at its own cost provide all information reasonably required by the Secretary of State in respect of order, notice, proposal, demand or any other requirement affecting the Land as referred to in clause 4A.1.

4A.3 Following the receipt by the Secretary of State of the written notice under clause 4A.1, the Company shall permit the Secretary of State to take all steps in conjunction with or instead of the Company as may be necessary to comply with any order, notice, proposal, demand or other requirement affecting the Land referred to in the said notice. The Company shall, in such circumstances, use all reasonable endeavours to assist the Secretary of State to take the appropriate required steps.

4B Clauses 13g, 19, 20, 41A-41F and 62-63 of the Master Agreement do not apply to the Academy.

4B.1 In relation to the Academy, clause 13 of the Master Agreement does not apply to it and such clause is replaced by the following clause which does apply to it:

4B.1.1 Other conditions and requirements in respect of the Academy only, are that:

a) the school will be at the heart of its community, promoting community cohesion and sharing facilities with other schools and the wider community;

b) there will be assessments of pupils performance as they apply to maintained schools and the opportunity to study for qualifications in accordance with clause 30d) of the Master Agreement;

c) the admissions policy and arrangements for the school will be in accordance with admissions law, and the DfE Codes of Practice, as they apply to maintained schools;

d) teachers' levels of pay and conditions of service for all employees will be the responsibility of the Company;

e) there will be an emphasis on the needs of the individual pupils and where appropriate personal coaches will contribute to the needs of the individual pupils including pupils with SEN, both those with and without statements of SEN; and

f) there will be no charge in respect of admission to the school and the school will only charge pupils where the law allows maintained schools to charge.

g) the school will, as far as is reasonably practicable, arrange for pupils to gain meaningful experience of work by securing access of up to four hours per week work experience for pupils in years 10 and 11 and of up to twelve hours per week paid work for pupils in years 12 and 13; and

h) there will be an emphasis on obtaining employability skills through project based learning.

4C In relation to the Academy, clause 76 of the Master Agreement does not apply to it and such clause is replaced by the following clause which does apply to it:

4C.1 In relation to the Academy only, the Company may also spend or accumulate funds from private sources or public sources other than grants from the Secretary of State for application to the benefit of the Academy as it sees fit provided that it complies with all applicable requirements relating to the proper and regular use of funds in the Academies Financial Handbook. Any surplus arising from private sources or public sources other than grants from the Secretary of State, in relation to the Academy, shall be separately identified in the Company's balance sheet.

4D In relation to the Academy, clause 81 of the Master Agreement does not apply to it and such clause is replaced by the following clause which does apply to it.

4D.1 In relation to the Academy only, the Company shall not borrow against or so as to put at risk property or assets funded (whether in whole or in part) by the Secretary of State without specific approval of the Secretary of State, such approval at the absolute discretion of the Secretary of State. The Company shall not, in relation to the Academy, operate an overdraft except to cover irregularities in cash flow. Such an overdraft, and the maximum amount to be

borrowed, must be approved by the Company in a General Meeting and in writing by the Secretary of State, and shall be subject to any conditions which the Secretary of State may reasonably impose.

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 or any subsequent anniversary of that date, save where the provisions of this Agreement otherwise provide.

5.2 If the Secretary of State is of the opinion that the Academy no longer meets the requirements set out in clause 12 of the Master Agreement or that the conditions and requirements set out in clauses 13(as amended by this Agreement)-34B of the Master Agreement are not being met, or that the Company is otherwise in material breach of the provisions of this Agreement or the Master Agreement, the Secretary of State may give notice of his intention to terminate this Agreement.

5.3 Any such notice shall be in writing and shall:

5.3.1. state the grounds on which the Secretary of State considers the Academy no longer ,meets the requirements set out in clause 12 of the Master Agreement or is not meeting the conditions and requirements of clauses 13(as amended by this Agreement)-34B of the Master Agreement or the Company is otherwise in material breach of the provisions of this Agreement or the Master Agreement;

5.3.2. specify the measures needed to remedy the situation or breach;

5.3.3. specify a reasonable date by which these measures are to be implemented; and

5.3.4. state the form in which the Company is to provide its response and a reasonable date by which it must be provided.

