

**DEED OF NOVATION AND  
VARIATION OF THE FUNDING AGREEMENT  
[                    ] 2016**

**SECRETARY OF STATE FOR EDUCATION**

**AND**

**THE ALBANY SCHOOL**

**AND**

**PARTNERSHIP LEARNING**

The Parties to this Deed are:

- (1) **THE SECRETARY OF STATE FOR EDUCATION** of Sanctuary Buildings, Great Smith Street, London SW1P 3BT (the **Secretary of State**);
- (2) **THE ALBANY SCHOOL** (Company Number 07689986) whose registered office is The Albany School, Broadstone Road, Hornchurch, Essex, RM12 4AJ (the **Outgoing Party**); and
- (3) **PARTNERSHIP LEARNING** (Company Number 08339345) whose registered office is c/o Roger Leighton, Chief Executive, The Sydney Russell School, Parsloes Avenue, Dagenham, Essex, RM9 5QT (the **Incoming Party**).

together referred to as the **parties**.

## **INTRODUCTION**

- (I) The Albany School is an academy within the meaning of the Academies Act 2010 (the "**Academy**") and is currently operated by the Outgoing Party.
- (II) The Secretary of State and the Outgoing Party entered into a funding agreement in respect of the Academy on 1 August 2011 (the **Funding Agreement**).
- (III) It has been agreed that, with effect from 00.01 am on 1 November 2016 (**Effective Date**) the Academy will cease to be operated by the Outgoing Party and the Incoming Party will assume responsibility for the management and operation of the Academy, in succession to the Outgoing Party.
- (IV) The parties have therefore agreed to novate the Funding Agreement to the Incoming Party and the Incoming Party wishes to vary the terms of the Funding Agreement in accordance with the terms of this Deed with effect from the Effective Date.

## **LEGAL AGREEMENT**

### **1 INTERPRETATION**

Words, expressions and interpretations used in this Deed shall, unless the context expressly requires otherwise, have the meaning given to them in, and shall be interpreted in accordance with, the Funding Agreement (as defined above).

### **2 NOVATION**

- 2.1 With effect from the Effective Date:

- 2.1.1 the Outgoing Party transfers all its rights and obligations under the Funding Agreement to the Incoming Party. The Incoming Party shall enjoy all the rights and benefits of the Outgoing Party under the Funding Agreement, and all references to the Outgoing Party in the Funding Agreement shall be read and construed as references to the Incoming Party;
- 2.1.2 the Incoming Party accepts the liability of the Outgoing Party under the Funding Agreement and undertakes to perform all the obligations arising under the Funding Agreement and shall be bound by its terms in every way as if it were the original party to it in place of the Outgoing Party; and
- 2.1.3 the Secretary of State undertakes to perform the Funding Agreement and be bound by its terms in every way as if the Incoming Party were the original party to it in place of the Outgoing Party.

### **3 RELEASE OF OBLIGATIONS AND LIABILITIES**

- 3.1 The Secretary of State and the Outgoing Party release each other from all future obligations to the other under the Funding Agreement.
- 3.2 Nothing in this deed shall operate to discharge the Secretary of State or the Outgoing Party from any liability or affect or prejudice any claim or demand which either the Outgoing Party or the Secretary of State may have against the other in respect of matters arising prior to the Effective Date.
- 3.3 The Outgoing Party warrants to the Secretary of State and the Incoming Party that prior to the date of this deed it is not aware of any potential claims or disputes under or in connection with the Funding Agreement.

### **4 VARIATION**

- 4.1 The Secretary of State and the Incoming Party agree that with effect from the Effective Date, the Funding Agreement shall be amended and restated so as to take effect in the form of a New Supplemental Funding Agreement (New SFA) set out in the schedule to this Deed. For the avoidance of doubt, the New SFA does not terminate or suspend the Funding Agreement but amends, re-states and supersedes it.
- 4.2 Subject to the terms of this deed, the Funding Agreement shall remain in full force and effect.

**5 THIRD PARTY RIGHTS**

A person who is not a party to this deed shall not have any rights under or in connection with it.

**6 GOVERNING LAW**

This deed 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.

**7 JURISDICTION**

Each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim arising out of or in connection with this deed or its subject matter or formation (including non-contractual disputes or claims).

**8 COUNTERPARTS**

This Deed may be executed in any number of counterparts and by the parties to it on separate counterparts, each of which when so executed and delivered shall be an original, but all the counterparts shall together constitute one and the same instrument.

**IN WITNESS** whereof this Deed has been executed by the parties hereto and is intended to be and is hereby delivered on the last date listed below.

**EXECUTED** as a deed by affixing the corporate )  
seal of the **Secretary of State for Education** )  
authenticated by:- )

.....  
Duly authorised by the Secretary of State for Education

Date.....

**EXECUTED** as a deed by **The Albany School** acting by:

.....  
Director

Print name.....

Date.....

Witnessed by .....  
*Signature*

Full name.....

Address.....

Occupation.....

**EXECUTED** as a deed by **Partnership Learning** acting by:

.....  
Director

Print name.....

Date.....

Witnessed by .....  
*Signature*

Full name.....

Address.....

Occupation.....

**SCHEDULE**

**The New SFA**