

**DEED OF NOVATION AND VARIATION
OF THE
SUPPLEMENTAL FUNDING AGREEMENT FOR EAST POINT 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**");

(2) **ACADEMIES ENTERPRISE TRUST**, a charitable company incorporated in England and Wales with registered company number 06625091 whose registered address is at Kilnfield House, Foundry Business Park, Station Approach, Hockley, Essex, SS5 4HS "**AET**"); and

(3) **INSPIRATION TRUST**, a charitable company incorporated in England and Wales with registered company number 08179349 whose registered address is at 7 The Close, Norwich, Norfolk, NR1 4DJ (the "**Trust**"),

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

INTRODUCTION

- A. East Point Academy is an academy within the meaning of the Academies Act 2010 (the "**academy**") and is currently operated by AET (a multi academy trust).
- B. The Secretary of State and AET entered into a supplemental funding agreement on 28 July 2011 (the "**Funding Agreement**") for the maintenance and funding of the academy.
- C. It is proposed that, with effect from 00.01 am on 1 December 2014 ("**Transfer Date**"), the Trust will assume responsibility for the management and operation of the academy in succession to AET.
- D. The Parties wish to novate the Funding Agreement to the Trust, and the Secretary of State and the Trust wish to vary the terms of the Funding Agreement subject to the provisions of this Deed.

LEGAL AGREEMENT

1. Any word or phrase used in this Deed shall, if that word or phrase is defined in the Funding Agreement, bear the meaning given to it in the Funding Agreement.

NOVATION

2. AET transfers all its rights and obligations under the Funding Agreement to the Trust with effect from the Transfer Date. With effect from the Transfer Date, the Trust shall enjoy all the rights and benefits of AET under the Funding Agreement, and all references to AET in the Funding Agreement shall be read and construed as references to the Trust.

3. The references in the Funding Agreement to the Master Funding Agreement between AET and the Secretary of State shall be read as a reference to the Master Funding Agreement between the Trust and the Secretary of State.

4. The Trust agrees to perform the Funding Agreement and be bound by its terms in every way as if it were the original party to it in place of the Trust, with effect from the Transfer Date.

5. With effect from the Transfer Date, The Secretary of State agrees to perform the Funding Agreement and be bound by its terms in every way as if the Trust were the original party to it in place of AET.

OBLIGATIONS AND RESPONSIBILITES

6. With effect from the Transfer Date, AET and the Secretary of State release each other from all future obligations to the other under the Funding Agreement.

7. Each of AET and the Secretary of State release and discharge the other from all claims and demands under or in connection with the Funding Agreement arising after the Transfer Date, whether such claim or demand relates to the period being before or after the Transfer Date.

8. Each of the Trust and the Secretary of State will have the right to enforce the Funding Agreement and pursue any claims and demands under the Funding Agreement against the other with respect to matters arising before, on or after the date of this Deed as though the Trust were the original party to the Funding Agreement instead of AET.

INDEMNITIES

9. Subject to clauses 12 to 17, where the Secretary of State makes any claim or takes any other action against the Trust as a result of AET's failure to satisfy its obligations under the Funding Agreement before, or in respect of a period prior to, the Transfer Date, AET agrees to indemnify the Trust against any losses, liabilities, claims, damages or costs (such costs to be reasonably incurred) that the Trust suffers or incurs in compensating the Secretary of State in respect of such claim or action, and in taking such actions as may be reasonably necessary to remedy the failings identified by the Secretary of State.

10. Subject to clauses 12 to 17, where the Secretary of State makes any claim or takes any other action against AET as a result of the Trust's failure to satisfy its obligations under the Funding Agreement after, or in respect of a period after, the Transfer Date, the Trust agrees to indemnify AET against any losses, liabilities, claims, damages or costs (such costs to be reasonably incurred) that AET suffers or incurs in compensating the Secretary of State in respect of such claim or action, and in taking such actions as may be reasonably necessary to remedy the failings identified by the Secretary of State.

