

DEED OF VARIATION TO THE FUNDING AGREEMENT

THIS DEED is made the 2nd day of July 2019

BETWEEN

- 1) The Secretary of State for Education (the "**Secretary of State**"); and
- 2) The Sir William Romney's School , (the "**Company**") a charitable company incorporated in England and Wales with registered number 07694641, together, the "**Parties**".

INTRODUCTION

- A. The Parties entered into a funding agreement dated on or about 29 January 2011 (the "**Funding Agreement**") relating to the establishment, maintenance and funding of an Academy in accordance with the Funding Agreement.
- B. The Parties now wish to vary and amend certain terms and conditions of the Funding Agreement in accordance with the terms of this Deed.
- C. This Deed is supplemental to the Funding Agreement.

1. INTERPRETATION

- 1.1 Words, expressions and interpretations used in this Deed shall, unless the context expressly requires otherwise, have the meaning given to them in, and shall be interpreted in accordance with, the Funding Agreement.

2. VARIATION OF THE FUNDING AGREEMENT

- 2.1 The Parties agree that with effect from the date of this Deed the Funding Agreement shall be amended as **outlined in schedule 1 with the conditions stated in schedule 2**
- 2.2 Except as varied by this Deed, the Funding Agreement shall remain in full force and effect.

3. Governing law and jurisdiction

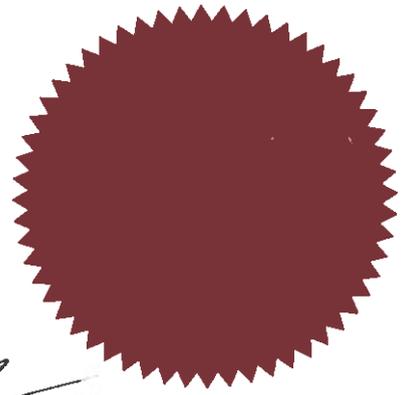
- 3.1 This Deed, and any disputes or claims arising out of or in connection with it, its subject matter or formation (including non-contractual disputes or claims), shall be governed by and construed in accordance with English law.
- 3.2 The parties irrevocably agree that the English courts have exclusive 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).

4. Counterparts

- 4.1 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 date first above written.

EXECUTED as a deed by affixing the corporate seal of the **Secretary of State for Education** authenticated by:-)
)
)



[Handwritten signature]
.....
Duly authorised by the Secretary of State for Education

EXECUTED as a deed by Sir William Romney's School acting by:

[Handwritten signature]
.....

Director

[Handwritten signature]
.....
Director/Secretary

OR

EXECUTED as a deed by Sir William Romney's School acting by:

.....
Director

In the presence of:

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SCHEDULE 1 – Amendments to the Funding Agreement

The following wording is to be inserted as new clauses at 50 -53:

1. The existing clause 50 shall remain in place:
 - 50 Subject to clauses 51-53, the basis of the pupil number count for the purposes of determining GAG for an Academy Financial Year for the Academy will be, in the first year of conversion, the same basis as that used by the Local Authority for determining the budget share of the predecessor maintained school as adjusted by numbers counted in any subsequent Schools Census, as determined by the Secretary of State. In subsequent years the basis of the pupil count will be as determined by the Secretary of State."
2. The existing clause 51 and 52 shall be replaced with the following:
 - 51 Subject to clause 52, the basis of the pupil number count for the purposes of determining GAG for the Academy Financial Year 2018/19 and 2019/20 will be the Academy Trust's most recent estimate provided in accordance with clause 52 and subject to the conditions set out in schedule 2 of the deed of variation.
 - 52 The Secretary of State will, in advance of each Academy Financial Year for the Academy, request that the Academy Trust provides an estimate of the number of pupils on roll in the following September for the purposes of determining GAG for an Academy Financial Year. The Academy Trust must provide the requested estimate to the Secretary of State as soon as reasonably practicable.
 - 52B For any Academy Financial Year in which GAG for the Academy has been calculated in accordance with clauses 51 an adjustment may be made to the following Academy Financial Year's formula funding element of GAG for the Academy to recognise any variation from that estimate. The Secretary of State may for this purpose use the Census for the relevant month (determined at the Secretary of State's discretion) for the Academy Financial Year in question as a means of determining pupil numbers. The additional or clawed-back grant will be only the amount relevant to the number of pupils above or below that estimate."
 - 52C In the Academy Financial Year 2020 to 2021, and any subsequent Academy Financial Year, GAG for the Academy will be calculated in accordance with clauses 54.
3. The existing clause 54 shall be replaced with the following:

Subject to clauses 51 - 53 and once the conditions specified in clause 51 have been satisfied with respect to the Academy for the Academy Financial Year for which funding is being calculated, the basis of the pupil number count for the purpose of determining GAG for the Academy will be:

- a) for the pupil number count for pupils in Year 11 and below, the Schools Census for the January preceding the Academy Financial Year in question; and
- b) for the pupil number count for pupils in Year 12 and above, the formula which for the time being is in use for maintained schools for the calculation of pupil numbers for pupils in Year 12 and above for the purpose of calculating their level of funding."

SCHEDULE 2 – conditions to support the funding change

- I. That the trust implement the action plan produced in response to the SRMA report in full, meeting all milestones for September 2019 and September 2020.
- II. If the trust decides at its board meeting in July 2019 not to join The Athelstan Trust, or if it has not yet taken a decision on whether to join The Athelstan Trust by the end of July 2019, it must:
 - a) Provide a clear and reasoned explanation in writing to the ESFA by 1 August 2019
 - b) Commission an external review of governance to be completed, and the report provided to the ESFA, by 1 October 2019
 - c) Identify an alternative suitable Multi Academy Trust (MAT) to join within six months
 - d) Recruit an Academy Ambassador to its board by 1 October 2019
- III. As part of the existing requirement to move to the new Funding Agreement, the trust must review its Articles of Association to make sure it is compliant with the new Funding Agreement and the increase in members.
- IV. The trust must separate the trustees and members by 1 September 2019 in line with best practice set out in the Governance Handbook.
- V. The trust must continue to provide its monthly management accounts and cash flow to the ESFA, and the Head and CFO attend monthly monitoring meetings with the ESFA from June 2019.
- VI. The trust must work with the Academy Ambassadors initiative to provide support to its transition to a MAT and, if applicable, governance review.