



Alternative provision academy and free school: supplemental funding agreement

December 2014

Contents

| | |
|------------------------------------|----------|
| SUMMARY SHEET | 4 |
| Information about the Academy: | 4 |
| 1. ESTABLISHING THE ACADEMY | 7 |

| | |
|--|-----------|
| Effect of termination | 24 |
| 6. OTHER CONTRACTUAL ARRANGEMENTS | 25 |
| Annexes | 25 |
| The Master Agreement | 25 |
| General | 25 |
| ANNEXES | 27 |
| 7. PUPILS WITH SPECIAL EDUCATION NEEDS (SEN) AND DISABILITIES | 27 |
| 8. ADMISSION OF PUPILS WITH SEN AND DISABILITIES | 27 |

SUMMARY SHEET

Please identify any other variations from the model that apply to this academy (e.g. clauses relating to PFI, or any required because the multi academy trust includes academies designated

1. **ESTABLISHING THE ACADEMY**

1.A This Agreement made between the Secretary of State for Education and HAMWIC EDUCATION TRUST is supplemental to the master funding agreement made between the same parties and dated 24 May 2017 (the **Master Agreement**)

Definitions and interpretation

1.B Except as expressly provided in this Agreement words and expressions defined in the Master Agreement will have those same meanings in this Agreement.

1.C The following capitalised words and expressions will have the following meanings:

Academy Southampton Children's Hospital School.

the Academy is an Academy or a Free School which meets the requirements set out in section 1C(1) of the Academies Act 2010 .

"Coasting" has the meaning given by regulations under subsection (3) of section 60B of the Education and Inspections Act 2006 in relation to a school to which that section applies.

Commissioner

the Alternative Provision Academy for admission under the legal powers set out in clauses 2.G to clauses 2.M.

Prospective Pupils

and accepted a place.

Pupil Premium

cal authority from the pupil premium grant to a school under the terms and conditions of the grant;

Pupil Premium Grant

Secretary of State under section 14 of the 2002 Act in respect of pupils who are entitled to a pupil premium;

Pupil Referral Unit (PRU)

requirements set out in Section 19(2) of the Education Act 1996.

SEN **special educational needs** **special educational provision**

20(1) and 21(2) of the Children and Families Act 2014.

Termination Notice

Academy Trust, terminating this Agreement on the date specified in the notice.

Termination Warning Notice

Academy Trust, stating his intention to terminate this Agreement.

1.D The Interpretation Act 1978 applies to this Agreement as it applies to an Act of Parliament.

1.E Reference in this Agreement to clauses and annexes will, unless otherwise stated, be to clauses and annexes to this Agreement.

The Academy

1.F The Academy is a Alternative Provision Academy as defined in clause 1.4 of the Master Agreement.

1.G The Academy Trust will establish and maintain the Academy in accordance with the Master Agreement and this Agreement.

1.H The Academy opened on 1 March 2014 and will be operated by the Academy Trust from 1 December 2017.

1.I Not used.

2.1 Pupils on roll in a Predecessor School which was a maintained or independent school will transfer automatically to the Academy on opening. All

2.T

3. GRANT FUNDING

General Annual Grant (GAG)

- 3.A GAG for each Academy Financial Year for the Academy will include:
- a) funding equivalent to that which would be received by a PRU maintained by the local authority with similar characteristics, determined by the Secretary of State and taking account of the number of pupils and/or places at the Academy;
 - b) funding to cover necessary functions which would be carried out by the relevant LA if the Academy were a school maintained by a local authority;
 - c) payments in respect of further, specific grants made available to schools maintained by the local authority, where the Academy meets the requisite conditions and criteria necessary for a school maintained by the local authority to receive these grants.
 - d) funding for matters for which it is necessary for the Academy to incur extra costs, for as long as those costs are deemed necessary by the Secretary of State; and
 - e) The Secretary of State may make provision, within his absolute discretion, for GAG to be adjusted in-year if the number of pupils attending the Academy at specified dates exceeds or falls below thresholds specified by letter. Arrangements for this will be set out in the Annual Letter of Funding or its equivalent.

Calculation of GAG

- 3.B The Secretary of State recognises that if he serves a Termination Notice or a Termination Warning Notice, or otherwise terminates the Master Agreement, the intake of new pupils during the notice period may decline. 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.C Not used.

3.D costs in connection with
the transfer of employees from a Predecessor School under the Transfer of

the Academy Trust, apply to the Land Registry using Form RX1 for the proprietorship register for 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;

- b) take any further steps reasonably required to ensure that the Restriction is entered on the proprietorship register;
- c) promptly confirm to the Secretary of State when the Restriction has been registered;
- d) if it has not registered the Restriction, permit the Secretary of State to do so in its place; and
- e) not, with
cancel or remove the Restriction, whether by itself, a holding company, a subsidiary company, or a receiver, administrator or liquidator acting in the name of the Academy Trust.

Obligations of the Academy Trust

- 4.B The Academy Trust must keep the Land clean and tidy and make good any damage or deterioration to the Land. The Academy Trust must not do anything to lessen the value or marketability of the Land without the Secretary
- 4.C The Academy Trust must comply with the Lease and promptly enforce its rights against the Landlord.
- 4.D
 - a) terminate, vary, surrender, renew, dispose of or agree any revised rent under the Lea

- c) create or allow any encumbrance; or
 - d) part with or share possession or occupation; or
 - e) enter into any onerous or restrictive obligations,
- in respect of all or part of the Land.

Option

- 4.E The Academy Trust grants and the Secretary of State accepts an option (the **Option**) may exercise the Option in writing on termination of this Agreement. If the Option is exercised, completion will take place 28 days after the exercise date
- Commercial Property in force at that date.

