



Department  
for Education

# **Maiden Erlegh School in Reading: Supplemental Funding Agreement**

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clawed-back grant will be only the amount relevant to the number of pupils above or below that estimate.

3.E Not used

3.F For Academy Financial Years which immediately follow the Academy Financial Year in which all planned year groups will be present at the Academy, the basis of the pupil count for determining GAG will be:

- a) for pupils in Year 11 and below, the Schools Census which is used to fund maintained schools for the financial year overlapping with the Academy Financial Year in question; and
- b) for pupils in Year 12 and above, the formula which is in use at the time for maintained schools

3.G The Secretary of State may, at his discretion, adjust the basis of the pupil count to take account of any diseconomies of scale which may affect the Academy if it is operating below the planned capacity in clause 2.B. If such an adjustment is made in any Academy Financial Year, this will not change the basis of the pupil count for calculating the following Academy Financial Year's GAG. If the Secretary of State has indicated that additional grant may be payable in such circumstances, the Academy Trust will bid for this additional grant based on need and providing appropriate supporting evidence. The Secretary of State may accept or refuse the bid at his discretion.

3.H The Secretary of State may pay a further element of GAG to the Academy Trust during the Start-Up Period or during the period when year groups are present who have transferred from the Predecessor School, in order to allow the Academy to:

- a) purchase a basic stock of teaching and learning materials (including library books, text books, software, stationery, science equipment and equipment for physical education) and other consumable materials; and
- b) meet the costs associated with the recruitment and induction of additional staff.

After the Start-Up Period these costs will be met through the ordinary GAG.

- 3.I The Secretary of State recognises that if a Termination Notice or a Termination Warning Notice is served, or the Master Agreement is otherwise terminated, the intake of new pupils during the notice period may decline and therefore payments based on the number of pupils attending the Academy may be insufficient to meet the Academy's needs. In these circumstances the Secretary of State may pay a larger GAG in the notice period, to enable the Academy to operate effectively.

#### **Other relevant funding**

3.J Not used.

3.K Not used.

#### **Carrying forward of funds**

- 3.L Any additional grant made in accordance with clause 3.I, for a period after the Secretary of State has served a Termination Notice or a Termination Warning Notice under this Agreement, or otherwise terminates the Master Agreement, may be carried forward without limitation or deduction until the circumstances set out in clause 3.I cease to apply or the Academy closes.

#### **4. LAND**

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

**"Discharge Process"** means the removal of:

- i. the Legal Charge registered with Companies House 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 referred to in clause 4.C(a);  
and

iv. the Option Notice in the proprietorship register of the Land at at Crescent Campus, Crescent Road, London, being the land as demised by the Lease.

**"Land"** means the land at at Crescent Campus, Crescent Road, London, being the land as demised by the Lease.

**"Land Value"** means, at any time:

- i. where the Land has been disposed of as a result of the Legal Charge by the Secretary of State after payment of the seller's necessary expenses in connection with the disposal; or
- ii. in any other case, the Market Value.

**"Lease"** means the lease between the Academy Trust and the Landlord under which the Academy Trust derives title to the Land.

**"Legal Charge"** means the legal charge over the Land in favour of the Secretary of State, in satisfaction of the debt of the Academy Trust to the Secretary of State.

**"Market Value"** means the market value (as defined in the RICS Valuation Standards) of the relevant part of the Land as determined by a professionally qualified independent valuer.

**"Property Notice"** means any order, notice, proposal, determination or other instrument issued by any competent authority (including the Landlord) which restricts or affects the Academy Trust's ability to use the Land for the purpose of the Academy Trust.

**Debt**

4.A The Academy Trust must pay the Debt to the Secretary of State on the termination of this Agreement or in accordance with section 4.U(b)(i) or on a sale of all or part of the Land with the Secretary of State's consent.

4.B The Debt is secured by the Legal Charge.



## Restrictions on Land transfer

### 4.C The Academy Trust must:

- a) apply to the Land Registry using form RX1 for the following restrictions (each a “**Restriction**”) to be entered in the proprietorship register for the Land by the following deadlines:
  - i. within 28 days after acquiring the Land:

*“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”; and*
  - ii. within 28 days after entering into the Legal Charge:

*“No disposition of the registered estate by the proprietor of the registered estate or by the proprietor of any registered charge, not being a charge registered before the entry of this restriction, is to be registered without a written consent signed by the proprietor for the time being of the charge dated [date of charge] in favour of The Secretary of State for Education referred to in the charges register or by its conveyancer”;*
- b) take any further steps required to ensure that each Restriction is entered on the proprietorship register;
- c) promptly confirm to the Secretary of State when each Restriction has been registered;
- d) if it has not registered each Restriction, allow the Secretary of State to do so in its place; and
- e) not, without the Secretary of State’s consent, apply to disapply, modify, cancel or remove a Restriction, whether by itself, a holding company, a subsidiary company, or a receiver, administrator or liquidator acting in the name of the Academy Trust.







reasonable endeavours to assist the Secretary of State in doing so, including signing and executing any necessary documents;

- c) 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, taking any other steps required to have the Legal Charge registered and promptly confirming to the Secretary of State when this has been done; and
- d) if it has not registered the Legal Charge, allow the Secretary of State to register it, and use all reasonable endeavours to help register the Legal Charge, including signing and executing any necessary documents and dealing with requisitions from the Land Registry.

