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SUPPLEMENTAL AGREEMENT

THIS AGREEMENT made May 2014

BETWEEN

(1) **THE SECRETARY OF STATE FOR EDUCATION**; and

(2) **LOXFORD SCHOOL TRUST LIMITED ("the Company")**

IS SUPPLEMENTAL TO THE MASTER FUNDING AGREEMENT made between the same parties and dated 28 November 2013 and amended and restated by Deed of Variation dated 30 May 2014 (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 Aldborough Primary School established at Aldborough Road South, Ilford, IG3 8HZ

"Academy Funding Year" means the year from 1st September to 31st August in any year;

"Buy Back Option" means the Option Agreement entered into between the Local Authority (1) and the Company (2) on 15 July 2011;

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

"Debt" means the amount equal to 100% of the Land Value;

"Discharge Process"

means the removal of:-

- i. the Legal Charge registered with Companies House as against the Academy Trust;
- ii. the Legal Charge from the charges register at the Land Registry against the title for the Land;
- iii. the restriction in the proprietorship register as referred to in 8B(i)(b); and
- iv. the notice in the proprietorship register as referred to in 8F(a)

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"Insured Risks" means fire lightning explosion earthquake storm tempest flood subsidence landslip heave impact terrorism bursting or overflowing of water tanks and pipes earthquake damage by aircraft and other aerial devices or articles dropped there from riot and civil commotion labour disturbance and malicious damage and such other risks as the Company insures against from time to time subject in all cases to any exclusions or limitations as may from time to time be imposed by the insurers or underwriters;

"the Land" means the land (including for the avoidance of doubt all buildings, structures landscaping and other erections) situated at and known as Aldborough E-ACT Free School, Aldborough Road South, Ilford IG3 8HZ and registered as part of Title number EGL502131

"Land Value" means, at any time:-

- (a) where there has been a disposal of the Land as a result of the enforcement of the Legal Charge by the Secretary of State, the proceeds of that disposal after payment of any necessary and reasonable costs incurred by the seller in connection with such disposal; or
- (b) in any other case, the market value of the Land (as that term is defined or referred to in the RICS Appraisal and Valuation Manual (current edition) published by RIGS) as determined by a professionally qualified independent valuer;

"Legal Charge" means the legal charge to be entered into by the Company in favour of the Secretary of State over the Land;

"Local Authority" or "LA" means Redbridge London Borough Council

"Market Value" the market value of the relevant part of the Land (as that term is defined or referred to in the RICS Appraisal and Valuation Manual (current edition) published by RICS), as determined by a professionally qualified independent valuer;

"SENCO" means Special Educational Needs Co-ordinator; and

"Start-up period" means up to a maximum of 7 Academy Funding Years and covers the period both up to and including the first Academy Funding Year in which all age groups are present at the Academy (that is, all the pupil cohorts relevant to the age-range of the Academy will have some pupils present).

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

2.1 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.

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2.2 The curriculum provided by the Academy to pupils up to the age of 11 shall be broad and balanced.

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

ACADEMY OPENING DATE

2.4 The Academy opened as a school on 30 August 2011 .

2.5 The planned capacity of the Academy is 420 pupils in the age range 5 - 11 years old.

INFORMATION TO BE PROVIDED BY THE COMPANY

2.6 Without prejudice to any other provision of this Agreement, the Secretary of Slate acting reasonably may from time to time call for information on, inter alia, the Academy's:

- a) curriculum;
- b) arrangements for the assessment of pupils;
- c) teaching staff including numbers, qualifications, experience, salaries, and teaching loads;
- d) class sizes;
- e) outreach work with other schools and the local community;
- f) operation of the admission criteria and over subscription arrangements for the Academy including numbers of applications for places and the number and characteristics of pupils accepted for admission;
- g) numbers of pupils excluded (including permanent and fixed term exclusions);
- h) levels of authorised and unauthorised absence;
- i) charging and remissions policies and the operation of those policies;
- j) organisation, operation and building management;
- k) financial controls;
- l) compliance with the requirements of the Charity Commission's guidance to charities and charity trustees and in particular the Charity Commission's guidance in the Protecting Charities from Harm ('the compliance toolkit') as amended from time to time;
- m) membership and proceedings of the Governing Body together with any other relevant information concerning the management or governance of the Academy which, subject to clause 108), is

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reasonably necessary for the Secretary of State to carry out his functions generally and in relation to this Agreement.

3 CAPITAL GRANT

3.1 Pursuant to clause 37 and 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.

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 COMPLAINTS¹

4A.1 Not used

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 2021 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:

- 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 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.