Option Notice

- 4.F The Academy Trust:
- a) must, within 14 days after acquiring the Land or, if later, after signing this Agreement, apply to the Land Registry on Form AN1 (including a **Option Notice** to be entered in the register, taking any further steps required to have the Option Notice registered and promptly confirming to the Secretary of State when this has been done;
 - b) if it has not registered the Option Notice, agrees that the Secretary of State may apply to register it using Form UN1;
 - c) modify or remove the Option Notice, whether by itself, a holding company, a subsidiary company, or a receiver, administrator or liquidator acting in the name of the Academy Trust, and
 - d) must, in the case of previously unregistered land, within 14 days after acquiring the Land or, if later, after signing this Agreement, apply to register a Class C(iv) land charge in the Land Charges Registry, and

- c) use its best endeavours to help the Secretary of State to remedy or prevent the breach.

Sharing the Land

4.J Where:

- a) the Secretary of State identifies basic or parental need for additional places in the area in which the Academy is situated; and
- b) the Secretary of State then considers that not all the Land is needed for the operation of the Academy at planned capacity,

the Secretary of State must consult with the Academy Trust to determine whether part of the Land could be demised or sublet to another Academy Trust, as the Sec

- b) a **parental need** will arise when the DfE is actually aware of an additional demand for pupil places in the area where the Academy is situated, following representations from parents in that area; and
- c) **planned capacity** has the meaning given in clause 2.B.

5. TERMINATION

Termination by either party

5.A _____ notice to terminate this Agreement. Such termination would take effect on 31 August of the relevant year.

Termination Warning Notice

5.B The Secretary of State may serve a Termination Warning Notice where he considers that:

- a)

- 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

b)

of GAG and EAG to be provided in the next Academy Financial Year (the “**Funding Allocation**”).

5.S If the Academy Trust is of the opinion that, after receipt of the Funding Allocation **Critical Year** after taking into account all other resources likely to be available to the Academy, including other funds that are likely to be available to the Academy from other academies operated by the Academy Trust **All Other Resources** likely that the cost of running the Academy during the Critical Year would cause the Academy Trust to become insolvent (and for this reason only) then the Academy Trust may give written notice of its intention to terminate this Agreement on 31 August before the Critical Year.

5.T Any notice given by the Academy Trust under clause 5.S must be provided to the Secretary of State within six weeks of the Secretary of State issuing the Funding Allocation. The notice given by the Academy Trust under clause 5.S must specify:

- a) the grounds upon which the Academy Trust , including:
 - i. evidence of those grounds;
 - ii. any professional accounting advice the Academy Trust has received;
 - iii. a detailed statement of steps which the Academy Trust proposes to take to ensure that the running costs of the Academy are reduced such that costs are less than the Funding Allocation and All Other Resources, and the period of time within which such steps will be taken; and
- b) the shortfall in the Critical Year between the Funding Allocation and All Other Resources expected to be available to the Academy Trust to run the Academy and the projected expenditure on the Academy; and
- c) a detailed budget of income and expenditure for the Academy during

Projected Budget

have given written notice of his refusal to provide sufficient additional funding for the Academy to cover the Shortfall.

Effect of termination

- 5.Z If this Agreement is terminated, the Academy will cease to be an Academy within the meaning of sections 1 and 1C of the Academies Act 2010.
- 5.AA Subject to clauses 5.BB and 5.CC, if the Secretary of State terminates this Agreement under clause 5.A, he will indemnify the Academy Trust. If the Secretary of State terminates this Agreement otherwise than under clause 5.A, he may at his discretion indemnify or compensate the Academy Trust.
- 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 clause 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
- b) direct the Academy Trust to pay all or part of the sale proceeds to the relevant LA.

6. OTHER CONTRACTUAL ARRANGEMENTS

Annexes

6.A Any annexes to this Agreement form part of and are incorporated into this Agreement.

The Master Agreement

6.B Except as expressly provided in this Agreement, all provisions of the Master Agreement have full force and effect.

General 2000.4mDC qR7a3842 reW*nBT/F3E07(.)JTETQf the Master Agreement

6.F This Agreement may be executed in any number of counterparts, each of which when executed and delivered shall constitute a duplicate original, but all of which will together constitute the same agreement.

~~6.15~~ 6r 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) sha3 12 Tf1 0 @npr ed dconne576(2nh025 u)-6(a)-62hao disputes or

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

Statement of SEN

Act 1996.

EHC plan

under sections 37 to

40 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

8.H Clauses 8.A to 8.G only apply insofar as the relevant provisions of the Children & Families Act 2014 relating to SEN and disability do not apply to Academies and Free Schools.



© Crown copyright 2014

You may re-use this document/publication (not including logos) free of charge in any format or medium, under the terms of the Open Government Licence v2.0. Where we have identified any third party copyright information you will need to obtain permission from the copyright holders concerned.

To view this licence:

visit www.nationalarchives.gov.uk/doc/open-government-licence/version/2

email: psi@nationalarchives.gsi.gov.uk.

We welcome feedback. If you would like to make any comments about this publication, please email AFSPD.feedback@education.gsi.gov.uk, quoting the title of this document. Specific project queries should be sent to the allocated project lead/lead contact.

About this publication:

enquiries www.education.gov.uk/contactus.

download www.gov.uk/government/publications.

Reference: DFE-00724-2014



Follow us on Twitter:

[@educationgovuk](https://twitter.com/educationgovuk)



Like us on Facebook:

facebook.com/educationgovuk