#### **Land not used for the purposes of the Academy**

4.N If the Academy Trust cannot use all or part of the Land 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 notify the Academy Trust that:

- a) he intends to exercise the Option to transfer the Land for nil consideration to himself or his nominee;
- b) the Academy Trust must pay the Debt or the Market Value; and/or
- c) the Academy Trust must sell the Land, keeping some or all of the sale proceeds to fulfil its charitable purposes by funding the purchase of an alternative permanent site for the Academy, and accounting to the Secretary of State for any proceeds not so used.

#### **Sharing the Land**

4.O If:

- a) the Academy does not reach its planned capacity, as stated in clause 2.B, within seven Academy Financial Years; or

- b) the Academy Trust or the Secretary of State serves notice to terminate this Agreement under clause 5.A; or
- c) the Secretary of State considers that not all the Land is needed for the operation of the Academy at planned capacity,

then:

i.

ii.









c) the Secretary of State will carry out the Discharge Process.

4.X Not used.

#### **Payment of Debt**

4.Y If the Academy Trust pays the Debt to the Secretary of State, the Secretary of State will carry out the Discharge Process.

4.Z If the Academy Trust:

a) sells some or all of the Land in accordance with clause 4.U, or

b) pays the Debt to the Secretary of State,

it will negotiate in good faith with the Secretary of State to agree a deed of variation for this Agreement.

- c) there has been a serious breakdown in the way the Academy is managed or governed; or
- d) the safety of pupils or staff is threatened, including due to breakdown of discipline.

5.C A Termination Warning Notice served under clause 5.B will specify:

- a) the action the Academy Trust must take;
- b) the date by which the action must be completed; and
- c) the date by which the Academy Trust must make any representations, or confirm that it agrees to undertake the specified action.

5.D The Secretary of State will consider any representations from the Academy Trust which he receives by the date specified in the Termination Warning Notice. The Secretary of State may amend the Termination Warning Notice to specify further action which the Academy Trust must take, and the date by which it must be completed.

5.E If the Secretary of State considers that the Academy Trust has not responded to the Termination Warning Notice as specified under clause 5.C(c), or has not completed the action required in the Termination Warning Notice as specified under clauses 5.C(a) and (b) (and any further action specified under clause 5.D) he may serve a Termination Notice.

#### **Termination by the Secretary of State after inspection**

5.F If the Chief Inspector gives notice to the Academy Trust that:

- a) special measures are required to be taken in relation to the Academy;  
or
- b) the Academy requires significant improvement

the Secretary of State may serve a Termination Warning Notice, specifying the date by which the Academy Trust must make any representations.

5.G In deciding whether to give notice of his intention to terminate under clause 5.F, the Secretary of State will have due regard to the overall performance of the Academy Trust.

5.G.1 Not used.

5.H If the Secretary of State has served a Termination Warning Notice under clause 5.F and:

- a) has not received any representations from the Academy Trust by the date specified in the notice; or
- b) having considered the representations made by the Academy Trust remains satisfied that this Agreement should be terminated;

he may serve a Termination Notice.

5.I Not used.

#### **Termination by the Secretary of State**

5.J If the Secretary of State has determined that the Academy will be removed from the Register of Independent Schools and no appeal against that determination is pending, he may serve a Termination Notice.

5.K If at any time before the Academy opens, the total number of prospective pupils who have accepted offers of places to attend the Academy in September 2015 is less than 107, the Secretary of State may:

- a) require the Academy Trust not to open the Academy until 107 prospective pupils have accepted offers of places to attend the Academy; or
- b) serve a Termination Notice.

5.L If at any time after the Academy has opened, the Secretary of State considers that the Academy is not financially viable because of low pupil numbers, then he may:

- a) serve a Termination Warning Notice; or
  - b) serve a Termination Notice.
- 5.M If both parties agree that the Academy is not financially viable because of low pupil numbers, they may jointly terminate this Agreement after agreeing the precise terms of termination.
- 5.N If full planning permission (including where relevant listed building consent) in respect of the Land has not been obtained by 18 December 2015, the Secretary of State may serve a Termination Notice.
- 5.O If at any time before the Academy opening date, the Secretary of State considers that:
- a) the Academy would, on opening, provide an unacceptably low standard of education; or
  - b) the safety of pupils or staff at the Academy would, on opening, be threatened; or
  - c) the staff employed at the Academy are unsuitable; or
  - d) there is a serious breakdown in the way the Academy Trust is being managed or governed; or
  - e) the buildings and other structures on the Land are unsuitable or the Academy Trust has not obtained Building Regulations approval,
- he may either:
- A. require the Academy Trust:
    - i. not to open the Academy; or
    - ii. not to admit pupils of a particular age range, to be determined by the Secretary of State; or
    - iii. not to use any building or other structure on the Land,