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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 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

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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.

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.

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 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

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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 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

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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.

5.16 If the Company shall have given notice to terminate the Agreement under clause 6.13, the Secretary of State may by notice in writing to the Company require the Company to appoint up to two persons as directors of the Company in accordance with the Articles.

5.17 The Secretary of State may at any time by notice in writing terminate this Agreement forthwith if the Academy has ceased (except where such cessation occurs temporarily by reason of an event beyond the reasonable control of the Company) to operate as an Academy within the meaning of Section 1 of the Academies Act 2010.

5.18 A "Special Measures Termination Event Occurs" when:

5.18.1 the Chief Inspector has given a notice to the Company in accordance with section 13(3) of the Education Act 2005 (the "Special Measures Notice") stating that in his opinion special measures are required to be taken in relation to the Academy; and

5.18.2 the Chief Inspector has carried out a subsequent inspection of the Academy in accordance with the Education Act 2005 and has made a report in accordance with the Education Act 2005 stating that the Academy has made inadequate progress since the date of the Special Measures Notice; and

5.18.3 the Secretary of State has requested the Company to deliver within 10 Business Days a written statement (a "Further Action Statement") of the action the Company proposes to take, and the period within which it proposes to take such action, or, if it does not propose to take any action, the reasons for not doing so; and

5.18.4 the Secretary of State, having considered the Further Action Statement, is not satisfied that any action proposed to be taken by the Company is sufficient in all the circumstances, or, if no Further Action Statement shall have been given to the Secretary of State within the requested timeframe or otherwise.

5.19 If a Special Measures Termination Event occurs, the Secretary of State may:

5.19.1 by notice in writing to the Company terminate this Agreement forthwith; or

5.19.2 by notice in writing terminate this Agreement on the date specified in the notice..

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.

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

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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 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.

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7 **LAND**

Debt

7A) a) The Secretary of State has made or has agreed to make payments of Capital Grant to the Company pursuant to Clause 38 of the Master Funding Agreement;

7A) b) The payments referred to at 7A(a) are made available to the Company on an interest free basis;

7A) c) In consideration of the Secretary of State making the payments referred to at 7A(a) and financing the acquisition of the Land, the Company shall pay the Debt upon termination of this Agreement or in accordance with clauses 8H(b) or 8K(a) or upon any disposition by way of sale of the whole or any part of the Land, whether or not such sale has been consented to by the Secretary of State; and

7A) d) the Debt shall be secured by the Legal Charge

Restrictions on Land transfer

8B(i) In consideration that it has or will be obtaining a legal interest in the Land, such acquisition being financed by the Secretary of State, the Company:

a) shall not dispose of the Land or any part of it otherwise than to the Local Authority or its statutory successors pursuant to the terms of the Buy Back Option without the consent of the Secretary of State;

b) 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 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 or by the proprietor of any registered charge is to be registered without a written consent signed by the proprietor for the time being of the charge dated 2014 in favour of the Secretary of State for Education, of Sanctuary Buildings, Great Smith Street, London SW1P 3BT referred to in the Charges register or, if appropriate, signed on such proprietor's behalf by its conveyance.

b) shall take any further steps required to ensure that the restriction referred to in clause 8B(i)(b) is entered on the proprietorship register,

d) shall provide the Secretary of State with confirmation of the entry of the restriction referred to in clause 8B(i)(b) as soon as practicable after it receives notification from the Land Registry,

e) in the event that it has not registered the restriction referred to in clause 8B(i)(b), hereby consents to the entering of the restriction referred to in 8B(i)(b) in the register by the Secretary of State (under s. 43(1)(b) of the Land Registration Act 2002),

f) 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 8B(i)(b) or 8B(i)(b) above, whether by itself, a holding company, a subsidiary

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company, or a receiver, administrator or liquidator acting in the name of the Company.

8B)(ii) The Secretary of State shall upon a disposal of the Land to the Local Authority or its statutory successors pursuant to the Buy Back Option take all necessary steps to carry out the discharge process

Repair and Upkeep

8C)(i) The Company shall keep the Land clean and tidy and make good any damage it causes to the Land and / or any deterioration to the condition of the Land that may arise from the date of this Agreement; in compliance with this clause, the Company shall not do or cause or permit to be done anything to lessen the value or marketability of the Land save with the express written consent of the Secretary of State.