11. The Secretary of State agrees that it will make no claim against the Trust based on any breach of the Funding Agreement committed or occurring before or in respect of a period prior to the Transfer Date where:

- (i) the Secretary of State would not, acting reasonably, have taken action to enforce the breach or pursue the claim against AET in the absence of this Deed;
- (ii) the claim is notified to the Trust in excess of two years from the Transfer Date

11A. Where the Secretary of State proposes to make any claim against the Trust in relation to a breach of the Funding Agreement committed or occurring before or in respect of a period prior to the Transfer Date (whether or not the Secretary of State was aware of such breach before the Transfer Date) the Secretary of State shall first give notice to the Trust and AET and shall discuss in good faith why the Secretary of State would acting reasonably have taken action against AET in the absence of this Deed.

11B. Following such discussions referred to in clause 11A the Secretary of State's decision as to whether to make a claim against the Trust shall be final.

12. The Indemnities given pursuant to clause 9 and 10 shall only be actionable by the Trust or AET (as appropriate).

13. Before a party makes a claim against the other party under the indemnity at clause 9 or 10 (as appropriate) it shall, acting in good faith, use all reasonable endeavours to minimise and mitigate any and all losses, liabilities, claims, damages or costs that have given rise to such claim.

14. No claim shall be brought under the indemnities at clause 9 or clause 10 unless notice of such claim has been provided to the party against which the claim is made within two years of the Transfer Date.

VARIATION

15. The Secretary of State and the Trust agree that with effect from the Transfer Date the Funding Agreement shall be amended and restated so as to take effect in the form set out in Schedule 1 to this Deed.

16. As varied by this Deed, the Funding Agreement shall remain in full force and effect.

17. This Deed shall be governed by and interpreted in accordance with English law.

18. 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

19. 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.....

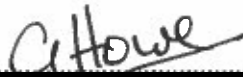
EXECUTED AS A DEED by
affixing the Common Seal of
Academies Enterprise Trust
in the presence of:

Authorised Officers Signature:.....
Name:.....
Job Title:.....

Authorised Officers Signature:.....
Name:.....
Job Title:.....

EXECUTED as a deed by
INSPIRATION TRUST acting
by one director in the presence
of a witness:

Director 
Print name RACHEL DESOUZA
Date

Witness 
Print name [REDACTED]
Address.. [REDACTED]
Occupati [REDACTED]

Schedule 1
Amended Funding Agreement

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SCHEDULE 1

MODEL SUPPLEMENTAL AGREEMENT

THIS AGREEMENT

BETWEEN

(1) THE SECRETARY OF STATE FOR EDUCATION and

(2) THE INSPIRATION TRUST

IS SUPPLEMENTAL TO THE MASTER FUNDING AGREEMENT made between the Secretary of State and The Inspiration Trust and dated 1 September 2012 amended and restated by Deeds of Variation dated 9 April 2013 and 30 August 2013 (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 East Point Academy, Kirkley Run, Lowestoft, Suffolk NR33 0UQ;

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

“the Land” means the publicly funded land (including for the avoidance of doubt all buildings, structures landscaping and other erections) situated at and known as East Point Academy, Kirkley Run, Lowestoft, Suffolk, NR33 0UQ and registered under title number SK323968.

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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

2.1A The Academy is a Traditional Mainstream Academy as defined in clause 6 of the Master Agreement.

2.1 The Company will maintain, and carry on or provide for the carrying on of the Academy in accordance with the Master Agreement and this Agreement.

2.2 The curriculum provided by the Academy to pupils up to the age of 16 shall be broad and balanced.

2.3 The requirements for the admission of pupils to the Academy are set out at Annex 1.

2.3A The Academy Trust must ensure that so far as is reasonably practicable and consistent with clause 27 of the Master Agreement of this Agreement and the Equality Act 2010, the policies and practices adopted by the Academy (in particular regarding curriculum, uniform and school food) enable pupils of all faiths and none to play a full part in the life of the Academy, and do not disadvantage pupils or parents of any faith or none. For the avoidance of doubt, this requirement applies irrespective of the proportion of pupils of any faiths or none currently attending or predicted to join the school.