- 5.BB The amount of any such indemnity or compensation will be determined by the Secretary of State, having regard to representations made to him by the Academy Trust, and will be paid as and when the Secretary of State considers appropriate.
- 5.CC The categories of expenditure incurred by the Academy Trust in consequence of termination, for which the Secretary of State may indemnify the Academy Trust under clauses 5.AA, may include:
- a) staff compensation and redundancy payments;
  - b) compensation payments in respect of broken contracts;
  - c) expenses of disposing of assets or adapting them for other purposes;
  - d) legal and other professional fees; and
  - e) dissolution expenses.
- 5.DD If this Agreement is terminated, and the Academy Trust owns capital assets which have been partly or wholly funded by HM Government, the Academy Trust must, as soon as possible after the termination date:
- a) transfer a proportion of those capital assets, equal to the proportion of the original financial contribution made by HM Government, to a nominee of the Secretary of State to use for educational purposes; or
  - b) if the Secretary of State directs that a transfer under clause 5.DD(a) is not required, pay to the Secretary of State at the termination date (or, by agreement with the Secretary of State, at the date of their subsequent disposal) a sum equivalent to the proportion of the original financial contribution made by HM Government.
- 5.EE The Secretary of State may:
- a) Waive all or part of the repayment due under sub-clause 5.DD(b) if the Academy Trust obtains his permission to invest the sale proceeds for its charitable purposes; or





This Agreement was executed as a Deed on 6<sup>th</sup> March 2015

Executed on behalf of Maiden Erlegh Trust by:

.....*P. Jones*.....

And

.....*[Signature]*.....

**Director**

**Director**



.....*[Signature]*.....

**Duly Authorised**

## **ANNEXES**

### **7. PUPILS WITH SPECIAL EDUCATION NEEDS (SEN) AND DISABILITIES**

“Statement of SEN” means a statement made under section 324 of the Education Act 1996.

“EHC plan” means an Education, Health and Care plan made under sections 37(2) of the Children and Families Act 2014.

7.A Except as set out in clause 8 below, the Children and Families Act 2014 imposes duties directly on Academies in respect of pupils with special educational needs, including the admission of pupils with EHC plans. If an Academy Trust considers that a LA should not have named the Academy in an EHC plan, it may ask the Secretary of State to determine whether the LA has acted unreasonably, and to make an order directing the LA to reconsider. The Secretary of State’s determination will be final, subject to any right of appeal which a parent of the child may have to the First Tier Tribunal (Special Educational Needs and Disability) or the Upper Tribunal Administrative Appeals Chamber.

7.B Not used

7.C Not used

7.D Not used.

### **8. ADMISSION OF PUPILS WITH SEN AND DISABILITIES**

8.A The Academy Trust must for each of its Academies, subject to its right of appeal to the Secretary of State, admit all pupils with a statement of SEN naming the Academy.

8.B Where an LA proposes to name one of the Academies in a statement of SEN, it must give the Academy Trust written notice of this, stating why it considers that Academy to be suitable for the pupil in question. Within 15 days of receipt of the LA’s notice, the Academy Trust must consent to being named, except

where admitting the child would be incompatible with the provision of efficient education for other children, and no reasonable steps could secure compatibility. In deciding whether a child's inclusion would be incompatible with the efficient education of other children or the efficient use of resources, the Academy Trust must have regard to the relevant Guidance issued to maintained schools.

- 8.C If the Academy Trust decides that admitting the child would be incompatible with the provision of efficient education or the efficient use of resources, it must, within the 15 days, notify the LA in writing, giving its reasons for its decision.
- 8.D The Academy Trust must then seek to establish from the LA whether or not it agrees with this determination. If the LA does not agree with the Academy Trust's response, and names the Academy in the child's statement of SEN, the Academy Trust must admit the child to the school as specified in the statement or otherwise by the LA.
- 8.E If in such case, the Academy Trust considers that the LA should not have named the Academy in the statement, it may ask the Secretary of State to determine whether the LA has acted unreasonably, and to make an order directing the LA to reconsider. The Secretary of State's determination will be final, subject only to any right of appeal which a parent of the child may have to the First-tier Tribunal (Special Educational Needs and Disability) or the Upper Tribunal Administrative Appeals Chamber.
- 8.F If a parent of a child for whom the LA maintains a statement appeals to the First-tier Tribunal (Special Educational Needs and Disability), either for or against the naming of the Academy in the child's statement, then the Tribunal's decision will be binding, even if it is different from that of the Secretary of State.
- 8.G Where it has been finally determined that the Academy be named in a child's statement of SEN, the Academy Trust must admit the child to the Academy, notwithstanding any other admissions requirements in this Agreement.

8.H Clauses 8.A to 8.H 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.



Department  
for Education

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