

THE WHITE HORSE FEDERATION

DEED OF VARIATION OF FUNDING AGREEMENT
FOR DEVIZES SCHOOL

10 June 2019

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) **The White Horse Federation**, a charitable company incorporated in England and Wales with registered company number 08075785 whose registered address is at Plymouth Street, Swindon, Wiltshire SN1 2LB (the "**Company**").

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

INTRODUCTION

- A. The Parties have entered into a master funding agreement on 31 July 2018, (the "**Existing MFA**").
- B. The Secretary of State and Devizes School (a charitable company which was incorporated in England and Wales with registered company number 08158582) (the "**Original Academy Trust**") entered into a funding agreement in respect of the Devizes School on 31 August 2012 (the "**Original Devizes Funding Agreement**");
- C. The Secretary of State, the Company, and the Original Academy Trust entered into a deed of novation and variation of the Original Devizes Funding Agreement on 27 January 2017, which deed amended and re-stated the funding agreement for Devizes School in the form set out in Schedule 2 of that deed (the "**Existing Devizes School SFA**"); and
- D. The Parties have agreed to amend and re-state the terms of the Existing Devizes School SFA on the terms set out in this Deed.

LEGAL AGREEMENT

1. 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 Existing MFA.
2. The Secretary of State and the Company agree that with effect from the date of this Deed, the Existing Devizes School SFA shall be amended and re-stated in the form of the Amended Devizes School SFA set out in the Schedule (the "**Amended Devizes School SFA**"). For the avoidance of doubt, the Amended Devizes School SFA does not terminate or suspend the Existing Devizes School SFA but amends and re-states it.

GOVERNING LAW AND JURISDICTION

3. 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 the law of England and Wales.
4. 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

5. 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:-)

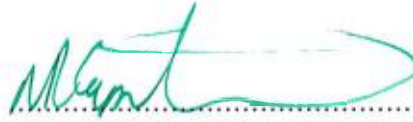

.....

Duly authorised by the Secretary of State for Education



Date 10 June 2019.....

EXECUTED as a deed by
The White Horse
Federation acting by:


.....

Director

Print name NICHOLAS CAPSTICK

Date 3RD JUNE 2019.....

Witnessed by Lorna Haydon.....
Signature

Full name LORNA HAYDON.....

Address

Occupation PA TO CEO.....

THE WHITE HORSE FEDERATION
PLYMOUTH STREET
SWINDON
WILTSHIRE
SN1 2LB

Schedule

Amended Devizes School SFA



Department
for Education

Mainstream academy and free school: supplemental funding agreement

March 2018 v6

Devizes School

Opening Date: 1 September 2012

Transfer Date: 1 February 2017

Contents

SUMMARY SHEET	4
Information about the Academy:	4
1. ESTABLISHING THE ACADEMY	8
Definitions and interpretation	8
The Academy	9
2. RUNNING OF THE ACADEMY	9
Teachers and staff	9
Pupils	10
SEN unit	10
Charging	10
Admissions	10
Curriculum	12
3. GRANT FUNDING	14
Calculation of GAG	14
Other relevant funding	15
4. LAND	15
Version 1: existing freehold site	15
5. TERMINATION	19
Termination by either party	19
Termination Warning Notice	20
Termination by the Secretary of State after inspection	21
Termination by the Secretary of State	21
Funding and admission during notice period	22

Notice of intention to terminate by Academy Trust	22
Effect of termination	24
6. OTHER CONTRACTUAL ARRANGEMENTS	26
Annexes	26
The Master Agreement	26
General	26
ANNEXES	28
7. ADMISSION OF CHILDREN AND YOUNG PEOPLE WITH EDUCATION, HEALTH AND CARE PLANS	28
8. ADMISSION OF CHILDREN WITH A STATEMENT OF SPECIAL EDUCATIONAL NEEDS	28

SUMMARY SHEET

Information about the Academy:

Name of Academy Trust	The White Horse Federation
Company number	08075785
Date of Master Funding Agreement	31 July 2018
Name of academy	Devizes School
Opening date	1 March 2012
Transfer date	1 February 2017
Type of academy (indicate whether academy or free school)	Mainstream Academy
Religious designation	n/a
Wholly or partly selective	n/a
Name of predecessor school (where applicable)	Devizes School (URN: 126506)
Capacity number	1,355
Age range	11 - 18
Number of sixth form places	240
Number of boarding places	0
SEN unit / Resource provision	n/a
Land arrangements (Version 1-8 or other)	Version 1
Address and title number of Land	Devizes School, The Green, Devizes SN10 3AG - Title number: WT305672 The footpath on the south side of Edward Road, Devizes SN19 5AR - Title Number WT272365

Please confirm which clause variations have been applied or marked as 'Not used'

Clause No.	Descriptor	Applied	Not used
1.I	Only applies to free schools and new provision academies		✓
2.A.1	Clause applies where an academy was previously a VC or foundation school designated with a religious character		✓
2.C, 2.D	Only applies where the academy has an SEN unit		✓
2.E	Only applies where there was a predecessor independent school		✓
2.G	Clause does not apply to free schools (unless there was a predecessor independent school), or new provision academies	✓	
2.M	Clause applies only to academies and free schools designated with a religious character		✓
2.N	Clause applies only to academies that were formerly wholly selective grammar schools		✓
2.O	Clause applies only to academies that were formerly partially selective grammar schools		✓
2.T	Clause applies to free schools and new provision academies designated with a religious character		✓
2.W	Clause only applies where the academy is designated with a religious character		✓
2.X	Clause only applies where the academy has not been designated with a religious character	✓	
2.Y	Clause applies where an academy was previously a VC school or foundation school designated with a religious character		✓

Clause No.	Descriptor	Applied	Not used
2.Yc)	Sub-clause applies if the academy is designated with a denominational religious character – CE etc. rather than ‘Christian’		✓
3.A – 3.F	Option 1 applies to converter and sponsored academies: if used delete option 2	✓	
3.A – 3.F	Option 2 applies to free schools and new provision academies: if used delete option 1		✓
3.H	Clause relating to Start-up only applies in some cases (does not apply to academy converters)		✓
3.J	Clause only applies to full sponsored and intermediate sponsored academies with approved Academy Action Plans		✓
3.K	Clause does not apply to free schools (unless there was a predecessor independent school), or new provision academies	✓	
5.G.1	Clause applies only to a boarding academy/free school.		✓
5.I	Clause only applies to sponsored academies		✓
5.K	Clause applies to free schools and may be applied to new provision academies		✓
5.L	Clause applies to free schools and may be applied to new provision academies		✓
5.M	Clause applies to free schools and may be applied to new provision academies		✓
5.N	Clause applies to free schools and may be applied to new provision academies		✓
5.O	Clause applies to free schools and may be applied to new provision academies		✓
6.H	Clause only applies to schools which are designated with a Church of England or Roman Catholic character		✓

Please identify any other variations from the model that apply to this academy (e.g. clauses relating to PFI, or any required because the multi academy trust includes academies designated with different religious characters, or a mixture of those designated with a religious character, and those which are not):

Additional clauses will be supplied by your project lead if needed.

Descriptor	Clause No.	Applied	Not used
Clauses amended as the school converted to academy status before transferring to the Academy Trust	1.G, 1.H, 2.G & 3.K		
GAG has already been calculated for the year in which this Agreement will take effect	3.E		
Any lease to be granted by the Academy Trust would exclude the provisions of the Landlord and Tenant Act 1954, meaning the incoming academy trust would not have security of tenure following expiry of the lease term	4.H		

1. ESTABLISHING THE ACADEMY

1.A This Agreement made between the Secretary of State for Education and The White Horse Federation is supplemental to the master funding agreement made between the same parties and dated 31 July 2018 (the “**Master Agreement**”).

Definitions and interpretation

1.B Except as expressly provided in this Agreement words and expressions defined in the Master Agreement will have those same meanings in this Agreement.

1.C The following capitalised words and expressions will have the following meanings:

“The **Academy**” means the Devizes School.

“**Coasting**” has the meaning given by regulations under subsection (3) of section 60B of the Education and Inspections Act 2006 in relation to a school to which that section applies.

“**SEN**” means Special Educational Needs and the expressions “**special educational needs**” and “**special educational provision**” have the meaning set out in sections 20(1) and 21(2) of the Children and Families Act 2014.