ACADEMY OPENING DATE

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2.4 The Academy opened as a school on 1 September 2011 replacing Kirkley High School which ceased to be maintained by the Local Authority on that date, which date shall be the conversion date within the meaning of the Academies Act 2010¹.

2.5 The planned capacity of the Academy is 1200 in the age range 11-16.

RUNNING OF THE ACADEMY

Pupils

2.6 The relevant clauses in the Master Agreement and Annex B shall only apply insofar as the relevant provisions of the Children and Families Act 2014 relating to SEN and disability do not apply to Academies and Free Schools.

School meals

Clauses 32 and 33 of the Master Agreement are disapplied and replaced with the following clauses 2.7, 2.8 and 2.9.

2.7 The Academy Trust must provide school lunches and free school lunches in accordance with the provisions of sections 512(3) and 512ZB(1) of the Education Act 1996 as if references in sections 512 and 512ZB to a local authority were to the Academy Trust and as if references to a school maintained by a local authority were to any of its Academies.

2.8 The Academy Trust must comply with school food standards legislation as if its Academies were maintained schools.

2.9 Where the Academy Trust provides milk to pupils, it must be provided free of charge to pupils who would be eligible for free milk if they were pupils at a maintained school.

¹ Delete words in square brackets if the SFA is being used for an Academy that is replacing a maintained school following school closure under the Education and Inspections Act 1996.

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Governance

2.10 The Academy Trust must provide to the Secretary of State the names of all new or replacement Governors and members of the Academy Trust, stating whether they have been appointed or elected, the date of their appointment or election and, where applicable, the name of the Governor or member they replaced as soon as is practicable and in any event within 14 days of their appointment or election.

2.11 The Academy Trust must not appoint any new or replacement Governors or members until it has first informed them, and they have agreed, that their names will be shared with the Secretary of State to enable him to assess their suitability.

Pupil Premium

2.12) For each Academy Financial Year, the Academy Trust must publish, on the Academy's website, information about:

- a) the amount of Year 7 literacy and numeracy catch-up premium grant that it will receive during the Academy Financial Year;
- b) what it intends to spend its Year 7 literacy and numeracy catch-up premium grant on;
- c) what it spent its Year 7 literacy and numeracy catch-up premium grant on in the previous Academy Financial Year;
- d) the impact of the previous year's Year 7 literacy and numeracy catch-up premium grant on educational attainment, and how that effect was assessed.

3 CAPITAL GRANT

3.1 Pursuant to clause 38 of the Master Agreement, the Secretary of State may, in his absolute discretion provide Capital Expenditure funding in accordance with any arrangements he considers appropriate.

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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.

4A COMPLAINTS²

4A.1 If a complaint is made about matters arising in whole or in part prior to the opening of the Academy, as referred to in clause 2.4 above, and all or part of that complaint was being or had been investigated by the Local Government Ombudsman under Part III of the Local Government Act 1974 ("Part III") or that complaint in whole or in part could have been investigated under Part III had the school the Academy replaced remained a maintained school, the Company:

- a) will abide by the provisions of Part III as though the Academy were a maintained school;
- b) agrees that the Secretary of State shall have the power to investigate the matter complained of as if it had taken place after conversion;
- c) agrees to act in accordance with any recommendation from the Secretary of State as though that recommendation had been made under Part III and the Academy were a maintained school.

4A.2 If at the time of the opening of the Academy the investigation of a complaint made to the governing body of the school the Academy replaced (as referred to in clause 2.4 above) has not yet been completed, the Company shall continue to investigate that complaint in accordance with the complaints procedures established by that governing body.