8C)(ii) The Company agrees it shall seek and obtain the prior written consent of the Secretary of State, not to be unreasonably withheld or delayed before taking any steps to:

- a) create or permit to arise or continue any encumbrance affecting the Land or any part of it; and / or
- b) part with or share possession or occupation of the Land or any part of it; and / or
- c) enter into any onerous or restrictive obligations affecting the Land or any part of it.

Insurance

8D) The Company shall:-

- a) keep the Land insured with a reputable insurance office against loss or damage by the Insured Risks in the sum the Company is advised represents the reinstatement value of the Land from time to time;
- b) pay the premiums for insurance promptly as they become due and maintain in force the policies of insurance on the Land;
- c) following the incidence of damage to or destruction of the Land and subject to receipt of all necessary consents licences permissions and the like apply the proceeds of the policy of the insurance received for those purposes in rebuilding and reinstating the Land (provided that this clause should be satisfied if the Company provides premises not necessarily identical to the Land as the same existing prior to such damage or destruction occurring) as soon as may be reasonably practicable;
- d) produce to the Secretary of State a copy of the insurance policy whenever reasonably requested and the receipt for the last or other evidence of renewal and up to date details of the amount of cover (but no more often than once in any period of 12 months in both cases);

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- e) not knowingly do anything whereby any policy of insurance relating to the Land may become void or voidable;
- f) insure against liability in respect of property owners' and third party risks including occupiers liability.

Transfer of Land on Termination of Agreement

8E) In recognition by the Company that they are or will be obtaining a legal interest in the Land, such acquisition being funded by the Secretary of State, the Company hereby grants and the Secretary of State hereby accepts an option, exercisable by the Secretary of State or his nominee, to acquire the said land or any part thereof at 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 or in circumstances where the Academy Trust is unable to use all or part of the Land as the permanent site of the Academy in accordance with clauses 108H or 108K.. 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.

8F) In further recognition by the Company that they are or will be obtaining a legal interest in the Land to protect the option granted under clause 8E, 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 8E and including a copy of this Agreement as evidence of that option,
- b) shall take any further steps required to ensure that the notice referred to in clause 8E(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 8F(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 8F(a), hereby consents to the entering of the notice referred to in 8F(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 8F(a) or 8F(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 8E 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

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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.

Legal Charge

8G in consideration that it has or will be obtaining a legal interest in the Land, such interest being financed by the Secretary of State, the Company:

- a. shall enter into the Legal Charge upon completion of the acquisition of said interest;
- b. shall, within 21 days from the entry into of the Legal Charge, register the Legal Charge with Companies House or if required by the Secretary of State shall use all reasonable endeavours to assist the Secretary of State to register the Legal Charge at Companies House, including signing and executing any documents, deeds and/or forms as required;
- c. shall, within 28 days from the date of the Legal Charge, apply to the Land Registry for the Legal Charge to be entered on the charges register, using forms AP1 (Rule 13 LRR 2003) and CH1 (Rule 103 LRR 2003) or such form as may be required by the Secretary of State;
- d. shall take any further steps required to ensure that the Legal Charge is entered on the charges register;
- e. shall provide the Secretary of State with confirmation of the registration of the Legal Charge as soon as reasonably practicable after it receives notification from the Land Registry; and
- f. in the event that it has not registered the Legal Charge, hereby consents to the registration of the Legal Charge by the Secretary of State. To enable the Secretary of State to do so, the Company shall use all reasonable endeavours to assist the Secretary of State to register the Legal Charge, including signing and executing any documents, deeds and/or forms as required, specifically but not limited to providing the Secretary of State with the executed Legal Charge and completed AP 1/CH1 forms, and dealing with any requisitions raised by the Land Registry.

Failure to use the Land for the purposes of the Academy

8H) if the Company is unable to use the Land or any part thereof as the permanent site of the Academy but the Secretary of State agrees not to terminate this Agreement on that basis, the Secretary of State may give notice to the Company that, subject to the terms of the Buy Back Option:-

- a) he intends to exercise the option granted under clause 8E) to transfer the Land or the relevant pad thereof for nil consideration to himself or his nominee;
- b) the Company pays the Debt or the Market Value; and/or

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- c) the Company shall dispose of the Land or the relevant part thereof and that, pursuant to clause 92 of the Master Funding Agreement, the Company may retain some or all of the proceeds of sale of the Land or the relevant part thereof in order to fulfil its charitable purposes by funding the purchase of an alternative permanent site for the Company, save that any proceeds not used to fund the purchase of an alternative permanent site shall be accounted for to the Secretary of State or his nominee.

