**This contract is made on day of 2018**

1 THE SECRETARY OF STATE FOR EDUCATION of Sanctuary Buildings, 20 Great Smith Street, London, SW1P 3BT ("the **DFE**"); and

2 Tribal Education Limited registered in England and Wales under number **04163300** whose registered office is Kings Orchard Queen Street, St. Philips, Bristol, BS2 0HQ (the “**Contractor**”)

each a “**Party**” and together the “**Parties**”.

**It is agreed that:**

1. this contract, together with the attached schedules and annexes, collectively form the "**Contract**"; and
2. if there is a conflict between the provisions of the clauses of the Contract and the provisions of the schedules, the following order of precedence shall apply:

(a) schedule 2 (Terms and Conditions);

(b) schedule 1 (Specification);

(c) schedules 3 to 10; and

(d) schedule 11 (Contractor’s Solution).

The Contract has been executed on the date stated at the beginning of this page.

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| **SIGNED by the CONTRACTOR acting by**  **Authorised Signatory**  **In the presence of**  **Witness signature**  **Occupation**  **Address**  **Date**  **SIGNED by DFE acting by**  **Position**  **in the presence of**  **Witness signature**  **Occupation**  **Address**  **Date** |  |

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**Schedule 1**

**The Specification**

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| PROCUREMENT SPECIFICATION |
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| **Background** |
| 1. The National Professional Qualifications (NPQs) are a suite of professional development programmes for school leaders, designed to ensure participants have the knowledge and skills they need to become effective school leaders. They comprise the:  * National Professional Qualification for Middle Leadership * National Professional Qualification for Senior Leadership * National Professional Qualification for Headship * National Professional Qualification for Executive Leadership  1. The Department for Education (DfE) has recently reformed the NPQs, to better prepare new leaders for the wider range of leadership roles available in the education system. The reformed NPQs will be introduced from Academic Year 17/18 and delivered by 41 organisations that have been accredited by the DfE. 2. We want the reformed NPQs to be the highest-quality professional development available to teachers, grounded in the best available evidence and recognised by teachers as independently verified. We are therefore seeking to partner with an organisation with the ability to deliver these aims. 3. The Contractor will be responsible for quality assuring and continuously improving NPQ provision throughout England (which, for the avoidance of doubt, excludes the Isle of Man and the Channel Islands) through a range of activities that are set out in more detail in this specification. 4. The reforms have introduced a new approach to NPQs, including:  * a new qualification, the National Professional Qualification for Executive Leadership (NPQEL); * giving NPQ providers greater autonomy over the design and delivery of the NPQs, within a set of DfE frameworks; and * giving NPQ providers the responsibility for assessing of participants at the end of their provision, within a set of DfE frameworks.  1. The 41 NPQ providers will be subject to a Quality Framework, which sets the standards that providers must meet. The Contractor will be responsible for assessing the performance of providers against this framework and working with them to ensure they meet DfE’s standards and adhere to the content and assessment framework, as well as working with DfE to continuously improve the quality of NPQ provision. 2. Further detail on the 41 NPQ providers and their delivery plans is available in the ‘Volumes’ section below. 3. The Contractor is expected to mobilise upon contract award such that it is ready to commence quality assurance activities on 1 June 2018. |

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| **Detailed Requirements (THE SERVICES)** |
| **Purpose**   1. To be responsible for the quality assurance and continuous improvement of NPQ provision. 2. To fulfil the role of the Department for Education’s Quality Assurance Agent, as set out in the Quality Framework for NPQ providers (“the Quality Framework”).   **Summary**   1. The Contractor will have national oversight of the quality of NPQ provision, ensuring the provision is delivered in line with the content and assessment framework, and promote public confidence in the qualifications by externally quality assuring and improving the quality of NPQ provision across the country. 2. This will require personnel with experience in applying continuous quality improvement and quality management systems and theory, knowledge of high-quality evidence and research in relation to the effectiveness of teaching strategies and successful school leadership, sound governance and administration as well as effective partnership working with NPQ providers, participants and DfE. 3. The Contractor will monitor and assess the performance of NPQ providers against the 15 requirements (Requirements A-O in the Quality Framework) and 7 metrics in the Quality Framework, using evidence from a range of sources (including, but not limited to, information returned from providers and participants). It will gather and analyse this evidence, identify any emerging quality issues and set out the remediation required by providers. 4. The Contractor will also continuously improve NPQ provision by recommending solutions to DfE (which has responsibility for NPQ policy and standard setting) on any emerging issues or opportunities that need addressing and disseminating best practice to all providers to improve the quality of their provision. 5. The Contractor will report regularly to DfE on its work and on the overall quality of NPQ provision throughout the whole of the country. It will carry out a range of functions which are:   **Function A: Regular monitoring and improvement of NPQ providers’ performance**  **Function B: Undertaking detailed performance reviews of providers**  **Function C: Moderating a sample of participants’ assessment projects**  **Function D: Continuous Improvement of NPQ provision**  **Function E: Partnership working with NPQ providers, participants and DfE**  **Function F: Regular reporting of management information and analysis on the quality of NPQ provision**  **Function G: Maintaining good governance arrangements**   1. Further detail on each of these functions is set out below. It is strongly recommended that bidders read the Quality Framework and the Content and Assessment framework in parallel with this Specification – these are included at Annex 1 and 2 of this Specification for reference.   **Detailed Requirements**  **Function A. Regular monitoring and improvement of NPQ providers’ performance**   1. The Contractor will be responsible for collecting a range of evidence, to a defined schedule in accordance with the KPIs, regarding Providers’ performance against the requirements and metrics in the Quality Framework. This is described in the table below.  |  |  |  |  | | --- | --- | --- | --- | | **Evidence to be Collected by Contractor** | **Frequency** | **Feedback to providers and identification of remedial action** | **Reporting to DfE** | | Providers’ self-assessment against sections 3 and 4 of the Quality Framework | Every 6 months in years 1 and 2 of a providers’ provision; annually thereafter | Within 1 month of receipt | Within 1 month of receipt; immediately for cases of serious underperformance | | Providers’ performance against metrics in the Quality Framework, including the substantiating data set out in Section 5 of the Quality Framework | | Participant feedback on overall quality of Providers’ provision (see paragraphs 7-9 further detail) |  1. The Contractor will independently verify the accuracy of this evidence by:  * reviewing Providers’ self-assessments against the other performance data available to it (such as performance against related metrics and relevant participant feedback) * validating the data supplied by Providers to substantiate their performance against metrics (as set out in Section 5 of the Quality Framework) against existing datasets, including, but not limited to, DfE’s record of qualified teachers and databases on the characteristics of the schools at which they are employed.  1. Once verified, the Contractor will analyse this evidence to assess providers’ performance against the Quality Framework. 2. Within one month of this evidence being received, the Contractor must deliver a written report to the DFE and subsequently the provider on the provider’s performance. This must be in a template format which shall be substantially in the form of the draft Function A template submitted as part of the Contractor’s Solution. The final form template to be used for Function A reporting from 1 June 2018 will be agreed with DfE during the Mobilisation Period (prior to 1 June 2018). This template as agreed, together with any future modified versions will be appended to the Contract in accordance with the Change Control Procedure. The written report will, as a minimum:    1. Give an overall assessment of the provider’s performance, including its strengths and weaknesses.    2. Summarise the provider’s performance against each of the requirements and metrics in the Quality Framework, including relevant evidence, such as that detailed in the KPIs, to substantiate its assessment.    3. Detail any remedial action that is required for the provider to meet the standards in the Quality Framework (and which the provider should include in a plan of remedial action), the timescales in which it must be implemented, and how the contractor will monitor its implementation.    4. Detail any extenuating circumstances related to underperformance and how these have been accounted for. 3. In instances of underperformance against the Quality Framework such that the provider has committed a default of its accreditation agreement or there is a risk of this, the Contractor must inform DfE immediately and in the case of default, recommend whether or not this is capable of remedy as well as provide clear reasons and substantiating evidence of the provider’s performance against the requirements and metrics in the Quality Framework. 4. In cases where a provider is in default of its accreditation agreement, the Contractor will be responsible for making recommendations to DfE as to whether or not the default is capable of remedy. 5. If DfE agrees that there is only a *risk* of a provider committing a default, the Contractor must have a 1:1 meeting with the provider to discuss the remediation required. The Contractor must require the provider to supply evidence as to the risk and produce a plan of remedial action to remedy or remove such risk. The Contractor must monitor, supervise, direct and/or guide the provider’s provision of services to ensure NPQ delivery is in line with the Quality Framework and Content and Assessment framework, until DfE reasonably considers that any such risk has been remedied or removed. 6. If DfE agrees with the Contractor’s recommendation that a provider has committed a default of its accreditation agreement, and that such default is capable of remedy, the Contractor must issue a notice to the NPQ provider instructing the NPQ provider to remedy the Default within 21 business days or such other period of time as DfE may specify. The Contractor will be responsible for monitoring whether a provider duly remedies the default within this timeframe and report a provider’s failure to do so back to DfE. 7. In the event that DfE agrees with the Contractor’s recommendation that a provider has committed a default of its accreditation agreement and that such default is incapable of remedy or where a provider has failed to remedy a default (capable of remedy) within the above specified timeframe, DfE may terminate that providers’ accreditation agreement with immediate effect. 8. In the event that a provider appeals a decision to terminate their accreditation the appeal will be heard within a reasonable period by an independent panel convened by DfE. The Contractor must collaborate with DfE and provide such evidence as DfE may require, in order to assist DfE in defending any such appeal (including to provide (at its own cost) a representative to attend appeal hearings if necessary). 9. The Contractor must also collaborate with DfE and provide at its own cost any support as may be required in respect of any dispute resolution or mediation proceedings between DfE and providers. 10. DfE requires specific assurance that providers’ provision aligns with the latest Content and Assessment Framework (Requirement I of the Quality Framework) and is grounded in high-quality evidence and research (Requirement J of the Quality Framework), particularly regarding the effectiveness of different teaching strategies and characteristics of successful school leadership. To be regarded as high-quality, DfE expects evidence and research to:  * Be relevant and up-to-date * Derive from recognised research methods * Be peer reviewed * Comprise both qualitative and quantitative data  1. The Contractor will therefore need a mechanism, and personnel with relevant knowledge and skills, to assess this requirement as part of its regular monitoring and improvement. 2. Further, the DfE has specific requirements as to the format in which feedback from NPQ course participants is given to providers. 3. Feedback obtained by providers from NPQ course participants must detail the extent to which their provider has met a subset of the requirements contained within the Quality Framework using the following scale:  * 1-2 represents serious underperformance * 3-5 represents underperformance * 6 represents expected performance * 7-10 represents exceptional performance  1. As part of the metrics that providers will report against, they need to achieve an aggregated mean rating of 6 out of 10 for participant feedback (Requirement N). The Contractor will therefore need to gather and report each provider’s aggregated mean feedback score to the provider and DfE. 2. It is important to note that providers must provide feedback to DfE/the Contractor on their provision in accordance with their accreditation agreements. DfE would like the Contractor to perform the function of collecting feedback from providers so the Contractor must therefore ensure that its mechanism for collecting participant feedback from providers is reliable, as well as accessible and clearly communicated centrally to participants. 3. To fulfil this requirement, the Contractor will therefore need to:  * establish a clear understanding of different NPQ providers’ delivery plans, aligning its resources accordingly * operate effective systems for collecting, handling and verifying a large volume of qualitative and quantitative data securely and reliably; * use its expertise in continuous quality improvement and quality management systems, alongside its knowledge of the quality of research and evidence relating to teaching strategies and successful school leadership to accurately assess performance and identify remedial action * communicate clearly and effectively with DfE   **Function B**. **Undertaking detailed performance reviews of providers**   1. In addition to the regular, routine monitoring and improvement set out under Function A, the Contractor will be responsible for operating a schedule of detailed annual performance reviews of each provider. 2. The Contractor must have conducted one detailed performance review of every provider within 3 years of commencement of the contract. 3. Before 1 April of each year of the contract, DfE will agree an annual schedule of priority for the conduct of performance reviews, to ensure that resources are focussed on the providers which, in light of routine monitoring and improvement, are found to be underperforming or at risk of being so. DfE will specify the timetable for review and deadline for delivering a final report. 4. Where directed by DfE, the Contractor must conduct immediate detailed performance reviews of any providers outside of this agreed schedule as requested by DfE, for example, in response to particular concerns coming to light. 5. The purpose of detailed performance reviews is to assess each provider’s performance thoroughly against each requirement and metric in the Quality Framework. 6. The Contractor must use the scoring mechanism to score each provider out of a maximum of 10, using the definitions in paragraph 36 below. 7. As a minimum, reviews must last between one and two days and be led by qualified quality assurance inspector or reviewers conforming to a defined person specification. Reviews must be thorough and comprehensive so as to ensure confidence in their findings and include (but are not limited to):  * site visits * direct observations of delivery * reviews of course content, including supporting materials and the quality of the research and evidence sources used (see paragraph 20) * interviews with providers’ personnel and participants.  1. As with routine monitoring and improvement under Function A, DfE requires specific assurance that further to Requirement I of the Quality Framework, providers’ provision aligns with the latest Content and Assessment Framework; and further to requirement J of the Quality Framework, providers’ provision is grounded in high-quality evidence and research (as defined in paragraph 20), particularly regarding the effectiveness of different teaching strategies and characteristics of successful school leadership. 2. The Contractor will therefore need a mechanism, and personnel with relevant knowledge and skills, to assess this requirement as part of its detailed performance reviews. 3. The Contractor must assess performance against each requirement and metric in the Quality Framework using the scale set out in paragraph 38. 4. The Contractor must deliver a written report to DFE for review and then deliver the agreed version to the provider and within one month of completion of the provider review. This must be in a template format which shall be substantially in the form of the draft Function B template submitted as part of the Contractor’s Solution. The final form template to be used for Function B reporting form 1 June 2018 will be agreed with DfE during the Mobilisation Period (prior to 1 June 2018). This template as agreed, together with any future modified versions will be appended to the Contract in accordance with the Change Control Procedure. The written report must include, as a minimum:    1. An overall assessment of the provider’s performance, including an aggregated mean score across all of the requirements and metrics in the quality framework.    2. A detailed assessment of the provider’s performance against each of the requirements and metrics in the Quality Framework, including a score out of 10, using the scale in paragraph 38) and relevant evidence to substantiate its assessment for each.    3. A detailed assessment of the remedial action that is required for the provider to meet the standards in the Quality Framework, the timescales in which it must be implemented, and how the contractor will monitor its implementation, using the scale in paragraph 38.    4. Details of any extenuating circumstances related to underperformance and how these have been accounted for. 5. Depending on its findings, the Contractor will need to undertake follow-up visits and monitor the implementation of remedial action in accordance with the scale set out below:  |  |  | | --- | --- | | **Aggregated mean Score across all requirement and metrics** | **Follow-up action** | | **1-2** | **This constitutes serious underperformance i.e. default of a provider’s accreditation agreement.**  Under these circumstances, the Contractor must immediately inform DfE making recommendations as to how to proceed (i.e. whether or not the default is capable of remedy) supported by clear reasons and substantiating evidence of the provider’s performance against the requirements and metrics in the Quality Framework.  If DfE agrees with the Contractor’s recommendation that a provider has committed a default of its accreditation agreement, and that such default is capable of remedy, the Contractor must issue a notice to the NPQ provider instructing the NPQ provider to remedy the default within 21 business days or such other period of time as DfE may specify. The Contractor will be responsible for monitoring whether a provider duly remedies the default within this timeframe and report a provider’s failure to do so back to DfE.  In the event that DfE agrees with the Contractor’s recommendation that a provider has committed a default of its accreditation agreement and that such default is incapable of remedy or where a provider has failed to remedy a default (capable of remedy) within the above specified timeframe, DfE may terminate that providers’ accreditation agreement with immediate effect. | | **3-5** | **This constitutes underperformance** i.e. risk of default of provider’s accreditation agreement.  If DfE agrees that there is a risk of a provider committing a default, the contractor must have a 1:1 meeting with the provider to discuss the remediation required. The Contractor must require the provider to supply evidence as to the risk and produce a plan of remedial action to remedy or remove such risk. The Contractor must monitor, supervise, direct and/or guide the provider’s provision of services until DfE reasonably considers that any such risk has been remedied or removed. | | **6** | **This constitutes expected performance.**  The Contractor will conduct a detailed review of the provider again within 24-30 months. | | **7-10** | **This constitutes exceptional performance.**  Exceptionally performing providers are deemed exempt from further detailed performance reviews unless the Contractor becomes aware of any cause for concern, e.g. through routine monitoring under Function A. |  1. In the event that a provider appeals a decision to terminate their accreditation the appeal will be heard within a reasonable period by an independent panel convened by DfE. The Contractor must collaborate with DfE and provide such evidence as DfE may require, in order to assist DfE in defending any such appeal (including to provide (at its own cost) a representative to attend appeal hearings if necessary). 2. The Contractor must also collaborate with DfE and provide at its own cost any support as may be required in respect of any dispute resolution or mediation proceedings between DfE and providers.   **Function C. Moderating a sample of participants’ assessment projects**  41. Under the reformed NPQs, providers are responsible for the assessment of their NPQ participants, within DfE frameworks. However, it is vital for the credibility and quality of NPQs that assessment is in line with the content and assessment framework and consistent across all NPQ providers.  42. The Contractor will therefore be responsible for moderating a 10% sample of participants’ assessment projects annually. By the end of each academic year, the sample must have met certain criteria to ensure sufficient coverage of all participants, defined in paragraphs 44 - 46. The Contractor will have a set window, following a provider completing its own assessment processes, within which to ‘call-in’ participants’ work for moderation as part of this sample, defined in paragraphs 44 – 46.  43. Consequently, to meet these requirements, the Contractor will need a real-time and up-to-date understanding of each provider’s delivery plans and throughput of participants during that academic year, and plan its sampling activities accordingly.  44. The annual sample must meet **all** of the following criteria:   * Totals 10% of all participants assessed in that academic year; * Includes at least 10% of the participants that each provider assesses during that academic year; * Includes at least one participant from every NPQ cohort that is assessed by a provider in that academic year   45. Where the Contractor provides evidence to DfE that the expected composition of participants being assessed in that academic year is such that it is not possible to meet all of these criteria, and the DfE agrees, the contractor must work with DfE to establish a prioritised approach.  46. The DfE may specify additional or alternative criteria for this sample from time to time (for example, in response to particular concerns coming to light), however it is not anticipated that this will exceed a total of 10% of all assessment projects nationally. The DfE expects to work with the Contractor to refine these criteria over time in light of experience.  47. To ensure NPQs are awarded in a timely manner and that this moderation stage does not cause undue delay to the award of an NPQ, the contractor must:   * select a sample of participants’ assessment projects, through liaison with the providers, to moderate no later than 30 days after a provider has completed its own assessment of the participant (including any peer moderation). * communicate the outcome of the moderation to DfE within 30 days of selecting a participant’s work for moderation.   48. Following its moderation, the Contractor will confirm to the provider and DfE whether it considers the provider’s assessment to be accurate or otherwise, so that the award of NPQs can take place for that cohort.  49. To ensure the moderation is effective, the Contractor will need to use suitably qualified moderators, which meet a person specification that includes recent (within the past 2 years) experience of, and training on, participant assessment.  50. The Contractor must also ensure moderators avoid any actual or perceived conflicts of interest. Conflicts of interest include (but are not limited to):   * moderating participants from a programme in whose provision the moderator is directly involved * moderating providers within a moderator’s “home” region. * moderating candidates that the moderator knows personally or has worked with in a professional development capacity within the preceding three years.   **Function D. Continuous Improvement of NPQ Provision**  51. The Contractor will support NPQ providers to continuously improve, with the aim that NPQ provision is the highest quality professional development available to teachers. It will do so by generating evidence-based proposals to improve the quality of NPQ provision overall and identifying and disseminating best practice to providers.  52. As a minimum, the Contractor will present, both orally and in writing, its proposals for improvement and supporting evidence to DfE and the NPQ governance group (which will have responsibility for NPQ policy and national leadership of NPQs respectively) annually; and, subject to DfE approval, disseminate best practice to providers every 6 months.  53. The Contractor will propose three priority areas on which to focus the activities set out in paragraph 54 to DfE for agreement prior to 1 April each year. These must be informed by:   * A benchmarking exercise against other professional development offers available to teachers and an assessment of what is required to exceed them. * the evidence it has gathered during its quality assurance activities.   54. In the first year of the contract, two of these priority areas must be:   * Identifying and sharing best practice in participant assessment with providers * Identifying and establishing the reasons for any low take-up of NPQs that might occur, particularly in disadvantaged areas; identifying and establishing the reasons for unmet demand for NPQs.   **Function E. Partnership working with NPQ providers, participants and the DfE**  55. To quality assure NPQ provision effectively, the Contractor will need to work in partnership with NPQ providers, participants and the DfE. It will be responsible for quickly establishing productive and enduring working relationships with these parties.  56. The Contractor will clearly communicate its role in quality assurance to NPQ providers and participants, including what is expected from providers by when. All personnel will need to act with fairness, integrity and professionalism when working with providers to improve their performance, particularly during performance reviews, where it must treat providers fairly and be considerate of any extenuating circumstances related to underperformance.  57. It will handle any questions from providers, participants and the DfE in a fair, accessible and timely manner. In particular, the Contractor must reply to any questions or concerns raised by participants or providers within at least two weeks of receipt. Where that is not possible, the Contractor must reply, within at least two weeks of receipt, clearly setting out when they can expect a substantive response.  **Function F. Regular reporting of management information and analysis on the quality of NPQ provision**  58. The Contractor will be required to provide timely and accurate management information and analysis in relation to the performance of NPQ providers to DfE, for example, to support policy development or responses to Parliamentary Questions, Freedom of Information requests and Ministerial Briefings. Typical requests may include (but are not limited to):   * the number of participants studying towards and/or being awarded an NPQ (overall, by qualification and by provider). * the characteristics of participants studying towards an NPQ, such as the locations and type of schools they are drawn from (overall, by qualification and by provider). * the performance of providers against the requirements and metrics in the Quality Framework, overall and by provider.   59. The Contractor must supply substantive responses to urgent requests within 1 working day; and routine requests within 10 working days of the request being made.  60. The Contractor will also be required to supply this, and any other relevant information to any parties appointed on behalf of DfE to monitor QA, including, but not limited to, independent evaluator(s).  61. Data provided to DfE must be sent securely, by email, to a nominated DfE representative.  **Function G. Maintaining good governance arrangements**  62. The Contractor will need to establish and maintain good governance arrangements, which must include clear roles and accountabilities for the individuals and/or bodies involved, and the use of project and risk management tools to support the delivery of all of the functions in this specification.  63. In particular, the Contractor must create and adhere to the following documents and share these with DfE prior to 1 June 2018:   * An operational plan: the Contractor must hold an up-to-date forward look of its planned activities and key milestones during the lifetime of the contract, including any dependencies between these activities. * Risks and issues logs: the Contractor will be expected to identify the key risks to its work, their impact and the proposed mitigations via a risk register and issues log. * Resource plan: the Contractor must maintain an organisation chart detailing the personnel to be deployed to ensure sound governance, strong leadership and effective operational management of the requirements. * A business continuity plan: that ensures essential and time-critical business can be continued in the event of foreseen or unforeseen disruption. * A budget and financial plan: itemising actual and projected monthly spend over the duration of the contract period.   65. They must be updated and shared with DfE on a monthly basis after 1 June 2018.  66. The Contractor will meet monthly with DfE to discuss:   * the Contractor’s financial plan, including monthly expenditure/invoicing. * the Contractor’s operational plan and planned activities for future months. * The Contractor’s performance against contract KPIs. * A status report on provider numbers, participant numbers (by qualification), progress of participants towards final assessment (by qualification). * The Contractor’s management of data. * Status report on providers’ performance, including provider self-assessments, performance against metrics and participant feedback; and any performance reports produced by the Contractor in that period. * Any risks or issues relating to providers. * Any other issues, learning or emergent good practice. * Cost down initiatives/improvement initiatives.   67. DfE requires accurate and timely data to be provided by the Contractor to support these monthly meetings, and will agree the format of this reporting with the successful bidder.  **Volumes**  68. Bidders should use the following planning assumptions when assembling their bids. Please note that planning assumptions in relation to participant numbers are indicative and do not represent guaranteed throughput; the actual number of NPQ participants and their breakdown by NPQ level will depend on the performance of NPQ providers over time.   * There will be 41 NPQ providers spread across the whole of England. These comprise a combination of sub-regional, regional, cross regional and national providers. * Providers will deliver any one, or any combination of NPQ levels. Further information on the NPQ providers is available at gov.uk. * Providers will commence delivery as follows: * 15 providers began delivery from 1 September 2017 * 14 providers began delivery from 1 October 2017 * 1 provider began delivery from 1 November 2017 * 11 providers begin delivery from 1 January 2018 * Approximate number of participants starting an NPQ in each academic year:   Academic Year 2017/18 - 9,000  Academic Year 2018/19 - 11,000  Academic Year 2019/20 - 12,500   * Approximate breakdown of participants in each academic year by NPQ level:   NPQ for Middle Leadership - 45%  NPQ for Senior Leadership - 35%  NPQ for Headship - 15%  NPQ for Executive Leadership - 5%  **Key performance indicators (KPIs)**  69. The Contractor will be required to meet our monthly Performance Standards which comprise the Key Performance Indicators set out in Schedule 4 to the Contract.  **Contract Term**  70. The contract will have an initial term of 3 years from contract award, with the option to extend for up to 2 further years, where:   * DfE is satisfied with the Contractor’s level of performance during the initial 3 year term. * NPQ provision continues beyond the initial 3 year term. * DfE Ministers agree that policy in relation to NPQ provision, and the quality assurance of it, remains unchanged.   71. DfE reserves the right to terminate, or reduce the scope of, any agreement should funding be withdrawn, changed or there is a significant change in government policy relating to the delivery of the programme and outputs required as part of this contract, by giving 3 months’ notice. Please note that Contract requirements will be subject to available financial resources, supplier performance and flexibility to meet changing demands.  **Estimated budget (excluding VAT)**  72. The anticipated maximum contract value is up to £6,000,000 (inclusive of all expenses and exclusive of VAT) for the initial three-year contract term, with a maximum value of £2,000,000 per financial year. Subject to supplier performance, the contract may be extended for up to a further two years on a 1 + 1 year extension. The total maximum contract value will not exceed £10,000,000 or five-year contract period (inclusive of all expenses and exclusive of VAT). VAT (where applicable) is to be charged at the prevailing rate, which is currently 20%.  73. The maximum indicative value for Year 1 of the contract term is £2m exclusive of VAT; this is to deliver all required services. Whilst this range would include any year 1 set-up costs, we expect bidders to identify year-on year cost savings relating to service delivery and improvements in the pricing schedule. The pricing schedule must be fully completed. Any set-up costs outlined in the pricing schedule should be linked to demonstrable deliverables that offer value to DfE.  74. Bidders must note that DfE reserves the right to reject any tender in full (regardless of any other merits) where the year 1 price offered in the pricing schedule exceeds the upper limit of the stated year 1 value range, in year 1 or in any subsequent year of the contract term.  75. Bidders will be evaluated and scored against the whole life contract price; however, bidders will be required to provide a full breakdown of each element of these costs within the pricing schedule. Failure to provide this breakdown will result in your bid not being considered further.  **Payment mechanism**  76. All priority services, as agreed during the mobilisation stage, must be ready to be delivered from 1 June 2018. The payment schedule will commence from the end of this month, subject to successful completion of a contract readiness review (the details of which will be agreed with the provider in the first month of the contract) and contingent on successful delivery of the contracted services from the delivery date in line with contractual KPIs and Service Levels, and continuing on a monthly basis in line with continued service delivery.  77. Open Book Contract Management (OBCM) will be adopted for this project. OBCM is the scrutiny of a supplier’s costs and margins through the reporting of, or accessing, accounting data. This approach allows both parties to be clear on the supplier’s charges and it provides a basis for reviewing performance, agreeing the impact of change and bringing forward ideas for efficiency improvements. The detailed requirements have been specified in the Contract provision.  78. Following award of the contract the DfE will agree with the provider a payment schedule that ensures set-up, fixed or scheduled costs are paid in the relevant period whilst any variable costs will be paid, in arrears, based on actual service activity undertaken. All invoices submitted to the DfE should include the relevant evidence and/or data to support the charges. The DfE will only pay invoices that have been validated as outlined in the Terms and Conditions. |
| Indicative timelines for this Invitation to Bid (ITB) and milestones for the delivery of services are shown in the table below:   |  |  | | --- | --- | | **Activity** | **Dates** | | Launch of invitation to bid | 8 December 2017 | | Bidder WebEx Event | 10.30 am, 14 December 2017 | | Closing date for all questions from bidders | 10 January 2018 | | **Closing date for completion of evaluation sections with BRAVO (Submission of Tender)** | **12 Noon, 19 January 2018** | | Issue of any clarification questions | 25 January-1 February 2018 | | Contract award | 25 April 2018 | | Mobilisation Period | 21 May – 31 May 2018 | | Start of QA activity | 1 June 2018 | |
| **Data Handling** |
| See the contract for full details of the data handling requirements.  As the successful bidder will receive data regarding NPQ participants throughout the course of this contract, they must adhere to data security standards (i.e. how and where it will store this data, how it will plan to dispose of it once the contract has expired) as outlined in the attached Terms and Conditions within the contract.  **Security of Data**  The successful bidder will be required to submit a security plan that explains how you will ensure that departmental and personal data, including historic data, will be protected, in line with the General Data Protection Regulation (GDPR) that comes in to effect in May 2018, including a risk assessment, within 30 days of contract award and adhere to the data clauses set out in the contract. The successful bidder will be expected to provide a strategy to ensure data will be appropriately disposed of in line with all relevant government standards, the GDPR and be prepared to update at contract meetings. |
| **Attachments** |
| The following attachments should be read in conjunction with this Requirement:   * Invitation to bid * Quality Assurance Framework * Content and Assessment Framework * Mark scheme * Terms and conditions * Terms of participation * Equality and Diversity policy |