4A.3 If a complaint is made to the Company about matters arising in whole

² Only include this clause if it is not already contained in the Master Funding Agreement. Otherwise mark as 'Not used'.

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or in part during the 12 months prior to the opening of the Academy, the Company agrees to investigate that complaint as if the matter complained of had taken place after the opening of the Academy.

4A.4) If the Secretary of State could have given an order and/or a direction under section 496 and/or section 497 of the Education Act 1996 to the governing body of the school the Academy replaced (as referred to in clause 2.4 above) and that order and/or direction related to matters occurring within the 12 months immediately prior to conversion, the Company agrees:

- a) the Secretary of State may give orders and/or directions to the Company as though the Academy were a maintained school and sections 496 and 497 applied to the governing body of that maintained school;
- b) to act in accordance with any such order and/or direction from the Secretary of State.

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 2022 or any subsequent anniversary of that date.

Termination Warning Notice

5.2 The Secretary of State shall be entitled to issue to the Company a written notice of his intention to terminate this Agreement ("Termination Warning Notice") where he considers that:

- a) the Academy is no longer meeting the requirements referred to in clause 12 of the Master Agreement (subject to clause 5.9 of this Agreement);
- b) the conditions and requirements set out in clauses 13-34C of the Master Agreement are no longer being met;
- c) the standards of performance of pupils at the Academy are

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unacceptably low;

- d) there has been a serious breakdown in the way the Academy is managed or governed;
- e) the safety of pupils or staff is threatened (whether by breakdown of discipline or otherwise); or
- f) the Company is otherwise in material breach of the provisions of this Agreement or the Master Agreement.

5.3 A Termination Warning Notice issued by the Secretary of State in accordance with clause 5.2 shall specify:

- a) reasons for the Secretary of State's issue of the Termination Warning Notice;
- b) the remedial measures which the Secretary of State requires the Company to carry out, with associated deadlines, in order to rectify the defaults identified ("Specified Remedial Measures"); and
- c) the date by which the Company must respond to the Termination Warning Notice providing its representations with regard thereto or confirm that it accepts and agrees to undertake the Specified Remedial Measures.

5.4 The Secretary of State shall consider any response and representations from the Company which are received by the date specified in accordance with clause 5.3(c) and shall confirm whether he considers that:

- a) in the light of the Company's representations in response to the Termination Warning Notice, some or all of the Specified Remedial Measures are not required to be implemented (and if so which) and/or the Specified Remedial Measures are being or will be implemented within the specified timeframe; or
- b) subject to any further measures he reasonably requires ("Further Remedial Measures") being implemented by a specified date or any

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evidence he requires being provided, the implementation of such measures has been or will be successfully completed within the specified timeframes; or

c) he is not satisfied that the Company will rectify the defaults identified in the Termination Warning Notice within the specified timeframes. (In such circumstances, the Secretary of State may notify the Company of his intention to terminate the Agreement on a specified date.)

5.5 The Secretary of State may by notice in writing terminate this Agreement with effect from a specified date in the event that:

a) the Company has not, by the date specified in clause 5.3(c), responded to the Termination Warning Notice either confirming that it accepts and agrees to undertake the Specified Remedial Measures or providing its representations with regard to the Specified Remedial Measures; or

b) the Company has not carried out the Specified Remedial Measures and/or Further Remedial Measures within the specified timeframes;

provided that having considered any representations made by the Academy Trust pursuant to clause 5.3(c), the Secretary of State remains satisfied that it is appropriate to terminate the Agreement.

Notice of Intention to Terminate

5.6 The Secretary of State may at any time give written notice of his intention to terminate this Agreement where the Chief Inspector gives notice to the Company in accordance with section 13(3) of the Education Act 2005 stating that in the Chief Inspector's opinion –

(a) special measures are required to be taken in relation to the Academy; or

(b) the Academy requires significant improvement.

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5.7 Any notice issued by the Secretary of State in accordance with clause 5.6 shall invite the Company to respond with any representations within a specified timeframe.