5.4 If no response is received by the date specified in accordance with clause 5.3.4, the Secretary of State may give the Company 12 months, or such lesser period as he considers appropriate in the circumstances, written notice to terminate this Agreement.

- 5.5 If a response is received by the date specified in accordance with clause 5.3.4, the Secretary of State shall consider it, and any representations made by the Company, and shall, within three months of its receipt, indicate that:
- 5.5.1. he is content with the response and/or that the measures which he specified are being implemented; or
 - 5.5.2. he is content, subject to any further measures he reasonably specifies being implemented by a specified date or any evidence he requires that implementation of such measures have been successfully completed; or
 - 5.5.3. he is not satisfied, that he does not believe that he can be reasonably satisfied, and that he will proceed to terminate the Agreement.
- 5.6 In the circumstances of clause 5.5.3 the Secretary of State shall notify the Company why he believes that he cannot be reasonably satisfied and, if so requested by the Company within thirty days from such notification, he shall meet a deputation including representatives from directors of the Company and the Local Governing Body of the Academy to discuss his concerns. If following such meeting he has good reasons for remaining satisfied that the Academy does not and will not meet the requirements set out in clause 12 of the Master Agreement or does not and will not meet the conditions and requirements set out in clauses 13(as amended by this Agreement)-34B of the Master Agreement or the Company is in material breach of the provisions of this Agreement or the Master Agreement and such breach will not be remedied to his reasonable satisfaction, he shall give the Company twelve months written notice to terminate this Agreement.
- 5.7 If the Secretary of State has cause to serve a notice on the Company under section 165 of the Education Act 2002 and a determination (from which all rights of appeal have been exhausted) has been made that the Academy shall be struck off the Register of Independent Schools, the period of twelve months notice referred to in clause 5.6 may be shortened to a period deemed appropriate by the Secretary of State.
- 5.8 The Secretary of State shall, at a date preceding the start of each Academy Financial Year, provide to the Company an indication of the level of funding to be provided by the Secretary of State to the Company by way of GAG and

EAG in the next following Academy Financial Year (the “**Indicative Funding**”). If the Company is of the opinion that, after receipt of the Indicative Funding for the next following Academy Financial Year (the “**Critical Year**”) and of the taking into account all other resources available and likely to be available to the Academy, including such funds as are set out in clause 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.

5.9 Any notice given by the Company under clause 5.8 shall be in writing and shall be served on the Secretary of State not later than 28 February preceding the Critical Year or, if the Secretary of State shall not have given notice of the Indicative Funding to the Company on or before the date specified in clause 5.8 above, within six weeks after the Secretary of State shall have done so. The notice must specify:

5.9.1. the grounds upon which the Company’s opinion is based and include the evidence of those grounds and any professional accounting advice the Company has received and including a detailed statement of steps which the Company proposes to take with a view to ensuring that as soon as reasonably practicable the costs of running the Academy are reduced sufficiently to ensure that such costs are less than the Indicative Funding and All Other Resources and the period of time within which such steps will be taken; and

5.9.2. the shortfall in the Critical Year between the Indicative Funding and All Other Resources expected to be available to the Company to run the Academy and the projected expenditure on the Academy; and

5.9.3. a detailed budget of income and expenditure for the Academy during the Critical Year (the “**Projected Budget**”).

5.10 Both parties undertake to use their best endeavours to agree whether or not the cost of running the Academy during the Critical Year would cause the

Company, on the basis of the Indicative Funding and All Other Resources, to become insolvent. Both parties recognise that they will need to engage in a constructive dialogue at the time about how best to provide education for the pupils at the Academy and undertake to use their best endeavours to agree a practical solution to the problem.