**Annex 1: NPQ Quality Framework**

This Quality Framework consists of five sections and an annex:

* **Section 1 -** Purpose and use of this Quality Framework
* **Section 2 -** Failure to Comply with this Quality Framework
* **Section 3 -** Quality Requirements: Providers’ Leadership and management
* **Section 4 -** Quality Requirements: Providers’ Provision
* **Section 5** **-** Metrics: Technical Definitions and Reporting Requirements
* **Annex A** **-** Indicative target numbers for Metrics 2 and 3

**Section 1 - Purpose and use of this Framework**

**Purpose of this Quality Framework**

This Quality Framework sets out the requirements that all those accredited to deliver NPQs are required to meet and maintain. This Quality Framework, and Quality Assurance (QA) activities pursuant to it, support:

* Consistently high quality leadership development for all NPQ participants;
* High levels of participant satisfaction, recruitment, retention and achievement;
* Providers to continuously and systematically improve the quality of their delivery, with support from DfE/its QA Agent where necessary; and
* Continued confidence in the NPQ brand.

The Quality Framework gives all providers a shared understanding of DfE quality requirements and a means of maintaining the standards of their NPQ programmes. Compliance with this Quality Framework means that NPQ provision and outcomes are comparable and consistent across England.

**All NPQ providers are required to operate within the terms of this Quality Framework and co-operate with the quality assurance activities undertaken by DfE and/or its QA agent pursuant to this framework.**

**In total, there are 15 requirements and 7 accompanying metrics. Each provider must be able to demonstrate that they are delivering provision that meets all of the requirements and accompanying metrics in this framework.**

DfE and/or its QA agent will monitor performance and regularly conduct reviews of NPQ providers to ensure that they are meeting the requirements of this Quality Framework.

Where providers are not meeting all of the requirements and accompanying metrics in this Quality Framework, DfE/its QA Agent will assess the reasons for this, and, where necessary, require remedial action to be taken by the provider.

In the event of serious underperformance, providers will lose their accreditation and no longer be able to deliver provision that leads to the award of an NPQ.

**Use of this Quality Framework**

**NPQ providers** must use this Quality Framework to maintain and improve the quality of their NPQ programmes. Where they do not meet and maintain the quality requirements in this framework, they must take remedial action as set out by DfE and/or its QA agent.

**DfE/its QA agent** will use this Quality Framework as a benchmark against which they assess the performance of NPQ Providers. Where a provider is not meeting the quality requirements and accompanying metrics in this Quality Framework, DfE/its QA agent will assess the reasons for this and where necessary, require remedial action to be taken by the provider.

**For the education sector and those applying for, or participating in, NPQ programmes**, this Quality Framework clearly sets out what is expected from providers, including the standards and quality of provision they are required to meet and maintain. Provider performance against the metrics in this framework must be made public by providers, so informed judgements can be made by the education sector and those applying for, or participating in, NPQ programmes, as to the quality of each Provider.

Providers and DfE and/or its QA agent will undertake the following activity within the context of this QA Framework:

|  |  |  |
| --- | --- | --- |
| **Stage** | **Provider** | **DfE/QA agent** |
| Application for accreditation | * Aspirant provider submits accreditation application | * Assesses capacity, capability and commitment of aspirant providers; awards accreditation to successful applicants |
| Years 1 and 2 | * Submits six-monthly (mid-year and end-year) self-assessment against the requirements in sections 3 and 4 of this framework * Returns six-monthly (mid-year and end-year) data on achievement of metrics and supporting evidence to substantiate the achievement of metrics * Publishes performance against the metrics in this framework * Where necessary, implements remedial action identified by DfE/its QA agent to mitigate underperformance | * Reviews the self-assessment against sections 3 and 4 of this framework * Monitors metric returns and reviews supporting evidence to substantiate the achievement of the metrics * Assesses six-monthly participant feedback (mid-year and end-year) * National moderation of final assessments, against DfE standards * Provides feedback and support (including outcome of moderation of final assessments) * Where necessary, identifies remedial action that providers who are underperforming must take |
| Year 3 onwards | * Returns annual data on achievement of metrics and supporting data to substantiate the achievement of metrics * Publishes performance against the metrics in this framework * Where necessary, implements remedial action identified by DfE/its QA agent to mitigate underperformance | * Monitors metrics returns and reviews supporting evidence to substantiate the achievement of the metrics * Assesses annual participant feedback * National moderation of final assessments, against DfE standards * Undertakes periodic performance reviews of all providers * Undertakes immediate performance reviews of any providers that are underperforming * Provides feedback and support (including outcome of moderation of final assessments) and * Where necessary, identifies remedial action that providers who are underperforming must take |

**Section 2 - Failure to comply with this Quality Framework**

**Where a provider fails to comply with the terms of the Accreditation Agremeement including the requirements and accompanying metrics within this framework DfE reserves its right to terminate the Accreditation Agreement and revoke a provider’s accreditation.** However, where DfE/its QA agent considers that remedial action is possible it will insteadgive notice to the provider of all required remedial action that the provider must take in order to improve their performance and retain their accreditation.

The DfE/its QA agent will treat providers fairly and consider any extenuating circumstances when establishing the reasons for underperformance, and the need for, or nature of, remedial action. It will take into account a provider’s:

* self-assessments against this framework
* metrics (including the outcome of the national moderation of final assessments)
* participant feedback
* previous performance reviews, where applicable

In addition, providers will have an opportunity to supply additional evidence or information to inform the DfE/QA agent’s assessment of the reasons for underperformance, and the need for, or nature of, remedial action.

**In the event of serious underperformance, DfE/its QA agent will terminate the Accreditation Agreement and revoke the provider’s accreditation.** Seriously underperforming providers are those who:

* without compelling evidence, fail to take the remedial action identified by DfE/its QA agent as necessary to meet and maintain the quality required by this framework.

**OR**

* fail to take reasonable steps to prevent malpractice or maladministration that leads to the incorrect award of an NPQ.

**OR**

* fail to report any investigations into, or confirmed instances of, malpractice or maladministration to DfE/its QA Agent immediately.

Where accreditation is revoked, the provider will no longer be able to deliver provision that leads to the award of an NPQ.

Providers will have the right to appeal the removal of their accreditation. The appeal will be heard by an independent panel convened by DfE. The panel will examine evidence from both the provider and the QA agent on the provider’s quality and reasons for removal of their accreditation. The independent panel makes the final decision regarding removal of accreditation and no further right of appeal exists.

**Section 3**

**Quality Requirements: Providers’ Leadership and management**

**Requirement A - General Management**

Providers operate clear governance, financial, risk management and administrative processes (including for the handling and protection of personal data), which adhere to statutory requirements, and effective mechanisms to ensure that these are understood and followed by all employees and partners.

Providers comply with any request for information made by the DfE/its QA Agent for the purposes of performing its functions under this framework. Any information provided must be accurate, complete and timely.

**Requirement B - Engagement Strategy**

Providers operate a coherent strategy to recruit additional schools (including teaching schools) and others with relevant expertise and resource, to ensure that their provision has sufficient reach and depth.

**Requirement C - Resourcing and Contingency Planning**

Providers operate robust resourcing, recruitment, retention, contingency and succession planning strategies. These must ensure there are sufficient numbers of qualified and experienced personnel available to deliver provision, at least 50% of whom (except for NPQEL) must be serving school leaders.

Providers ensure that in the event of accreditation being removed, provision is made for participants on programmes to complete their study and final assessment with other providers. Where this is not possible, providers ensure participants are refunded for undelivered services.

**Requirement D - Recruitment and Admission of Participants**

Providers operate robust recruitment, selection, deferral and admission policies for participants. These must be transparent, reliable, inclusive and support social mobility and include a meaningful role for the lead school.

Providers recruit from schools throughout their specified area of operation.

Providers report recruitment data to DfE/its QA Agent at least every 6 months.

**Metric 1:** Providers recruit at least 100% of their target number for each year and for each NPQ level offered[[1]](#footnote-1)

**Metric 2:** Providers ensure that their allocated target of all those recruited are from schools where 30% or more pupils are known to be eligible for Free School Meals, for each NPQ level offered [[2]](#footnote-2)

**Metric 3:** Providers ensure that their allocated target of all those recruited are from a non-white British background, for each NPQ level offered[[3]](#footnote-3)

**Requirement E - Transparency**

Providers make publicly available a clear, up to date, description of their programmes and outcomes, including (but not limited to):

* Cost of participation, including assessment
* Duration of programme, including number of guided learning hours for each type of study, for example face-to-face, peer, online, individual and work-based
* Performance against the metrics in this framework

Providers comply with DfE guidance regarding the use of DfE and NPQ branding.

**Requirement F - Continuous Improvement**

Providers operate a robust strategy for continuous quality improvement, so that every participant, regardless of their individual needs, is enabled to develop to the best of their ability. This must include a meaningful role for the lead school and the regular evaluation of their provision, leadership and management, through:

* self-assessment
* seeking and acting on feedback from personnel, participants and partners
* taking account of new evidence and research
* working with DfE and/or its QA agent on any additional measures to improve quality, where applicable

**Requirement G - Complaints and Appeals Procedures**

Providers operate fair, accessible and timely procedures for handling participants’ complaints

Providers co-operate with DfE/its QA agent in the event of a participant launching an appeal against a complaint outcome.

**Requirement H – Preventing and Dealing with Malpractice and Maladministration**

Providers operate reliable and transparent procedures for preventing, investigating and mitigating the impact of malpractice or maladministration. This must include the reporting of any investigations into, and confirmed instances of, malpractice or maladministration to DfE/its QA agent immediately.

**Section 4**

**Quality Requirements: Providers’ Provision**

**Requirement I - Design of Content**

Providers operate effective processes for the design, development, improvement and approval of NPQ provision, which must include a meaningful role for the lead school.

Providers adhere to the latest content and assessment framework set by DfE.

**Requirement J - Types of Study**

Providers ensure that there is a range of different types of study, for example face-to-face, peer, online, individual and work-based. Providers ensure that their provision includes:

* + leadership training in the workplace, on the job, doing real work
  + challenge and support – through a coach and/or mentor
  + access to high quality resources, drawing on up-to-date research and evidence
  + professional development from and with credible peers
  + opportunities for structured reflection

Providers ensure that content is designed to be delivered over a period of at least two academic terms.

**Requirement K - Availability of Venues**

Providers have a sufficient number of appropriately-located, fit-for-purpose and value for money venues. This includes placement schools for those providers offering NPQH provision.

**Requirement L - Support for Participants**

Providers make available to participants a strong ongoing network of support, including from coaches, peers and external experts.

**Requirement M - Accurate Assessment of Participants**

Providers operate transparent and reliable processes for participant assessment which enable every participant to demonstrate accurately the extent of their ability and performance in achieving their NPQ. This must include a meaningful role for the lead school, the use of trained assessors and peer moderation of results (including borderline cases).

Providers comply with procedures for tracking participant attendance and progress to ensure that completion is based on secure evidence.

Providers comply with the assessment framework and accompanying guidance set by DfE.

Providers report participant assessment outcomes to DfE/its QA Agent at least every 6 months

**Metric 4:** Providers ensure that at least 90% of participants present for final assessment within 18 months of formally commencing the programme.

**Metric 5:** Providers achieve 95% accuracy level for all their final assessments[[4]](#footnote-4).

**Requirement N – Use of Participant Feedback**

Providers engage with all participants throughout the course of their provision, enabling participants to comment on the quality of the provider and the provision. Equally, providers ensure that all feedback to participants is transparent, valid and fair. This includes supporting participants to complete a DfE feedback questionnaire.

**Metric 6:** Providers ensure that the aggregated mean rating across all participant feedback received is at least 6 out of 10.

**Requirement O - Participant Retention and Achievement**

Providers ensure that all participants, in accordance with their level of performance and ability, show similar patterns of retention and achievement.

**Metric 7:** Providers ensure that there is no significant difference in retention and achievement rates between different groups, for example groups with protected characteristics or leaders from schools with different levels of performance.

**Section 5 – Technical Definitions of metrics and reporting requirements**

**Metric 1: Providers recruit at least 100% of their target number of participants for each year and for each NPQ offered**

|  |  |
| --- | --- |
| **Technical Definition** | **Reporting Requirements**  The data below must be reported to DfE/its QA Agent to assess the provider’s performance against the metric. This must be submitted in the format specified by DfE/its QA Agent.Only the data in ***bold italics*** must be published by the provider as part of ‘Requirement E – Transparency’ |
| **Definition of ‘recruited’**: To be deemed recruited, participants must:   * have been enrolled by their provider to undertake the required provision * not be facilitators, administrators or provider team members involved in delivery of the programme * be counted only once if they have previously been withdrawn from, deferred, or failed the same qualification   **Setting the target number:**   * Providers will be required to submit annual recruitment targets for each NPQ level | For each participant:   * Name * NPQ level recruited to * Teacher Reference Number (where applicable) * Current job role/post * Name of participant’s school * Unique Reference Number of participant’s school * the Local Authority Area of the participant’s school and, where different, the Local Authority District * Government region in which participant’s school is located * Phase and type of participant’s school * Latest OFSTED inspection rating of participant’s school   Accompanying analysis:   * ***Total number of participants recruited, for each NPQ level offered*** * ***Total number of participants recruited, expressed as a percentage of target number*** |

**Metric 2: Providers ensure that their allocated target of all those recruited are from schools where 30% or more pupils are known to be eligible for Free School Meals, for each NPQ level offered**

|  |  |
| --- | --- |
| **Technical Definition** | **Reporting Requirements**  The data below must be reported to DfE/its QA Agent to assess the provider’s performance against the metric. This must be submitted in the format specified by DfE/its QA Agent.Only the data in ***bold italics*** must be published by the provider as part of ‘Requirement E – Transparency’ |
| **Setting the target number:**   * The target percentage will be adjusted for each accredited provider to take account of the nature of schools in their area of operation, based on the data collected in the [2016 School Census](https://www.gov.uk/government/publications/school-workforce-census-2016-business-and-technical-specification). * The target will be introduced from year 2 onwards and increase incrementally from year 2 to year 3. * Indicative targets for each area of operation are available in Annex A.   **Definition of ‘30% or more pupils are known to be eligible for free school meals’**   * This will be based on the data collected in the [2016 School Census: Underlying Data](https://www.gov.uk/government/statistics/schools-pupils-and-their-characteristics-january-2016) (Speadsheet ‘SFR20\_2016-Schools-Pupils\_UD’, column EE), which lists individual schools and the percentage of pupils known to be eligible for free school meals within them. | For each participant:   * Whether 30% or more of the pupils in the participant’s school are known to be eligible for Free School Meals, based on the [2016 School Census: Underlying Data](https://www.gov.uk/government/statistics/schools-pupils-and-their-characteristics-january-2016) (Speadsheet ‘SFR20\_2016-Schools-Pupils\_UD’, column EE)   Accompanying analysis:   * Total number of participants recruited from schools where 30% or more of the pupils are known to be eligible for Free School Meals, for each NPQ level offered * ***The total number of participants recruited from school where 30% or more of the pupils are known to be eligible for Free school Meals, for each NPQ level offered, expressed as a percentage of the total number of participants recruited*** |

**Metric 3: Providers ensure that their allocated target of all those recruited are from non-white British groups, for each NPQ level offered**

|  |  |
| --- | --- |
| **Technical Definition** | **Reporting Requirements**  The data below must be reported to DfE/its QA Agent to assess the provider’s performance against the metric. This must be submitted in the format specified by DfE/its QA Agent.Only the data in ***bold italics*** must be published by the provider as part of ‘Requirement E – Transparency’ |
| **Setting the target number:**   * The target percentage will be adjusted for each accredited provider to take account of the nature of the relevant teaching population in their area of operation, based on the data collected in the [2015 School Workforce Census](https://www.gov.uk/government/statistics/school-workforce-in-england-november-2015). * The target will increase incrementally between years 1 and 3. * Indicative figures for each area of operation are available in annex A | For each participant:   * Participant’s ethnicity, including whether they identify as white-British   Accompanying analysis:   * Total number of participants recruited that do not identify as white-british, for each qualification offered * ***Total number of participants recruited that do not identify as white-british, for each NPQ level offered*** |

**Metric 4: Providers ensure that at least 90% of participants present for final assessment within 18 months of formally commencing the programme**

|  |  |
| --- | --- |
| **Technical Definition** | **Reporting Requirements**  The data below must be reported to DfE/its QA Agent to assess the provider’s performance against the metric. This must be submitted in the format specified by DfE/its QA Agent.Only the data in ***bold italics*** must be published by the provider as part of ‘Requirement E – Transparency’ |
| **Definition of ‘present for final assessment’**:   * Participants are deemed as having presented for final assessment when they have formally submitted their written assessment task(s) to their provider for assessment.   **Definition of ‘formally commencing’**:   * Participants are deemed to have formally commenced the programme when they have both enrolled and started actively participating in the provider’s professional development activities. | For each participant:   * Participant’s formal commencement date and date presented for final assessment   Accompanying analysis:   * ***Proportion of participants that present for final assessment within 18 months of formally commencing their programme, expressed as a percentage, for each NPQ level offered*** |

**Metric 5: Providers ensure a 95% accuracy level for all their final assessments**

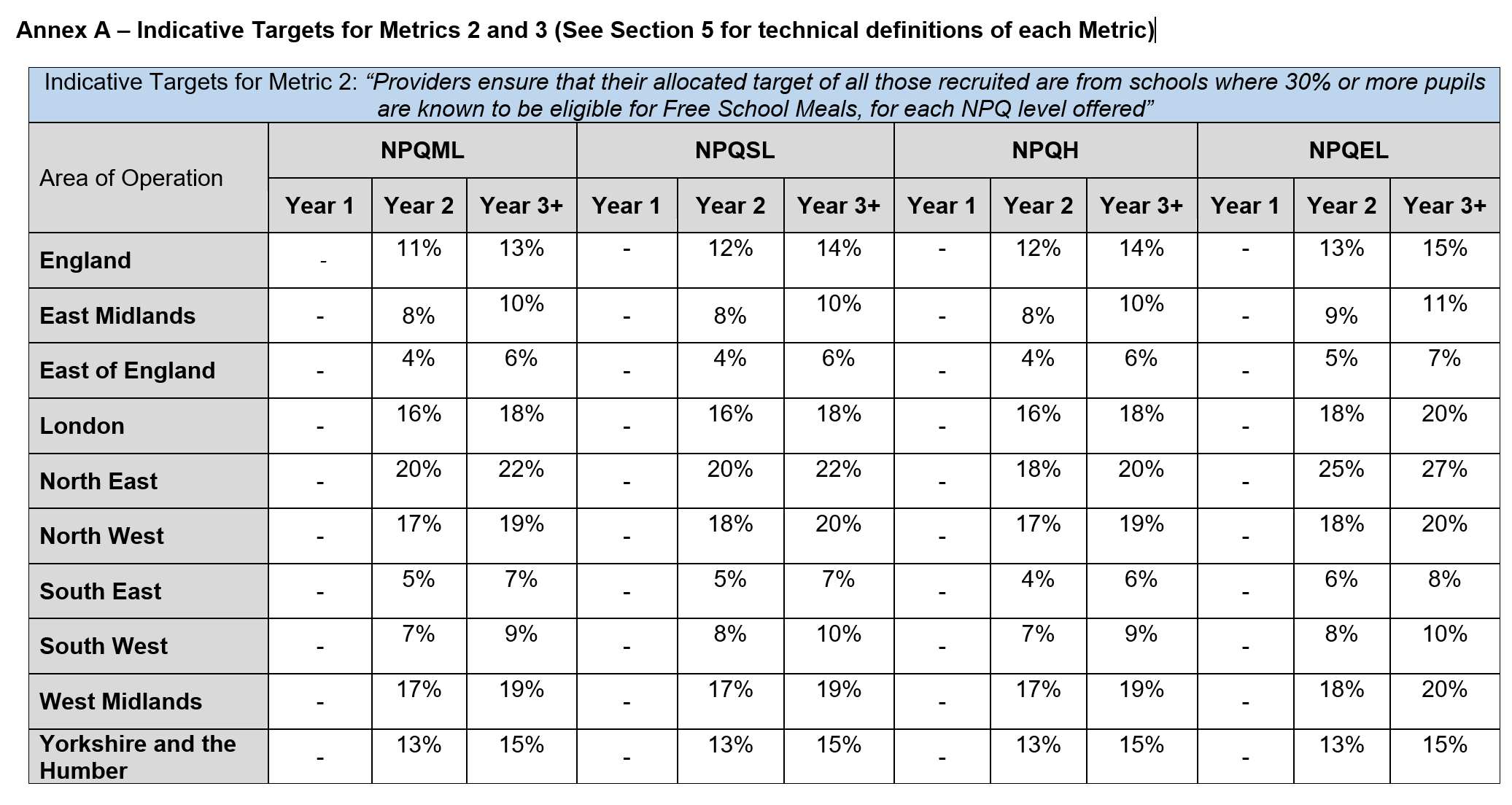
|  |  |
| --- | --- |
| **Technical Definition** | **Reporting Requirements**  The data below must be reported to DfE/its QA Agent to assess the provider’s performance against the metric. This must be submitted in the format specified by DfE/its QA Agent.Only the data in ***bold italics*** must be published by the provider as part of ‘Requirement E – Transparency’ |
| **Verification of final assessment accuracy**:   * A random 10% sample of a provider’s assessment scripts will be subject to national moderation. * To achieve this metric, no more than 5% of overturns must occur. | For each participant:   * Participant’s final assessment script (a sample will be requested) * The final mark awarded to participant and whether this constitutes a pass or fail * Whether the participant’s final mark was a) subject to peer moderation b) changed as a result of peer moderation   Accompanying analysis:   * ***This information will be supplied by DfE/its QA Agent and must be published*** |