5.8 Where the Secretary of State has given notice of his intention to terminate this Agreement in accordance with clauses 5.6 and 5.7 and –

- (a) he has not received any representations from the Company within the timeframe specified in clause 5.7; or
- (b) having considered the representations made by the Company pursuant to clause 5.7, the Secretary of State remains satisfied that it is appropriate to terminate this Agreement

he may by notice in writing terminate this Agreement with effect from a specified date.

Termination with Immediate Effect

5.9 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, he may terminate this Agreement by notice in writing to the Company such termination to take effect on the date of the notice.

5.9A If

- a) Any Governors or member of the Academy Trust refuses to consent to any checks required under this Agreement, or as otherwise requested by the Secretary of State; or
- b) The Secretary of State determines that any Governor or member of the Academy Trust is unsuitable,

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the Secretary of State may:

- i. direct the Academy Trust to ensure that the Governor or member resigns or is removed within 42 days, failing which the Secretary of State may serve a Termination Notice; or
- ii. serve a Termination Notice.

5.9B For the purposes of clause 5.9A a Governor or member of the Academy Trust will be “unsuitable” if that Governor or member:

- a) has been convicted of an offence;
- b) has been given a caution in respect of an offence;
- c) is subject to a relevant finding in respect of an offence; or
- d) has engaged in relevant conduct,

as a result of which, the Secretary of State considers that that Governor or member is unsuitable to take part in the management of the Academies.

5.9C For the purposes of clause 5.9B:

- a) a Governor or member of the Academy Trust will be subject to a “relevant finding” in respect of an offence if:
 - i. that Governor or member has been found not guilty of the offence by reason of insanity;
 - ii. that Governor or member has been found to be under a disability and to have done the act charged against them in respect of the offence; or
 - iii. a court outside the United Kingdom has made a finding equivalent to that described in paragraphs (i) and (ii) above.

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- b) "relevant conduct" is conduct by a Governor or member of the Academy Trust which is:
 - i. aimed at undermining the fundamental British values of democracy, the rule of law, individual liberty and mutual respect and tolerance of those with different faiths and beliefs; or
 - ii. found to be in breach of professional standards by a professional body; or

so inappropriate that, in the opinion of the Secretary of State, it makes that Governor or member unsuitable to take part in the management of the Academy.

Notice of Intention to Terminate by Company

5.10 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.

5.11 Any notice given by the Company under clause 5.10 shall be in writing and shall be served on the Secretary of State not later than 28 February

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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 5.10 above, within six weeks after the Secretary of State shall have done so. The notice must specify:

5.11.1.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

5.11.2.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

5.11.3.a detailed budget of income and expenditure for the Academy during the Critical Year (the "**Projected Budget**").

5.12 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.

5.13 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

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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.

5.14 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 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.

5.15 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.

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.

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6.2 Subject to clauses 6.3 and 6.4, if the Secretary of State terminates this Agreement pursuant to clause 5.1 of this Agreement, the Secretary of State shall indemnify the Company. If the Secretary of State terminates this Agreement otherwise than pursuant to clause 5.1 of this Agreement, the Secretary of State may in his absolute discretion indemnify or (to such extent if any as he may in his absolute discretion consider appropriate) compensate the Company.

6.3 The amount of any such indemnity or compensation 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 shall (where the Secretary of State terminates this Agreement pursuant to clause 5.1) indemnify the Company and may (where the Secretary of State terminates this Agreement otherwise than pursuant to clause 5.1) in his absolute discretion indemnify or compensate 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 any 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

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the establishment of the Academy or at a later date; 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 LA.