- 5.11 If no agreement is reached by 30 April (or such other date as may be agreed between the parties) as to whether the cost of running the Academy during the Critical Year on the basis of the Indicative Funding and All Other Resources would cause the Company to become insolvent, then that question shall be referred to an independent expert (the “**Expert**”) for resolution. The Expert’s determination shall be final and binding on both parties. The Expert shall be requested to specify in his determination the amount of the shortfall in funding (the “**Shortfall**”). The Expert shall be an insolvency practitioner with significant professional experience of educational institutions or academies. If the parties fail to agree upon the appointment of the Expert then the Expert shall be appointed by the President for the time being of the Institute of Chartered Accountants in England and Wales. The Expert’s fees shall be borne equally between the parties.
- 5.12 The Expert shall be required in reaching his determination to take account of advice from an educational specialist who is professionally familiar with the issues arising from the budget management of large schools. If the parties fail to agree upon the appointment of the educational specialist then the educational specialist shall be appointed by the Chairman for the time being of the Specialist Schools and Academies Trust. The educational specialist’s fees shall be borne equally between the parties.
- 5.13 If the Expert determines that the cost of running the Academy during the Critical Year would cause the Company, on the basis of the Indicative Funding and All Other Resources, to become insolvent, and the Secretary of State shall not have agreed to provide sufficient additional funding to cover the Shortfall, then the Company shall be entitled to terminate this Agreement, by notice expiring on 31 August prior to the Critical Year. Any such notice shall be given within 21 days after (a) the Expert’s determination shall have been given to the parties or (b), if later, the Secretary of State shall have given written notice of his refusal to provide sufficient additional funding for the Academy to cover the Shortfall.

- 5.14 If the Company shall have given notice to terminate the Agreement under 5.13, the Secretary of State may by notice in writing to the Company require the Company to appoint up to two persons as directors of the Company in accordance with the Articles.
- 5.15 The Secretary of State may at any time by notice in writing terminate this Agreement forthwith if the Academy has ceased (except where such cessation occurs temporarily by reason of an event beyond the reasonable control of the Company) to operate as an Academy within the meaning of Section 1 of the Academies Act 2010.
- 5.16 A “Special Measures Termination Event Occurs” when:
- 5.16.1.the Chief Inspector has given a notice to the Company in accordance with section 13(3) of the Education Act 2005 (the “Special Measures Notice”) stating that in his opinion special measures are required to be taken in relation to the Academy; and
- 5.16.2.the Chief Inspector has carried out a subsequent inspection of the Academy in accordance with the Education Act 2005 and has made a report in accordance with the Education Act 2005 stating that the Academy has made inadequate progress since the date of the Special Measures Notice; and
- 5.16.3.the Secretary of State has requested the Company to deliver within 10 Business Days a written statement (a “Further Action Statement”) of the action the Company proposes to take, and the period within which it proposes to take such action, or, if it does not propose to take any action, the reasons for not doing so; and
- 5.16.4.the Secretary of State, having considered the Further Action Statement, is not satisfied that any action proposed to be taken by the Company is sufficient in all the circumstances, or, if no Further Action Statement shall have been given to the Secretary of State within the requested timeframe or otherwise.
- 5.17 If a Special Measures Termination Event occurs, the Secretary of State may:
- 5.17.1.by notice in writing to the Company terminate this Agreement forthwith; or

5.17.2. subject to clause 102 of the Master Agreement, appoint such Further Directors to the Company as he thinks fit in accordance with the Articles and/or may provide up to 12 months' notice in writing to terminate this Agreement.

5.18 In the event that the Secretary of State appoints Further Directors in accordance with clause 5.17.2, the Company must, upon the request of the Secretary of State, procure the resignation of the Directors appointed in accordance with Article 50 of the Articles of Association.

5.19 If the Company has not obtained full planning permission (including where relevant listed building consent), in respect of the Land by date 31/03/2013, the Secretary of State may by notice terminate this Agreement forthwith or may provide such notice as he deems appropriate in the circumstances in writing to terminate this Agreement.

5.20A (i) If, at any time after the signing of this Agreement but prior to the Academy opening date, the Secretary of State is of the view that:

1. the Academy would, on opening, provide an unacceptably low standard of education; or
2. the safety of pupils or staff at the Academy would, on opening, be threatened; or
3. the staff employed at the Academy are unsuitable; or
4. the buildings and other structures on the temporary site upon which the Academy is to be situated at the date of opening under the Licence are unsuitable, including, but not limited to the requirement for any Building Regulations approval to have been obtained;

he may in writing either:

- (a) require the Company (i) not to open the Academy; and/or (ii) not to admit pupils of a particular age range, to be determined by the Secretary of State; and/or (iii) not to use any building or other structure on the temporary site upon which the Academy is to be situated at the date of opening until such

time as the relevant matter or matters listed in 1. to 4. above has or have been resolved to the Secretary of State's satisfaction; or

(b) terminate this Agreement forthwith or provide such notice as he deems appropriate in the circumstances to terminate this Agreement.

