

DATED

2019

BRADGATE EDUCATION PARTNERSHIP (1)

and

EXPLORE LEARNING TRUST (2)

TRANSFER AGREEMENT

for the transfer of the entire operation, assets
and undertaking of Ratby Primary School

brownejacobson

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BETWEEN:

- (1) **EXPLORE LEARNING TRUST** a company limited by guarantee registered in England and Wales (company number 08293293) whose registered office is Ratby Primary School, Main Street, Ratby, Leicester LE6 0LN (the "Company");
- (2) **BRADGATE EDUCATION PARTNERSHIP** a company limited by guarantee registered in England and Wales (company number 08168237) whose registered office is at Gaddesby Primary School, Ashby Road, Gaddesby, Leicester, Leicestershire, LE7 4WF (the "Multi-Academy Trust").

WHEREAS

- (A) The Objects of the Multi-Academy Trust as set out in its Articles of Association are specifically restricted to advancing for the public benefit education in the United Kingdom, in particular, but without prejudice to the generality of the foregoing by; establishing, maintaining, carrying on, managing and developing schools offering a broad and balanced curriculum.
- (B) The Company presently maintains and manages the Academy known as Ratby Primary School and as part of wider collaborative arrangements has agreed to transfer the Academy (together with the Assets) as a going concern to the Multi-Academy Trust on the terms and conditions of this Agreement.
- (C) The Multi-Academy Trust will, from the Transfer Date manage and maintain the Academy in accordance with its Objects and the terms of a Funding Agreement to be entered into with the Secretary of State for Education on or around the date of this Agreement.
- (D) The Company has a leasehold interest in the site of the Academy by way of a 125 year lease entered into with Leicestershire County Council and on the Transfer Date the Company will assign the lease to the Multi-Academy Trust.

DEFINITIONS AND INTERPRETATION

- 1.1 In this Agreement the following words shall have the following meanings:-

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| “Academy” | means the academy to be maintained by the Multi-Academy Trust by the name of Ratby Primary School; |
| “Academy Employees” | means any employees of the Company or of any other persons who are assigned to the Academy or to services provided in connection with the Academy; |
| “Assets” | means all property, undertaking, rights and assets, whether tangible or intangible, of whatever nature used or held by the Company for the purposes of maintaining the Academy including but not limited to those listed in Schedule 3; |
| “Assumed Liabilities” | means all debts, liabilities and obligations of any nature incurred by the Company relating to the Academy or the Assets (particularly including the Contracts), whether actual or contingent, which are due or outstanding on or have accrued at the Transfer Date, including, but not limited to the Creditors and Periodic Outgoings but excluding any debts or liabilities which arise directly or indirectly as a result of an act or omission which amounts to a criminal act or breach of trust; |
| “Bank Funds” | means surplus funds held by the Company at its bank accounts for the purposes of maintaining the Academy; |
| “Completion” | means completion of the transfer of the Academy (together with the Assets) in accordance with this Agreement; |
| “Contractor” | means a contractor providing services to the Multi-Academy Trust to whom the contract of employment of any Transferring Employee is transferred pursuant to the Regulations on or after the Transfer Date; |

“Contracts”

means any contracts, arrangements, licences or other commitments (including any collateral warranties, guarantees, bonds and third party rights in favour of or which benefit the Company (irrespective of whether the Company is a signatory to the same)) entered into by the Company for the purpose of operating the Academy in the ordinary course of business which are still in force or remain to be performed in whole or in part, at the Transfer Date, including but not limited to:

- (i) contracts, collateral warranties, guarantees, bonds and third party rights relating to building, improvement, maintenance or other works of the land and buildings comprised in the site of the Academy;
- (ii) any collateral warranties, guarantees, bonds and third party rights in favour of the Company (irrespective of whether the Company is a signatory to the same);
- (iii) those contracts listed in Schedule 2 (true and accurate copies of which have been disclosed to the Multi-Academy Trust prior to the Transfer Date); and
- (iv) any contracts presently held on trust for the benefit of the Company;

“Creditors”

means all trade, debts and accrued charges (including all payments made on deposit) relating to the Academy and owing by the Company at the Transfer Date to the creditors or otherwise of the Company;

"Data Protection Legislation"

means the Data Protection Act 1998 ("DPA"), and all applicable laws and regulations relating to processing of personal data and privacy,

including where applicable, the guidance and codes of practice issued by the Information Commissioner;