Sharing of the Land

- 8I) The Company agrees that if:
 - a) the Academy does not reach its planned capacity over a period of 7 Academy Financial Years; or
 - b) notice of termination is served by either the Company or the Secretary of State in accordance with clause 6.1 of this Agreement; or
 - c) in the reasonable opinion of the Secretary of State the operation of the Academy at planned capacity does not require the use of the full extent of the Land,
 - i. it will share occupation of the Land with such other Academy as the Secretary of State deems appropriate in the circumstances and enter into such legal arrangements in respect of the same as are required by the Secretary of State; or
 - ii. it will dispose of part of the Land as required by the Secretary of State and account for any proceeds of such disposal to the Secretary of State or his nominee as part payment of the Debt. Upon such disposal and part payment of the Debt, the Secretary of State will discharge the Legal Charge in respect of the part of the Land that has been disposed of.

Exercise of Rights

- 8J) On the termination of this Agreement, the Secretary of State may give notice of his intention to exercise the rights conferred upon the Secretary of State pursuant to clause 7.5, 7.6, 8E and the Legal Charge:
- a) any such notice shall be in writing and shall confirm which clause of this Agreement the Secretary of State intends to exercise without prejudice to the Secretary of State's right to exercise all and any other rights available to him;
 - b) in the event that upon termination of this Agreement for whatever reason, the Secretary of State exercises his option granted and the legal interest in the Land is transferred to the Secretary of State or his nominee for nil consideration by the Company pursuant to clause 8E, the Company's obligation to pay the Debt shall be deemed to have been satisfied in full, the obligation on the Company to pay a proportion of the proceeds of sale of the Land to the Secretary of State under clause 7.5(b) shall be deemed to be

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complied with, and the Secretary of State shall take all steps reasonably required to carry out the Discharge Process;

- c) in the event that upon termination of this Agreement for whatever reason the Secretary of State enforces the Legal Charge, the Company's obligation to pay the Debt shall be deemed to have been satisfied in full following the realisation of the Debt by any receiver, the obligation on the Company to pay a proportion of the proceeds of sale of the Land to the Secretary of State under clause 7,5(b) shall be deemed to have been complied with, and the Secretary of State shall take all steps reasonably required to carry out the Discharge Process;
- d) in the event that upon termination of this Agreement for whatever reason, the Secretary of State exercises his rights under clause 7,5, the Company's obligations to pay the Debt shall be deemed to have been satisfied in full and the Secretary of State shall take all steps reasonably required to carry out the Discharge Process; and
- e) in the event that upon termination of this Agreement for whatever reason, the Secretary of State agrees that pursuant to clause 7.6 the Company may invest the proceeds of the sale of the Land for its charitable objects or directs the Company to pay all or part of the proceeds of sale of the Land to the LA, the Company's obligations to pay the Debt shall be deemed to have been satisfied in full and the Secretary of State shall take all steps reasonably required to carry out the Discharge Process.

8K) On the Company applying to the Secretary of State for consent to the disposal of all or part of the Land during the lifetime of this Agreement, the Secretary of State shall, should he agree that the Land is no longer required or cannot be used for the purposes of the Academy, subject to clause 90 of the Master Funding Agreement and the terms of the Buy Back Option:

- a) consent to the disposal subject to any one or a combination of the following conditions:-
 - i. that (notwithstanding the provisions of clause 92 of the Master Funding Agreement) the Company pays the Debt in full or, in the event of a proposed disposal of part, repays to the Secretary of State the Market Value;
 - ii. that pursuant to clause 92 of the Master Funding Agreement, the Company may retain some or all proceeds of the disposal for its charitable purposes, subject to the Company accounting to the Secretary of State for any remaining proceeds of sale that the Secretary of State does not agree that the Company may retain for such charitable purposes; or
 - iii. that pursuant to clause 93 of the Master Funding Agreement, the Company pays all or some of the proceeds of sale to the LA and / or may reinvest all or some of the proceeds of sale for its charitable purposes.

and any such notice of consent and conditions shall be in writing; or

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- b) exercise the option granted to him pursuant to clause SE to transfer the relevant part of the Land to him or his nominee for nil consideration.