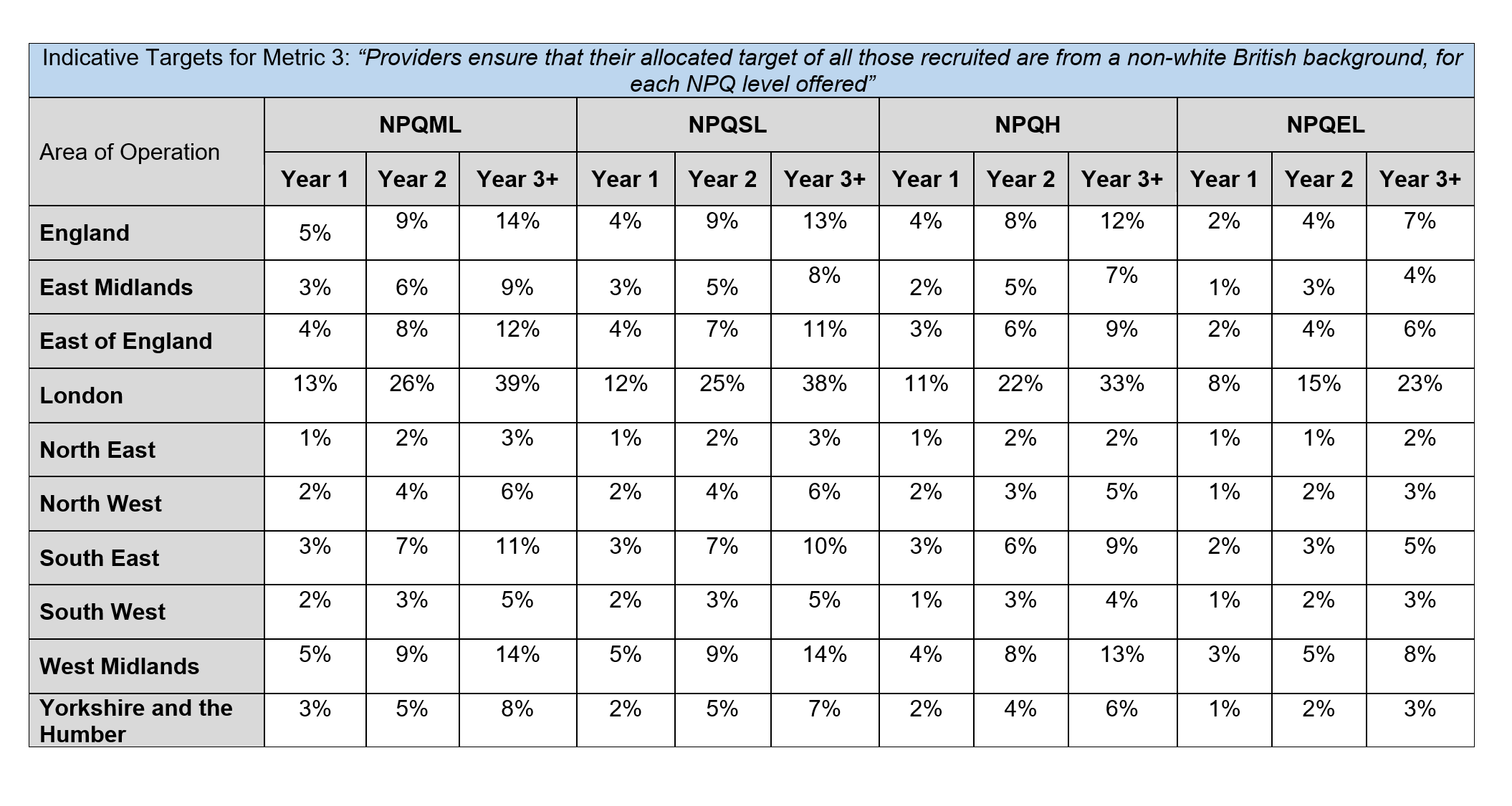
**Metric 6: Providers ensure that the aggregated mean rating across all participant feedback received is at least 6 out of 10.**

|  |  |
| --- | --- |
| **Technical Definition** | **Reporting Requirements**  The data below must be reported to DfE/its QA Agent to assess the provider’s performance against the metric. This must be submitted in the format specified by DfE/its QA Agent.Only the data in ***bold italics*** must be published by the provider as part of ‘Requirement E – Transparency’ |
| **Definition of rating**:   * Participants are required to provide feedback on to what extent their provider has met requirements in this framework. * The feedback form will be standardised and issued centrally by DfE or its QA agent. * Successful participants will only receive their qualification once they have completed the feedback form. * Providers are expected to give participants time and access to complete these. | For each participant:   * N/A – This information will be gathered by DfE/its QA Agent   Accompanying analysis:   * ***The aggregated mean rating will be supplied by DfE/its QA Agent and then must be published*** |

**Metric 7: Providers ensure that there is no significant difference in retention and achievement rates between different groups, for example, groups with protected characteristics or leaders from schools with different levels of performance.**

|  |  |
| --- | --- |
| **Technical Definition** | **Reporting Requirements**  The data below must be reported to DfE/its QA Agent to assess the provider’s performance against the metric. This must be submitted in the format specified by DfE/its QA Agent.Only the data in ***bold italics*** must be published by the provider as part of ‘Requirement E – Transparency’ |
| **Definition of ‘no significant difference’:**  Whether the retention or achievement rate of a particular group varies more than 10% from the provider’s overall mean retention or achievement rate for the NPQ level offered.  **Definition of ‘Retention Rate’:**  The percentage of participants who present for final assessment, as a proportion of those who formally commence the programme  **Definition of ‘Achievement Rate’:**  The percentage of participants who achieve a pass, as a proportion of those who present for final assessment  **Definition of ‘different groups’:**  Particular groups of participants, include (but are not limited to), the following definitions:  Sex, Ethnicity, Disability, Phase and type of school, Ofsted rating of school, Whether the participant’s school has 30% or more of its pupil eligible for Free School Meals  Providers should also consider other protected characteristics as defined by the Equality Act 2010. | For each participant:   * Participant’s sex * Whether the participant has a disability * Whether the participant has withdrawn or deferred from the qualification, and where applicable, the reasons for this   Accompanying analysis:   * ***The overall retention rate for each NPQ level offered*** * ***The retention rate for different groups*** * ***The overall achievement rate, for each NPQ level offered*** * ***The achievement rate for different groups*** |





**Annex 2: NPQ Content and Assessment Framework**

**Structure of this Framework**

* **Section 1:** Purpose and use of this Content and Assessment framework
* **Section 2:** Provider Requirements and Freedoms
* **Section 3:** NPQ Content Areas
* **Section 4:** NPQ Leadership Behaviours
* **Section 5:** NPQ Assessment Tasks and Criteria

**Section 1 - Purpose and Use of this Framework**

As part of the NPQ quality requirements (notably Section 4), providers must deliver provision and assess participants in accordance with this framework. The framework sets out the:

1. knowledge, skills and behaviours that a provider’s provision must cover
2. criteria against which all NPQ participants must be assessed by providers
3. assessment tasks through which all NPQ participants must be assessed by providers

**NPQ Providers** must use this framework to:

* Design provision that covers all of the knowledge, skills and behaviours listed for the NPQ level(s) they are providing.
* Assess participants against the assessment criteria listed for the NPQ level(s) they are providing.
* Assess participants in accordance with the tasks listed for the NPQ level(s) they are providing.

**DfE/its QA Agent** will use this framework to:

* Ensure participants are supported to develop the knowledge, skills and behaviours they need to become effective school leaders.
* Ensure providers are meeting quality requirements of the Quality Framework (notably Section 4)

**The education sector and those applying for, or participating in, NPQ programmes,** can usethis framework to:

* Understand the knowledge, skills and behaviours that will be developed through each NPQ level, and how these will be assessed.
* Select the appropriate NPQ for their needs.

**Section 2 - Provider requirements and freedoms**

**Content Areas**

There are 6 content areas for each NPQ level, which set out *what* a leader should know or be able to do. The 6 content areas are common to each NPQ level, but the knowledge and skills within them increases in sophistication, depth and breadth progressively through the NPQ levels. They are:

* Strategy and Improvement
* Teaching and Curriculum Excellence
* Leading with Impact
* Working in Partnership
* Managing Resources and Risks
* Increasing Capability

**Providers must design and deliver provision that covers all of the knowledge and skills in the *‘Learn how to’* and *‘Learn about’* columns, for the NPQ level(s) they are delivering.** A participant’s knowledge and skills will then be assessed through corresponding assessment criteria and assessment tasks, covered below.

Provision must cover all of the knowledge and skills in the content areas, but need not follow a specific structure. The content areas are a framework within which providers have freedom to organise, structure, contextualise or prioritise provision to best suit the needs of their participants and their particular context.

Consequently, these content areas may be delivered in a different order, organised by different themes, added to, or contextualised.

**Leadership Behaviours**

There are 7 leadership behaviours, common to each NPQ level, which set out *how* the best leaders operate. They are:

* Commitment
* Collaboration
* Personal Drive
* Resilience
* Awareness
* Integrity
* Respect

**Providers must work with participants to evaluate the participant’s strength in each behaviour at the beginning of their NPQ, and plan how the participant will develop these behaviours during their NPQ study.**

Providers have freedom to determine how this should be done and a participant’s strength in the leadership behaviours will not be assessed through assessment criteria or assessment tasks.

**Assessment Criteria**

For each content area, there are corresponding assessment criteria setting out the standards against which a participant will be assessed. These are listed by content area and by assessment task.

**Providers must assess participants against the assessment criteria listed for the NPQ level, through a series of defined assessment tasks. DfE will provide a mark scheme to support providers when assessing candidates against these criteria.**

Providers must mark candidates in accordance with this mark scheme to ensure a nationally consistent approach is taken. However, the mark scheme will not name individual pieces of research or examples that must be referred to; rather participants will be expected to drawn on the relevant bodies of research or examples that relate to the nature of their project.

**Assessment Tasks**

For each NPQ level, there are defined tasks setting out how participants must be assessed. These describe the project(s) a participant will need to complete, and the supporting evidence they will need to submit as part of the assessment stage.

* For NPQML and NPQSL, this consists of one project, split into two parts.
* For NPQH, this consists of two separate projects, one of which must be based on their experiences during a 9-day placement in another school.
* For NPQEL, this consists of two separate projects.

**Providers must assess participants using these tasks. Specifically, providers are required to identify placement schools for NPQH participants to undertake their placement and associated project work.**

Whilst these tasks define the key parameters for a project (for example, word count, duration and broad theme that the project must address), providers are free to work with participants to agree an appropriate topic, based on their current school environment and its priorities (or placement school environment for NPQH).

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **Section 3 - NPQ Content Areas**  Providers must design and deliver provision that covers all of the knowledge and skills in the *‘Learn how to’* and *‘Learn about’* columns, for the NPQ level(s) they are delivering  **Strategy and Improvement** | | | |  |
| ***NPQML (Leading a team)*** | | | | |
| **Learn how to:** | **Learn about:** | **Assessment Criteria** | **Tested in** | |
| Manage and analyse performance data to evaluate progress, identify trends, define team priorities and develop improvement strategies (for example, in relation to disadvantaged pupils or those with particular needs) | Tools and techniques to manage and analyse performance data on progress and attainment at group and individual level (for example, databases, spreadsheets, formulae and graphs) | 1.1.1 Deploys tools and techniques to manage and analyse data on pupil progress and attainment  1.1.2 Designs, evaluates and improves plans in light of data on pupil progress and attainment | Part A  **Supporting**  **document required:**  Raw data analysis | |
| Statistical and data analysis concepts (for example, confidence intervals, statistical significance, sampling, correlation and causation) |
| Implement successful change at team level | Tools and techniques that support change management | 1.1.3 Deploys change management tools and/or techniques during the design and implementation of plans | Part A | |
| Examples of successful change management drawn from a range of schools |

|  |  |  |  |
| --- | --- | --- | --- |
| ***NPQSL (Leading across a school)*** | | | |
| **Learn how to:** | **Learn about:** | **Assessment Criteria** | **Tested in** |
| Analyse performance data to identify the causes of variation within a school and against comparative schools (for example, in relation to national benchmarks, historical performance or between different groups) | Sources of internal, national and socio-economic data that can inform pupil progress and identify underachievement (for example, Progress 8 and the [EEF’s Families of Schools database](https://educationendowmentfoundation.org.uk/resources/families-of-schools-database/)) | 1.2.1 Deploys statistical and/or data analysis concepts to identify variation in pupil performance and contributing factors, applying the findings to design of own plans | Part A  **Supporting document required**: Raw data analysis |
| Statistical and data analysis concepts, including confidence intervals, statistical significance, sampling, correlation and causation |
| Ensure data collected is necessary, proportionate and manageable for staff | Data collection best practice, including the principles and recommendations identified by the [Independent Teacher Workload Review Group](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/511258/Eliminating-unnecessary-workload-associated-with-data-management.pdf) and [clarification of Ofsted inspection requirements](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/463242/Ofsted_inspections_clarification_for_schools.pdf) |
| Work with the governing board effectively to identify and agree approaches to school priorities | The key features of effective governance as set out in the [Governance Handbook](https://www.gov.uk/government/publications/governance-handbook) | 1.2.2 Evaluates research into, and examples of, implementing change successfully and applies findings to the design and implementation of own plans | Part A |
| Design and implement sustainable change across a school | Research into the characteristics of successful change programmes, drawn from a range of schools and non-school contexts |

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| ***NPQH (Leading a school)*** | | | |
| **Learn how to:** | **Learn about:** | **Assessment Criteria** | **Tested in** |
| Anticipate changes in the external and strategic environment | Horizon-scanning and drivers of political, social, economic, technological, legal and environmental change | 1.3.1 Analyses the implications of changes in the external and strategic environment and applies findings to own plans | Task 1 |
| Develop an evidence-based organisational strategy, in collaboration with the governing board | Critical thinking, statistical and data analysis tools, techniques and concepts that support decision-making and strategy development | 1.3.2 Deploys critical thinking and statistical and/or data analysis tools, techniques and concepts during the design of own plans | Task 1 |
| Data collection best practice, including the principles and recommendations identified by the [Independent Teacher Workload Review Group](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/511258/Eliminating-unnecessary-workload-associated-with-data-management.pdf) and [clarification of Ofsted inspection requirements](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/463242/Ofsted_inspections_clarification_for_schools.pdf) |
| The role of the governing board in strategy development, including the benefits of working with a visionary and robust governing board | 1.3.3 Collaborates with the governing board during the design and implementation of plans, describing the benefits of doing so | Task 1 |
| Lead a successful whole-school change programme | Research into, and examples of, the effective leadership of change, drawn from a range of schools and non-school contexts | 1.3.4 Analyses research into, and examples of, the leadership of change, drawn from a range of schools and non-school contexts, and applies findings to the design and own leadership of plans | Task 1 |

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| ***NPQEL (Leading several schools)*** | | | |
| **Learn how to:** | **Learn about:** | **Assessment Criteria** | **Tested in** |
| Identify and anticipate changes in the external or strategic environment and understand their impact on different organisations | Techniques to analyse the external or strategic environment (for example, in political, social, economic, technological, legal and environmental terms) | 1.4.1 Analyses the external and/or strategic environment, identifies implications for relevant organisations, and applies findings to own plans | Task 1  Task 2 |
| Conceptual, critical thinking, statistical and data analysis tools, techniques and concepts that support decision-making and strategy development |
| Design a sustainable business development strategy, whether for growth, stabilisation or specialisation | Research into, and examples of, successful business development strategies, including growth, stabilisation and specialisation, drawn from a range of schools and non-school contexts | 1.4.2 Analyses research into, and examples of, successful business development and business failure, drawn from schools and non-school contexts, and applies findings to own plans | Task 1 |
| Research into, and examples of, the causes of business failure, drawn from a range of schools and non-school contexts |
| Lead a programme of significant change across several schools | Research into, and examples of, delivering change across a number of organisations, drawn from a range of schools and non-school contexts (for example, mergers or restructures) | 1.4.3 Analyses research into, and examples of, delivering change across a number of organisations, drawn from schools and non-school contexts, and applies findings to own plans | Task 1  Task 2 |

**Teaching and Curriculum Excellence**

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| ***NPQML (Leading a team)*** | | | |
| **Learn how to:** | **Learn about:** | **Assessment Criteria** | **Tested in** |
| Grow excellent, evidence-based teaching in a team and a curriculum that develops pupils academically and prepares them for adult life | Research into, and examples of, domestic and international teaching strategies and pedagogical approaches with a proven impact (for example, [the EEF evidence base on the effective use of Phonics or Mastery teaching](https://educationendowmentfoundation.org.uk/resources/teaching-learning-toolkit/behaviour-interventions/)) | 2.1.1 Analyses research into, and examples of, domestic and international teaching strategies/pedagogical approaches and applies findings to own plans | Part A |
| Research into, and examples of, different models of pupil assessment, including their use to set challenging targets, monitor progress and raise standards for all pupils, including those working below the national curriculum |
| The Ofsted School inspection handbook, particularly [the clarification of inspection requirements](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/463242/Ofsted_inspections_clarification_for_schools.pdf) in relation to lesson planning, marking, feedback and collection of pupil performance data |
| The benefits, characteristics and examples of knowledge-rich curricula (for example, a sequential maths curriculum) | 2.1.2 Evaluates the strengths and weaknesses of curriculum taught by team, implementing improvements where necessary | Part A |
| Improve the progress, attainment and behaviour of all pupils, including those who are disadvantaged or have particular needs (for example, Pupil Premium, SEND, EAL or the most able pupils) | Research into, and examples of, interventions targeted at improving the progress/attainment of disadvantaged groups or those with particular needs, drawn from a range of schools (for example, the [EEF’s teaching and learning toolkit](https://educationendowmentfoundation.org.uk/resources/teaching-learning-toolkit/behaviour-interventions/)) | 2.1.3 Implements and evaluates an evidence-based project that improves pupil progress and/or attainment | Part A  **Supporting document required:** Pupil performance data |
| Research into, and examples of, the use of specialist provision for pupils with particular needs, drawn from a range of schools |
| The graduated approach to supporting SEND pupils, as set out in the [SEND Code of Practice](https://www.gov.uk/government/publications/send-code-of-practice-0-to-25) |

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| ***NPQSL (Leading across a school)*** | | | |
| **Learn how to:** | **Learn about:** | **Assessment Criteria** | **Tested in** |
| Use a range of techniques to gather evidence on teaching quality and the impact of interventions across a school | A range of techniques to gather evidence in relation to teaching quality and evaluate the impact of interventions | 2.2.1 Evaluates teaching quality across a school accurately, exploiting appropriate techniques to gather evidence | Part A |
| Reduce variation within the school and against comparative schools by improving pupil progress, attainment and behaviour | Research into, and examples of, leadership or management strategies that have improved pupil behaviour, progress and attainment and reduced variation across a school, drawn from a range of schools (for example, the [EEF’s toolkit on teaching and learning](https://educationendowmentfoundation.org.uk/resources/teaching-learning-toolkit/behaviour-interventions/#effectiveness)) | 2.2.2 Analyses different leadership/management strategies aimed at improving pupil progress, attainment and behaviour and applies findings to own plans | Part A |
| 2.2.3 Designs, implements and evaluates an improvement project that reduces variation in pupil progress and/or attainment across the school | Part A  **Supporting document required:** Pupil performance data |
| Legal frameworks and guidance relating to behaviour management, attendance, exclusions and bullying |
| Develop and maintain a rich, high-quality school curriculum | Research into, and examples of, curriculum development approaches/techniques (for example, through strengthening subject knowledge, developing subject-specific pedagogy or applying evidence on the effective use of Teaching Assistants | 2.2.4 Exploits opportunities to develop and grow the school curriculum | Part A |
| The benefits, characteristics and examples of knowledge-rich curricula (for example, a sequential maths curriculum) |

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| ***NPQH (Leading a school)*** | | | |
| **Learn how to:** | **Learn about:** | **Assessment Criteria** | **Tested in** |
| Lead and grow excellent teaching in a school | Research into, and examples of, the leadership of excellent teaching, domestically and internationally, including [The National standards of excellence for headteachers](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/396247/National_Standards_of_Excellence_for_Headteachers.pdf) | 2.3.1 Analyses a range of domestic and international research into, and examples of, the leadership of teaching and applies findings to own plans | Task 1 |
| The benefits of involvement in Initial Teacher Training in terms of teaching quality (for example, through extended mentoring opportunities) |
| Statutory curriculum requirements and examples of how freedoms have been used to improve pupil progress and attainment |
| The benefits, characteristics and examples of knowledge-rich curricula (for example, a sequential maths curriculum) |
| Tools and techniques to improve teaching quality across several schools (for example, through coaching and mentoring, designation as a Teaching School Alliance or the effective use of textbooks to support consistently high quality teaching) |
| Support pupils of all backgrounds, abilities and particular needs in the school to achieve high standards, including Pupil Premium, SEND, EAL or the most able pupils | Research into, and examples of, whole-school improvement strategies in relation to progress, attainment and behaviour, drawn from a range of schools, including interventions targeted at disadvantaged pupils or those with particular needs (for example, the [EEF’s toolkit on teaching and learning](https://educationendowmentfoundation.org.uk/resources/teaching-learning-toolkit/behaviour-interventions/)) | 2.3.2 Designs, leads, implements and evaluates an evidence-based change programme that improves pupil progress and/or attainment at whole-school level  2.3.3 Evaluates, monitors and responds to the needs and performance of all pupils in a school, including through provision for groups of pupils with particular needs | Task 1  **Supporting document required:** Pupil performance data  Task 1 |
| The implications of the Equality Act 2010 for all pupils |
| The requirements on schools to publish a SEN Information Report |
| Best practice in planning, commissioning and monitoring Alternative Provision |
| Systematically review the cumulative impact of initiatives on teacher workload and make proportionate and pragmatic demands on staff | Tools to assess and manage the impact of new policies or initiatives (for example, impact assessments and prioritisation techniques) | 2.3.4 Assesses the impact of new initiatives on teacher workload, implementing options to minimise or mitigate this where necessary | Task 1 |