- “Debts”** all debts, payments and arrears owing to the Company at the Transfer Date in respect of the Academy (whether or not invoiced);
- “Directive”** means the Safeguarding of Employees Directive (2001/23/EC) (as amended, re-enacted or extended from time to time)
- “Eligible Employees”** means the Transferring Employees who are active members of or eligible to join either the LGPS or the TPS immediately before the Transfer Date;
- “Employee Liability Information”** means the information which a transferor is obliged to notify to a transferee pursuant to Regulation 11(2) of the Regulations;
- “Employee Schedule”** means a list of all Academy Employees as at the date that the list is provided to the Multi-Academy Trust by the Company;
- “Encumbrance”** means any mortgage, charge, pledge, lien, equity, option, restriction, right of refusal, right of pre-emption, third party right or interest, any other encumbrance or security interest of any kind, and any other type of preferential arrangement (including title transfer and retention arrangements) having a similar effect;
- “Funding Agreement”** means a supplemental funding agreement to be entered into between the Secretary of State for Education and the Multi-Academy Trust with regard to funding arrangements for the Academy;
- “Loss”** means all costs, claims, liabilities and expenses

(including reasonable legal expenses) and “Losses” shall be construed accordingly;

- “the LGPS”** means a Local Government Pension Scheme established pursuant to regulations made by the Secretary of State in exercise of powers under Sections 7 and 12 of the Superannuation Act 1972 as from time to time amended;
- “the Periodic Outgoings”** means all periodic charges and periodic outgoings of the Academy or related to the Assets, including, but not limited to all periodic outgoings in respect of rents, rates and utilities;
- “the Personnel Files”** means in respect of the Transferring Employees copies of all personnel files or records relating to their employment at the Academy, including without limitation a copy of any contractual documentation, any documentation relating to job description, pay information, training records, information relating to sickness absence, a copy of any disciplinary warnings and a copy of any grievances;
- “the Pupil Records”** means the records and information held by the Company in respect of the pupils at the Academy;
- “the Regulations”** means The Transfer of Undertakings (Protection of Employment) Regulations 2006 (as amended or re-enacted from time to time);
- “Staffing Information”** means, in respect of the Academy Employees, the information listed in Schedule 1;
- “Third Party Consent”** means a consent, licence, approval, authorisation or waiver required from a third party for the conveyance, transfer, assignment or novation in favour of the Multi-Academy Trust of any of the Assets or Contracts;

| | |
|---------------------------------|--|
| “the TPS” | means the Teachers’ Pension Scheme established pursuant to regulations made by the Secretary of State in exercise of powers under sections 9 and 12 of and Schedule 3 to the Superannuation Act 1972 as from time to time amended; |
| “Transfer Date” | means 12:01a.m. on 1 May 2018; |
| “Transferring Employees” | means any Academy Employees whose employment transfers to the Multi-Academy Trust or to a Contractor on the Transfer Date pursuant to the Regulations and who are listed in the Employee Schedule; |

- 1.2 In this Agreement (except where the context otherwise requires):
- 1.2.1 use of the singular includes the plural (and *vice versa*) and use of any gender includes the other genders;
 - 1.2.2 a reference to a party is to a party to this Agreement and shall include that party's personal representatives, successors or permitted assignees;
 - 1.2.3 a reference to persons includes natural persons, firms, partnerships, bodies corporate and corporations, and associations, organisations, governments, states, foundations, trusts and other unincorporated bodies (in each case whether or not having separate legal personality and irrespective of their jurisdiction of origin, incorporation or residence); and
 - 1.2.4 a reference to a Clause or Schedule is to the relevant clause of or schedule to this Agreement; a reference to a sub-clause or paragraph is to the relevant sub-clause or paragraph of the Clause or Schedule in which it appears.
- 1.3 The Schedules form an integral part of this Agreement and have effect as if set out in full in the body of this Agreement. A reference to this Agreement includes the Schedules.

- 1.4 In the event of any conflict or inconsistency between the Clauses and the Schedules of this Agreement, the Clauses shall prevail.
- 1.5 General words are not to be given a restrictive meaning because they are followed by particular examples, and any words introduced by the terms "including", "include", "in particular" or any similar expression will be construed as illustrative and the words following any of those terms will not limit the sense of the words preceding those terms.
- 1.6 Any reference to a statute, statutory provision or statutory instrument includes a reference to that statute, statutory provision or statutory instrument together with all rules and regulations made under it as from time to time amended, consolidated or re-enacted.

