

SINGLE ACADEMY MODEL

HINCHINGBROOKE SCHOOL

ACADEMY

**SUPPLEMENTAL AGREEMENT**

1/9/11

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ACADEMY  
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## INTRODUCTION

- 1) This Agreement is being entered into in acknowledgement of the completion of a funding agreement (the "Funding Agreement") made under section 1 of the Academies Act 2010 between the Secretary of State for Education ("the Secretary of State") and Hinchingsbrooke School a company limited by guarantee registered at Companies House with company number 7732319 ("the Academy Trust").
- 2) This Agreement is made between the Secretary of State and the Foundation of Hinchingsbrooke School ("the Trustees).
- 3) The Academy Trust is also a party to this Agreement and acknowledges the commitments made by both the Secretary of State and the Trustees.
- 4) In this Agreement the following words and expressions shall have the following meanings:-

"DfE" means Department for Education;

"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 Trustees insure 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;

"Land" means the land (including for the avoidance of doubt all buildings, structures landscaping and other erections) owned by the Trustees situated at and known as Hinchingsbrooke School, Brampton Road, Huntingdon PE29 3BN and registered under title numbers CB96080, CB165754, CB361399 and the land contained within the Transfer dated » from which the Academy operates.

- 5) The Interpretation Act 1978 shall apply for the interpretation of this Agreement as it applies for the interpretation of an Act of Parliament, and references to:

"party" means any party to this Agreement;

"persons" includes a body of persons, corporate or incorporate;

"school" shall where the context so admits be references to the Academy.

- 6) Expressions defined in this Agreement shall have the same meaning where used in any Annex to this Agreement.

## LEGAL AGREEMENT FOR USE OF LAND

- 7) In consideration of:

a) the Academy Trust undertaking to the Secretary of State to establish and maintain, and to carry on or provide for the carrying on of, an independent school in England to be known as the **Hinchingbrooke School** ("the Academy"); and

b) the Secretary of State agreeing to make payments to the Academy Trust in accordance with the conditions and requirements set out in the Funding Agreement

the Trustees undertake to the Secretary of State to make the Land available for use by the Academy Trust in a manner consistent with any restrictions imposed on the Trustees at law and pursuant to any trust deed governing the Trustees' ownership of the Land and with the terms of this Agreement.

- 8) This Agreement shall commence on the date hereof and shall subject to clause 9 (and except in respect of clause 14) continue in force until the earlier of:

a) the termination of the Funding Agreement; and

b) the date upon which any termination of this Agreement arises pursuant to clause 15.

- 9) The termination of this Agreement howsoever arising is without prejudice to the rights, duties and liabilities of any party hereto accrued prior to termination.

- 10) Clause 14 of this Agreement shall continue to apply for as long as the Secretary of State has power to exercise any discretion in relation to the Land pursuant to Schedule 1 of the Academies Act 2010.

## PROTECTION OF PUBLIC INVESTMENT IN LAND

- 11) Whilst the Academy operates from the Land otherwise than pursuant to a lease between the Trustees and the Academy Trust and in recognition of the funding provided by the Secretary of State to the Academy Trust for the running costs of the Academy, including, but not limited to, grant advanced for the purposes of enabling repairs, servicing,

maintenance and arranging for appropriate insurance of any buildings on the Land and its grounds, provided that the Academy Trust meets the cost of such repairs, servicing, maintenance and insurance, the Trustees will:

- a) facilitate any maintenance, upkeep or replacement of any buildings or facilities on the Land by the Academy Trust so that the Academy Trust may keep the Land clean and tidy and may make good any damage it causes to the Land and / or any deterioration to the condition of the Land consequent upon its use of the same that may arise from the date of this Agreement;
- b) keep the Land insured in the joint names of the Academy Trust and the Trustees with a reputable insurance office against loss or damage by the Insured Risks in the sum the Academy Trust is advised represents the reinstatement value of the Land from time to time;
- c) pay the premiums for insurance promptly as they become due and maintain in force the policies of insurance on the Land;
- d) 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 Academy Trust and/or the Trustees 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;
- e) 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);
- f) not knowingly do anything whereby any policy of insurance relating to the Land may become void or voidable; and
- g) insure against liability in respect of property owners' and third party risks including occupiers liability.

12) While the Academy operates from the Land or part of it pursuant to a lease between the Trustees and the Academy Trust in so far as clause 11 regulates occupation the terms of the lease shall prevail.

13) In so far as any Land qualifies as "publicly funded land" within the meaning of the Academies Act 2010 the Trustees hereby agree, for a period of 2 years from the date of this Agreement, not, without the prior written consent of the Secretary of State (such consent not to be unreasonably withheld), to dispose of all or part of the Land.

14) In the exercise of any discretion that the Secretary of State shall have either in relation to the Land as a consequence of this agreement or pursuant to Schedule 1 of the Academies Act 2010, the Secretary of State agrees to comply with any guidance issued by him in relation to the disposal of publicly funded land that is no longer to be used for the Academy.

## **TERMINATION**

15) The Trustees may give not less than two years written notice to the Academy Trust and the Secretary of State to terminate this Agreement, such notice to expire on 31<sup>st</sup> August 2013 or any subsequent anniversary of that date.

## **MISCELLANEOUS**

16) Any notice or other communication concerning this Agreement shall be sent, in the case of a notice or communication from the Secretary of State to the Trustees at their registered office or such other addressee/address as may be notified in writing from time to time by the Trustees and, in the case of a notice or communication from the Trustees to the Secretary of State to Head of Academies Division, Department for Education, Sanctuary Buildings, Great Smith Street, London SW1P 3BT; or such other address as may be notified from time to time by the Secretary of State and where any such notice or communication is sent by post, unless the contrary is proved, it shall be deemed, subject to satisfactory proof of posting, to be effected at the time at which the letter would be received in the ordinary course of post.

17) No term of this Agreement is intended to give any entitlement as against any party to any person who is not a party to this Agreement and no term of this Agreement may be enforced by any person other than a party under the Contracts (Rights of Third Parties) Act 1999.

18) The obligations of the parties are several and for the avoidance of doubt none of the Academy Trust or Trustees shall be deemed to be liable in respect of the acts or omissions of the other as between these parties and the Secretary of State.

19) For the avoidance of doubt nothing in this Agreement is intended to vary or amend any

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DfE 2010-12-16

provision of the Funding Agreement or any obligation arising under it.

This Agreement was executed as a Deed on

1/9/ 2011

Executed on behalf of Hinchingsbrooke School by:

  
.....  
**Director**

  
.....  
**Director/Secretary**

Executed on behalf of the Foundation of Hinchingsbrooke School by:

  
.....  
**Authorised Signatory**

  
.....  
**Authorised Signatory**

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

  
.....

**Duly Authorised**