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| ***NPQEL (Leading several schools)*** | | | |
| **Learn how to:** | **Learn about:** | **Assessment Criteria** | **Tested in** |
| Assess and improve teaching quality, pupil progress and attainment in a range of different contexts, including for disadvantaged pupils or those with particular needs (for example, including Pupil Premium, SEND, EAL or the most able pupils) | Systems and techniques used to evaluate teaching quality, pupil progress and attainment across several schools | 2.4.1 Evaluates teaching quality across several schools accurately, using a systematic and rounded approach, and applies findings to own plans | Task 2 |
| Domestic and international research into, and examples of, school improvement strategies in relation to progress, attainment and behaviour, drawn from a range of different schools, including interventions targeted at disadvantaged pupils or those with particular needs (for example, [the EEF’s toolkit on teaching and learning](https://educationendowmentfoundation.org.uk/resources/teaching-learning-toolkit/behaviour-interventions/)) | 2.4.2 Analyses domestic and international research into, and examples of, school improvement strategies in relation to progress, attainment and behaviour, including interventions targeted at disadvantaged pupils or those with particular needs, and applies findings to own plans | Task 2 |
| Deploy school-to-school support systems effectively to improve teaching quality, the school curriculum, pupil progress and attainment | Tools and techniques to improve teaching quality across several schools (for example, through coaching and mentoring, designation as a Teaching School Alliance or the effective use of textbooks to support consistently high quality teaching) | 2.4.3 Analyses research into, and examples of, effective school-to-school support systems in relation to teaching quality, pupil progress and attainment and applies findings to own plans  2.4.4 Designs, implements and evaluates an improvement strategy that improves pupil progress and attainment across several schools | Task 2  Task 2  **Supporting document required:** Pupil performance data |
| Research into, and examples of, school-to-school support systems that have improved the school curriculum, pupil progress and attainment, drawn from a range of schools (for example, across academy chains) |

**Leading with Impact**

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| ***NPQML (Leading a team)*** | | | |
| **Learn how to:** | **Learn about:** | **Assessment Criteria** | **Tested in** |
| Anticipate other peoples’ views or feelings and moderate your approach accordingly | Personal reflection and self-awareness tools | 3.1.1 Exploits different leadership styles and justifies why these have been adopted | Part A |
| Adopt different leadership styles to ensure the team meets its objectives | Research into, and examples of, different leadership styles, including their associated benefits and risks |
| Present, communicate or defend challenging messages confidently and positively to a range of audiences | A range of written and verbal communication and presentation styles, including why these have been adopted in different situations (for example, to communicate with pupils, parents/carers, colleagues and external parties) | 3.1.2 Exploits different communication styles and justifies why these have been adopted | Part A |

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| ***NPQSL (Leading across a school)*** | | | |
| **Learn how to:** | **Learn about:** | **Assessment Criteria** | **Tested in** |
| Lead, motivate and influence others, including beyond the line management chain, to deliver whole-school objectives | Research into, and examples of, leadership, motivation and influence, drawn from a range of schools and non-school contexts | 3.2.1 Evaluates research into, and examples of, leadership and motivation and/or influence and applies findings to motivate or influence others across the school | Part A  **Supporting document required:** Sponsor comments |
| Develop a communications plan that promotes or defends the school’s performance, policies or decisions effectively | Examples of successful communications plans and techniques used by schools | 3.2.2 Designs and implements a communications plan to promote and/or defend plans, drawing on campaigns and techniques used by other schools | Part A  **Supporting document required:** Comms plan |

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| ***NPQH (Leading a school)*** | | | |
| **Learn how to:** | **Learn about:** | **Assessment Criteria** | **Tested in** |
| Distribute responsibility and accountability throughout the school to improve performance | Research into the effectiveness of different leadership models or styles, including the distribution of responsibility and accountability | 3.3.1 Analyses the effectiveness of different models of leadership, drawn from schools and non-school contexts, including the distribution of accountability and responsibility | Task 1 |
| Be an inspiring leader in a range of different situations | Examples of how different leadership models or styles have been deployed to achieve different objectives (for example, in response to different stakeholders, time pressures or priorities), drawn from a range of schools and non-school contexts | 3.3.2 Adapts or tailors their leadership style to lead effectively in different situations | Task 1  **Supporting document required:** Sponsor comments |
| Communicate and negotiate with different people effectively to make progress on objectives | Tools and techniques for gathering and analysing the perspectives, priorities and motivations of stakeholders | 3.3.3 Analyses stakeholder views systematically and applies this understanding to communicate, negotiate or persuade | Task 1  **Supporting document required:** Presentation recording and feedback |
| Research into negotiation and persuasion techniques/strategies |
| Examples of communications/stakeholder engagement strategies, including the use of media, drawn from a range of schools and non-school contexts | 3.3.4 Evaluates different communications/ stakeholder engagement strategies and applies findings to the design and implementation of own communications/ stakeholder engagement strategy | Task 1  **Supporting document required:** Comms/  Stakeholder engagement strategy |

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| ***NPQEL (Leading several schools)*** | | | |
| **Learn how to:** | **Learn about:** | **Assessment Criteria** | **Tested in** |
| Motivate and unite a wide range of people across organisations around visionary or challenging goals | Tool and techniques to identify the motivations and priorities of colleagues and external stakeholders | 3.4.1 Analyses the motivations and/or priorities of colleagues/stakeholders, integrating these in the design and communication of plans | Task 1  Task 2  **Supporting document required:** Presentation recording and feedback |
| Techniques to identify their own motivations and moral purpose, and example of how to reflect these in policies or strategies, drawn from a range of schools and non-school contexts | 3.4.2 Secures colleague and/or stakeholder support for visionary or challenging goals | Task 1  Task 2  **Supporting document required:** Presentation recording and feedback |
| Act as a credible public advocate for the organisation, promoting and defending its aims, vision and reputation convincingly and robustly | 3.4.3 Analyses their own motivations and moral purpose and integrates these in own design, communication and leadership of plans | Task 2 |
| Techniques, tools and strategies for marketing the organisation and handling the media, drawn from a range of schools and non-school contexts | 3.4.4 Evaluates different strategies to publically promote and/or defend plans, including in the media, and implements recommended approach | Task 2  **Supporting document required:** Comms/  Stakeholder engagement plan, including Media handling |
| Contribute to local and central government policy making | The machinery of central government, local government and other public services, including opportunities to collaborate in policy making |

**Working in Partnership**

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| ***NPQML (Leading a team)*** | | | |
| **Learn how to:** | **Learn about:** | **Assessment Criteria** | **Tested in** |
| Realise the benefits of collaborating with others, including teachers, teaching assistants and non-teaching staff, other schools, parents/carers and other organisations | Research into, and examples of, effective partnership working, drawn from a range of schools, including the evidence base on effective parental engagement | 4.1.1 Establishes relationships with others within and outside of own team, deploying appropriate structures and/or processes to mitigate against any barriers | Part A  **Supporting document required:** Sponsor comments |
| Research into, and examples of, the main barriers to effective collaboration within and across schools (for example, time, resources, aims, levels of commitment or operating models) and how these have been overcome |
| Support their team to build and sustain relationships with others which develop and share good practice and improve performance | 4.1.2 Designs and/or delivers plans in collaboration with others within and outside of own team | Part A |
| Research into, and examples of, structures and processes that support collaboration (for example, with teachers, teaching assistants and non-teaching staff, other schools, parents/carers and other organisations, drawn from a range of schools |

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| ***NPQSL (Leading across a school)*** | | | |
| **Learn how to:** | **Learn about:** | **Assessment Criteria** | **Tested in** |
| Identify a range of local and national partners that can support school improvement | Tools and techniques to identify the organisation’s stakeholders and analyse their views (for example, stakeholder mapping) | 4.2.1 Establishes and sustains partnerships that build capability and/or improve performance in priority areas for the school | Part A  **Supporting document required:** Sponsor comments |
| Put in place systems, processes or structures which facilitate knowledge transfer and shared best practice within and beyond the school |
| Research into, and examples of, structured partnerships that have improved capability and performance, drawn from a range of schools and non-school contexts |
| Identify the most effective partnerships for improving pupil progress | Tools and techniques to evaluate the impact of partnership working on pupil progress and attainment | 4.2.2 Evaluates the effectiveness of partnerships in terms of pupil progress and/or attainment | Part A |

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| ***NPQH (Leading a school)*** | | | |
| **Learn how to:** | **Learn about:** | **Assessment Criteria** | **Tested in** |
| Use different models of partnership working to improve educational provision, sustain a culture of mutual challenge and learn from others (including parents/carers, the wider community and other organisation) | Different models of partnership working/ collaboration and why these have been adopted in different circumstances (for example, to develop or share best practice) drawn from a range of schools and non-school contexts | 4.3.1 Analyses the school’s strengths and weaknesses and initiates relevant partnerships/collaborations to improve school capability  4.3.2 Analyses different models of partnership working/opportunities for collaboration and their relevance to own plans | Task 1  Task 1 |
| Guidance and examples of best practice in the joint commissioning of services (for example, [the SEND Code of Practice](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/398815/SEND_Code_of_Practice_January_2015.pdf) on commissioning across education, health and social care) |
| Lead an effective partnership which brings benefits to the school and wider education system, particularly in their school’s area(s) of expertise or specialism | Opportunities to support other schools (for example, through sponsorship, working with/becoming a teaching school, NLE status and the identification and development of potential SLEs) | 4.3.3 Exploits opportunities to support other schools, through collaboration and partnership in own school’s area(s) of expertise | Task 1 |

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| ***NPQEL (Leading several schools)*** | | | |
| **Learn how to:** | **Learn about:** | **Assessment Criteria** | **Tested in** |
| Look beyond the education system to identify excellence, expertise or professional advice in other sectors and deploy it to achieve cross-organisational goals | Sources of expertise and professional advice (for example, in relation to legal, financial, commercial, procurement and marketing services) and how to access these | 4.4.1 Exploits expertise, professional advice and/or best practice from beyond the education system and applies it to own plans | Task 1  Task 2 |
| Sources of best practice beyond the school system (for example, in relation to continuous improvement, governance, project management or financial efficiency) |
| Use school-to-school partnerships and collaboration to drive improvement in a range of different areas (for example, in relation to continuous improvement, governance, project management or financial efficiency) |
| Research into, and examples of, successful school-to-school support partnerships and collaborations, drawn from a range of schools | 4.4.2 Analyses research into, and examples of, successful school-to-school support partnerships and collaborations applies findings to own plans | Task 2 |
| Expand a school partnership to successfully and prepare a school to join a partnership effectively | Key research into, and examples of, preparing schools to successfully expand or join partnerships, including an academy chain (for example, in relation to due diligence, finance and governance arrangements) | 4.4.3 Analyses research into, and examples of, expanding and/or joining a school partnership successfully, including an academy chain, and applies findings to own plans | Task 1 |

**Managing Resources and Risks**

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| ***NPQML (Leading a team)*** | | | |
| **Learn how to:** | **Learn about:** | **Assessment Criteria** | **Tested in** |
| Deploy staff, financial and educational resources within a team efficiently, to enhance pupil progress and attainment | Resource and project management tools and techniques, including budgeting, forecasting and project plans | 5.1.1 Analyses the financial and staffing implications of own plans, during whole lifetime of plans, using a budget | Part B  **Supporting document required:** Budget |
| 5.1.2 Defines the steps required to successfully implement plans, using a project plan | Part B  **Supporting document required:** Project plan |
| Manage risks within a team effectively (for example, in relation to staffing, finances or teacher workload), using a risk register | Best practice in relation to managing risks, including the establishment and maintenance of risk registers, drawn from a range of schools | 5.1.3 Identifies and mitigates risks in plans, using a risk register | Part B  **Supporting document required:** Risk register |
| Deliver a safe environment for pupils and staff | Key legal requirements and statutory guidance in relation to safeguarding and health and safety in schools, including [Keeping Children Safe in Education](https://www.gov.uk/government/publications/keeping-children-safe-in-education--2) |

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| ***NPQSL (Leading across a school)*** | | | |
| **Learn how to:** | **Learn about:** | **Assessment Criteria** | **Tested in** |
| Deploy resources across a school effectively and efficiently to deliver school priorities (for example, in relation to the use of Pupil Premium funding) | Financial appraisal tools, techniques and concepts, including:   * the [collection on schools financial health and efficiency](https://www.gov.uk/government/collections/schools-financial-health-and-efficiency) * building business cases * assessing value for money * cost drivers and behaviours | 5.2.1 Analyses the value for money/cost effectiveness of different options and designs a business case for recommended approach | Part B  **Supporting document required:** Business Case |
| Monitor the use of resources across a school, identifying opportunities and pressures (for example, in relation to teacher workload) | Resource monitoring tools and techniques (for example, in relation to finances, staffing and workload), drawn from a range of schools, including benchmarking |
| Systematically identify, manage and mitigate risks to the school, its pupils and staff | Effective risk management tools, techniques and practice, drawn from a range of schools and non-school contexts | 5.2.2 Implements a risk management plan that systematically assesses, monitors, mitigates and contingency plans for risks | Part B  **Supporting document required:** Risk management plan |
| The requirements, and examples of, effective practice in relation to managing Single Central Records |
| [The Prevent Duty for schools](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/439598/prevent-duty-departmental-advice-v6.pdf) and associated processes and practice |

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| ***NPQH (Leading a school)*** | | | |
| **Learn how to:** | **Learn about:** | **Assessment Criteria** | **Tested in** |
| Balance a school’s strategic or educational priorities with financial efficiency | Strategic financial planning techniques, including curriculum-led budgeting based on a 3-5 year strategy | 5.3.1 Analyses school’s resourcing challenges in terms of finances, staffing, teacher workload and educational resources, and designs plans to address these  5.3.2 Formulates a curriculum-led budget aligned to plans | Task 2  Task 2  **Supporting document required:** Curriculum-led budget |
| Examples of how a range of schools and other organisations have generated additional income (for example, through additional site use) |
| Implement accountability arrangements to manage resources and risks effectively and in line with statutory requirements (where applicable, fulfilling the Accounting Officer role as defined in the Academies Financial Handbook) | The benefits of strong accountability, including the importance of non-executive oversight | 5.3.3 Evaluates the effectiveness of school’s accountability arrangements for managing resources and risks, recommending improvements where necessary to deliver plans successfully | Task 2 |
| Examples of resource and risk management arrangements drawn from a range of schools, including internal controls (for example, schemes of delegation, tolerances and risk appetite, internal and external reporting and scrutiny) |
| The requirements of the financial accountability framework, as set out in the Academies Financial Handbook |
| A school’s statutory requirements in relation to risk assessment, employment, procurement and safeguarding (including the Prevent Duty), and underpinning processes (for example, risk audits and assessment, collective bargaining, recruitment, redundancy and contract management) |

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| ***NPQEL (Leading several schools)*** | | | |
| **Learn how to:** | **Learn about:** | **Assessment Criteria** | **Tested in** |
| Deploy resources strategically across a number of organisations, to maximise efficiency whilst improving pupil outcomes | Research into, and examples of, how economies of scale and efficiencies have been achieved across several organisations (for example, in terms of finances, staffing, workload, educational provision and resources), drawn from a range of schools and non-school contexts | 5.4.1 Analyses the benefits, risks and costs of different business development strategies in resource terms (for example, in terms of finances, staffing, workload and educational resources) | Task 1 |
| 5.4.2 Analyses opportunities to improve the efficiency and effectiveness of resources deployed sustainably and applies findings to the design of plans | Task 1 |
| Indicators of the effective and ineffective use of resources (for example, trends in teacher retention, staff sickness or pupil progress) |
| Maximise financial resources available, through income generation activities, fundraising, sponsorship and grants | Sources of funding (for example, sponsorships and grants) and examples of successful funding bids |
| Hold those with responsibility for the management of resources and risks to account effectively (including fulfilling the Accounting Officer role as defined in the Academies Financial Handbook) | Examples of resource and risk management arrangements drawn from a range of schools and non-school contexts, including budgeting and forecasting, internal controls, auditing and accounting, tolerances and risk appetite | 5.4.3 Evaluates the effectiveness of different accountability arrangements for managing resources and risks and defines appropriate financial accountability and risk management arrangements for own plans | Task 1 |
| The roles and professional standards of key resource management functions (for example, School Business Managers; Chief Financial Officers) |
| The requirements of the financial accountability framework, as set out in the Academies Financial Handbook |

**Increasing Capability**

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| ***NPQML (Leading a team)*** | | | |
| **Learn how to:** | **Learn about:** | **Assessment Criteria** | **Tested in** |
| Hold others to account, line manage and evaluate performance effectively | A range of performance management techniques, including setting SMART objectives, collecting and giving feedback, coaching/mentoring, and professional development plans | 6.1.1 Assesses individuals’ performance and capability methodically and identifies appropriate, targeted professional development opportunities within and beyond the school to support them | Part B |
| The [Teachers’ Standards](https://www.gov.uk/government/publications/teachers-standards) and Teacher appraisal regulations |
| Support all members of their team with appropriate, targeted opportunities for professional development, including newly-qualified teachers, teaching assistants, and stronger or weaker performers | The [Standard for teachers’ professional development](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/537031/160712_-_PD_Expert_Group_Guidance.pdf) and supporting guidance |
| Professional development opportunities within and beyond the school |
| Recognise their own strengths and weaknesses and identify learning linked to their needs | Tools to identify own and staff development needs (for example, 360 degree feedback) | 6.1.2 Assesses their own performance and capability methodically, identifying appropriate, targeted professional development opportunities for self | Part B |
| Evaluate the impact of professional development on teacher development and pupils outcomes | Tools to evaluate the impact and cost-effectiveness of professional development activities, particularly in terms of pupil outcomes | 6.1.3 Designs and implements plans to evaluate the impact and cost-effectiveness of professional development in terms of pupil outcomes | Part B |

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| ***NPQSL (Leading across a school)*** | | | |
| **Learn how to:** | **Learn about:** | **Assessment Criteria** | **Tested in** |
| Identify excellent professional development practice | Key research into, and examples of, excellent professional development, including for new/recently qualified teachers, drawn from a range of schools | 6.2.1 Analyses key research into, and examples of, effective professional development and talent management in schools and applies findings to own plans | Part B |
| Identify talent within an organisation and put in place arrangements or tools to develop and retain it | Successful talent identification and retention strategies in a range of schools and non-school contexts |
| Design professional development strategies, which engage all staff (including new/recently qualified teachers) and anticipate future professional development needs | Structures, tools and techniques that facilitate joint, work-based and self-directed study |
| Factors that drive changing professional development needs (for example, changes to legislation, the curriculum or pupil intake) | 6.2.2 Analyses how professional development provision may need to change over time and applies findings to own plans | Part B |

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| ***NPQH (Leading a school)*** | | | |
| **Learn how to:** | **Learn about:** | **Assessment Criteria** | **Tested in** |
| Hold all staff to account for performance using performance management, appraisal, misconduct and grievance systems | Employment law, practice and processes for managing misconduct, grievances and redundancy (including the Teacher Appraisal Regulations) | 6.3.1 Designs systems to evaluate, manage and reward staff performance effectively | Task 2 |
| Statutory requirements, flexibilities and supporting guidance on setting teachers’ pay and conditions |
| Create and sustain an environment where all staff are encouraged to develop their own knowledge and skills, and support each other | Sources of high-quality professional development within and outside of the school, beyond formal professional development programmes | 6.3.2 Evaluates research into, and examples of, high-quality professional development within and outside of the school, and applies findings to own plans | Task 2 |
| The main barriers to effective professional development in a school (for example, time, quality and resources) and how these have been overcome |
| Anticipate capability requirements or gaps in the school and design strategies to fill them | Workforce and capability planning tools and techniques, drawn from a range of schools (for example, in relation to the knowledge and skills of teaching and non-teaching staff, educational resources or school infrastructure) | 6.3.3 Analyses current and future organisational capability challenges and designs plans to address these | Task 2 |
| Research into, and examples of, effective succession planning, drawn from a range of schools and non-school contexts |

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| ***NPQEL (Leading several schools)*** | | | | |
| **Learn how to:** | **Learn about:** | **Assessment Criteria** | **Tested in** |
| Identify long-term or strategic capability gaps across several schools, in collaboration with the governing board | Tools and techniques to assess workforce capability across several organisations, from schools and non-school contexts (for example, skills audits) | 6.4.1 Analyses the organisation’s capability to meet current and future requirements and applies findings to own plans | Task 1 |
| Factors that impact on the supply and demand of teaching and non-teaching staff (for example, different curriculum requirements or pupil profiles; local and national trends in teacher recruitment and retention) |
| Deploy staff strategically to increase the organisation’s responsiveness and resilience to change | Examples of Induction, succession planning and talent management techniques/systems drawn from schools and non-school contexts | Evaluates the benefits and risks of different strategies in terms of:   * + 1. professional development opportunities, including for new and the most talented staff     2. the supply and demand of staff, including in key posts     3. the organisation’s responsiveness and resilience to change | Task 1  Task 1  Task 1 |
| Examples, drawn from schools and non-school contexts, of how organisations have deployed staff strategically to:   * enhance professional development (for example, through the rotation of staff between special and mainstream provision) * spread critical knowledge and skills (for example, in relation to key posts) * increase responsiveness and resilience to change (for example, trends in pupil profile, or new legislation |

**Section 4 - NPQ Leadership Behaviours**

Providers must work with participants to evaluate the participant’s strength in each behaviour at the beginning of their NPQ, and plan how the participant will develop these behaviours during their NPQ study

|  |  |
| --- | --- |
| **Commitment** | The best leadersare committed to their pupils and understand the power of world-class teaching to improve social mobility, wellbeing and productivity |
| **Collaboration** | The best leaders readily engage with, and invest responsibility in, those who are best placed to improve outcomes |
| **Personal Drive** | The best leaders are self-motivated and take a creative, problem-solving approach to new challenge |
| **Resilience** | The best leaders remain courageous and positive in challenging, adverse or uncertain circumstances |
| **Awareness** | The best leaders will know themselves and their teams, continually reflect on their own and others’ practices, and understand how best to approach difficult or sensitive issues |
| **Integrity** | The best leaders act with honesty, transparency and always in the interests of the school and its pupils |
| **Respect** | The best leaders their respect the rights, views, beliefs and faiths of pupils, colleagues and stakeholders |

**Section 5 - NPQ Assessment Tasks and Criteria**

Providers must assess participants using these tasks. Specifically, providers are required to identify placement schools for NPQH participants to undertake their placement and associated project work.

**NPQML Assessment Task Description**

**Project Summary:**

Working with my team to a) improve pupil progress and attainment and b) team capability (4,500 words)

|  |  |
| --- | --- |
| **Part A** | **Part B** |
| Strategy and Improvement | Managing Resources and Risks |
| Teaching and Curriculum Excellence | Increasing Capability |
| Leading with Impact |  |
| Working in Partnership |  |

**Content Areas Assessed**:

**Participants must:**

* **Lead** an improvement project in their team, lasting at least 2 terms, aimed at improving pupil progress and attainment (part A) and the capability of their team (part B)**\***
* **Submit** a written account of the project to the provider for assessment, demonstrating how they have met the criteria set out below. This should cover the initiation, implementation and evaluation of the project.
* **Submit** supporting documents/material as evidence where indicated below. Supporting evidence must be concise and directly related to the candidate’s project and corresponding assessment criterion.
* **Not exceed** a total word count (across both parts of the project) of **4,500**, excluding supporting documents or annexes.

**Providers must:**

* **Assess** project scripts and supporting evidence in accordance with a mark scheme that will be provided by DfE.
* **Comply** with the assessment requirements, including peer moderation, as described in the Quality Framework.

\*where the candidate is unable to identify one project that meets the needs of both part a and b, they may complete two separate projects, however the total overall word count of 4,500 still applies.

|  |  |  |
| --- | --- | --- |
| **Content Area** | **NPQML Assessment Criteria** | **Supporting Documents Required** |
| **PART A** | | |
| Strategy and Improvement | 1.1.1 Deploys tools and techniques to manage and analyse data on pupil progress and attainment | Raw Data Analysis |
| 1.1.2 Designs, evaluates and improves plans in light of data on pupil progress and attainment |  |
| 1.1.3 Deploys change management tools and/or techniques during the design and implementation of plans |  |
| Teaching and Curriculum Excellence | 2.1.1 Analyses research into, and examples of, domestic and international teaching strategies/pedagogical approaches and applies findings to own plans |  |
| 2.1.2 Evaluates the strengths and weaknesses of curriculum taught by team, implementing improvements where necessary |  |
| 2.1.3 Implements and evaluates an evidence-based project that improves pupil progress and/or attainment | Pupil Performance data |
| Leading with Impact | 3.1.1 Exploits different leadership styles and justifies why these have been adopted |  |
| 3.1.2 Exploits different communication styles and justifies why these have been adopted |  |
| Working in Partnership | 4.1.1 Establishes relationships with others within and outside of own team, deploying appropriate structures and/or processes to mitigate against any barriers | Sponsor comments |
| 4.1.2 Designs and/or delivers plans in collaboration with others within and outside of own team |  |
| **PART B** | | |
| Managing Resources and Risks | 5.1.1 Analyses the financial and staffing implications of own plans, during whole lifetime of plans, using a budget | Budget |
| 5.1.2 Defines the steps required to successfully implement plans, using a project plan | Project Plan |
| 5.1.3 Identifies and mitigates risks in plans, using a risk register | Risk Register |
| Increasing Capability | 6.1.1 Assesses individuals’ performance and capability methodically and identifies appropriate, targeted professional development opportunities within and beyond the school to support them |  |
| 6.1.2 Assesses their own performance and capability methodically, identifying appropriate, targeted professional development opportunities for self |  |
| 6.1.3 Designs and implements plans to evaluate the impact and cost-effectiveness of professional development in terms of pupil outcomes |  |

**NPQSL Assessment Task Description**

**Project Theme:**

Working across the school to a) reduce variation in pupil progress and attainment b) improve the efficiency and effectiveness of teaching (5,000 words)

|  |  |
| --- | --- |
| **Part A** | **Part B** |
| Strategy and Improvement | Managing Resources and Risks |
| Teaching and Curriculum Excellence | Increasing Capability |
| Leading with Impact |  |
| Working in Partnership |  |

**Content Areas Assessed**:

**Participants must:**

* **Lead** an improvement project across their school, lasting at least 2 terms, to reduce variation in pupil progress and attainment (part A) and improve the efficiency and effectiveness of teaching (part B).
* **Submit** a written account of the project to the provider for assessment, which aims to evidence the criteria indicated. This should cover the design, implementation and evaluation of the project.
* **Submit** supporting documents/material as evidence where indicated below. Supporting evidence must be concise and directly related to the candidate’s project and corresponding assessment criterion.
* **Not exceed** a total word count (across both parts of the project) of **5,000**, excluding supporting documents or annexes.