2. **TRANSFER**

In consideration of the Multi-Academy Trust assuming responsibility for the Assumed Liabilities, this Agreement records the fact that with effect from the Transfer Date the Company has agreed to transfer the Academy as a going concern together with the Assets (subject in each case to all Encumbrances) to the Multi-Academy Trust.

3. **LIABILITIES**

- 3.1 The Multi-Academy Trust shall with effect from the Transfer Date:
- 3.1.1 assume responsibility for and pay, satisfy or perform the Assumed Liabilities on behalf of the Company; and
- 3.1.2 pay, satisfy or discharge all debts, liabilities and obligations incurred by the Multi-Academy Trust in connection with the Academy arising after the Transfer Date.
- 3.2 The Multi-Academy Trust agrees to indemnify and keep indemnified the Company against all Losses which the Company may incur or may have incurred and not discharged before the Transfer Date in connection with the Company maintaining and managing the Academy or as a result of the Multi-Academy Trust's failure to pay, satisfy or perform the Assumed Liabilities under clause 3.1.1 including without limitation any losses, liabilities or costs incurred as a result of defending or settling a claim alleging such a liability.

4. COMPLETION

4.1 Completion shall take place at the registered office at the Multi-Academy Trust on the Transfer Date.

4.2 At Completion the Company shall comply with its obligations set out in paragraph 1 of Schedule 4.

4.3 At Completion the Multi-Academy Trust shall:

(a) deliver to the Company executed counterparts of the licenses, agreements, assignments and other documents referred to in paragraph 1(b) of Schedule 4; and

(b) deliver to the Company a copy of the minutes of a meeting of the board of directors of the Multi-Academy Trust authorising the execution by the Multi-Academy Trust of this Agreement and all other documents ancillary to it or the transactions contemplated herein, and appointing the relevant signatory or signatories to execute this Agreement and any such other documents on the Multi-Academy Trust's behalf.

4.4 Following Completion, the Company and the Multi-Academy Trust shall each comply with their respective obligations set out in paragraph 2 of Schedule 4.

4.5 Following Completion, the Company shall comply with its insurance obligation set out in paragraph 3 of Schedule 4.

5. THE ACADEMY EMPLOYEES

The Parties intend and acknowledge that the transfer of the Academy pursuant to this Agreement shall constitute a transfer to which the Directive and the Regulations apply and agree that as a consequence that the contracts of employment made between the current employer and the Transferring Employees (save insofar as such contracts relate to benefits for old age, invalidity or survivors under any occupational pension scheme) shall have effect from and after the Transfer Date as if originally made between

the Multi-Academy Trust or (as the case may be) a Contractor and the Transferring Employees.

6. PROVISION OF STAFFING INFORMATION

6.1 Without prejudice to its obligation pursuant to the Regulations to provide the Employee Liability Information, the Company shall at least 14 days prior to the Transfer Date to the extent lawfully permitted provide the Multi-Academy Trust with the Employee Schedule and Staffing Information.

6.2 The Company shall notify the Multi-Academy Trust of any material change to the Employee Schedule and the Staffing Information prior to the Transfer Date as soon as is reasonably practicable, and shall upon request by the Multi-Academy Trust meet the Multi-Academy Trust to discuss the information disclosed.

6.3 The Company confirms as at the date of this Agreement and again as at the Transfer Date:

6.3.1 that the information in the Employee Schedule and the Staffing Information is complete and accurate and up-to-date;

6.3.2 that neither it (nor any other employer of an Academy Employee) is in material breach of the contract of employment of any of the Academy Employees nor is any Academy Employee in material breach of his contract of employment;

6.3.3 that none of the Academy Employees have given or received notice of termination of employment nor are any of the Academy Employees the subject of any material disciplinary action nor is any Academy Employee engaged in any grievance procedure;

6.3.4 that neither it (nor any other employer of a Academy Employee) is engaged in relation to any Academy Employee in any dispute, claim or legal proceedings, arising under contract or common law or arising out of or relating to any statute including the provisions of the Regulations and any claim or allegation of unlawful discrimination;

