

## **FUNDING AGREEMENT DEED OF VARIATION**

The parties to this Deed are:

(1) The Secretary of State for Education ("the Secretary of State"),

– and –

(2) Sir Thomas Rich's School, a charitable company incorporated in England and Wales with registered number 07331954 ("the Academy Trust"),

together referred to as the "Parties".

### **INTRODUCTION**

A. The Parties entered into a Funding Agreement dated 15 September 2010 ("the Funding Agreement") relating to the establishment, maintenance and funding of an independent school known as Sir Thomas Rich's School.

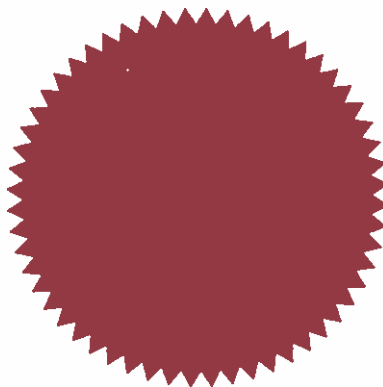
B. The Parties now wish to amend the terms of the Funding Agreement and wish to record their agreement as to such amendments by this Deed.

### **LEGAL AGREEMENT**

1. Any word or phrase used in this Deed shall, if that word or phrase is defined in the Funding Agreement, bear the meaning given to it in the Funding Agreement.
2. The Parties agree that with effect from the date of this Deed the Funding Agreement shall be amended in accordance with the Schedule to this Deed.
3. As varied by this Deed, the Funding Agreement shall remain in full force and effect.
4. This Deed shall be governed by and interpreted in accordance with English law.

EXECUTED AND DELIVERED AS A DEED by the Parties on the *27th* day of *October* 2015

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



*David Miles*

.....  
Duly Authorised by the Secretary of State for Education

Executed on behalf of  
Sir Thomas Rich's School by:

..... *J. J. Wilton* .....

Director

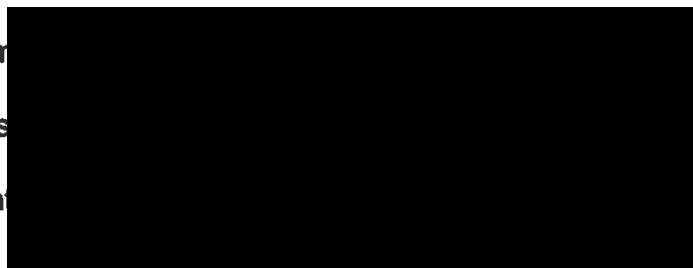
Print name *JANFERIE JILL WILTON* .....

Witnessed by ..... *J. Mantor* .....

Full name

Address

Occupation



## **Schedule**

1. Clause 17 of the Funding Agreement shall be deleted and replaced as follows:

- 17) The planned capacity of the Academy is 962 in the age range 11 – 18, including a sixth form of 400 places. The Academy will be a school whose requirements for:
- a) The admission of pupils to the Academy are set out in Annex B to this Agreement;
  - b) the admission to the Academy of and support for pupils with SEN and with disabilities (for pupils who have and who do not have statements of SEN/EHCs) are set out in Annex C to this Agreement;
  - c) pupil exclusions are set out in Annex D to this Agreement;
  - d) the procedure for the removal of the Academy's selective admission arrangements is set out in Annex E to this Agreement.

2. Annex B of the Funding Agreement shall be deleted and replaced as follows:

### **Annex B**

#### **REQUIREMENTS FOR THE ADMISSION OF PUPILS TO SIR THOMAS RICH'S SCHOOL (THE "ACADEMY")**

##### **GENERAL**

1. This annex may be amended in writing at any time by agreement between the Secretary of State and the Academy Trust.
2. The Academy Trust 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 Academy Trust.
3. Notwithstanding the generality of paragraph 2 of this Annex, the Academy Trust will participate in the co-ordinated admission arrangements operated by the LA and the local Fair Access Protocol.

4. Notwithstanding any provision in this Annex, the Secretary of State may:
- a) direct the Academy Trust to admit a named pupil to the Academy on application from the LA. This will include complying with a School Attendance Order<sup>1</sup>. Before doing so the Secretary of State will consult the Academy Trust;
  - b) direct the Academy Trust to admit a named pupil to the Academy if the Academy Trust 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 Academy Trust to amend its admission arrangements where they fail to comply with the School Admissions Code or the School Admission Appeals Code.
- 4A The Academy is a former maintained grammar school designated as such under section 104 of the School Standards and Framework Act 1998 and the Education (Grammar School Designation) Order 1998. As such it is permitted to continue to select its intake by reference to ability.

Annex E to the funding agreement will set out the procedures for removing selective arrangements.

5. The Academy Trust shall ensure that parents and 'relevant children<sup>2</sup>' will have the right of appeal to an Independent Appeal Panel if they are dissatisfied with an admission decision of the Academy Trust. The Independent Appeal Panel will be independent of the Academy Trust. 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.

### **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.

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<sup>1</sup> 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 to ensure his/her child attends a specified school.

<sup>2</sup> 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.

7. If the Academy Trust 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 Trust 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 Trust 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 (where they meet the required academic standard);
  - b) adopt admission oversubscription criteria that give highest priority to looked after children and previously 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 group<sup>3</sup>. The Academy Trust will consult on its admission arrangements and determine them in line with the requirements within the School Admissions Code.
11. The Office of the School's Adjudicator (OSA) will consider objections to the Academy's admission arrangements<sup>4</sup>. The Academy Trust should therefore make it clear, when determining the Academy's admission arrangements, that objections should be submitted to the OSA.
12. A determination of an objection by the OSA will be binding upon the Academy and the Academy Trust will make appropriate changes as quickly as possible.

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<sup>3</sup> 'Relevant age group' means 'normal point of admission to the school, for example, year R, Year7 and Year 12.

<sup>4</sup> The OSA has no jurisdiction to consider objections against the agreed variation from the Codes set out in paragraphs 2A and 2B.