**Providers must:**

* **Assess** project scripts and supporting evidence in accordance with a mark scheme that will be provided by DfE.
* **Comply** with the assessment requirements, including peer moderation, as described in the Quality Framework.

\*where the candidate is unable to identify one project that meets the needs of both parts a and b, they may complete two separate projects, however the total overall word count of 5,000 still applies.

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| **Content Area** | **NPQSL Assessment Criteria** | **Supporting Documents**  **Required** |
| **PART A** | | |
| Strategy and Improvement | 1.2.1 Deploys statistical and/or data analysis concepts to identify variation in pupil performance and contributing factors, applying the findings to design of own plans | Raw Data Analysis |
| 1.2.2 Evaluates research into, and examples of, implementing change successfully and applies findings to the design and implementation of own plans |  |
| Teaching & Curriculum Excellence | 2.2.1 Evaluates teaching quality across a school accurately, exploiting appropriate techniques to gather evidence |  |
| 2.2.2 Analyses different leadership/management strategies aimed at improving pupil progress, attainment and behaviour and applies findings to own plans. |  |
| 2.2.3 Designs, implements and evaluates an improvement project that reduces variation in pupil progress and/or attainment across the school | Pupil performance data |
| 2.2.4 Exploits opportunities to develop and grow the school curriculum |  |
| Leading with Impact | 3.2.1 Evaluates research into, and examples of, leadership and motivation and/or influence and applies findings to motivate or influence others across the school | Sponsor Comments |
| 3.2.2 Designs and implements a communications plan to promote and/or defend plans, drawing on campaigns and techniques used by other schools | Communications Plan |
| Working in Partnership | 4.2.1 Establishes and sustains partnerships that build capability and/or improve performance in priority areas for the school | Sponsor Comments |
| 4.2.2 Evaluates the effectiveness of partnerships in terms of pupil progress and/or attainment |  |
| **PART B** | | |
| Managing Resources and Risks | 5.2.1 Analyses the value for money/cost effectiveness of different options and designs a business case for recommended approach | Business Case |
| 5.2.2 Implements a risk management plan that systematically assesses, monitors, mitigates and contingency plans for risks | Risk Management Plan |
| Increasing Capability | 6.2.1 Analyses key research into and examples of effective professional development and talent management in schools and applies findings to own plans |  |
| 6.2.2 Analyses how professional development provision may need to change over time and applies findings to own plans |  |

**NPQH Assessment Tasks Description**

**Project Theme:**

1. Leading a whole-school change programme (4,000 words)
2. Designing an action plan to meet my placement school’s resourcing and capability needs (2,500 words)

|  |  |
| --- | --- |
| **Project 1 (Own school)** | **Project 2 (Placement school)** |
| Strategy and Improvement | Managing Resources and Risks |
| Teaching and Curriculum Excellence | Increasing Capability |
| Leading with Impact |  |
| Working in Partnership |  |

**Content Areas Assessed**:

**Task 1 - Participants must:**

* **Lead** change programme at whole-school level, lasting at least 2 terms, to improve pupil progress and attainment.
* **Present** the plan to the Governing board prior to implementation, and gather their feedback.
* **Submit** a written account of the project to the provider for assessment, which aims to evidence the criteria indicated. This should cover the design, implementation and evaluation of the programme.
* **Submit** supporting documents/material as evidence where indicated below. Supporting evidence must be concise and directly related to the candidate’s project and corresponding assessment criterion.
* **Not exceed** a total word count of **4,000**, excluding supporting documents or annexes

**Task 2 - Participants must:**

* **Undertake** a placement in a contrasting school (for example, by performance, pupil profile, geography etc.), lasting at least 9 working days.
* **Research** the placement school’s current and/or projected resource and capability challenges, and **design** an action plan to address these.
* **Present** the plan to the placement school’s governing board and gather their feedback.
* **Submit** a written account of the project to the provider for assessment, which aims to evidence the criteria indicated
* **Submit** supporting documents/material as evidence where indicated below. Supporting evidence must be concise and directly related to the candidate’s project and corresponding assessment criterion.
* **Not exceed** a total word count of **2,500**, excluding supporting documents or annexes

**Providers must:**

* **Assess** project scripts and supporting evidence in accordance with a mark scheme that will be provided by DfE.
* **Identify** a suitable school placement for Task 2, working with the candidate.
* **Comply** assessment requirements, including peer moderation, as described in the Quality Framework.

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| **Content Area** | **NPQH Assessment Criteria** | **Supporting Documents Required** |
| **TASK 1** | | |
| Strategy and Improvement | 1.3.1 Analyses the implications of changes in the external and strategic environment and applies findings to own plans |  |
| 1.3.2 Deploys critical thinking and statistical and/or data analysis tools, techniques and concepts during the design of own plans |  |
| 1.3.3 Collaborates with the governing board during the design and implementation of plans, describing the benefits of doing so |  |
| 1.3.4 Analyses research into, and examples of, the leadership of change, drawn from a range of schools and non-school contexts, and applies findings to the design and own leadership of plans |  |
| Teaching & Curriculum Excellence | 2.3.1 Analyses a range of domestic and international research into, and examples of, the leadership of teaching and applies findings to own plans |  |
| 2.3.2 Designs, leads, implements and evaluates an evidence-based change programme that improves pupil progress and/or attainment at whole-school level | Pupil Performance Data |
| 2.3.3 Evaluates, monitors and responds to the needs and performance of all pupils in a school, including through provision for groups of pupils with particular needs |  |
| 2.3.4 Assesses the impact of new initiatives on teacher workload, implementing options to minimise or mitigate this where necessary |  |
| Leading with Impact | 3.3.1 Analyses the effectiveness of different models of leadership, drawn from schools and non-school contexts, including the distribution of accountability and responsibility |  |
| 3.3.2 Adapts or tailors their leadership style to lead effectively in different situations | Sponsor Comments |
| 3.3.3 Analyses stakeholder views systematically and applies this understanding to communicate, negotiate or persuade | Presentation recording and feedback |
| 3.3.4 Evaluates different communications/stakeholder engagement strategies and applies findings to the design and implementation of own communications/ stakeholder engagement strategy | Comms/Stakeholder engagement strategy |
| Working in Partnership | 4.3.1 Analyses the school’s strengths and weaknesses and initiates relevant partnerships/collaborations to improve school capability |  |
| 4.3.2 Analyses different models of partnership working/opportunities for collaboration and their relevance to own plans |  |
| 4.3.3 Exploits opportunities to support other schools, through collaboration and partnership in own school’s area(s) of expertise |  |

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| **TASK 2** | | |
| Managing Resources and Risks | 5.3.1 Analyses school’s resourcing challenges in terms of finances, staffing, teacher workload and educational resources, and designs plans to address these |  |
| 5.3.2 Formulates a curriculum-led budget aligned to plans | Curriculum-led Budget |
| 5.3.3 Evaluates the effectiveness of school’s accountability arrangements for managing resources and risks, recommending improvements where necessary to deliver plans successfully |  |
| Increasing Capability | 6.3.1 Designs systems to evaluate, manage and reward staff performance effectively |  |
| 6.3.2 Evaluates research into, and examples of, high-quality professional development within and outside of the school, and applies findings to own plans |  |
| 6.3.3 Analyses current and future organisational capability challenges and designs plans to address these |  |

**NPQEL Assessment Tasks Description**

**Project Theme:**

1. Designing a sustainable business development strategy for my organisation (4,000 words)
2. Leading an improvement project across several schools (4,000 words)

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| --- | --- |
| **Project 1** | **Project 2** |
| Strategy and Improvement | Strategy and Improvement |
| Leading with Impact | Teaching & Curriculum Excellence |
| Working in Partnership | Leading with Impact |
| Managing Resources and Risks | Working in Partnership |
| Increasing Capability |  |

**Content Areas Assessed**:

**Task 1 - Candidates must:**

* **Design** a sustainable business development strategy for their organisation, analysing the benefits, costs and risks of different options (for example, growth and stabilisation).
* **Present** their chosen strategy to their governing board/board of trustees, **record** it, answer questions, and gather its feedback.
* **Submit** a written account of the project to the provider for assessment, which aims to evidence the criteria indicated. This should cover the design, implementation and evaluation of the project.
* **Submit** supportng documents/material as evidence where indicated below. Supporting evidence must be concise and directly related to the candidate’s project and corresponding assessment criterion.
* **Not exceed** a total word count of 4,000, excluding supporting documents or annexes.

**Task 2 – Candidates must:**

* **Lead** a project to improve progress and attainment in several schools. The precise focus of the project should be negotiated and agreed with representatives of the relevant schools.
* **Present** their plans to a group of relevant stakeholders (for example, the relevant governing boards, teachers and community representatives), **record** it, answer questions and gather their feedback
* **Submit** a written account of the project to the provider for assessment, which aims to evidence the criteria indicated. This should cover the design, implementation and evaluation of the project.
* **Submit** supporting documents/material as evidence where indicated below. Supporting evidence must be concise and directly related to the candidate’s project and corresponding assessment criterion.
* **Not exceed** a total word count of 4,000, excluding supporting documents or annexes

**Providers must:**

* **Assess** project scripts and supporting evidence in accordance with a mark scheme that will be provided by DfE.
* **Comply** with the assessment requirements, including peer moderation, as described in the Quality Framework.

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| **Content Area** | **NPQEL Assessment Criteria** | **Supporting Documents Required** |
| **TASK 1** | | |
| Strategy and Improvement | 1.4.1 Analyses the external and/or strategic environment, identifies implications for relevant organisations, and applies findings to own plans |  |
| 1.4.2 Analyses research into, and examples of, successful business development and business failure, drawn from schools and non-school contexts, and applies findings to own plans |  |
| 1.4.3 Analyses research into, and examples of, delivering change across a number of organisations, drawn from schools and non-school contexts, and applies findings to own plans |  |
| Leading with Impact | 3.4.1 Analyses the motivations and/or priorities of colleagues/stakeholders, integrating these in the design and communication of plans | Presentation recording and feedback |
| 3.4.2 Secures colleague and/or stakeholder support for visionary or challenging goals | Presentation recording and feedback |
| Working in Partnership | 4.4.1 Exploits expertise, professional advice and/or best practice from beyond the education system and applies it to own plans |  |
| 4.4.3 Analyses research into and examples of expanding and/or joining a school partnership successfully, including an academy chain, and applies findings to own plans |  |
| Managing Risks and Resources | 5.4.1 Analyses the benefits, risks and costs of different business development strategies in resource terms (for example, in terms of finances, staffing, workload and educational resources) |  |
| 5.4.2 Analyses opportunities to improve the efficiency and effectiveness of resources deployed sustainably and applies findings to the design of plans |  |
| 5.4.3 Evaluates the effectiveness of different accountability arrangements for managing resources and risks and defines appropriate financial accountability and risk management arrangements for own plans |  |
| Increasing Capability | 6.4.1 Analyses organisation’s capability to meet current and future requirements and applies findings to own plans |  |
| Evaluates the benefits and risks of different strategies in terms of:   * + 1. professional development opportunities, including for new and the most talented staff     2. the supply and demand of staff, including in key posts     3. the organisation’s responsiveness and resilience to change |  |

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| **TASK 2** | | |
| Strategy and Improvement | 1.4.1 Analyse the external and/or strategic environment, identifies implications for relevant organisations, and applies findings to own plans |  |
| 1.4.3 Analyses research into, and examples of, delivering change across a number of organisations, drawn from schools and non-school contexts, and applies findings to own plans |  |
| Teaching & Curriculum Excellence | 2.4.1 Evaluates teaching quality across several schools accurately, using a systematic and rounded approach, and applies findings to own plans |  |
| 2.4.2 Analyses domestic and international research into, and examples of, school improvement strategies in relation to progress, attainment and behaviour, including interventions targeted at disadvantaged pupils or those with particular needs, and applies findings to own plans |  |
| 2.4.3 Analyses research into and examples of effective school-to-school support systems in relation to teaching quality, pupil progress and attainment and applies findings to own plans |  |
| 2.4.4 Designs, implements and evaluates an improvement strategy that improves pupil progress and attainment across several schools | Pupil performance data |
| Leading with Impact | 3.4.1 Analyses the motivations and/or priorities colleagues/stakeholders, integrating these in the design and communication of plans | Presentation recording and feedback |
| 3.4.2 Secures colleague and/or stakeholder support for visionary or challenging goals | Presentation recording and feedback |
| 3.4.3 Analyses their own motivations and moral purpose and integrates these in own design, communication and leadership of plans |  |
| 3.4.4 Evaluates different strategies to publically promote and/or defend plans, including in the media, and implements recommended approach | Communications/Stakeholder engagement plan, including Media handling |
| Working in Partnership | 4.4.1 Exploits expertise, professional advice and/or best practice from beyond the education system and applies it to own plans |  |
| 4.4.2 Analyses research into, and examples of, successful school-to-school support partnerships and collaborations applies findings to own plans |  |

**Schedule 2**

**Terms and Conditions**

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**1. DEFINITIONS AND INTERPRETATION**

1.1 In the Contract, the following expressions have the following meanings, unless inconsistent with the context:

**“Area”** means the geographical area within England in respect of which the Contractor is appointed to provide the Services.

**“Associated Company”** means any company which is, in relation to another company, its holding company or its subsidiary or a subsidiary of its holding company. “Holding company” and “subsidiary” will have the meanings attributed to them in section 736 and 736A of the Companies Act 1985 and section 1159 of the Companies Act 2006.

**“Business Days”** means Mondays to Fridays (inclusive) in each week, excluding bank and other public holidays in England.

**“CCN”** means a Change Control Note in the form set out in schedule 6.

**“Charges”** means the fees subject to clause 8 payable to the Contractor for the provision of the Services calculated in accordance with schedule 3.

**“Commercially Sensitive Information”** means the information set out in schedule 1 comprising the information of a commercially sensitive nature relating to:

(a) the Contract Price;

(b) details of the Contractor’s Intellectual Property Rights; and

(c) the Contractor’s business and investment plans

which the Contractor has indicated to DFE that, if disclosed by the DFE, would cause the Contractor significant commercial disadvantage or material financial loss.

**“Confidential Information”** means any information which has been designated as confidential by either Party in writing or that ought to be considered as confidential (however it is conveyed or on whatever media it is stored) including information the disclosure of which would, or would be likely to, prejudice the commercial interests of any person or trade secrets or Intellectual Property Rights of either Party and all personal data and sensitive personal data within the meaning of the DPA or the Data Protection Legislation . Confidential Information shall not include information which:

(a) was public knowledge at the time of disclosure;

(b) was in the possession of the receiving Party, without restriction as to its disclosure, before receiving it from the disclosing Party;

(c) is received from a third party (who lawfully acquired it) without restriction as to its disclosure; or

(d) is independently developed without access to the Confidential Information.

**“Consortium”** means an [association](https://en.wikipedia.org/wiki/Voluntary_association) of 2 or more persons acting together to deliver the Services but excludes Sub-Contractors.

**“Consortium Agreement**” means, if the Contractor is a Consortium, an agreement:

(a) signed by all the Consortium Members as at the Commencement Date; and

(b) adhered to by Consortium Members who join the Consortium after the Commencement Date by signing a Deed of Adherence

which sets out, amongst other things, how the Consortium Members will work together to deliver the Services.

**“Consortium Member”** means a member of a Consortium (if any).

**“Contract Price”** means the overall price (excluding any applicable VAT) payable to the Contractor by the DFE under the Contract for the full and proper performance by the Contractor of its obligations under the Contract comprising all Charges payable in accordance with schedule 3 .

**“Contract Pricing Information”** means the information about Contract pricing set out at Annex 1 to Schedule 3.

**“Contractor Equipment”** means the Contractor’s ICT equipment.

**“Contractor’s Solution”** means the Contractor’s proposal submitted in response to the DFE’s invitation to tender attached at schedule 11.

“**Copyright**” means as it is defined in s.1 of Part 1 Chapter 1 of the Copyright, Designs and Patents Act 1988.

“**Crown**” means the government of the United Kingdom (including the Northern Ireland Executive Committee and Northern Ireland Departments, the Scottish Executive and the National Assembly for Wales), including, but not limited to, government ministers, government departments, government offices and government agencies and “**Crown Body**” is an emanation of the foregoing.

**“Data Protection Legislation”** means (i) the GDPR, the LED and any applicable national implementing Laws as amended from time to time (ii) the DPA 2018 [subject to Royal Assent] to the extent that it relates to processing of personal data and privacy; (iiii) all applicable Law about the processing of personal data and privacy.“**Database Rights**” means as rights in databases are defined in s.3A of Part 1 Chapter 1 of the Copyright, Designs and Patents Act 1988.

**“Deed of Adherence”** means a deed under which a new Consortium Member shall covenant with the other Consortium Members to adhere to the terms of the Consortium Agreement in either the form set out in schedule 11 or in any other form approved by DFE in writing.

**“Default”** means breach of the obligations of the relevant Party (including abandonment of the Contract in breach of its terms, repudiatory breach or breach of a fundamental term) or any other default, act, omission, negligence or statement of the relevant Party or the Personnel in connection with the subject-matter of the Contract and in respect of which such Party is liable to the other.

**“DFE Premises”** means any premises owned by, leased or hired to or otherwise controlled by DFE or which DFE nominates as such by notice in writing to the Contractor.

**“DFE Security Standards”** means the security standards as set out in schedule 8.

**“DFE Trade Marks”** means proprietary trade mark rights of DFE including those notified to the Contractor by DFE from time to time.

**"Dispute"** means any dispute between the Parties in connection with the Contract.

**“DOTAS”** means the Disclosure of Tax Avoidance Schemes rules which require a promotor of tax schemes to tell HMRC of any specified notifiable arrangements or proposals and to provide prescribed information on those arrangements or proposals within set time limits as contained in Part 7 of the Finance Act 2004 and in secondary legislation made under vires contained in Part 7 of the Finance Act 2004 and as extended to national insurance contributions by the National Insurance (Application of Part 7 of the Finance Act 2004) regulations 2012, SI 2012/1868 made under section 132A of the Social Security Administration Act 1992.

**“DPA”** means the Data Protection Act 2018.

**“EIR”** means the Environmental Information Regulations 2004 and any guidance and/or codes of practice issued by the Information Commissioner or relevant government department in relation to them.

**“Employment Liabilities”** means all actions, proceedings, costs (including reasonable legal costs), losses, damages, fines, penalties, compensation, awards, demands, orders, expenses and liabilities connected with or arising from all and any laws including, without limitation, directives, statutes, secondary legislation, orders, codes of practice, contractual obligations and other common law rights whether of the European Union, United Kingdom or any other relevant authority relating to or connected with:

(a) the employment and dismissal of employees (including their health and safety at work); and

(b) the engagement, use and termination of individuals other than employees who provide services (including their health and safety at work),

and all wages, holiday pay and employment benefit costs due in respect of (a) or (b) above, including claims for protective awards.

**“Extension”** means the DFE’s right to extend the Contract by up to 2 years in accordance with the conditions of clause 38.

**“Financial Distress Event”** means the occurrence of one or more of the events listed in Paragraph 3 of Schedule 10 (Financial Distress);

**“FOIA”** means the Freedom of Information Act 2000 together with any guidance and/or codes of practice issued by the Information Commissioner or relevant government department in relation to it.

**“Force Majeure”** means any event or occurrence which is outside the reasonable control of the Party concerned and which is not attributable to any act or failure to take reasonable preventative action by that Party, including fire; flood; violent storm; pestilence; explosion; malicious damage; armed conflict; acts of terrorism; nuclear, biological or chemical warfare; or any other disaster, natural or man-made, but excluding:

(a) any industrial action occurring within the Contractor’s or any of its Sub-Contractor’s organisation, or otherwise involving the Personnel; or

(b) the failure by any Sub-Contractor of the Contractor to perform its obligations under any sub-contract.

**“General Anti-Abuse Rule”** means:

(a) the legislation in Part 5 of the Finance Act 2013; and

(b) any future legislation introduced into parliament to counteract tax advantages arising from abusive arrangements to avoid NICs.

**“Good Industry Practice”** means the standards, practices, methods and procedures conforming to the law and the degree of skill and care, diligence, prudence and foresight which would reasonably and ordinarily be expected from a skilled and experienced person or body engaged in a similar type of undertaking under the same or similar circumstances.

**“Halifax Abuse Principle”** means the principle explained in the CJEU Case C-255/02 Halifax and others.

“**HMRC**” means Her Majesty’s Revenue and Customs.

**“ICT”** means information and communications technology.

“**Information**” has the meaning given under section 84 of the FOIA.

**“Mobilisation Plan”** means the plan and time schedule for the Mobilisation Period as set out in schedule 5.

**“Initial Term”** means the period from the 21 May 2018 to 31 May 2021.

**“Intellectual Property Rights”** means patents, inventions, trade-marks, service marks, logos, design rights (whether registrable or otherwise), applications for any of the foregoing, copyright, database rights, domain names, trade and/or business names, rights in confidential information and know how, moral rights and other similar rights or obligations whether registrable or not in any country (including but not limited to the United Kingdom) and the right to sue for passing off.

**“IP Materials”** means any materials used or developed for the purposes of the Contract including any programme materials, guidance, papers and research data, results, specifications, instructions, toolkits, plans, data, drawings, databases, patents, patterns, models and designs.

**“KPIs”** means the key performance indicators in relation to the Services set out in schedule 4 which the Contractor shall comply with.

**“Key Personnel”** means any of the Personnel identified as such in schedule 7 or otherwise identified as such by DFE pursuant to clause 6.

**“Key Sub-Contractor”** means any Sub-Contractor identified as such in schedule 7 or otherwise identified as such by DFE.

“**Law**” means any law, statute, subordinate legislation within the meaning of section 21(1) of the Interpretation Act 1978, bye-law, enforceable right within the meaning of section 2 of the European Communities Act 1972, regulation, order, regulatory policy, mandatory guidance or code of practice, judgment of a relevant court of law, or directives or requirements of any Regulatory Body with which the Contractor is bound to comply.

**“Material Breach”** means a breach (including an anticipatory breach) that is serious in the widest sense of having a serious effect on the benefit which the DFE would otherwise derive from:

(a) a substantial portion of the Contract; or

(b) any of the obligations set out in clauses 9, 10, 12, 15, 17 and 33 and in schedule 8.

**“Mobilisation Period”** means the period from the Commencement Date to 31 May 2018 during which the Contractor will adhere to the Mobilisation Plan.

**“NPQ”** means the National Professional Qualifications which are a voluntary suite of qualifications designed to support the professional development of school leaders.

**“NPQ Providers”** means entities accredited by the DfE to deliver NPQ courses.

**“NICs”** means National Insurance Contributions.

**“Occasion of Tax Non-Compliance”** means:

(a) any tax return of the Contractor submitted to a Relevant Tax Authority on or after 1 October 2012 which is found on or after 1 April 2013 to be incorrect as a result of:

(i) a Relevant Tax Authority successfully challenging the Contractor under the General Anti-Abuse Rule or the Halifax Abuse Principle or under any tax rules or legislation that have an effect equivalent or similar to the General Anti-Abuse Rule or the Halifax Abuse Principle;

(ii) the failure of an avoidance scheme which the Contractor was involved in, and which was, or should have been, notified to the Relevant Tax Authority under the DOTAS or any equivalent or similar regime; and/or

(b) any tax return of the Contractor submitted to a Relevant Tax Authority on or after 1 October 2012 gives rise on or after 1 April 2013 to a criminal conviction in any jurisdiction for tax related offences which is not spent at the Commencement Date or to a civil penalty for fraud or evasion.