- 6.3.5 that all Academy Employees who carry out teaching are eligible to do so in accordance with the Education (Specified Work and Registration) (England) Regulations 2003; and
 - 6.3.6 that by the Transfer Date all Transferring Employees will have been checked against the Children's Barred List (as appropriate) and checked through the Disclosure and Barring Service and all other checks required by law.
- 6.4 The Company undertakes to the Multi-Academy Trust that during the period from the date of this Agreement up to and including the Transfer Date:
- 6.4.1 the Company shall enable and assist the Multi-Academy Trust and such other persons as the Multi-Academy Trust may determine to communicate with and meet the School Employees and their trade union or other employee representatives;
 - 6.4.2 the Company, shall not, and shall procure that any other employer of the Academy Employees shall not, without the prior written consent of the Multi-Academy Trust:
 - (a) amend or vary (or purport or promise to amend or vary) the terms and conditions of employment or engagement (including, for the avoidance of doubt, pay and job description) of any Academy Employees (other than where such amendment or variation has previously been agreed between the Company and the Academy Employees in the normal course of business, and where any such amendment or variation is not in any way related to the transfer to the Multi-Academy Trust);
 - (b) terminate or give notice to terminate the employment or engagement of any Academy Employees (other than in circumstances in which the termination is for reasons of misconduct or lack of capability);
 - (c) employ or assign any person to the Academy who would or might as a consequence of such employment or assignment become a Transferring Employee.

7. APPORTIONMENTS

7.1 The Company shall be responsible for all emoluments and outgoings in respect of the Academy Employees (including all wages, bonuses, commission, premiums, subscriptions, PAYE and national insurance contributions and pension contributions) which are attributable in whole or in part to the period up to but not including the Transfer Date, and will pay such liabilities in the ordinary course prior to the Transfer Date.

7.2 The Multi-Academy Trust shall be responsible for all emoluments and outgoings in respect of the Transferring Employees (including all wages, bonuses, commission, premiums, subscriptions, PAYE and national insurance contributions and pension contributions) which are attributable in whole or in part to the period from (and including) the Transfer Date, and will indemnify the Company against Losses in respect of the same.

8. INFORMATION AND CONSULTATION

8.1 The Multi-Academy Trust shall comply (and shall procure that any Contractor complies) with its obligations under Regulation 13 of the Regulations during the period prior to the Transfer Date.

8.2 The Company shall comply with its obligations under Regulations 13 and 14 of the Regulations during the period prior to the Transfer Date, save where the Company is unable to do so as a result of the failure of the Multi-Academy Trust and/or any Contractor to comply with their duties under Regulation 13 of the Regulations.

9. PENSIONS

9.1 The parties acknowledge that the Multi-Academy Trust is a “scheme employer” for the purposes of the Local Government Pension Scheme (Administration) Regulations 2008 (“the LGPS Regulations” which expression shall include any regulations amending or replacing the regulations from time to time) and that the LGPS Regulations shall apply to the Multi-Academy Trust (as the person carrying on the business of the Academy).

9.2 The parties acknowledge that the Multi-Academy Trust is an “employer” for the purposes of the Teachers’ Pension Scheme Regulations 1997 SI

1997/3001 (“the TPS Regulations” which expression shall include any regulations amending or replacing the regulations from time to time) and that the TPS Regulations shall apply to the Multi-Academy Trust (as the person carrying on the business of the Academy).

- 9.3 The Multi-Academy Trust acknowledges that the Eligible Employees shall be, or as the case may be, remain eligible for membership of the LGPS or the TPS (as the case may be) while employed at the Academy following the Transfer Date subject to the terms of the LGPS Regulations and the TPS Regulations.
- 9.4 The Multi-Academy Trust shall be responsible for any LGPS deficit relating to the Eligible Employees’ membership of the LGPS referable to service up to and including the Transfer Date.
- 9.5 The Multi-Academy Trust shall be responsible for all employer contributions payable to the LGPS and the TPS in respect of the Eligible Employees and any sum due to the LGPS and the TPS arising out of the termination of their employment.

10. THE ASSETS AND THE CONTRACTS

- 10.1 On the Transfer Date the Company will transfer such right and title as they have to the Assets (subject to any Encumbrance to which such Assets are subject and to any Third Party Consent), to the Multi-Academy Trust for nil consideration.
- 10.2 The Company and the Multi-Academy Trust shall work together in good faith to achieve a smooth transfer which best meets the needs of students of the Academy.
- 10.3 Such right of title as the Company have to the Assets and risk in the Assets shall pass to the Multi-Academy Trust on the Transfer Date provided always that the Company will have no liability to the Multi-Academy Trust in relation to the condition of such assets.
- 10.4 The Multi-Academy Trust shall have responsibility for the operation of the Academy from the Transfer Date and the Company shall have no further obligation in terms of the operation of the Academy from the Transfer Date.