5.20A (ii) If at any time after the opening of the Academy but prior to the Academy allowing pupils of the Academy access to the Land, the Secretary of State is of the view that:

1. the safety of pupils or staff at the Academy would, on use of the Land, be threatened; or

2. the buildings and other structures the Land are unsuitable including, but not limited to, the requirement for any Building Regulations approval to have been obtained;

he may in writing either:

(a) require the Company not to use any building or other structure on the Land until such time as the relevant matter or matters listed in 1. to 2. above has or have been resolved to the Secretary of State's satisfaction; or

(b) terminate this Agreement forthwith or provide such notice as he deems appropriate in the circumstances to terminate this Agreement.

5.20B (i) If the Company has not entered into the Licence for the temporary site upon which the Academy is to be situated at the date of opening by 01/09/2012, the Secretary of State may by notice terminate this Agreement forthwith or may provide such notice as he deems appropriate in the circumstances in writing to terminate this Agreement.

5.20B (ii) If the Company has not entered into the Lease in respect of the Land by 01/09/2013, the Secretary of State may:

- a. by notice terminate this Agreement forthwith or may provide such notice as he deems appropriate in the circumstances in writing to terminate this Agreement; or
- b. appoint such Further Governors as he thinks fit and/or provide up to 12 months' notice in writing to terminate this Agreement.

5.20B (iii) If by 31/03/2013, it becomes clear that the Lease will not be entered into in respect of the Land, the Secretary of State may direct the Company to enter into negotiations in respect of securing an alternative permanent site the Secretary of State considers suitable for the needs of the Academy.

5.20B (iv) If having been directed under 5.20B (iii) to enter into negotiations, the Company has not secured an interest in that alternative site to the satisfaction of the Secretary of State by 01/09/2013, the Secretary of State may:

- a) by notice terminate this Agreement forthwith or may provide such notice as he deems appropriate in the circumstances in writing to terminate this Agreement; or
- b) appoint such Further Governors as he thinks fit and/or provide up to 12 months' notice in writing to terminate this Agreement

5.21 In relation to the Academy, if the Secretary of State is satisfied that any member of the Advisory Body and/or Local Governing Body is not a suitable person he may:

- (a) in relation to a member of the Advisory Body and/or Local Governing Body who has been appointed by the Company serve notice in writing on the Company requiring the Company to procure the resignation or removal of the person(s) within 21 days. If the Company fails to procure the said resignation or removal of such a member within the time specified, the Secretary of State may by notice terminate this Agreement forthwith or may provide at least 12 months' notice in writing to terminate

this Agreement (such notice to take effect at the end of an Academy term); or

- (b) by notice in writing to the Company direct that the Company appoint additional Advisory Body and/or Local Governing Body members as specified by the Secretary of State and whom the Company has the power to appoint under its Articles. If the Company fails to procure such appointments of such additional members of the Advisory Body and/or Local Governing Body, the Secretary of State may by notice terminate this Agreement forthwith and/or provide at least 12 months' notice in writing to terminate this Agreement (such notice to take effect at the end of an Academy term); and
- (c) in relation to a member of the Advisory Body and/or Local Governing Body who has not been appointed by the Company, serve notice in writing on the Company directing the Company invoke its powers under its Articles to revoke the delegation of powers to the Advisory Body and/or Local Governing Body. If the Company fails to invoke its powers in such manner within 21 days of service of the notice, the Secretary of State may by notice in writing terminate this Agreement forthwith or may provide at least 12 months written notice to terminate this Agreement (such notice to take effect at the end of an Academy term).

5.22 (i) The Company shall provide to the Secretary of State the name of any new or replacement member of the Local Governing Body for the Studio School whether such a person has been appointed or elected, together with the date of such an appointment or election and, where applicable, the name of the Local Governing Body member such a person replaces as soon as is practicable and in any event within 14 days of the appointment or election of such a person.

(ii) In this regard, the Company shall not appoint any new or replacement members of the Local Governing Body for the Studio School until it has first (a) notified such persons that their name shall be shared with the Secretary of State and (b) explained to the new or replacement members of a Local Governing Body that the reason their name is being shared with the Secretary of State is to enable the Secretary of State to assess their suitability.