“**Performance Measures/Standards**” means the standards which the Contractor will measured against in respect of the delivery of the Services aligned to defined Key Performance Indicators (KPIs)

**“Personnel”** means all persons employed by the Contractor to perform its obligations under the Contract together with the Contractor’s servants, agents, suppliers and Sub-Contractors used in the performance of its obligations under the Contract.

**“Prohibited Act”** means:

(a) to directly or indirectly offer, promise or give any person working for or engaged by the DFE a financial or other advantage to:

(i) induce that person to perform improperly a relevant function or activity; or

(ii) reward that person for improper performance of a relevant function or activity;

(b) to directly or indirectly request, agree to receive or accept any financial or other advantage as an inducement or a reward for improper performance of a relevant function or activity in connection with the Contract;

(c) an offence:

(i) under the Bribery Act 2010 (or any legislation repealed or revoked by such Act;

(ii) under legislation or common law concerning fraudulent acts; or

(iii) the defrauding, attempting to defraud or conspiring to defraud the DFE;

(d) any activity, practice or conduct which would constitute one of the offences listed under (c) above if such activity, practice or conduct has been carried out in the UK.

**“Quality Standards”** means the quality standards published by BSI British Standards, the National Standards Body of the United Kingdom, the International Organisation for Standardization or other reputable or equivalent body, (and their successor bodies) that a skilled and experienced operator in the same type of industry or business sector as the Contractor would reasonably and ordinarily be expected to comply with, and as may be further detailed in the Specification.

**“Regulations”** means the Public Contract Regulations 2015.

**“Regulatory Body”** means a government department and regulatory, statutory and other entities, committees, ombudsmen and bodies which, whether under statute, rules, regulations, codes of practice or otherwise, are entitled to regulate, investigate, or influence the matters dealt with in the Contract or any other affairs of the DFE.

**“Relevant Conviction”** means a conviction for an offence involving violence or dishonesty, of a sexual nature or against minors, or for any other offence that is relevant to the nature of the Services.

**“Relevant Requirements”** means all applicable Law relating to bribery, corruption and fraud, including the Bribery Act 2010 and any guidance issued by the Secretary of State for Justice pursuant to section 9 of the Bribery Act 2010.

**“Relevant Tax Authority”** means HMRC or, if applicable, a tax authority in the jurisdiction in which the Contractor is established.

**“Replacement Contractor”** means any third party supplier appointed by the DFE to supply any services which are substantially similar to any of the Services in substitution for the Contractor following the expiry, termination or partial termination of the Contract.

**“Request for Information”** means a request for information under the FOIA or the EIR.

“**Restricted Country**” means:

(a) any country outside the European Economic Area; and

(b) any country not deemed adequate by the European Commission pursuant to Article 25(6) of Directive 95/46/EC

**“Returning Employees”** means those persons agreed by the Parties to be employed by the Contractor (and/or any Sub-Contractor) wholly or mainly in the supply of the Services immediately before the end of the Term.

**“Services”** means the services described in the Specification.

**“Services Commencement Date”** means 1 June 2018.

**“Service Credits”** means the service credits specified in schedule 5 which shall be payable to the DFE by the Contractor in the event that the Service Levels are not met in respect of Services.

**“Service Level”** means the levels of Service defined in schedule 4.

**“Service Users”** means those receiving the Services.

**“Specification”** means the description of the Services to be supplied under the Contract set out in schedule 1.

**“Sub-Contract”** means a contract between 2 or more suppliers, at any stage of remoteness from DfE in a sub-contracting chain, made wholly or substantially for the purpose of performing (or contributing to the performance of) the whole or any part of the Contract and “**Sub-Contractor**” shall be construed accordingly.

**“Term”** means the period from the Commencement Date until the date the Contract ends for whatever reason.

**“TFEU”** means the Treaty on the Functioning of the European Union.

“**Treaties**” means the TFEU and the Treaty on European Union.

**“TUPE”** means the Transfer of Undertakings (Protection of Employment) Regulations 2006.

**“Variation”** means any variation to the Contract requiring a Change Control Note to be completed in accordance with schedule 6.

* 1. The following notes of construction and interpretation apply to the Contract:
     1. references to a statute or statutory provision shall, unless the context otherwise requires, include a reference to that statute or statutory provision as from time to time amended, modified, extended, re-enacted or consolidated and all statutory instruments or orders made pursuant to it whether replaced before or after the date of the Contract which are in force prior to the date of the Contract;
     2. the expression “person” means any individual, firm, body corporate, unincorporated association, partnership, government, state or agency of a state or joint venture;
     3. the words “include”, “includes”, “including” and “included” will be construed without limitation unless inconsistent with the context;
     4. the masculine includes the feminine and the neuter, and the singular includes the plural and vice versa as the context shall admit or require;
     5. any reference in the Contract to a clause or schedule is a reference to a clause or schedule of the Contract and references in any schedule to paragraphs relate to the paragraphs in that schedule;
     6. the clause headings are included for convenience only and shall not affect the interpretation of the Contract; and
     7. the schedules and appendices form part of the Contract and shall have effect as if set out in full in the body of the Contract and any reference to the Contract includes the schedules.

**2. TERM**

2.1 The Contract commences on 30 May 2018 (the **“Commencement Date”)** and, subject to any provision of this Contract for earlier termination, or extension set out in this clause 2, will terminate at the end of the Initial Term.

2.2 DFE may extend the Initial Term by up to 2 years (an Extension) in accordance with clause 38.

**3.** **THE SERVICES**

3.1 The Contractor shall provide the Services in the Area in accordance with the Specification and undertake and be responsible for all obligations of the Contractor in respect of the Services.

3.2 The DFE may appoint other Contractors for the Services in the Area.

3.3 The Contractor shall, in performing its obligations under the Contract:

3.3.1 conform to the requirements of the Specification and the Contractor’s Solution or as otherwise agreed in writing between the Parties;

3.3.2 carry out and complete the Services in a proper professional manner (taking account of the standards of a reasonably proficient practitioner) and in conformity with all reasonable directions and requirements of the DFE specified by the DFE from time to time;

3.3.3 comply with Good Industry Practice;

3.3.4 ensure that the Services are provided by competent and appropriately trained personnel;

3.3.5 comply with the Quality Standards and where applicable, shall maintain accreditation with the relevant Quality Standards authorisation body;

3.3.6 comply with the KPIs, Service Levels and Service Credit requirements set out in schedule 5;

3.3.7 comply with the Mobilisation Plan;

3.3.8 in so far as is reasonably practicable, comply with any policies and procedures adopted by the DFE from time to time within 14 days of the same being brought to the attention of the Contractor by the  DFE;

* + 1. comply with applicable Law, any applicable codes of practice or governmental regulation, and monitor compliance with relevant legislation;
    2. comply with all health and safety legislation, adopt and maintain safe operating systems of work and appropriate safety policies in order to protect the health and safety of Personnel, employees of the DFE, the Service Users and all other persons including members of the public; and
    3. comply with all safety, security, acceptable use and other policies of the DFE from time to time notified to it and procure that the Personnel also comply.

3.4 The DFE may provide data and materials to the Contractor and access to systems for the purposes of providing the Services that the Contractor may use but only to the extent necessary to enable the Contractor to provide the Services.

* 1. All equipment and other property brought onto DFE Premises shall be at the Contractor’s own risk and the DFE shall have no liability for any loss of or damage to any such equipment and property unless the Contractor is able to demonstrate that such loss or damage was caused by the negligence of the DFE.
  2. Any land or DFE Premises made available from time to time to the Contractor by the DFE in connection with the Contract shall be made available to the Contractor on a non-exclusive licence basis free of charge and shall be used by the Contractor solely for the purpose of performing its obligations under the Contract. The Contractor shall have the use of such land or DFE Premises as a licensee and shall vacate the same on completion, termination or abandonment of the Contract or the task in respect of which such land or DFE Premises was made available.
  3. The Contract does not create a tenancy of any nature whatsoever in favour of the Contractor or any of the Personnel and no such tenancy has or shall come into being and, notwithstanding any rights granted pursuant to the Contract, the DFE retains the right at any time to use any DFE Premises in any manner.

**4. CONSORTIA**

4.1 If the Contractor is a Consortium it shall comply with the terms of this clause 4.

4.2 The Contractor may appoint additional or replacement Consortium Members to assist it in carrying out its obligations under the Contract subject to compliance with clause 4.3.

4.3 No new person or entity may become a Consortium Member until:

4.3.1 the DFE has given its prior written consent to the new Consortium Member;

4.3.2 the new Consortium Member has signed a Deed of Adherence; and

4.3.3 a copy of the Deed of Adherence has been given to the DFE.

4.4 The Contractor shall promptly inform the DFE if and how any Consortium Member breaches the terms of the Consortium Agreement.

**5. TRANSFER AND SUB-CONTRACTING**

5.1 Save as set out in this clause 5 the Contractor may not sub-contract, assign, transfer, charge the benefit and/or delegate the burden of the whole or any part of the Contract (a “**Transfer**”) without the prior written consent of the DFE.

5.2 If the DFE consents to a Transfer the Contractor will evidence the Transfer in writing and provide a copy of the Transfer document on request.

5.3 The Contractor may award Sub-Contracts with a value per annum not exceeding £10,000 without the DFE’s consent.

5.4 Where the DFE has consented to a Sub-Contract, copies of each Sub-Contract shall, at the request of the DFE, be sent by the Contractor to the DFE as soon as reasonably practicable.

5.5 The Contractor shall not terminate or materially amend the terms of any Sub-Contract without the DFE's prior written consent.

5.6 The DFE may require the Contractor to terminate a Sub-Contract if the acts or omissions of the Sub-Contractor have given rise to the DFE’s right of termination pursuant to clause 23 unless the Sub-Contractor can remedy the breach to the DFE’s satisfaction within 21 days of receipt by the Contractor of written notice from the DFE requiring the Sub-Contract to be terminated.

5.7 The Contractor shall remain responsible for all acts and omissions of its Sub-Contractors as if they were its own.

5.8 If the DfE believes there are:

5.8.1 compulsory grounds for excluding a Sub-Contractor pursuant to regulation 57 of the Regulations, the Contractor shall replace or not appoint the Sub-Contractor; or

5.8.2 non-compulsory grounds for excluding a Sub-Contractor pursuant to regulation 57 of the Regulations, the DfE may require the Contractor to replace or not appoint the Sub-Contractor and the Contractor shall comply with such requirement.

**6. PERSONNEL**

6.1 The DFE may refuse admission to DFE Premises and/or direct the Contractor to end the involvement in the Services of any Personnel whom the DFE believes is a security risk.

6.2 If the DFE require the removal of any Personnel pursuant to clause 6.1, any Employment Liabilities and any other costs connected with that removal shall be at the Contractor’s cost.

6.3 The Contractor shall use its reasonable endeavours to ensure continuity of Personnel and to ensure that the turnover rate of Personnel is at least as good as the prevailing industry norm for similar services, locations and environments.

6.4 The Contractor shall ensure that no person who discloses a Relevant Conviction or who is found to have any Relevant Convictions (whether as a result of a police check or through the Disclosure and Barring Service Procedures or otherwise), is employed or engaged in providing the Services without the DFE's prior written consent.

6.5 For each of the Personnel who, in providing the Services, has, will have or is likely to have access to children, vulnerable persons or other members of the public to whom the DFE owes a special duty of care the Contractor shall (and shall procure that any relevant Sub-Contractor shall) ensure a police check is completed and such other checks as may be carried out through the Disclosure and Barring Service, and the Contractor shall not (and shall ensure that any Sub-Contractor shall not) engage or continue to employ in the provision of the Services any person who has a Relevant Conviction or what would reasonably be regarded as an inappropriate record.

6.6 The Contractor acknowledges that Key Personnel and Key Sub-Contractors are essential to the proper provision of the Services. The Parties have agreed to the appointment of Key Personnel and Key Sub-Contractors listed in schedule 7 as at the Commencement Date.

6.7 Key Personnel shall not be released from supplying the Services without the DFE’s consent except by reason of long-term sickness, maternity leave, paternity leave or termination of employment or other similar reason.

6.8 Any replacements of Key Personnel shall be subject to DFE consent and shall be of at least equal status, experience and skills to Key Personnel being replaced and be suitable for the responsibilities of that person in relation to the Services.

6.9 The DFE shall not unreasonably withhold consent under clauses 6.7 or 6.8. Such agreement shall be conditional on appropriate arrangements being made by the Contractor to minimise any adverse effect on Services which could be caused by a change in Key Personnel or Key Sub-Contractors.

6.10 DFE may require the Contractor to remove any Key Personnel who the DFE considers in any respect unsatisfactory.

6.11 The DFE shall not be liable for the cost of replacing any Key Personnel and the Contractor shall indemnify the DFE against all Employment Liabilities that may arise in this respect.

6.12 Except in respect of any transfer of staff under TUPE, for the Term and for 12 months after the Term neither Party shall (except with the prior written consent of the other) solicit the services of any staff of the other Party who have been engaged in providing the Services or the management of the Contract or any significant part thereof either as principal, agent, employee, independent contractor or in any other form of employment or engagement other than by means of an open national advertising campaign and not specifically targeted at staff of the other Party.

6.13 The Contractor shall further use all best endeavours to ensure that its staff who are not EC nationals are legally entitled to be resident in the United Kingdom and have a work permit, where applicable. The Contractor shall promptly take all reasonable steps to ensure compliance with this clause.

6.14 All providers including all sub-contractors shall have obtained the requisite vetting and clearance of all their staff so that the DFE may be assured that the DFE’s guidelines for child safeguarding are achieved.

**7. TUPE**

7.1 No later than 6 Months prior to the end of the Term the Contractor shall fully and accurately disclose to the DFE, within 30 days of the request, all information that the DFE may reasonably request in relation to the Personnel including the following:

7.1.1 the total number of Personnel whose employment/engagement shall terminate at the end of the Term;

7.1.2 the age, gender, salary or other remuneration, future pay settlements and redundancy and pensions entitlement of the Personnel referred to in clause 7.1.1;

7.1.3 the terms and conditions of employment/engagement of the Personnel referred to in clause 7.1.1, their job titles and qualifications;

7.1.4 details of any current disciplinary or grievance proceedings ongoing or circumstances likely to give rise to such proceedings and details of any claims current or threatened; and

7.1.5 details of all collective agreements with a brief summary of the current state of negotiations with any such bodies and with details of any current industrial disputes and claims for recognition by any trade union

(together the **“TUPE Information”**).

7.2 At intervals determined by the DFE (which shall not be more frequent than once every 30 days) the Contractor shall give the DFE updated TUPE Information.

7.3 Each time the Contractor supplies TUPE Information to the DFE it shall warrant its completeness and accuracy and the DFE may assign the benefit of this warranty to any Replacement Contractor.

7.4 The DFE may use TUPE Information for the purposes of any retendering process.

7.5 If TUPE applies to the transfer of the Services on termination of the Contract, the Contractor shall indemnify and keep indemnified the DFE, the Crown and any Replacement Contractor against all actions, suits, claims, demands, losses, charges, damages, costs and expenses and other liabilities which they may suffer or incur as a result of or in connection with:

7.5.1 the provision of TUPE Information;

7.5.2 any claim or demand by any Returning Employee (whether in contract, tort, under statute, pursuant to EU law or otherwise) in each case arising directly or indirectly from any act, fault or omission of the Contractor or any Sub-Contractor in respect of any Returning Employee on or before the end of the Term;

7.5.3 any failure by the Contractor or any Sub-Contractor to comply with its obligations under regulations 13 or 14 of TUPE or any award of compensation under regulation 15 of TUPE save where such failure arises from the failure of the DFE or a Replacement Contractor to comply with its duties under regulation 13 of TUPE;

7.5.4 any Court or Employment Tribunal claims (including any individual employee entitlement under or consequent on such a claim) by any trade union or other body or person representing any Returning Employees arising from or connected with any failure by the Contractor or any Sub-Contractor to comply with any legal obligation to such trade union, body or person; and

7.5.5 any claim by any person who is transferred by the Contractor to the DFE and/or a Replacement Contractor whose name is not included in the list of Returning Employees.

7.6 If the Contractor becomes aware that TUPE Information it provided has become inaccurate or misleading, it shall promptly notify the DFE and provide the DFE with up to date TUPE Information.

7.7 This clause 7 applies during the Term and indefinitely thereafter.

7.8 The Contractor undertakes to the DFE that, during the 12 Months prior to the end of the Term the Contractor shall not (and shall procure that any Sub-Contractor shall not) without written approval of DFE (such approval not to be unreasonably withheld or delayed):

7.8.1 amend or vary (or purport to amend or vary) the terms and conditions of employment or engagement (including, for the avoidance of doubt, pay) of any Personnel (other than where such amendment or variation has previously been agreed between the Contractor and the Personnel in the normal course of business and where any such amendment or variation is not in any way related to the transfer of the Services);

7.8.2 terminate or give notice to terminate the employment or engagement of any Personnel (other than in circumstances in which the termination is for reasons of misconduct or lack of capability);

7.8.3 transfer away, remove, reduce or vary the involvement of any other Personnel from or in the provision of the Services (other than where such transfer or removal: (i) was planned as part of the individual’s career development; (ii) takes place in the normal course of business; and (iii) will not have any adverse effect on the delivery of the Services, (provided that any such transfer, removal, reduction or variation is not in any way related to the transfer of the Services); or

7.8.4 recruit or bring in any new or additional individuals to provide the Services who were not already involved in providing the Services prior to the relevant period.

**8. CHARGES**

8.1 Except where otherwise expressly stated in the Contract the only payments to be paid by the DFE for the performance by the Contractor of its obligations under the Contract shall be the Charges which shall be inclusive of all costs and expenses incurred by the Contractor in the performance of its obligations.

8.2 In consideration for the provision of the Services the DFE shall pay the Charges in accordance with the schedule 3 subject to the receipt of correct invoices pursuant to clause 8.7 being issued by the Contractor.

8.3 Except where otherwise expressly stated in schedule 4 the Contractor shall not be entitled to increase the Charges or any rates identified in schedule 4 throughout the Term.

8.4 The Charges are exclusive of Value Added Tax (**“VAT”**) and all other taxes, duties and levies, but shall be inclusive of all charges, costs and expenses of whatever nature the Contractor incurs in providing the Services, and performing all other obligations of the Contractor, under the Contract (unless expressly stated otherwise in the Contract). The Contractor should notify the DFE of any direct VAT charges for the delivery of the Contract. The Contractor shall identify VAT and other applicable taxes, duties and levies separately on invoices, including identifying the elements of the Charges that are subject to VAT at the standard rate or at any other rates and that are zero rated or exempt from VAT.

8.5 Payment of the Charges by the DFE shall be without prejudice to any rights the DFE may have by reason of any Services, or any part thereof, failing to comply with any provision of the Contract and any breach by the Contractor of the Contract shall not be deemed to be accepted or waived by the DFE by reason of such payment.

8.6 The DFE may deduct from or offset against any monies due or becoming due to the Contractor under the Contract (including the Charges) any monies due from the Contractor under the Contract or otherwise under any other agreement or account whatsoever.

8.7 Invoices shall be submitted to [SSCL.POINVOICEPAYMENTS@sscl.gse.gov.uk](mailto:SSCL.POINVOICEPAYMENTS@sscl.gse.gov.uk) and/or sent, within 30 days of the end of the relevant invoicing date, to SSCL Accounts Payable Team, Room 6124, Tomlinson House, Norcross, Blackpool, FY5 3TA. An invoice is a **“Valid Invoice”** if it is legible and includes:

8.7.1 the date of the invoice;

8.7.2 Contractor’s full name and address;

8.7.3 Contract reference number;

8.7.4 the charging period;

8.7.5 a detailed breakdown of the appropriate Charges including deliverables or milestones achieved (if applicable);

8.7.6 days and times worked (if applicable);

8.7.7 Service Credits (if applicable); and

8.7.8 VAT if applicable.

8.8 The DFE shall not pay an invoice which is not a Valid Invoice.

8.9 The DFE intends to pay Valid Invoices within 10 days of receipt. Valid Invoices not paid within 30 days are subject to interest at the rate of 2% above the base rate from time to time of Barclays Bank. This clause 8.9 is a substantial remedy for late payment of any sum payable under the Contract in accordance with section 8(2) Late Payment of Commercial Debts (Interest) Act 1998.

8.10 The DFE shall not be responsible for any delay in payment caused by receipt of invoices which are not Valid Invoices and shall, within 10 Business Days of receipt, return to the Contractor for correction invoices that are not Valid Invoices together with an explanation of the need for correction.

8.11 At the end of the Term the Contractor shall promptly draw-up a final invoice which shall cover all Services provided up to the end of the Term which have not already been invoiced to the DFE. The final invoice shall be submitted not later than 30 days after the end of the Term.

8.12 The DFE shall not be obliged to pay the final invoice until the Contractor has carried out all of the Service.

8.13 The Contractor shall ensure that a term is included in all Sub-Contracts which requires payment to be made of all sums due to Sub-Contractors within 30 days from the receipt of a valid invoice.

8.14 If the DFE disputes any amount specified in a Valid Invoice it shall pay such amount of the invoice as is not in dispute and within 10 Business Days notify the Contractor of the reasons for disputing the invoice. The DFE may withhold the disputed amount pending resolution of the dispute.

8.15 The Parties shall use all reasonable endeavours to resolve any dispute over invoices within 10 Business Days of the dispute being raised, after which period either Party may refer the matter for resolution in accordance with clause 36.

**9. TAX and VAT**

9.1 Where the Contractor is liable to be taxed in the UK in respect of consideration received under the Contract it shall at all times comply with the Income Tax (Earnings and Pensions) Act 2003 and all other statutes and regulations relating to income tax in respect of that consideration.

9.2 If the Services are liable for VAT the Contractor shall comply with HMRC rules and regulations. The Contractor will be liable for paying to HMRC any identified VAT including those which may fall due.

9.3 If the Contractor is liable to NICs in respect of consideration received under the Contract it shall comply with the Social Security Contributions and Benefits Act 1992 and all other statutes and regulations relating to NICs in respect of that consideration.

9.4 The DFE may ask the Contractor to provide information which demonstrates how the Contractor complies with clauses 9.1 to 9.3 or why those clauses do not apply to it.

9.5 A request under clause 9.4 may specify the information which the Contractor must provide and the period within which that information must be provided.

9.6 The DFE may terminate this Contract if:

9.6.1 in the case of a request mentioned in clause 9.4 the Contractor:

(i) fails to provide information in response to the request within a reasonable time; or

(ii) provides information which does not demonstrate either how the Contractor complies with clauses 9.1 to 9.3 or why those clauses do not apply to it;

9.6.2 it receives information which demonstrates that, if clauses 9.1 to 9.3 apply, the Contractor is not complying with those clauses.

9.7 The DFE may supply any information which it receives under clause 9.4 to HMRC.

9.8 The Contractor bears sole responsibility for the payment of tax and national insurance contributions due from it in relation to any payments or arrangements made under the Contract or in relation to any payments made by the Contractor to its officers or employees in connection with the Contract.

9.9 The Contractor will account to the appropriate authorities for any applicable income tax, national insurance, VAT and all other taxes, liabilities, charges and duties relating to any payments made to the Contractor under the Contract or in relation to any payments made by the Contractor to its officers or employees in connection with the Contract. The Contractor shall indemnify DFE against any liability, assessment or claim made by the HMRC or any other relevant authority arising out of the performance by the Contractor of its obligations under the Contract (other than in respect of employer's secondary national insurance contributions) and any costs, expenses, penalty fine or interest incurred or payable by DFE in connection with any such assessment or claim.

9.10 The Contractor authorises the DFE to provide HMRC and all other departments or agencies of the Government with any information which they may request as to fees and/or expenses paid or due to be paid under the Contract whether or not DFE is obliged as a matter of law to comply with such request.

9.11 The Contractor represents and warrants that as at the Date of this Contract, it has notified the Department in writing of any Occasions of Tax Non-Compliance or any litigation that it is involved in that is in connection with any Occasions of Tax Non Compliance.

9.12 If at any point during the Term, an Occasion of Tax Non-Compliance occurs, the Contractor shall:

a) notify the Department in writing of such fact within 5 Business Days of its occurrence; and

b) promptly provide to the Department with:

i) details of the steps which the Contractor is taking to address the Occasion of Tax Non-Compliance and to prevent the same from recurring, together with any mitigating factors that it considers relevant; and

ii) such other information in relation to the Occasion of Tax Non-Compliance as the Department may reasonably require.

9.13 In the event that:

(a) the warranty given by the Contractor pursuant to Clause 9.11 is materially untrue; or

(b) the Contractor commits a material breach of its obligation to notify the Department of any Occasion of Tax Non-Compliance as required by Clause 9.12; or

(c) the Contractor fails to provide details of proposed mitigating factors which in the reasonable opinion of the Department, are acceptable

the Department shall be entitled to terminate this Contract with immediate effect by notice in writing.