- 10.5 The Company shall, with effect from the Transfer Date, assign to the order of the Multi-Academy Trust, the benefit of all warranties, undertakings and indemnities given to the Company in accordance with the terms of a commercial transfer agreement dated 31 January 2013 and entered into between the Company, Leicestershire County Council and the Governing Body of Ratby Primary School.
- 10.6 The Company with effect from the Transfer Date assigns to the Multi-Academy Trust all the Contracts or its interests therein:-
- 10.6.1 which are capable of assignment without the consent of other parties to those Contracts; or
- 10.6.2 where consent is required to assignment and such consent has been received.
- 10.7 If any of the Contracts cannot be transferred to the Multi-Academy Trust except by an assignment made with the consent of another party or by an agreement of novation:
- 10.7.1 this Agreement shall not constitute an assignment or an attempted assignment of that Contract if the assignment or attempted assignment would constitute a breach of that Contract;
- 10.7.2 after the Transfer Date the parties shall use their respective reasonable endeavours to obtain the consent of the other party to the assignment and then to assign, or to procure the novation, of that Contract; and
- 10.7.3 until the consent or novation is obtained:
- (a) the Company shall continue its corporate existence and shall hold such contract and any monies, goods or other benefits received thereunder on trust for the Multi-Academy Trust and its successors in title absolutely and shall (at the Multi-Academy Trust's cost) do all such acts and things as the Multi-Academy Trust may reasonably require to enable due performance of the Contract and to provide for the Multi-Academy Trust the benefits of the

Contract (including enforcement of any right of the Company against the other party to the Contract arising out of its termination by the other party or otherwise);

- (b) the Multi-Academy Trust shall (if sub-contracting is permissible and lawful under the Contract in question), as the Company's sub-contractor, perform all the obligations of the Company under such Contract and where sub-contracting is not permissible, the Multi-Academy Trust shall perform such obligations as agent for the Company; and
- (c) unless and until any such Contract is assigned or novated, the Company shall (so far as it lawfully may) at the Multi-Academy Trust's cost give all such assistance as the Multi-Academy Trust may reasonably require to enable the Multi-Academy Trust to enforce its rights under such Contract, including, providing access to all relevant books, documents and other information in relation to such Contract as the Multi-Academy Trust may reasonably require from time to time.

- 10.8 Pending the Transfer Date, possession of the Assets shall be retained by the Company.
- 10.9 The Company shall on or before the Transfer Date deliver to the Multi-Academy Trust the Personnel Files and the Pupil Records, to the extent that they are permitted to do so by Data Protection Legislation (and the Company shall use reasonable endeavours to ensure that they are permitted by Data Protection Legislation to deliver such information to the Multi-Academy Trust).
- 10.10 The Multi-Academy Trust undertakes not to use the Personnel Files or the Pupil Records for any purposes unconnected with the operation and management of the Academy, the purposes for which such information was originally collected or any other lawful purposes.

11. CLOSING STATEMENTS

Within 30 business days of Completion, the Company shall deliver to the Multi-Academy Trust a closing statement setting out the surplus or deficit (as the case may be) for the Academy's budget (both revenue and capital) for the year ended 31 August 2016, which shall include any reserves brought forward from previous financial years.

12. VAT

In the event it is deemed that any consideration was paid for the operation, Assets and undertaking transferred pursuant to this Agreement then such consideration shall be exclusive of any value added tax which may be chargeable on such amounts and if HM Revenue & Customs determine that value added tax is chargeable on the transfer of the Assets under this Agreement or any of them then the Multi-Academy Trust shall immediately notify the Company of this determination. The Multi-Academy Trust agrees that such value added tax shall be in addition to such deemed consideration and the Multi-Academy Trust shall, against production of a valid invoice by the Company, pay to the Company an amount equal to the value added tax payable prior to the date on which the Company is due to account for the same to HM Revenue & Customs.