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 clause 6.3, if the Secretary of State terminates this Agreement for reasons other than that a Special Measure Termination Event occurs, the Academy no longer meets the requirements set out in clause 12 of the Master Agreement, or is no longer meeting the conditions and requirements set out in clauses 13(as amended by this Agreement)-34B of the Master Agreement or that the Company is otherwise in material breach of the provisions of this Agreement or the Master Agreement, the Secretary of State may indemnify the Company.

6.3 The amount of any such indemnity shall be determined by the Secretary of State having regard to any representations made to him by the Company, and shall be paid at such times and in such manner as the Secretary of State may reasonably think fit.

6.4 The categories of expenditure incurred by the Company in consequence of the termination of the Agreement in respect of which the Secretary of State may indemnify the Company include (but not by way of limitation), staff compensation and redundancy payments, compensation payments in respect

of broken contracts, expenses of disposing of assets or adapting them for other purposes, legal and other professional fees, and dissolution expenses.

6.5 Subject to clause 6.6, on the termination of this Agreement however occurring, the Company shall in respect of any of its capital assets at the date of termination:

(a) promptly transfer a proportion of the assets to a person nominated by the Secretary of State, if the Secretary of State considers that all or some of those assets need to be used for educational purposes by that nominee. The proportion of the assets to be transferred shall be the same as the proportion of the capital contribution made by the Secretary of State to the original value of those assets, whether that contribution was made on the establishment of the Academy or later; or

(b) if the Secretary of State confirms that a transfer under clause 6.5(a) is not required, promptly repay to the Secretary of State a sum equivalent to the percentage of the value of the assets at the date of termination, or, by agreement with the Secretary of State, at the date of subsequent disposal of those assets. Such percentage to be the same as the percentage of the capital contribution made by the Secretary of State to the original value of those assets, whether that contribution was made on the establishment of the Academy or later.

6.6 The Secretary of State may waive in whole or in part the repayment due under clause 6.5(b) if:

a) The Company obtains his permission to invest the proceeds of sale for its charitable objects; or

b) The Secretary of State directs all or part of the repayment to be paid to the L A.

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.

7 **ANNEX**

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

7A **GENERAL**

7A.1 This Agreement shall not be assignable by the Company.

7A.2 The Secretary of State and the Company agree that, notwithstanding the termination of this Agreement, any obligation upon the Company and/or the Secretary of State expressed as arising upon the termination of this Agreement shall continue to subsist.

8 **THE MASTER AGREEMENT**

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

9 **ENGLISH LAW**

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

9A **LAND**

9A.1 For the purposes of clarification all of the land edged in red on the plan attached in Annex 2, is provided by the Company for the exclusive use of the Academy.

9A.2 For the purposes of clarification all of the land edged in red on the plan attached in Annex 3 is provided by the Company to the Academy for use on a shared and reasonable basis with any other Academy school established and maintained by the Company. The costs associated with such shared use, including but not limited to service costs, will be apportioned by the Company as between any other Academy school and the Academy on a fair and reasonable basis, taking account of the percentage of the Land occupied by each school.

9A.3 The Company shall ensure that any staff, contractors and agents that it engages in relation to the LeAF Studio School have an unrestricted right of way from the LeAF Studio School entrance to the LeAF Studio School.

10 **RESTRICTIONS ON LAND TRANSFER**

10A) The Company:

- a) shall, within 28 days from the transfer of the Land to the Company, should the Company be a non-exempt charity at that time, apply to the Land Registry for restrictions in the proprietorship register (under section 43(1)(a) of the Land Registration Act 2002 in Form RX1 as prescribed by Rule 91 and Schedule 4 of the Land Registration Rules 2003) ('LRR 2003') in the following terms:

No disposition of the registered estate by the proprietor of the registered estate to which sections 117-121 or section 124 of the Charities Act 2011 applies is to be registered unless the instrument contains a certificate complying with section 122(3) or section 125(2) of that Act, as appropriate.

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.

- b) shall take any further steps reasonably required to ensure that the restriction referred to in clause 10A(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 10A(a) as soon as reasonably practicable after it receives notification from the Land Registry,
- d) in the event that it has not registered the restriction referred to in clause 10A(a), hereby consents to the entering of the restriction referred to in 10A(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 10A(a) or 10A(d) above, whether by itself, a holding company, a subsidiary company, or a receiver, administrator or liquidator acting in the name of the Company.