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 LAND CLAUSES

Restrictions on Land transfer

7A Recognising that they are or will be receiving publicly funded land at nil consideration (which for the purposes of this transaction shall include leases granted at a peppercorn rent) the Company:

- a) shall, within 28 days from the transfer to it of the Land, apply to the Land Registry for a restriction in the proprietorship register (under

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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) in the following terms:

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 3BT

b) shall take any further steps required to ensure that the restriction referred to in clause 7A(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 7A(a) as soon as practicable after it receives notification from the Land Registry,

d) in the event that it has not registered the restriction referred to in clause 7A(a), hereby consents to the entering of the restriction referred to in 7A(a) in the register by the Secretary of State (under s. 43(1)(b) of the Land Registration Act 2002),

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 7A(a) or 7A(d) above, whether by itself, a holding company, a subsidiary company, or a receiver, administrator or liquidator acting in the name of the Company.

Repair and Upkeep

7B) The Company shall keep the Land clean and tidy and make good any damage it causes to the Land and / or any deterioration to

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the condition of the Land that may arise from the date of this Agreement.

7C) Not used.

Transfer of Land on Termination of Agreement

7D) In recognition by the Company that they are or will be taking a transfer of publicly-funded land for nil consideration (which for the purposes of this transaction shall include leases granted at a peppercorn rent), the Company hereby grants and the Secretary of State hereby accepts an option, exercisable by the Secretary of State or his nominee, to transfer the said land for nil consideration. The option hereby granted shall be exercisable (by notice in writing by or on behalf of the Secretary of State) on the termination of this Funding Agreement for whatever cause. On the exercise of this option, the Law Society's Standard Conditions of Sale for Commercial Property in force at the date of such exercise shall apply to the transaction and completion shall take place 28 days after such exercise.

7E) In further recognition by the Company that they are or will be taking a transfer of publicly-funded land for nil consideration, (which for the purposes of this transaction shall include leases granted at a peppercorn rent), to protect the option granted under clause 7D, the Company:

a) shall, within 14 days from the transfer to it of the Land, apply to the Land Registry in Form AN1 as prescribed by Rule 81 of the Land Registration Rules 2003 for a notice to be entered in the register (under section 34(3)(a) of the Land Registration Act 2002) to protect the option granted under clause 6D and including a copy of this Agreement as evidence of that option,

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- b) shall take any further steps required to ensure that the notice referred to in clause 7E(a) is entered on the proprietorship register,
- c) shall provide the Secretary of State with confirmation of the entry of the notice referred to in clause 7E(a) as soon as practicable after it receives notification from the Land Registry,
- d) in the event that it has not registered the notice referred to in clause 7E(a), hereby consents to the entering of the notice referred to in 7E(a) in the register by the Secretary of State (by application in Form UN1 under s. 34(3)(b) of the Land Registration Act 2002),
- e) shall not, without the consent of the Secretary of State, apply to dis-apply, modify or remove (by cancellation or otherwise) a notice entered in accordance with clause 7E(a) or 7E(d) above, whether by itself, a holding company, a subsidiary company, or a receiver, administrator or liquidator acting in the name of the Company,
- f) in the case of previously unregistered land, for the further protection of the option granted in Clause 7D the Company shall within 14 days of the signing of this Agreement make application to register a Class C (iv) land charge in the Land Charges Registry and a Caution against First Registration in the Land Registry and shall provide the Secretary of State with copies of the entries secured thereby within 7 days of completing each registration, respectively. If the Secretary of State is of the view that the Company has failed to perform the registration obligations in this sub-clause he shall be at liberty to make his own applications to secure these registrations.

8 ANNEX

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

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9 THE MASTER AGREEMENT

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

9.2 Not used.

10 GENERAL

10.1 This Agreement shall not be assignable by the Company.

10.2 No delay, neglect or forbearance on the part of the Secretary of State in enforcing (in whole or in part) any provision of this Agreement or in exercising (in whole or in part) any right or remedy conferred on him by this Agreement shall be or be deemed to be a waiver of such provision or right or remedy or a waiver of any other provision or right or remedy or shall in any way prejudice any right or remedy of the Secretary of State under this Agreement or shall amount to an election not to enforce such provision or exercise such right or remedy (including, for the avoidance of doubt, any right to terminate this Agreement). No single or partial exercise of such right or remedy shall preclude or restrict the further exercise of that or any other right or remedy.