13. CONDUCT OF CLAIMS

13.1 In respect of the indemnities given in this Agreement:

13.1.1 the indemnified party shall give written notice to the indemnifying party as soon as is practicable of the details of any claim or proceedings brought or threatened against it by a third party in respect of which a claim will or may be made under the relevant indemnity;

13.1.2 the indemnifying party shall at its own expense have the exclusive right to defend, conduct and/or settle all claims and proceedings which may be brought by a third party to the extent that such claims or proceedings may be covered by the relevant indemnity provided that where there is an impact on the indemnified party, the indemnifying party shall consult with the indemnified party and

shall at all times keep the indemnified party informed of all material matters and obtain their consent before settlement; and

13.1.3 the indemnified party shall, at the indemnifying party's expense, provide all reasonable assistance and documentation required by the indemnifying party in connection with, and act as or be joined as a defendant in, any claim or proceedings brought by a third party. The indemnifying party shall reimburse the indemnified party for all reasonable costs and expenses (including legal costs and disbursements) incurred in providing such cooperation and/or arising as a result of the indemnifying party's failure to defend, conduct and/or settle such claims and proceedings.

14. CONFIDENTIALITY

Each party undertakes to the other that they will keep the contents of this Agreement confidential as between the parties, except to the extent that disclosure is required by law.

15. THIRD PARTIES

No person who is not a party to this Agreement is intended to reserve a benefit under, or be entitled to enforce, this Agreement pursuant to the Contracts (Rights of Third Parties) Act 1999 (the "Act") save that any Contractor may enjoy the benefit and enforce the terms of this Agreement in accordance with the Act. Notwithstanding this, neither the Council nor the Governing Body nor the Company require the consent of any Contractor to rescind or vary this Agreement at any time, even if that variation or rescission affects the benefits conferred on such Contractor.

16. FORCE MAJEURE

Neither party will be liable to the other for any delay or non-performance of its obligations under this Agreement arising from any cause or causes beyond its reasonable control.

17. ASSIGNMENT

This Agreement is personal to the parties and neither party shall assign, transfer, mortgage, charge, declare a trust of, or deal in any other manner

with any of its rights and obligations under this Agreement without the prior written consent of the other party.

18. GENERAL

- 18.1 No forbearance or delay by either party in enforcing its rights will prejudice or restrict the rights of that party, and no waiver of any such rights or of any breach of any contractual terms will be deemed to be a waiver of any other right or of any later breach.
- 18.2 No variation of this Agreement will be valid unless recorded in writing and signed by or on behalf of each of the parties to this Agreement.
- 18.3 If any provision of this Agreement (or part of any provision) is found by any court or other authority of competent jurisdiction to be unenforceable or illegal, the other provisions will remain unaffected and in force.
- 18.4 Nothing in this Agreement will be construed as constituting or evidencing any partnership, contract of employment or joint venture of any kind between either of the parties or as authorising either party to act as agent for the other. Neither party will have authority to make representations for, act in the name or on behalf of or otherwise to bind the other party in any way.
- 18.5 Neither party will make any announcement relating to this Agreement or its subject matter without the prior written approval of the other party (such approval not to be unreasonably withheld or delayed).
- 18.6 Each party will, at the request of the other party and its own cost, do (or procure others to do) everything necessary to give the other party the full benefit of this Agreement.
- 18.7 Any notice required to be given under this Agreement shall be in writing and shall be delivered personally, or sent by pre-paid first class or recorded delivery or by commercial courier, to each party required to receive the notice at the addresses specified by the relevant party by written notice to the other (and if no such address is specified), the address set out at the front of this Agreement.
- 18.8 Any notice shall be deemed to have been duly received:

- 18.8.1 if delivered personally, when left at the address and for the contract referred to in this Clause; or
 - 18.8.2 if sent by pre-paid first class post or recorded delivery, at 9.00 a.m. on the second business day after posting; or
 - 18.8.3 if delivered by commercial courier, on the date and at the time that the courier's delivery receipt is signed.
- 18.9 A notice required to be given under this Agreement shall not be validly given if sent by email.
- 18.10 This Agreement may be executed in any number of counterparts, each of which will be an original and all of which will together constitute a single agreement.
- 18.11 Each party shall bear its own costs and expenses (including legal fees) in relation to the preparation and execution of this Agreement.
- 18.12 This Agreement constitutes the entire agreement and understanding between the parties in respect of the matters dealt with in it and supersedes any previous agreement between the parties.
- 18.13 Each of the parties acknowledge and agrees that in entering into this Agreement it does not rely on, and will have no remedy in respect of, any statement, representation, warranty or understanding (whether negligently or innocently made) of any person (whether party to this Agreement or not) other than as expressly set out in this Agreement.