Obligations of the Company

10B) The Company shall keep the Land clean and tidy and make good any damage it causes to the Land and / or any deterioration to the condition of the Land that may arise from the date of this Agreement. In compliance with this clause, the Company shall not do or cause or permit to be done anything to lessen the value or marketability of the Land save with the express written consent of the Secretary of State.

10B)(ii) The Company agrees it shall seek and obtain the prior written consent of the Secretary of State, not to be unreasonably withheld or delayed before taking any steps to:

- a) grant any consent or licence in respect of the Land or any part of it; and / or
- b) create or permit to arise or continue any encumbrance affecting the Land or any part of it; and / or
- c) part with or share possession or occupation of the Land or any part of it; and / or
- d) enter into any onerous or restrictive obligations affecting the Land or any part of it.

Insurance

10C) The Company shall:-

- a) keep the Land insured 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;
- b) pay the premiums for insurance promptly as they become due and maintain in force the policies of insurance on the Land;
- c) following the incidence of damage to or destruction of the Land and subject to receipt of all necessary consents licences permissions and the like apply the proceeds of the policy of the insurance received for

those purposes in rebuilding and reinstating the 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;

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

This Agreement was executed as a Deed on 8 August 2012

Executed on behalf of LeAF Academy by:

J. C. C. C.
Director

R. D. H. H.
Director/Secretary

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

K. S. S.

Duly Authorised



ANNEX TO THIS SUPPLEMENTAL AGREEMENT

Requirements for the Admission for pupils at the LeAF Studio School Annex 1

ANNEX 1

REQUIREMENTS FOR THE ADMISSION OF PUPILS TO LEAF STUDIO SCHOOL

GENERAL

1. This annex may be amended in writing at any time by agreement between the Secretary of State and the Company.
2. 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 law to “admission authorities” shall be deemed to be references to the Directors of the Company.
3. Notwithstanding the generality of paragraph 2 of this Annex 1, the Company will take part in any mandatory Admissions Forum set up by the local authority (“LA”) in which they are situated and have regard to its advice; and will participate in the co-ordinated admission arrangements operated by the LA and the local Fair Access Protocol.
4. Notwithstanding any provision in this Agreement, the Secretary of State may:
 - (a) direct the Company to admit a named pupil to the LeAF Studio School on application from an LA. This will include complying with a School Attendance Order¹. Before doing so the Secretary of State will consult the Company.
 - (b) direct the Company to admit a named pupil to the LeAF Studio 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 Admission Code or the Admission Appeals Code.

¹ Local authorities are able to issue school attendance orders if a child is not attending school. These are legally binding upon parents. Such an order might, for instance, be appropriate where a child has a place at an Academy but his/her parents are refusing to send him/her to school. The order will require a parent to ensure his/her child attends a specified school.

5. The Company shall ensure that parents and ‘relevant children²’ will have the right of appeal to an Independent Appeal Panel if they are dissatisfied with an admission 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 Academy does not consider the relevant area determined by the local authority for the maintained schools in the area to be appropriate, it must apply to the Secretary of State by 1 August for a determination of the appropriate relevant area for the Academy, setting out the reasons for this view. The Secretary of State will consider the Academy and its LA in which the Academy is situated in reaching a decision

a) Requirement to admit pupils

b)

8. Pupils on roll in any predecessor maintained or independent school will transfer automatically to the Academy on opening. All children already offered a place at any predecessor school will be admitted.

9. The Academy will:

- a. Subject to its right of appeal to the Secretary of State in relation to a named pupil, admit all pupils with a statement of special educational needs naming the Academy;
- b. Adopt admission oversubscription criteria that give highest priority to looked after children, in accordance with the relevant provisions of the School Admissions Code.

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

10. The Academy admission arrangements will include oversubscription

² ‘relevant children’ means:

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

criteria, and an admission number for each relevant age group³. The Academy will consult on its admission arrangements and determine them in line with requirements within the School Admissions Code.

11. The Company should make it clear, when determining the Academy's admission arrangements, that objections should be submitted to the Schools Adjudicator (OSA).

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

³ 'Relevant age group' means normal point of admission to the school; for example, year R, Year 7 and Year 12.