

(1) The Secretary of State for Education

(2) GFM Education

(3) LWS Academy Trust

DEED OF NOVATION AND VARIATION

OF THE

FUNDING AGREEMENT FOR LWS ACADEMY

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**");

- and -

(2) **GFM Education**, a charitable company incorporated in England and Wales with registered company number 07834711 whose registered address is at Bay House School, Gomer Lane, Alverstoke, Gosport, Hampshire, PO12 2QF ("**GFM**").

- and -

(3) **LWS Academy Trust**, a charitable company incorporated in England and Wales with registered company number 08915981 whose registered address is at Montefiore Way, Sarisbury Green, Hampshire, SO31 7LN (the "**Company**").

together referred to as the "**Parties**".

INTRODUCTION

- A. LWS Academy is an academy within the meaning of the Academies Act 2010 (the "**Academy**") and is currently operated by the Company.
- B. It is proposed that the Company will transfer to GFM the assets, management and operation of the Academy under terms agreed by the Company and GFM, and with effect from 00.01am on 1 April 2017 ("**Transfer Date**"), GFM will assume responsibility for the management and operation of the Academy in succession to the Company.
- C. The Secretary of State and the Company entered into a Master Funding Agreement on 26 March 2014, a copy of which is contained in Schedule 1, (the "**existing MFA**") and a Supplemental Funding Agreement dated 26 March 2014, a copy of which is contained in Schedule 2, (the "**existing SFA**") for the maintenance and funding of the Academy.
- D. GFM and the Secretary of State entered into a Master Funding Agreement by way of Deed of Variation dated *28 MARCH* 2017, a copy of which is contained in Schedule 3, (the "**GFM MFA**").
- E. The Parties wish to novate the existing MFA and existing SFA to GFM and the Secretary of State and GFM wish to vary the terms of the existing MFA and existing SFA on the terms set out in this Deed.

LEGAL AGREEMENT

- 1. Any word or phrase used in this Deed shall, if that word or phrase is defined in the existing MFA and existing SFA, bear the meaning given to it in the existing MFA and existing SFA.

NOVATION

2. The Company transfers all its rights and obligations under the existing MFA and existing SFA to GFM with effect from the Transfer Date. With effect from the Transfer Date, GFM shall enjoy all the rights and benefits of the Company under the existing MFA and existing SFA and all references to the Company in the existing MFA and existing SFA shall be read and construed as references to GFM.
3. With effect from the Transfer Date, GFM agrees to perform the existing MFA and existing SFA and be bound by its terms in every way as if it were the original party to it in place of the Company.
4. With effect from the Transfer Date, The Secretary of State agrees to perform the existing MFA and existing SFA and be bound by its terms in every way as if GFM were the original party to it in place of the Company.

OBLIGATIONS AND LIABILITIES

5. With effect from the Transfer Date, the Company and the Secretary of State release each other from all future obligations to the other under the existing MFA and the existing SFA.
6. Each of the Company and the Secretary of State release and discharge the other from all claims and demands under or in connection with the existing MFA and the existing SFA whether arising before or on the Transfer Date and in each case whether known or unknown to the releasing party.
7. Each of GFM and the Secretary of State will have the right to enforce the existing MFA and/or the existing SFA and pursue any claims and demands under the existing MFA and/or the existing SFA against the other with respect to matters arising before, on or after the date of this Deed as though GFM were the original party to the existing MFA and the existing SFA instead of the Company.

INDEMNITY

8. The Company agrees to indemnify GFM against any losses, liabilities, claims, damages or costs that GFM suffers or incurs under or in connection with the existing MFA and/or the existing SFA as a result of the Company's failure to perform or satisfy its obligations under the existing MFA and/or the existing SFA on or before the Transfer Date.
9. GFM agrees to indemnify the Company against any losses, liabilities, claims, damages or costs the Company suffers or incurs under or in connection with the existing MFA and/or the existing SFA as a result of GFM's failure to perform or satisfy its obligations under the existing MFA and/or the existing SFA on or after the Transfer Date.

VARIATION

- 10. The Secretary of State and GFM agree that with effect from the Transfer Date the existing MFA and existing SFA shall be amended and restated so as to take effect in the form of the GFM MFA contained in Schedule 3 to this Deed and the corresponding Supplemental Funding Agreement contained in Schedule 4 to this Deed.
- 11. As varied by this Deed, the existing MFA and existing SFA shall remain in full force and effect.
- 12. This Deed, and any dispute or claim arising out of or in connection with it, its subject matter or formation (including non-contractual disputes or claims) shall be governed by and interpreted in accordance with English law.
- 13. 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 Deed or its subject matter or formation (including non-contractual disputes or claims).

COUNTERPARTS

- 14. 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:-)

Mani Dunes



Duly authorised by the Secretary of State for Education

Date 28 MARCH 2017

EXECUTED as a deed by **GFM Education** acting by a director in the presence of:

S. C. Mangan

Director

Shorter

Witness signature

Name: VANESSA SHORTER

Occupation: PA

Address:

EXECUTED as a deed by **LWS Academy Trust** acting by a director in the presence of:

[Signature]

Director

Hook

Witness signature

Name: KIRSTEEN HOOK

Occupation: SOLICITOR

Schedule 1

Existing MFA



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