

**DEED OF NOVATION AND VARIATION  
OF THE  
FUNDING AGREEMENT FOR JOSEPH SWAN 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) **EMMANUEL SCHOOLS FOUNDATION**, a charitable company incorporated in England and Wales with registered company number 04464331 whose registered address is at Trinity House Bede Academy, Sixth Avenue, Blyth, Northumberland, NE24 2SY ("**ESF**"); and

(3) **JOSEPH SWAN ACADEMY**, a charitable company incorporated in England and Wales with registered company number 07950949 whose registered address is at Joseph Swan Academy, Saltwell Road South, Gateshead, Tyne and Wear, NE9 6LE ("**JSA**"),

together referred to as the "Parties".

## **INTRODUCTION**

- A. Joseph Swan Academy is an academy within the meaning of the Academies Act 2010 (the "Academy") and is currently operated by JSA (a single academy trust).
- B. The Secretary of State and JSA entered into a Funding Agreement on 1 March 2012 (the "**Agreement**") for the maintenance and funding of the Academy (attached as Schedule 1).
- C. It is proposed that, with effect from 00.01 am on 1 April 2019 ("Transfer Date"), ESF will assume responsibility for the management and operation of the Academy in succession to JSA.
- D. The Parties wish to novate the Agreement to ESF and the Secretary of State and ESF wish to vary the terms of the 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 Agreement, bear the meaning given to it in the Agreement.

## **NOVATION**

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

3. With effect from the Transfer Date, ESF agrees to perform the Agreement and be bound by its terms in every way as if it were the original party to it in place of JSA.

4. With effect from the Transfer Date, the Secretary of State agrees to perform the Agreement and be bound by its terms in every way as if ESF were the original party to it in place of JSA.

### **OBLIGATIONS AND LIABILITIES**

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

7. Each of JSA and the Secretary of State release and discharge the other from all claims and demands under or in connection with the Agreement arising after the Transfer Date.

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

### **INDEMNITY**

9. Not used.

10. Not used.

### **VARIATION**

11. The Secretary of State and ESF agree that with effect from the Transfer Date the Agreement shall be amended and restated so as to take effect in the form set out in Schedule 2 to this Deed.

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

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

14. 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**

15. 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  
**Emmanuel Schools**  
**Foundation** acting by one  
director in the presence of a  
witness:

Director .....  
Print name.....  
Date .....

Witness .....  
Print name.....  
Address.....  
Occupation.....

EXECUTED as a deed by **Joseph**  
**Swan Academy** acting by one  
director in the presence of a  
witness:

Director .....  
Print name.....  
Date .....

Witness .....  
Print name.....  
Address.....  
Occupation.....

**Schedule 1**  
**Funding Agreement**

**Schedule 2**  
**Amended Supplemental Funding Agreement**