8L) In the event that the Secretary of State consents to the disposal of the Land during the lifetime of this Agreement, subject to any of the conditions set out in clause 8K(a):

- a) if the Secretary of State enforces the Legal Charge, the Company's obligation to pay the Debt shall be deemed to have been satisfied in full following the realisation of the Debt by any receiver, the obligations on the Company to pay a proportion of the proceeds of sale of the Land to the Secretary of State under clause 92 of the Master Funding Agreement shall be deemed to have been complied with, and the Secretary of State shall take all steps reasonably required to carry out the Discharge Process,
- b) if the Secretary of State agrees that the Company may retain some or all proceeds of the disposal for its charitable purposes, subject to the Company accounting to the Secretary of State for any remaining proceeds of sale that the Secretary of State does not agree that the Company may retain for such charitable purposes, the Company's obligations to pay the Debt shall be deemed to have been satisfied in full, the obligations on the Company to pay a proportion of the proceeds of sale of the Land to the Secretary of State under clause 92 of the Master Funding Agreement shall be deemed to have been complied with and the Secretary of State shall take all steps reasonably required to carry out the Discharge Process, provided that in the event of a disposal of part of the Land, the Company's obligation to pay the Debt shall be deemed to have been satisfied to the extent of the Market Value, the Company's obligation under clause 92 of the Master Funding Agreement shall be deemed to have been satisfied in relation to the relevant part of the Land, the Legal Charge shall be released and the restriction and the notice shall be removed in relation to such-part and the Legal Charge, the restriction and the notice shall remain in place in relation to the balance of the Land,
- c) if the Secretary of State directs the Company to pay all or part of the proceeds of sale of the Land to the LA pursuant to clause 93 of the Master Funding Agreement or agrees that the Company may reinvest the proceeds of the sale for its charitable purposes, the Secretary of State shall take all steps reasonably required to carry out the Discharge Process, provided that in the event of a disposal of part of the Land the restriction and notice shall remain in place in relation to the balance of the Land the restriction and notice shall remain in place in relation to the balance of the Land.

8M) In the event that the Secretary of State exercises his option during the lifetime of this Agreement under clause 8K(b) and the legal interest in the Land is transferred to the Secretary of State or his nominee for nil consideration by the Company pursuant to clause 8E, the Company's obligation to pay the Debt shall be deemed to have

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been satisfied in full, the obligations on the Company to pay a proportion of the proceeds of sale of the Land to the Secretary of State under clause 92 of the Master Funding Agreement shall be deemed to have been complied with, and the Secretary of State shall take all steps reasonably required to carry out the Discharge Process, provided that in the event of the exercise of the option in relation to part of the Land, the Company's obligation to pay the Debt shall be deemed to have been satisfied to the extent of the Market Value, the Company's obligation under clause 92 of the Master Funding Agreement shall be deemed to have been satisfied in relation to the relevant part of the Land and the Legal Charge shall be released and the restriction and notice shall be removed in relation to such part and the Legal Charge, the restriction and the notice shall remain in place in relation to the balance of the Land.

Payment of Debt

8N) In the event that the Company pays all the Debt, upon termination of this Agreement or at any other time, the Secretary of State shall take all steps reasonably required to carry out the Discharge Process.

8O) Should the Academy Trust:

- (a) dispose of any or all parts of the Land, in accordance with clause 108K, or
- (b) make payment to the Secretary of State to pay the Debt in full,

it shall enter into negotiations with the Secretary of State in respect of a deed of variation for this Agreement.

8 **ANNEX**

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

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

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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 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 Loxford School Trust Limited by:

.....
Director

.....
Director

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 Aldborough Primary School

Annex 1

Annex 1

REQUIREMENTS FOR THE ADMISSION OF PUPILS TO THE ALDBOROUGH PRIMARY SCHOOL

General

1. This Annex may be amended in writing at any time by agreement between the Secretary of State and the Company.
2. 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.
3. Notwithstanding the generality of paragraph 2 of this Annex, the Company will take part in any mandatory Admissions Forum set up by the local authority ("LA") in which they are situated and have regard to its advice; and [will participate in the co-ordinated admission arrangements operated by the LA] or [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 Order⁴. 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"⁵ will have the 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.

⁴ 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 so ensure his/her child attends a specific school.

⁵ 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.

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 Academy 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 Academy and the LA in which the Academy is situated in reaching a decision.

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 groups. The Academy will consult on its admission arrangements and determine them in line with the requirements within the School Admissions Code.
11. The Young People's Learning Agency (YPLA) or any successor to it may consider objections on the Secretary of State's behalf. The Company should therefore make it clear, when determining the Academy's admission arrangements, that objections should be submitted to the YPLA or any successor to it.
12. A determination of an objection by the YPLA or any successor to it on behalf of the Secretary of State, or by the Secretary of State will be binding upon the Academy.