19. GOVERNING LAW AND JURISDICTION

- 19.1 This Agreement will be governed by and interpreted in accordance with the law of England and Wales.
- 19.2 Each party irrevocably submits to the exclusive jurisdiction of the courts of England and Wales over any claim or matter arising under or in connection with this Agreement.

IN WITNESS of which the parties or their duly authorised representatives have executed this agreement as a Deed on the date first written above.

**EXECUTED AS A DEED by
BRADGATE EDUCATION
PARTNERSHIP**

acting by

a director, in the presence of:

Director

Signature of witness:

Witness' name:

Witness' address:

**EXECUTED AS A DEED by
EXPLORE LEARNING TRUST**

acting by

a director, in the presence of:

Director

Signature of witness:

Witness' name:

Witness' address:

SCHEDULE 1

STAFFING INFORMATION

1. **Individual terms and conditions**
 - 1.1 Copies of all current employment contracts, and all other terms and conditions of employment.
 - 1.2 A schedule comprising in respect of each employee, the following particulars:-
 - (a) full name;
 - (b) post;
 - (c) whether the employment is full or part time;
 - (d) sex;
 - (e) date of birth;
 - (f) date of commencement of service;
 - (g) notice period;
 - (h) normal retirement age;
 - (i) remuneration;
 - (j) pension;
 - (k) in respect of teachers:
 - (i) scale point or leadership group spine point;
 - (ii) assimilation point for the head teacher;
 - (iii) whether the employee is a post-threshold teacher;
 - (iv) whether the employee is a good honours graduate;
 - (v) management, recruitment, retention and/or any other allowances payable;

(vi) any applicable assimilation safeguarding,

and all other benefits whether contractual or otherwise.

1.3 Details of any recent changes of terms and conditions in relation to any employee.

1.4 Copies of any employee handbooks, rules and other policies, procedures, arrangements or agreements in relation to:-

(a) redundancy procedures and payments;

(b) redeployment procedures;

(c) sickness absence and sick pay entitlements;

(d) equal opportunities;

(e) disciplinary matters;

(f) maternity rights;

and details of whether or not each of the above are discretionary or contractual.

1.5 Copies of any job descriptions.

1.6 Details of any practices or customs which although not written down form part of employees' terms and conditions of employment.

2. **Collective bargaining**

2.1 Details of the names of all trade union and other employee representatives, with the name of the trade union, the position held and how long the position was held.

2.2 Details of any trade union recognised by the Company, giving the date and details of the recognition agreement (and a copy if available), with brief details of current and historic labour relations and any pending negotiations.

2.3 Details of any other agreement, whether school, local or national, with any trade union or other body of employee representatives (and copies if

available) including any informal recognition and procedure arrangements and other arrangements honoured by "custom and practice".

2.4 Details of which, if any, of the terms of any collective agreement form part of individuals' terms and conditions of employment.

3. Disputes

3.1 Details of any dispute with any employee whether brought under the Company's disciplinary or grievance procedure or otherwise and any matters which might give rise to such.

3.2 Details of any litigation threatened or pending against the Company, including any court, employment tribunal or arbitration claims or any matters which might give rise to such.

3.3 Details of any enquiry, correspondence or contact between the Company and the Equality and Human Rights Commission, the Health and Safety Inspector and HM Revenue and Customs concerning employees.

3.4 Details of any court judgment or current employment tribunal award in respect of any employee dispute.

3.5 Details, and, if available, copies, of any warnings given to employees under the Company's disciplinary or capability procedures.

4. Dismissals

4.1 Details of all dismissals/resignations within the last 12 months including reasons for the dismissal/resignation.

4.2 Details of all employees recruited within the last 12 months.

5. Working Time Regulations 1998

5.1 Copies of any individual, collective and workforce agreements entered into pursuant to the Working Time Regulations.

6. Health and Safety

6.1 Details of any health and safety committees/representatives.

6.2 Details of any health and safety complaints or recommendations or claims within the last 5 years.

7. Trainees/Consultants

7.1 Details of all individuals in the undertaking working on training, work experience or similar schemes.

7.2 Details of all consultancy agreements or self-employed personnel who are or may actually be employees.

8. Absent employees

8.1 Details of all employees who have notified the Company that they are pregnant or who are currently absent on maternity leave.