**10. PREVENTION OF CORRUPTION**

10.1 The Contractor represents and warrants that neither it, nor to the best of its knowledge any Personnel, have at any time prior to the Commencement Date:

10.1.1 committed a Prohibited Act or been formally notified that it is subject to an investigation or prosecution which relates to an alleged Prohibited Act; or

10.1.2 been listed by any government department or agency as being debarred, suspended, proposed for suspension or debarment, or otherwise ineligible for participation in government procurement programmes or contracts on the grounds of a Prohibited Act.

10.2 The Contractor shall not:

10.2.1 commit a Prohibited Act; or

10.2.2 do or suffer anything to be done which would cause the DFE or any of its employees, consultants, contractors, Sub-Contractors or agents to contravene any of the Relevant Requirements or otherwise incur any liability in relation to the Relevant Requirements.

10.3 The Contractor shall:

10.3.1 and procure that its Sub-Contractors shall, establish, maintain and enforce, policies and procedures which are adequate to ensure compliance with the Relevant Requirements and prevent the occurrence of a Prohibited Act; and

10.3.2 keep appropriate records of its compliance with its obligations under clause 10.3.2 and make such records available to the DFE on request.

10.4 The Contractor shall immediately notify the DFE in writing if it becomes aware of any breach of clauses 10.1 and/or 10.2, or has reason to believe that it has or any of the Personnel have:

10.4.1 been subject to an investigation or prosecution which relates to an alleged Prohibited Act;

10.4.2 been listed by any government department or agency as being debarred, suspended, proposed for suspension or debarment, or otherwise ineligible for participation in government procurement programmes or contracts on the grounds of a Prohibited Act; or

10.4.3 received a request or demand for any undue financial or other advantage of any kind in connection with the performance of the Contract or otherwise suspects that any person directly or indirectly connected with the Contract has committed or attempted to commit a Prohibited Act.

10.5 If the Contractor notifies the DFE pursuant to clause 10.4, the Contractor shall respond promptly to the DFE’s enquiries, co-operate with any investigation, and allow the DFE to audit any books, records and any other relevant documentation.

10.6 If the Contractor is in Default under clauses 10.1 and/or 10.2, the DFE may by notice:

10.6.1 require the Contractor to remove from performance of the Contract any Personnel whose acts or omissions have caused the Default; or

10.6.2 immediately terminate the Contract.

10.7 Any notice served by the DFE under clause 10.6 shall specify the nature of the Prohibited Act, the identity of the party who the DFE believes has committed the Prohibited Act and the action that the DFE has taken (including, where relevant, the date on which the Contract shall terminate).

**11. DISCRIMINATION**

11.1 The Contractor shall perform its obligations under the Contract in accordance with all applicable equality law.

11.2 The Contractor shall comply with requirements and instructions which the DFE reasonably imposes in connection with any equality obligations imposed on the DFE at any time under equality law.

11.3 The Contractor indemnifies the DFE in full from and against all Employment Liabilities that may arise as a result of any claims brought against the DFE by any of its employees, agents, consultants and contractors (**“DFE Personnel”**) and/or any of the Personnel where such claim arises from any act or omission of the Personnel in respect of anti-discrimination legislation. The Contractor will also provide all reasonable cooperation, assistance and information as the DFE may request in connection with any investigation by the DFE into any complaint or other grievance received by it from any of the DFE Personnel or Personnel in respect of anti-discrimination legislation which may have arisen from, or been contributed to by, any act or omission of the Contractor or any Personnel.

**12. INTELLECTUAL PROPERTY**

12.1 All Intellectual Property Rights in materials:

12.1.1 furnished to or made available to the Contractor by or on behalf of the DFE (the **“DFE IP Materials”**) shall remain the property of the DFE (save for Copyright and Database Rights which shall remain the property of the Crown); and

12.1.2 prepared by or for the Contractor on behalf of the DFE in connection with the Contract (the **"Service Specific IP Materials"**) shall vest in the DFE (save for Copyright and Database Rights which shall vest in the Crown)

12.2 The Contractor shall not, and shall ensure that Personnel shall not, use or disclose IP Materials without the DFE’s approval save to the extent necessary for the performance by the Contractor of its obligations under the Contract.

12.3 The Contractor hereby assigns to the DFE or undertakes to procure the assignment to the DFE of all Intellectual Property Rights which may subsist in the Service Specific IP Materials (save for Copyright and Database Rights which it hereby assigns to the Crown or undertakes to procure the assignment of to the Crown). These assignments shall be given with full title guarantee, shall take effect on the Commencement Date or as a present assignment of future rights that will take effect immediately on the coming into existence of the Intellectual Property Rights in the Service Specific IP Materials and shall include, without limitation, an assignment to the DFE (or the Crown as appropriate) of all rights arising in the United Kingdom and the world together with the right to sue for damages and other remedies for infringement occurring prior to the date of assignment. The Contractor shall execute all documents and do all other acts requested by the DFE and necessary to execute and perfect these assignments and to otherwise evidence the DFE’s or the Crown’s ownership of such rights.

12.4 The Contractor shall waive or procure a waiver on an irrevocable and unconditional basis of any moral rights subsisting in copyright produced by or in connection with the Contract or the performance of the Contract.

12.5 The Contractor shall ensure that the third party owner of any Intellectual Property Rights that are or which may be used to perform the Services grants to the DFE a non-exclusive licence or, if itself a licensee of those rights, shall grant to the DFE an authorised sub-licence, to use, reproduce, modify, develop and maintain the Intellectual Property Rights in the same. Such licence or sub-licence shall be non-exclusive, perpetual, royalty-free, worldwide and irrevocable and shall include the right for the DFE to sub-licence, transfer, novate or assign to a Replacement Contractor. The Contractor shall notify the DFE of any third party Intellectual Property Rights to be used in connection with the Contract prior to their use in connection with the Contract or the creation or development of the Service Specific IP Materials.

12.6 The Contractor shall not infringe any Intellectual Property Rights of any third party in performing its obligations under the Contract and the Contractor shall indemnify and keep indemnified the DFE and any Replacement Contractor from and against all actions, suits, claims, demands, losses, charges, damages, costs and expenses and other liabilities which the DFE may suffer or incur as a result of or in connection with any breach of this clause 14, except to the extent that any such claim arises from:

12.6.1 items or materials supplied by the DFE; or

12.6.2 the use of data supplied by the DFE which is not required to be verified by the Contractor under any provision of the Contract.

12.7 The DFE shall notify the Contractor in writing of any claim or demand brought against the DFE for infringement or alleged infringement of any Intellectual Property Right in materials supplied and/or licensed by the Contractor.

12.8 The Contractor shall at its own expense conduct all negotiations and any litigation arising in connection with any claim for infringement of Intellectual Property Rights in materials supplied and/or licensed by the Contractor to the DFE, provided always that the Contractor shall:

12.8.1 consult the DFE on all substantive issues which arise during the conduct of such litigation and negotiations;

12.8.2 take due and proper account of the interests and concerns of the DFE; and

12.8.3 not settle or compromise any claim without the DFE’s prior written consent (not to be unreasonably withheld or delayed).

12.9 Notwithstanding clause 12.8. the DFE may take any action it deems appropriate with respect to any such claim and shall have exclusive control of such claim. If the DFE takes action the Contractor shall at the request of the DFE afford to the Contractor all reasonable assistance to the DFE for the purpose of contesting such claim.

12.10 The DFE shall at the request of the Contractor afford to the Contractor all reasonable assistance for the purpose of contesting any claim or demand made or action brought against the DFE or the Contractor by a third party for infringement or alleged infringement of any third party Intellectual Property Rights in connection with the performance of the Contractor’s obligations under the Contract subject to the Contractor indemnifying the DFE on demand and in full for all reasonable costs and expenses (including, but not limited to, legal costs and disbursements) incurred in doing so.

12.11 If a claim, demand or action for infringement or alleged infringement of any Intellectual Property Right is made in connection with the Contract or in the reasonable opinion of the Contractor is likely to be made, the Contractor shall notify the DFE and, at its own expense and subject to the consent of the DFE (not to be unreasonably withheld or delayed), use reasonable endeavours to:

12.11.1 modify any or all of the Service Specific IP Materials and, where relevant, the Services without reducing the performance or functionality of the same, or substitute alternative materials or services of equivalent performance and functionality, so as to avoid the infringement or the alleged infringement, provided that the provisions of this clause 12 shall apply mutatis mutandis to such modified materials or services or to the substitute materials or services; or

12.11.2 procure a licence to use and supply the Service Specific IP Materials, other relevant Intellectual Property Rights and Services, which are the subject of the alleged infringement, on terms which are acceptable to the DFE.

12.12 If the Contractor is unable to comply with clauses 12.11.1 and 12.11.2 within 20 Business Days of receipt of the Contractor’s notification the DFE may terminate the Contract with immediate effect by notice in writing.

12.13 The Contractor grants to the DFE and, if requested by DFE, to a Replacement Contractor, a royalty-free, perpetual, irrevocable and non-exclusive licence (with a right to sub-licence) to use any Intellectual Property Rights the Contractor owned or developed prior to the Commencement Date or otherwise not in connection with the Contract (**“Contractor IP”**) and which the DFE (or a Replacement Contractor) reasonably requires in order to exercise its rights and take the benefit of the Contract including the Services provided and the use and further development of the IP Materials.

12.14 The DFE shall comply with the reasonable instructions of the Contractor in respect of the way in which it uses the Contractor IP.

12.15 If the Contractor is not able to grant to the DFE a licence to use any Contractor IP for any reason, including due to any Intellectual Property Rights that a third party may have in such Contractor IP, the Contractor shall use its reasonable endeavours to:

12.15.1 procure that the third party owner of any Intellectual Property Rights that are or that may be used to perform the Contract grants to the DFE a licence on the terms set out in clause 12.13; or

12.15.2 if the Contractor is itself a licensee of those rights and is able to do so under the terms of its licence, grant to the DFE a sub-licence on the terms set out in clause 12.13.

12.16 The Contractor shall not knowingly do or permit to be done, or omit to do in connection with its use of Intellectual Property Rights which are or are to be the DFE IP Materials any act or thing which:

12.16.1 would or might jeopardise or invalidate any trade mark application or registration comprised within the same or give rise to an application to remove or amend any such application or registration from the register maintained by the relevant trade mark registry; or

12.16.2 would or might prejudice the right or title of the DFE to any of the DFE IP Materials.

12.17 The Contractor shall comply with the DFE’s branding guidelines and shall not use any other branding, including its own, other than as set out in the DFE’s branding guidelines or as otherwise agreed with the DFE.

12.18 When using DFE Trade Marks the Contractor shall observe all reasonable directions given by the DFE from time to time as to colour and size and the manner and disposition thereof on any materials it provides to persons in connection with the Services. The Contractor may not:

12.18.1 adopt or use any trade mark, symbol or device which incorporates or is confusingly similar to, or is a simulation or colourable imitation of, any DFE Trade Mark, or unfairly competes with any DFE Trade Mark; or

12.18.2 apply anywhere in the world to register any trade marks identical to or so nearly resembling any DFE Trade Mark as to be likely to deceive or cause confusion.

**13. DATA, SYSTEMS HANDLING AND SECURITY**

13.1 The Parties shall comply with the provisions of schedule 8.

**14. PUBLICITY AND PROMOTION**

14.1 Subject to clause 15.2, without prejudice to the DFE’s obligations under the FOIA, the EIR, the Regulations, or any policy requirements as to transparency, neither Party shall make any press announcement or publicise the Contract or any part thereof in any way, except with the written consent of the other Party.

14.2 The Contractor shall use reasonable endeavours to ensure its Personnel comply with clause 14.1

14.3 Without prejudice to the generality of clauses 12.18 and 14.1, the Contractor shall not itself, and shall procure that Consortium Members shall not, use the DFE’s name, brand or DFE Trade Marks or the Personal Data of the DFE to sell, promote, market or publicise the Contractor’s other programmes, courses, services or other activities.

14.4 Subject to clauses 12 and 15 DFE may disclose, copy and otherwise distribute to the public, including but not limited to, by way of the Open Government Licence, any information arising out of the Services or comprised in any work relating to the Services.

**15.** **CONFIDENTIALITY**

15.1 Except to the extent set out in this clause 15or if disclosure or publication is expressly permitted elsewhere in the Contract each Party shall treat all Confidential Information belonging to the other Party as confidential and shall not disclose any Confidential Information belonging to the other Party to any other person without the other Party’s consent, except to such persons and to such extent as may be necessary for the performance of the Party’s obligations under the Contract.

15.2 The Contractor hereby gives its consent for the DFE to publish the whole Contract including from time to time agreed changes to the Contract.

15.3 The Contractor may only disclose the DFE's Confidential Information to Personnel who are directly involved in the provision of the Services and who need to know the information, and shall ensure that Personnel are aware of and shall comply with these obligations as to confidentiality.

15.4 The Contractor shall not, and shall procure that Personnel do not, use any of the DFE's Confidential Information received otherwise than for the purposes of the Contract.

15.5 Clause 15.1 shall not apply to the extent that:

15.5.1 such disclosure is a requirement of law placed upon the Party making the disclosure, including any requirements for disclosure under the FOIA or the EIR;

15.5.2 such information was in the possession of the Party making the disclosure without obligation of confidentiality prior to its disclosure by the information owner;

15.5.3 such information was obtained from a third party without obligation of confidentiality;

15.5.4 such information was already in the public domain at the time of disclosure otherwise than by a breach of the Contract; or

15.5.5 it is independently developed without access to the other Party's Confidential Information.

15.6 Nothing in clause 15 shall prevent the DFE disclosing any Confidential Information obtained from the Contractor:

15.6.1 for the purpose of the examination and certification of the DFE’s accounts;

15.6.2 for the purpose of any examination pursuant to section 6(1) of the National Audit Act 1983 of the economy, efficiency and effectiveness with which the DFE has used its resources;

15.6.3 to any other crown body and the Contractor hereby acknowledges that all government departments receiving such Confidential Information may further disclose the Confidential Information to other government departments on the basis that the information is confidential and is not to be disclosed to a third party which is not part of any government department; or

15.6.4 to any consultant, contractor or other person engaged by the DFE provided that in disclosing information under clauses 15.8.3 and 15.8.4 the DFE discloses only the information which is necessary for the purpose concerned and requests that the information is treated in confidence and that a confidentiality undertaking is given where appropriate.

15.7 Nothing in clauses 15.1 to 15.6 shall prevent either Party from using any techniques, ideas or know-how gained during the performance of its obligations under the Contract in the course of its normal business, to the extent that this does not result in a disclosure of the other Party’s Confidential Information or an infringement of the other Party’s Intellectual Property Rights.

15.8 The DFE shall endeavour to ensure that any government department, employee, third party or sub-contractor to whom the DFE's Confidential Information is disclosed pursuant to clause 15.6 is made aware of the DFE's obligations of confidentiality.

15.9 If the Contractor does not comply with clauses 15.1 to 15.5 the DFE may terminate the Contract immediately on notice to the Contractor.

**16. FREEDOM OF INFORMATION**

16.1 The Contractor acknowledges that the DFE is subject to the requirements of the FOIA and the EIR.

16.2 The Contractor shall transfer to the DFE all Requests for Information that it receives as soon as practicable and in any event within 2 Business Days of receipt:

16.2.1 give the DFE a copy of all Information in its possession or control in the form that the DFE requires within 5 Business Days (or such other period as the DFE may specify) of the DFE's request;

16.2.2 provide all necessary assistance as reasonably requested by the DFE to enable the DFE to comply with its obligations under the FOIA and EIR; and

16.2.3 not respond to directly to a Request for Information unless authorised to do so in writing by the DFE.

16.3 The DFE shall determine in its absolute discretion and notwithstanding any other provision in the Contract or any other agreement whether the Commercially Sensitive Information and any other information is exempt from disclosure in accordance with the provisions of the FOIA and/or the EIR.

**17.** **OFFICIAL SECRETS ACTS AND FINANCE ACT**

17.1 The Contractor shall comply with the provisions of:

17.1.1 the Official Secrets Acts 1911 to 1989; and

17.1.2 section 182 of the Finance Act 1989.

**18. LIABILITY**

18.1 Neither Party excludes or limits its liability (if any) to the other:

18.1.1 for breach of any obligations arising under section 12 Sale of Goods Act 1979 or section 2 Supply of Goods and Services Act 1982;

18.1.2 for personal injury or death resulting from the its negligence;

18.1.3 under section 2(3) Consumer Protection Act 1987;

18.1.4 any breach of clause 15 or schedule 8;

18.1.5 for its own fraud; or

18.1.6 for any other matter which it would be unlawful for it to exclude or to attempt to exclude its liability.

18.2 Subject to clauses 18.1 and 18.3, the Contractor shall indemnify the DFE and keep the DFE indemnified fully against all claims, proceedings, demands, charges, actions, damages, costs, breach of statutory duty, expenses and any other liabilities which may arise out of the supply, or the late or purported supply, of the Services or the performance or non-performance by the Contractor or any Personnel on the Premises, including in respect of death or personal injury, loss of or damage to property, financial loss arising from any advice given or omitted to be given by the Contractor, or any other loss which is caused directly by any act or omission of the Contractor.

18.3 The Contractor does not exclude or limit its liability (if any) pursuant to any indemnities given by it in clauses 12 (Intellectual Property) and 9 (Tax).

18.4 Subject to clauses 18.1, 18.3 and 18.6, neither Party shall have any liability to the other under or in connection with the Contract, whether in contract, tort (including negligence) or otherwise:

18.4.1 for any losses of an indirect or consequential nature;

18.4.2 for any claims for loss of profits, revenue, business or opportunity (whether direct, indirect or consequential); or

18.4.3 to the extent that it is prevented from meeting any obligation under the Contract as a result of any breach or other default by the other Party.

18.5 Subject to clauses 18.1 and 18.3, the maximum liability of either Party to the other under the Contract, whether in contract, tort (including negligence) or otherwise:

18.5.1 in respect of damage to property is limited to £5 million in respect of any one incident or series of connected incidents; and

18.5.2 in respect of any claim not covered by clause 18.5.1, is limited in each calendar year in aggregate to 150% of the sum of the Charges payable in that year.

18.6 The DFE may recover from the Contractor the following losses incurred by the DFE to the extent they arise as a result of a Default by the Contractor:

18.6.1 any additional operational and/or administrative costs and expenses incurred by the DFE, including costs relating to time spent by or on behalf of the DFE in dealing with the consequences of the default;

18.6.2 any wasted expenditure or charges;

18.6.3 the additional costs of procuring a Replacement Contractor for the remainder of the Contract and or replacement deliverables which shall include any incremental costs associated with the Replacement Contractor and/or replacement deliverables above those which would have been payable under the Contract;

18.6.4 any compensation or interest paid to a third party by the DFE; and

18.6.5 any fine or penalty incurred by the DFE and any costs incurred by the DFE in defending any proceedings which result in such a fine or penalty.

18.7 Except as otherwise expressly provided by the Contract, all remedies available to either Party for breach of the Contract are cumulative and may be exercised concurrently or separately, and the exercise of any one remedy shall not be deemed an election of such remedy to the exclusion of other remedies.

18.8 All property of the Contractor whilst on the DFE's premises shall be there at the risk of the Contractor and the DFE shall accept no liability for any loss or damage howsoever occurring to it.

18.9 The Contractor shall effect and maintain in force with a reputable insurance company employer’s liability and public liability insurances for the sum and range of cover as the DFE deems to be appropriate but not less than £5,000,000 for any one claim, for professional indemnity insurances for the sum and range of cover as the DFE deems to be appropriate but not less than £1,000,000 for any one claim and insurance to cover the liability of the Contractor under the Contract. Such insurances shall be maintained for the Term and for a minimum of 6 years following the end of the Term.

18.10 The Contractor shall supply to the DFE on demand copies of the insurance policies maintained under clause 18.9.

18.11 The provisions of any insurance or the amount of cover shall not relieve the Contractor of any liabilities under the Contract.

18.12 It shall be the responsibility of the Contractor to determine the amount of insurance cover that will be adequate to enable the Contractor to satisfy any liability it has under, or in connection with, the Contract.

**19. WARRANTIES AND REPRESENTATIONS**

19.1 The Contractor warrants and represents that:

19.1.1 it has full capacity and authority and all necessary consents (including where its procedures so require, the consent of its parent company) to enter into and perform its obligations under the Contract and that the Contract is executed by a duly authorised representative of the Contractor;

19.1.2 in entering the Contract it has not committed any fraud;

19.1.3 as at the Commencement Date, all information contained in the Contractor’s Solution remains true, accurate and not misleading, save as may have been specifically disclosed in writing to the DFE prior to execution of the Contract;

19.1.4 no claim is being asserted and no litigation, arbitration or administrative proceeding is presently in progress or, to the best of its knowledge and belief, pending or threatened against it or any of its assets which will or might, and it is not subject to any contractual obligation, compliance with which is likely to, have a material adverse effect on its ability to perform its obligations under the Contract;

19.1.5 it owns, has obtained or is able to obtain valid licences for all Intellectual Property Rights that are necessary for the performance of its obligations under the Contract;

19.1.6 the Service Specific IP Materials will be its original work and will not have been copied wholly or substantially from another party’s work or materials provided that this clause 19.1.6 shall not apply to any IP Materials used by the Contractor under permission or licence from any other person or entity (including, without limitation, any Sub-Contractor); and

19.1.7 the use by the DFE of any Intellectual Property Rights assigned or licensed to it by the Contractor under the Contract will not infringe or conflict with the rights of any third party;

19.1.8 in the 3 years (or actual period of existence if the Contractor has been in existence for less time) prior to the Commencement Date:

(i) it has conducted all financial accounting and reporting activities in compliance in all material respects with the generally accepted accounting principles that apply to it in any country where it files accounts;

(ii) it has been in full compliance with all applicable securities and tax laws and regulations in the jurisdiction in which it is established; and

(iii) it has not done or omitted to do anything which could have a material adverse effect on its assets, financial condition or position as an ongoing business concern or its ability to fulfil its obligations under the Contract;

19.1.9 it has and will continue to hold all necessary regulatory approvals from the Regulatory Bodies necessary to perform its obligations under the Contract; and

19.1.10 it has notified the DFE in writing of any Occasions of Tax Non-Compliance or any litigation in which it is involved that is in connection with any Occasion of Tax Non-Compliance.

**20. FORCE MAJEURE**

20.1 If either Party is prevented or delayed in the performance of any of its obligations under the Contract by Force Majeure, that Party shall immediately serve notice in writing on the other Party specifying the nature and extent of the circumstances giving rise to Force Majeure, and shall subject to service of such notice and to clause 20.3 have no liability in respect of the performance of such of its obligations as are prevented by the Force Majeure events during the continuation of such events, and for such time after they cease as is necessary for that Party, using all reasonable endeavours, to recommence its affected operations in order for it to perform its obligations.

20.2 If either Party is prevented from performance of its obligations for a continuous period in excess of 3 months, the other Party may terminate the Contract forthwith on service of written notice upon the Party so prevented, in which case neither Party shall have any liability to the other except that rights and liabilities which accrued prior to such termination shall continue to subsist.

20.3 The Party claiming to be prevented or delayed in the performance of any of its obligations under the Contract by reason of Force Majeure shall use reasonable endeavours to end Force Majeure or to find solutions by which the Contract may be performed despite the Force Majeure.

**21. MONITORING AND REMEDIATION**

21.1 The DFE or its authorised representatives may visit on reasonable notice to the Contractor any premises of the Contractor, any Consortium Member or any other premises at which the Services (or any part of them) are being or are to be performed to ascertain that the Contractor is conforming in all respects with its obligations arising under the Contract and otherwise to monitor and quality assure the provision of the Services.

21.2 During such visits, the DFE may inspect and take copies of such of the records of the Contractor and any Consortium Member as relate to the performance of their obligations under the Contract.

21.3 If the DFE reasonably considers that any provision of the Contract is at risk of not being complied with it may, notwithstanding and without prejudice to any other right or remedy that it may have under the Contract or otherwise:

21.3.1 require the Contractor to produce a plan of remedial action in order to remedy or remove such risk, which shall be subject to the approval of the DFE (not to be unreasonably withheld) and which, once approved, the Contractor shall implement; and

21.3.2 monitor, supervise, direct and/or guide the Contractor’s provision of the Services until the DFE reasonably considers that any such risk has been remedied or removed. The Contractor shall cooperate at all times with the DFE in this regard.

21.4 If the Contractor fails to comply with any provision of the Contract or fails to supply any of the Services in accordance with the provisions of the Contract and such failure is capable of remedy, then the DFE may instruct the Contractor to remedy the failure and the Contractor shall at its own cost and expense remedy such failure (and any damage resulting from such failure) within 21 days or such other period of time as the DFE may direct.

21.5 If despite measure taken under Clause 21.3.1 a remedial action plan cannot be agreed within the minimum period of ten (10) Business Days (or such greater period as notified by DFE to the Contractor) then DFE may elect to end the remedial action plan process and refer the matter for the resolution by the dispute resolution procedure set out in Clause 36 (Dispute Resolution) or terminate the Contract by giving written notice to the Contractor with immediate effect and without liability.