“**Termination Notice**” means a notice sent by the Secretary of State to the Academy Trust, terminating this Agreement on the date specified in the notice.

“**Termination Warning Notice**” means a notice sent by the Secretary of State to the Academy Trust, stating his intention to terminate this Agreement.

1.D The Interpretation Act 1978 applies to this Agreement as it applies to an Act of Parliament.

1.E Reference in this Agreement to clauses and annexes will, unless otherwise stated, be to clauses and annexes to this Agreement.

The Academy

- 1.F The Academy is a Mainstream Academy as defined in clause 1.4 of the Master Agreement.
- 1.G The Academy Trust will maintain the Academy in accordance with the Master Agreement and this Agreement.
- 1.H The Academy opened on 1 September 2012 and transferred to the Academy Trust on 1 February 2017.
- 1.I Not used.

2. RUNNING OF THE ACADEMY

Teachers and staff

- 2.A Subject to clause 2.A.2 and 7.A of this Agreement and section 67 of the Children and Families Act 2014, the Academy Trust may, in accordance with any relevant Guidance, employ anyone it believes is suitably qualified or is otherwise eligible to plan and prepare lessons and courses for pupils, teach pupils, and assess and report on pupils' development, progress and attainment.
- 2.A.1 Not used.
- 2.A.2 The Academy Trust must designate a staff member at the Academy as responsible for promoting the educational achievement of registered pupils at the Academy who are being looked after by an LA, or are no longer looked after by an LA because of an adoption, special guardianship or child arrangements order, or because they have been adopted from 'state care' outside England and Wales, and in doing so must comply with the law, regulations and guidance that apply to maintained schools. The Academy Trust must ensure the designated person undertakes appropriate training and has regard to any guidance issued by the Secretary of State.

Pupils

2.B The planned capacity of the Academy is 1,355 in the age range 11 - 18, including a sixth form of 240 places. The Academy will be an all ability inclusive school.

SEN unit

2.C Not used.

2.D Not used.

Charging

2.E Not used.

Admissions

2.F Subject to clauses 2.K– 2.L the Academy Trust will act in accordance with, and will ensure that its Independent Appeal Panel is trained to act in accordance with, the School Admissions Code and School Admission Appeals Code published by the DfE (the “Codes”) and all relevant admissions law as they apply to foundation and voluntary aided schools, and with equalities law. Reference in the Codes or legislation to “admission authorities” will be deemed to be references to the Academy Trust.

2.G Pupils on roll in the Predecessor School which was a maintained or independent school transferred automatically to the Academy on opening. All children already offered a place at that Predecessor School were admitted to the Academy.

2.H The Academy Trust must participate in the local Fair Access Protocol. The Academy Trust must participate in the coordinated admission arrangements operated by the LA in whose area the Academy is situated. If the Academy is a free school, the Academy Trust is not required to participate in coordination for its first intake of pupils.

2.I Not used.

- 2.J Not used.
- 2.K Not used.
- 2.L The Secretary of State may:
- a) direct the Academy Trust to admit a named pupil to the Academy:
 - i. following an application from an LA including complying with a school attendance order as defined in section 437 of the Education Act 1996. Before doing so the Secretary of State will consult the Academy Trust; or
 - ii. where in relation to a specific child or children the Academy Trust has failed to act in accordance with the Codes or this Agreement or has otherwise acted unlawfully; or
 - b) direct the Academy Trust to amend its admission arrangements where they do not comply with the Codes or this Agreement, or are otherwise unlawful.
- 2.M Not used.
- 2.N Not used.
- 2.O Not used.
- 2.P The Academy Trust must make arrangements to ensure an independent appeals panel is established for the Academy and its clerk and members are trained to act in accordance with the Codes. The Academy Trust must ensure that parents and 'relevant children' (as described in the Codes) are informed of their right to appeal to an Independent Appeal Panel if they are dissatisfied with an admission decision of the Academy Trust. The arrangements for appeals must comply with the Codes as they apply to foundation and voluntary aided schools. The determination of the appeal panel is binding on all parties.
- 2.Q Subject to clause 2.R, the meaning of "**relevant area**" for the purposes of