8.2 Details of all employees on long term sick leave together with confirmation of the nature of their illness and the duration and dates of their absence(s) due to that condition.

9. Job Evaluation Scheme

9.1 A copy of any job evaluation scheme.

10. Contractor Employees

10.1 Details of any individuals employed by contractors working in the Academy.

11. Pension

11.1 A list of all pension schemes (both occupational and personal) applicable to the employees.

11.2 Details of any current or pending applications for early retirement.

SCHEDULE 2

THE CONTRACTS

| Contract | Parties | Date |
|---|---|----------|
| Commercial Transfer Agreement | (1) Leicestershire County Council; (2) The Governing Body of Ratby Primary School; and (3) Explore Learning Trust | 31/01/13 |
| Transferring Contracts | All contracts and SLAs currently in place | |
| <p>All construction contracts:</p> <p>that were novated to the Company on its conversion but in respect of which there are no longer any outstanding obligations;</p> <p>that were assigned to the Company on its conversion by way of a Deed of Assignment; and</p> <p>that have been entered into by the Company since its conversion but in respect of which there are no longer any outstanding obligations and so a</p> | | |

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| novation is not necessary. | | |
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SCHEDULE 3

THE ASSETS

1. All equipment, furniture, fixtures and fittings on the site of the Academy (“the loose plant and equipment”).
2. The benefit (subject to the burden) of the Contracts.
3. All rights to use the name of the Academy and all logos and domain names used exclusively by the Academy. All copyrights, database rights and other intellectual property rights owned by the Company (as appropriate) and used exclusively by the Academy.
4. All rights of the Company in respect of computer software used by the Academy whether granted by licence or otherwise.
5. All the Company’s cash in hand or at the bank or at any other financial institution following completion of due accounting procedures namely, the Bank Funds.
6. The Debts.

SCHEDULE 4

COMPANY'S ACTIONS AND OBLIGATIONS AT COMPLETION

1. The Company shall deliver, or procure delivery, to the Multi-Academy Trust of, or make available to the Multi-Academy Trust:
 - (a) physical possession of all the Assets capable of passing by delivery, with the intent that title in such Assets shall pass by and upon such delivery;
 - (b) such conveyances, transfers, assignments and novations together with the requisite notices, licenses, documents of title and relevant consents as may be necessary to vest in the Multi-Academy Trust title to all of those Assets which are not transferable by delivery and which will permit the Multi-Academy Trust to enter into and take possession of the Assets, including without limitation:
 - (i) duly executed conveyances, assignments, licenses and other documents in the agreed form necessary to vest title in the leasehold property of the Academy in, or transfer the leasehold property to, the Multi-Academy Trust;
 - (ii) duly executed agreements in the agreed form for the assignment or novation of the benefit of the Contracts to the Multi-Academy Trust and all requisite notices, consents and licenses therefore;
 - (iii) all such consents as the Multi-Academy Trust may require to vest in the Multi-Academy Trust the full benefit of the Assets;
 - (iv) the title deeds relating to the leasehold property of the Academy and all invoices, policies, premiums, receipts, maintenance contracts, health and safety files and other accounts relating to the leasehold property of the Academy;

- (c) all national insurance and PAYE records in respect of the Transferring Employees, and all records required to be kept under the Working Time Regulations 1998;
 - (d) such irrevocable instructions to the bank(s) of the Company as may be necessary to procure the automatic transfer to the Multi-Academy Trust of any payments that may be made for the benefit of the Academy to such bank(s) after the Completion Date;
 - (e) original special resolution of the members resolving to amend the Company's articles of association;
 - (f) a copy of the minutes of a meeting of the board of directors of the Company authorising the execution by the Company of this Agreement and all other documents ancillary to it or the transactions contemplated herein, and appointing the relevant signatory or signatories to execute this agreement and any such other documents on the Company's behalf;
2. As soon as practicable after Completion, the Multi-Academy Trust and the Company shall issue a statement in the agreed form to the parents of pupils at the Academy informing them of the transfer of the management of the Academy to the Multi-Academy Trust.
3. The Company shall ensure that it maintains adequate insurance cover in respect of any loss or liability it may suffer or incur in connection with any act, event, omission or circumstance relating to the Academy and occurring or arising at or before Completion.

