

Appendix: Pro Forma Agreement

AGREEMENT MADE AND ENTERED INTO BY AND BETWEEN

The Member of the Executive Council (hereinafter referred to as the “MEC”) of.....(name of Province) herein represented by.....
.....(name and rank), duly authorized by the MEC

AND

.....(name of owner, hereafter referred to as the “the Owner)

Postal address:

.....
.....
.....

.....ID Number.....

Telephone.....

PREAMBLE

WHEREAS

..... is the Owner of the immovable property on which.....
(name of school, hereafter referred to as “the school”) is situated

Postal address:

.....
.....
.....

Physical address:

.....
.....

Telephone.....

WHEREAS the school is a public school offering education from grade.....to grade.....; and

WHEREAS the MEC and the Owner have agreed to enter into this agreement pursuant to sections 14 (1) and 57 of the South African Schools Act (Act No.84 of 1996) (hereafter referred to as “the Act”), whereby the school is established/deemed to be established as a public school on private property.

IT IS HEREBY AGREED THAT:

Definitions

1. In the agreement any word or expression to which a meaning has been assigned by the Act or Regulations Relating to the Minimum Requirements for an Agreement between the Member of the Executive Council and the Owner of the Private Property on which a Public School is situated (hereafter referred to as “the Regulations”), has the same meaning assigned to it in the Act or Regulations, unless the context indicates otherwise.

The status and description of the school

2. The school is a public school on private property in terms of section 52 (1) of the Act or established in terms of section..... of (Provincial Education Law).
3. A description of the site and buildings and access roads to the school is set out in Schedule 1.

Propriety rights held by the school

4. The Owner declares himself or herself willing to the right of use of property referred to in paragraph 2 for the sole purpose of education in a public school on the property.
5. The Owner gives the right of use to the school free of charge.

OR

The owner lets the property referred to in paragraph 2 to the MEC for the amount of R..... per month/year which payment must be paid into the Owner’s bank account No..... (Bank)..... (town) not later than the first day of each month/first day of January each year.

6. An agreement between the State and the Owner which existed prior to the commencement of the Act remains in force to the extent that is consistent with the Act, and is only amended to the extent that is in conflict with this agreement, in which case this agreement prevails.
7. The agreement is valid as long as the school exists. The school can only be closed in terms of section 33 of the Act and after a reasonable period of notice has been given to the Owner by the MEC. A lease agreement, if it is in existence, terminates on the date on which the school is closed. All the improvements to the immovable property will become the property of the Owner free of charge

OR

After payment by the Owner to the State of an agreed sum of money calculated on the day of the closure of the school.

8. All reasonable maintenance, including insurance and security to the buildings and fixed assets and improvements, is done by..... [if such maintenance is the responsibility of the school an agreement must be entered into between the school and the Owner on the date such allocated function in terms of section 21 (1) of the Act is allocated to such school.] The extent of such maintenance is set out Schedule 2.

General

9. The MEC undertakes to provide a copy of this agreement to the school and ensure that the school makes it available to the parents, learners and any third person if requested by them as contemplated in Regulation 2 (7).
10. must erect clear road signs giving directions to the public school an access roads to the school where access to the school in by way of private roads.
11. The curriculum offered at such public school is in accordance with the prescribed curriculum for public schools and the applicable administrative directives.
12. must ensure that a fresh drinking water supply is available at all times at such schools.
13. must erect new buildings or effect improvements to the existing buildings. Such new buildings or improvements may only be effected after separate agreement is concluded between the parties and stipulating the cost to be incurred and who carries the responsibility for effecting such changes.

14. must ensure that the supply of electricity to the school complies with the national safety standards.
15. must ensure that the property on which the school is situated and all access roads are safe for school purposes and all dangerous areas on the property referred to in paragraph 2 are safeguarded.
16. The Owner guarantees access to the school by the public, school community and officials referred to in Regulation 5 (3) in relation to educational purposes.
17. The State indemnifies the Owner for any damage or loss claimed against such Owner as a result of the property being owned and provided that such claim is related to any educational activity conducted by the school for which the Owner would have been liable.

Dispute

18. Any dispute arising under this agreement must, as a first step, be resolved amicably through conciliation between the MEC and the Owner, or by any other manner mutually agreed upon by them.
19. If any dispute arises (including a breach of contract), the aggrieved party must notify in writing the other party affected by the dispute, within 14 days, stating the nature and extent of his or her complaint.
20. A conciliation meeting between the parties to the dispute must take place within 7 school days of the notice referred to in paragraph 19.
21. If a dispute is referred to a Magistrate's Court then the applicable cost structures must be agreed to.

Selling of the immovable property

22. If the Owner sells the property on which the school is situated, he or she must notify –
 - a. the buyer of the existence of such school in writing before entering into an agreement with such buyer; and
 - b. the school and the MEC of such sale and attach the letter referred to in subparagraph (a) within 7 days of such sale.

Amendments

23. This agreement comprises the agreement and all amendments and annexures thereto.

24. This agreement may only be amended, varied or changed if both parties agree to such amendment, variation or change in writing and it is signed by both parties.

Domicilium

25. The Owner chooses the following address as his or her *domicilium citandi et executandi* and for the purpose of serving any notice or any other correspondence according to this agreement:

.....
.....Thus
done and signed at..... on this.....day
of.....19.....

.....
OWNER

AS WITNESS:
.....
.....

Thus done and signed at..... on this.....day
of.....19.....
.....

MEC FOR EDUCATION OF..... (PROVINCE) or
.....

DELEGATE OF THE MEC

AS WITNESSES:
.....
.....