10.3 Termination of this agreement, for any reason, shall not affect the accrued rights, remedies, obligations or liabilities of the parties existing at termination.

10.4 This deed may be executed in any number of counterparts, each of which when executed and delivered shall constitute a duplicate original, but all the counterparts shall together constitute the one agreement.

10.5 This Agreement 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.

10.6 The parties irrevocably agree that the courts of England and Wales

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shall have exclusive jurisdiction to settle any dispute or claim that arises out of or in connection with this agreement or its subject matter or formation (including non-contractual disputes or claims).

This Agreement was executed as a Deed on

2014

Executed on behalf of by:

.....

Director

In the presence of:

Witness.....

Address.....

Occupation.....

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

.....

Duly Authorised

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ANNEX TO THIS SUPPLEMENTAL AGREEMENT

Requirements for the Admission for pupils at the
Academy Annex 1

Annex 1

Requirements for the Admissions of Pupils at East Point Academy (“the Academy”)

GENERAL

1. This Annex may be amended in writing at any time by agreement between the Secretary of State and the Inspiration Trust (“the Company”).

2. Except as provided in paragraphs 2A to 3 below the (“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 legislation to “admission authorities” shall be deemed to be references to the governing body of the Company.

2A The Company is permitted to determine admission arrangements that give priority for admission (but not above looked after children and previously looked after children¹) to other children attracting the pupil premium, including the service premium (‘the pupil premium admission criterion’). Where the Company exercises this freedom it will provide information in its admission arrangements of eligibility for the premiums.

2B For the purposes of applying the pupil premium admission criterion only, sections 1.9(f) and 2.4(a) of the School Admissions Code (2012) do not apply insofar as they prevent admission authorities from giving priority to children according to the financial or occupational status of parents or using supplementary forms that ask for:

- (a) any personal details about their financial status; or
- (b) whether parents are serving in the armed forces (of any nation), stationed in England, and exercising parental care and responsibility for the child in question.

2C The Academy Trust is also permitted by the Secretary of State to determine admission arrangements that give priority for admission (but not above looked after children and previously looked after children) to children whose parents have permitted Founders status. The Academy Trust should ensure that they grant Founders status according to the requirements of Charity law, which permit special provision to be made for a small group of the general beneficiaries of the Charity providing that the greatest benefit is to the wider community. The Academy Trust should only grant Founders status to a parent or guardian whom the Company has identified in its discretion as having genuinely played a material role in setting up the school and, where appropriate, whose continued role is deemed by the Company to be needed to establish the school in its early years for the benefit of the public as a whole.

¹ As defined in the School Admissions Code.

3. Notwithstanding the generality of paragraph 2 of this Annex, the Company will not participate in the co-ordinated admission arrangements operated by the LA for the first year of opening but will participate in such arrangements operated by the LA in subsequent years and the local Fair Access Protocol.

4. Notwithstanding any provision in this Annex, the Secretary of State may:

- (a) direct the Company to admit a named pupil to the Academy on application from a LA. This will include complying with a School Attendance Order². Before doing so the Secretary of State will consult the Company.
- (b) direct the Company to admit a named pupil to the Academy 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 Admissions Code or the Admission Appeals Code.

5. The Company shall ensure that parents and 'relevant children'³ 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 Company 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 consult the Company and the LA in which the Academy is situated in reaching a decision.

² 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.

³ 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.

Requirement to admit pupils

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 criteria, and an admission number for each relevant age group⁴. The Company will consult on its admission arrangements and determine them in line with the requirements within the School Admissions Code.

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

12. A determination of an objection by the Schools Adjudicator will be binding upon the Company.

⁴ 'Relevant age group' means 'normal point of admission to the school: for example, year R, Year7 and Year 12.