21.6 If a remedial action plan is agreed between the Parties, by the Contractor fails to implement the remedial action plan in accordance with its terms and by the required remedial plan completion date, DfE may:

1. terminate the Contract by giving written notice to the Contractor with immediate effect and without liability;
2. give the Contractor a further opportunity to resume full implementation of the remedial action plan; or
3. escalated any issues arising out of the failure to implement the remedial action plan to the Contractors Chief Operating Officer (or equivalent) under the dispute resolution procedure set out in Clause 36 (Dispute Resultion).

21.7 If despite the measures taken under Clause 21.6 (b) or 21.6 (c), the Contractor fails to implement the remedial action plan in accordance with its terms, DfE may elect to end the remedial action plan process and refer the matter for resolution by the dispute resolution procedure set out in Clause 36 (Dispute Resolution) or terminate the Contract by giving written notice to the Contractor with immediate effect and without liability.

21.8 DfE shall not be obliged to follow the remedial action place process if there is a repetition of substantially the same default as had previously been addressed in two remedial action plans within a period of six (6) months following the conclusion of the previous remedial action plan process. In such event DfE may terminate the Contract by giving written notice to the Contractor with immediate effect and without liability

21.5 The DFE may review from time to time the progress of the Contractor against the Mobilisation Plan, the Specification and the Contractor’s Solution. The Contractor shall cooperate with the DFE in this regard and provide any information and evidence reasonably required by the DFE.

21.6 The DFE may instruct the Contractor to take appropriate remedial action where the DFE reasonably considers that the Mobilisation Plan, the Specification or the Contractor’s Solution are not being complied with or are at risk of not being complied with and the Contractor shall take such remedial action.

**22. STEP IN RIGHTS**

22.1 Without prejudice to DFE’s rights of termination under clause 23 the DFE may exercise one or more of the rights set out in this clause 22 (**“Step In Rights”**) if:

22.1.1 there is a Default by the Contractor which materially prevents or materially delays performance of the Services or any part of the Services;

22.1.2 an event of Force Majeure occurs which materially prevents or materially delays the performance of the Services or any part of the Services;

22.1.3 a Regulatory Body has advised the DFE that exercise by the DFE of its rights under this clause 22 is necessary;

22.1.4 a serious risk exists to the health and safety of persons, property or the environment;

22.1.5 it is necessary to discharge a statutory duty; or

22.1.6 the Contractor becomes insolvent.

22.2 If the DFE has a Step In Right it may serve notice on the Supplier (a **“Step-In Notice”**) that it will take action under this clause 22 either itself or with the assistance of a third party.

22.3 The Step-In Notice shall set out:

22.3.1 the action the DFE wishes to take and in particular the Services that it wishes to control (the **“Required Action”**);

22.3.2 the event triggering the Step In Rights and whether the DFE believes that the Required Action is due to the Contractor's Default;

22.3.3 the date on which it wishes to commence the Required Action;

22.3.4 the time period which it believes will be necessary for the Required Action;

22.3.5 whether the DFE will require access to the Contractor's premises; and

22.3.6 to the extent practicable, the effect the DFE anticipates the Required Action will have on the Contractor’s obligations to provide the Services during the period that the Required Action is being taken.

22.4 Following service of a Step-In Notice, the DFE shall:

22.4.1 take the Required Action set out in the Step-In Notice and any consequential additional action as it reasonably believes is necessary to achieve the Required Action;

22.4.2 keep records of the Required Action taken and provide information about the Required Action to the Contractor;

22.4.3 co-operate wherever reasonable with the Contractor in order to enable the Contractor to continue to provide those Services of which the DFE is not assuming control; and

22.4.5 act reasonably in mitigating the cost that the Contractor will incur as a result of the exercise of the Step In Rights.

22.5 For as long as and to the extent that the Required Action continues:

22.5.1 the Contractor shall not be obliged to provide the Services to the extent that they are the subject of the Required Action; and

22.5.2 the DFE shall pay the Contractor the Charges after subtracting any applicable Service Credits and the DFE's costs of taking the Required Action.

22.6 If the Contractor demonstrates to the DFE’s reasonable satisfaction that the Required Action has resulted in the degradation of any Services not subject to the Required Action beyond that which would have been the case had the DFE not taken the Required Action, the DFE may adjust the Charges.

22.7 Before ceasing to exercise its Step In Rights the DFE shall deliver a written notice to the Contractor (a **“Step-Out Notice”**), specifying:

22.7.1 the Required Action it has taken; and

22.7.2 the date on which the DFE plans to end the Required Action subject to the DFE being satisfied with the Contractor's ability to resume the provision of the Services and the Contractor's plan developed in accordance with clause 22.8.

22.8 The Contractor shall, following receipt of a Step-Out Notice and not less than 20 Business Days prior to the date specified in clause 22.7.2, develop for the DFE's approval a draft plan relating to the resumption by the Contractor of the Services, including any action the Contractor proposes to take to ensure that the affected Services satisfy the requirements of the Contract.

22.9 If the DFE does not approve the draft plan, it shall inform the Contractor of its reasons for not approving it and the Contractor shall then revise the draft plan taking those reasons into account and shall re-submit the revised plan to the DFE for approval. The DFE shall not withhold or delay its approval of the draft plan unreasonably.

22.10 The Contractor shall bear its own costs in connection with any Step-In under this clause 22, provided that the DFE shall reimburse the Contractor's reasonable additional expenses incurred directly as a result of any Step-In action taken by the DFE under clauses 22.1.2 to 22.1.5 (insofar as the primary cause of the DFE serving the Step In Notice is identified as not being the result of a Contractor’s Default).

**23. TERMINATION**

23.1 The DFE may terminate the Contract with immediate effect and without paying compensation to the Contractor where the Contractor is a company and in respect of the Contractor:

23.1.1 a proposal is made for a voluntary arrangement within Part I of the Insolvency Act 1986 or of any other composition scheme or arrangement with, or assignment for the benefit of, its creditors;

23.1.2 a shareholders’ meeting is convened for the purpose of considering a resolution that it be wound up or a resolution for its winding-up is passed (other than as part of, and exclusively for the purpose of, a bona fide reconstruction or amalgamation);

23.1.3 a petition is presented for its winding up (which is not dismissed within 14 days of its service) or an application is made for the appointment of a provisional liquidator or a creditors’ meeting is convened pursuant to section 98 of the Insolvency Act 1986;

23.1.4 a receiver, administrative receiver or similar officer is appointed over the whole or any part of its business or assets;

23.1.5 an application order is made either for the appointment of an administrator or for an administration order, an administrator is appointed, or notice of intention to appoint an administrator is given;

23.1.6 it is or becomes insolvent within the meaning of section 123 of the Insolvency Act 1986;

23.1.7 being a “small company” within the meaning of section 247(3) of the Companies Act 1985, a moratorium comes into force pursuant to Schedule A1 of the Insolvency Act 1986; or

23.1.8 any event similar to those listed in clauses 23.1.1 to 23.1.7 occurs under the law of any other jurisdiction.

23.2 The DFE may terminate the Contract with immediate effect by notice and without paying compensation to the Contractor where the Contractor is an individual and:

23.2.1 an application for an interim order is made pursuant to sections 252-253 of the Insolvency Act 1986 or a proposal is made for any composition scheme or arrangement with, or assignment for the benefit of, the Contractor’s creditors;

23.2.2 a petition is presented and not dismissed within 14 days or order made for the Contractor’s bankruptcy;

23.2.3 a receiver, or similar officer is appointed over the whole or any part of the Contractor’s assets or a person becomes entitled to appoint a receiver, or similar officer over the whole or any part of his assets;

23.2.4 the Contractor is unable to pay his debts or has no reasonable prospect of doing so, in either case within the meaning of section 268 of the Insolvency Act 1986;

23.2.5 a creditor or encumbrancer attaches or takes possession of, or a distress, execution, sequestration or other such process is levied or enforced on or sued against, the whole or any part of the Contractor’s assets and such attachment or process is not discharged within 14 days;

23.2.6 he dies or is adjudged incapable of managing his affairs within the meaning of Part VII of the Mental Capacity Act 2005;

23.2.7 he suspends or ceases, or threatens to suspend or cease, to carry on all or a substantial part of his business; or

23.2.8 any event similar to those listed in clauses 23.2.1 to 23.2.7 occurs under the law of any other jurisdiction.

23.3 The Contractor shall notify the DFE immediately in writing of any proposal or negotiations which will or may result in a merger, take-over, change of control, change of name or status including if the Contractor undergoes a change of control within the meaning of section 1124 of the Corporation Taxes Act 2010 (“**Change of Control**”). The DFE may terminate the Contract with immediate effect by notice and without compensation to the Contractor within 6 months of:

23.3.1 being notified that a Change of Control has occurred; or

23.3.2 where no notification has been made, the date that the DFE becomes aware of the Change of Control

but shall not be permitted to terminate where approval was granted prior to the Change of Control.

23.4 The DFE may terminate the Contract with immediate effect and without paying compensation to the Contractor where the Contractor is a partnership and:

23.4.1 a proposal is made for a voluntary arrangement within Article 4 of the Insolvent Partnerships Order 1994 or a proposal is made for any other composition, scheme or arrangement with, or assignment for the benefit of, its creditors;

23.4.2 it is for any reason dissolved;

23.4.3 a petition is presented for its winding up or for the making of any administration order, or an application is made for the appointment of a provisional liquidator;

23.4.4 a receiver, or similar officer is appointed over the whole or any part of its assets;

23.4.5 the partnership is deemed unable to pay its debts within the meaning of sections 222 or 223 of the Insolvency Act 1986 as applied and modified by the Insolvent Partnerships Order 1994; or

23.4.6 any of the following occurs in relation to any of its partners:

23.4.6.1 an application for an interim order is made pursuant to sections 252-253 of the Insolvency Act 1986 or a proposal is made for any composition scheme or arrangement with, or assignment for the benefit of, his creditors;

23.4.6.2 a petition is presented for his bankruptcy;

23.4.6.3 a receiver, or similar officer is appointed over the whole or any part of his assets; or

23.4.6.4. any event similar to those listed in clauses 23.4.1 to 23.4.6 occurs under the law of any other jurisdiction.

23.5 The DFE may terminate the Contract with immediate effect and without paying compensation to the Contractor where the Contractor is a limited liability partnership and:

23.5.1 a proposal is made for a voluntary arrangement within Part I of the Insolvency Act 1986 or a proposal is made for any other composition, scheme or arrangement with, or assignment for the benefit of, its creditors;

23.5.2 it is for any reason dissolved;

23.5.3 an application is made either for the appointment of an administrator or for an administration order, an administrator is appointed, or notice of intention to appoint an administrator is given within Part II of the Insolvency Act 1986;

23.5.4 any step is taken with a view to it being determined that it be wound up (other than as part of, and exclusively for the purpose of, a bona fide reconstruction or amalgamation) within Part IV of the Insolvency Act 1986;

23.5.5 a petition is presented for its winding up (which is not dismissed within 14 days of its service) or an application is made for the appointment of a provisional liquidator within Part IV of the Insolvency Act 1986;

23.5.6 a receiver, or similar officer is appointed over the whole or any part of its assets; or

23.5.7 it is or becomes unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986;

23.5.8 a moratorium comes into force pursuant to Schedule A1 of the Insolvency Act 1986; or

23.5.9 any event similar to those listed in clauses 23.5.1 to 23.5.8 occurs under the law of any other jurisdiction.

23.6 References to the Insolvency Act 1986 in clause 23.5.1 shall be construed as being references to that Act as applied under the Limited Liability Partnerships Act 2000 subordinate legislation.

23.7 The DFE may terminate the Contract with immediate effect and without paying compensation to the Contractor if the Contractor commits a Default and:

23.7.1 the Contractor has not remedied the Default to the satisfaction of the DFE within 21 Business Days or such other period as may be specified by the DFE, after issue of a notice specifying the Default and requesting it to be remedied

23.7.2 the Default is not, in the opinion of the DFE, capable of remedy; or

23.7.3 the Default is a Material Breach.

23.8 The DFE may terminate the Contract with immediate effect and without paying compensation to the Contractor if:

23.8.1 the Contractor’s warranty in clause 19.1.10 is materially untrue;

23.8.2 the Contractor commits a material breach of its obligation to notify the DfE of any Occasion of Non-Tax Compliance;

23.8.3 the Contractor fails to provide details of proposed mitigating factors which, in the DfE’s reasonable opinion are acceptable; or

23.8.4 the Contractor has not, in performing the Services, complied with its legal obligations in respect of environmental, social or labour law.

23.9 The DFE may terminate the Contract with immediate effect and without paying compensation to the Contractor if:

23.9.1 the Contract has been subject to a substantial modification which requires a new procurement procedure pursuant to regulation 72(9) of the Regulations;

23.9.2 the Contractor was, at the time the Contract was awarded, in one of the situations specified in regulation 57(1) of the Regulations, including as a result of the application of regulation 57(2), and should therefore have been excluded from the procurement procedure which resulted in the award of the Contract; or

23.9.3 the Contract should not have been awarded to the Contractor in view of a serious infringement of the obligations under the Treaties and the Regulations which has been declared by the Court of Justiice of the European Union in a procedure under Article 258 of the TFEU.

23.10 If the DFE terminates the Contract under clauses 23.7, 23.8 or 23.9:

23.10.1 and makes other arrangements for the supply of the Services, the DFE may recover from the Contractor the cost reasonably incurred of making those other arrangements; and

23.10.2 the DFE shall make no further payments to the Contractor (for Services supplied by the Contractor prior to termination and in accordance with the Contract but where the payment has yet to be made by the DFE), until the DFE has established the final cost of making the other arrangements envisaged under this clause 23.

23.11 If any funding from governmental or other sources for the provision of the Services, or for a programme or a project to which the provision of the Services relates is withdrawn, reallocated or no longer available in such a way that the Contract cannot reasonably continue the DFE may terminate the Contract (or any part of it) by serving 3 months’ written notice on the Contractor.

23.12 If the DFE terminates the Contract under clause 23.11 the DFE shall pay the Contractor for Services supplied prior to the termination and in accordance with the Contract, and any disengagement costs and other costs reasonably incurred by the Contractor as a direct consequence of such termination (excluding any loss of profit and any possible redundancy costs), provided that the Contractor shall use all reasonable endeavours to mitigate the amount of such costs and has provided written evidence of the reasonableness and unavoidability of such costs.

23.13 If, through any Default of the Contractor, data transmitted or processed in connection with the Contract is either lost or sufficiently degraded as to be unusable, the Contractor shall be liable for the cost of reconstitution of that data and shall reimburse the DFE in respect of any charge levied for its transmission and any other costs charged in connection with such Default.

23.14 If the DFE fails to pay the Contractor undisputed sums of money when due the Contractor shall give notice to the DFE of its failure to pay. If the DFE fails to pay such undisputed sums within 90 Business Days of the date of such notice, the Contractor may terminate the Contract in writing with immediate effect, save that such right of termination shall not apply where the failure to pay is due to the DFE exercising its rights under clause 8.6 or to Force Majeure.

23.15 Save as otherwise expressly provided in the Contract:

23.15.1 termination or expiry of the Contract shall be without prejudice to any rights, remedies or obligations accrued under the Contract prior to termination or expiration and nothing in the Contract shall prejudice the right of either Party to recover any amount outstanding at such termination or expiry; and

23.15.2 termination of the Contract shall not affect the continuing rights, remedies or obligations of the DFE or the Contractor under clauses 8 (Charges), 9 (Tax and VAT), 10 (Prevention of Corruption), 12 (Intellectual Property Rights), 13 (Data), 15 (Confidentiality), 16 (Freedom of Information), 17 (Official Secrets Acts 1911 to 1989, Section 182 of the Finance Act 1989), 18 (Liability), 19 (Warranties and Representations), 23 (Termination) 24 (Retendering and Handover), 25 (Exit Management), 26 (Audit), and 37 (Governing Law and Jurisdiction).

23.16 Termination by DfE if monthly Performance Standards not met

23.16.1 If the Contractor fails to meet any of the monthly Performance Standards in any 2 consecutive months, at either party’s request to the other party, both parties must meet to work together in good faith to attempt to understand why the monthly Performance Standards have not been achieved and implement strategies jointly agreed between the parties to attempt to enable the Contractor to achieve the monthly Performance Standards.

23.16.2 If the parties agree on a strategy under clause 23.16.1 and, in the month following the implementation of the joint strategy under clause 23.16.1 the Contractor fails to achieve any of the monthly Performance Standards, DfE may terminate this agreement on 30 days’ notice to Contract.

23.16.3 If Contractor fails to meet any of the monthly Performance Standards in any 3 consecutive months, DfE may terminate this agreement on 10 Business Days’ notice to the Contractor.

23.17 The DFE may terminate the Contract with immediate effect and without compensation to the Contractor where Paragraph 4 of Schedule 10 (Financial Distress) applies. The Parties shall comply with the provisions of that Schedule in relation to the assessment of the financial standing of the Contractor and the consequences of a change to that financial standing.

**24. RETENDERING AND HANDOVER**

24.1 Within 30 days of being requested by the DFE, the Contractor shall provide, and thereafter keep updated, in a fully indexed and catalogued format, all the information reasonably necessary to enable the DFE to issue tender documents for the future provision of replacement services.

24.2 The DFE shall take reasonable precautions to ensure that the information referred to in clause 24.1 is given only to potential contractors who have qualified to tender for the future provision of the replacement services.

24.3 The DFE shall require that all potential Contractors treat the information in confidence; that they do not communicate it except to such persons within their organisation and to such extent as may be necessary for the purpose of preparing a response to an invitation to tender issued by the DFE; and that they shall not use it for any other purpose.

24.4 The Contractor shall allow access to the Premises in the presence of DFE’s authorised representative, to any person representing any potential contractor whom the DFE has selected to tender for the future provision of the Services.

24.5 If access is required to the Contractor’s Premises for the purposes of clause 26.4, the DFE shall give the Contractor 7 days’ notice of a proposed visit together with the names of all persons who will be visiting.

24.6 The Contractor shall co-operate fully with the DFE during any handover at the end of the Contract including allowing full access to, and providing copies of, all documents, reports, summaries and any other information necessary in order to achieve an effective transition without disruption to routine operational requirements.

24.7 Within 10 Business Days of being requested by the DFE, the Contractor shall transfer to the DFE, or any person designated by the DFE, free of charge, all computerised filing, recording, documentation, planning and drawing held on software and utilised in the provision of the Services. The transfer shall be made in a fully indexed and catalogued disk format, to operate on a proprietary software package identical to that used by the DFE.

**25. EXIT MANAGEMENT**

25.1 If the DFE requires a continuation of all or any of the Services at the end of the Term, either by performing them itself or by engaging a third party to perform them, the Contractor shall co-operate fully with the DFE and any such third party and shall take all reasonable steps to ensure the timely and effective transfer of the Services without disruption to routine operational requirements.

25.2 The Contractor will, within 3 months of the Commencement Date, deliver to the DFE, a plan which sets out the Contractor’s proposals for achieving an orderly transition of Services from the Contractor to the DFE and/or its Replacement Contractor at the end of the Term (an **“Exit Plan”**).

25.3 Within 30 days of the submission of the Exit Plan, both Parties will use reasonable endeavours to agree the Exit Plan .If the Parties are unable to agree the Exit Plan the dispute shall be referred to the dispute resolution procedure in clause 36.

25.4 The Contractor will review and (if appropriate) update the Exit Plan in the first month of each year of the Term to reflect changes to the Services. Following such update the Contractor will submit the revised Exit Plan to the DFE for review. Within 30 days following submission of the revised Exit Plan, the Parties shall meet and use reasonable endeavours to agree the revised Exit Plan and the changes that have occurred in the Services since the Exit Plan was last agreed. If the Parties are unable to agree the revised Exit Plan within 30 days, such dispute shall be referred to the dispute resolution procedure in clause 36.

25.5 If the Contractor:

25.5.1 does not have to use resources in addition to those normally used to deliver the Services prior to termination or expiry, there shall be no change to the Charges; or

25.5.2 reasonably incurs additional costs

the Parties shall agree a variation of the Charges.

25.6 If the DFE requests, the Contractor shall deliver to the DFE details of all licences for software used in the provision of the Services including the software licence agreements.

25.7 Within one month of receiving the software licence information described above, the DFE shall notify the Contractor of the licences it wishes to be transferred, and the Contractor shall provide for the approval of the DFE a plan for licence transfer.

25.8 The Contractor shall co-operate fully with the DFE in order to enable an efficient and detailed knowledge transfer from the Contractor to the DFE at the end of the Term and shall provide the DFE free of charge with full access to Personnel, copies of all documents, reports, summaries and any other information requested by the DFE. The Contractor shall comply with the DFE’s request for information no later than 15 Business Days from the date that that request was made.

**26. AUDIT**

26.1 The Contractor shall keep and maintain until 6 years after the end of the Term, or as long a period as may be agreed between the Parties, full and accurate records of the Contract including the Services supplied under it and all Charges.

26.2 The Contractor agrees to make available to the DFE, free of charge, whenever requested, copies of audit reports obtained by the Contractor in relation to the Services

26.3 The Contractor shall permit duly authorised representatives of the DFE and/or the National Audit Office to examine the Contractor’s records and documents relating to the Contract and to provide such copies and oral or written explanations as may reasonably be required.

26.4 The Contractor (and its agents) shall permit the Comptroller and Auditor General (and his appointed representatives) access free of charge during normal business hours on reasonable notice to all such documents (including computerised documents and data) and other information as the Comptroller and Auditor General may reasonably require for the purposes of his financial audit of the DFE and for carrying out examinations into the economy, efficiency and effectiveness with which the DFE has used its resources. The Contractor shall provide such explanations as are reasonably required for these purposes.

**27. ENTIRE AGREEMENT**

27.1 The Contract contains all the terms which the Parties have agreed in relation to the subject matter of the Contract and supersedes any prior written or oral agreements, representations or understandings between the Parties.

27.2 Nothing in this clause 27 shall exclude any liability which one Party would otherwise have to the other Party in respect of any statements made fraudulently.

**28. PARTNERSHIP**

28.1 Nothing in the Contract is intended to or shall operate to create a legal partnership between the Parties or to authorise either Party to act as an agent for the other, and neither Party shall have authority to act in the name or on behalf of or otherwise to bind the other in any way (including making any representation or warranty, the assumption of any obligation or liability and the exercise of any right or power).

**29. WAIVER**

29.1 No failure or delay by any Party to exercise any right, power or remedy will operate as a waiver of it nor will any partial exercise preclude any further exercise of the same, or of some other right, power or remedy.

**30. CHANGE CONTROL**

30.1 Either Party may at any time request in writing a Variation in accordance with the change control procedure set out in schedule 6 (the **“Change Control Procedure”**). No Variation shall be effective unless made in accordance with the Change Control Procedure.

**31. COUNTERPARTS**

31.1 The Contract may be executed in any number of counterparts, each of which so executed and delivered shall constitute an original, but together shall constitute one and the same instrument.

**32. CONTRACTS (RIGHTS OF THIRD PARTIES) ACT 1999**

32.1 The provisions of clauses 7.5 and 12.6 confer benefits on a Replacement Contractor and are intended to be enforceable by a Replacement Contractor by virtue of the Contracts (Rights of Third Parties ) Act 1999 (“**CRTPA**”).

32.2 Subject to clause 32.1, a person who is not a Party has no right under CRTPA to enforce provisions of the Contract but this does not affect any right or remedy of any person which exists or is available otherwise than pursuant to the CRTPA and does not apply to the Crown.

32.3 A Replacement Contractor may not enforce or take steps to enforce the provisions of clauses 7.5 or 12.6 without DFE’s prior written consent.

32.4 The Parties may amend the Contract without the consent of any Replacement Contractor.

**33. CONFLICTS OF INTEREST**

33.1 The Contractor shall:

33.1.1 not permit its obligations to its other clients and third parties (including other governmental bodies and organisations providing services to other governmental bodies) to interfere or conflict in any material way with its duty (which the Contractor hereby acknowledges) to comply with its obligations under the Contract to the required standards; and

33.1.2 take appropriate steps to ensure that neither the Contractor nor any of the Personnel is placed in a position where, in the reasonable opinion of the DFE, there is or may be an actual conflict, or a potential conflict, between the pecuniary or personal interests of the Contractor or any of the Personnel and the duties owed to the DFE under the provisions of the Contract in either case and which for the avoidance of doubt extends to their relationship with NPQ Providers, referred to in this clause 33 as a **“Conflict of Interest”**.

33.2 If the Contractor becomes aware of any Conflict of Interest (or potential Conflict of Interest) or other situation which has arisen or may arise and which may cause a breach of this clause 35 the Contractor shall forthwith provide full particulars to the DFE.

33.3 In performing its obligations under the Contract the Contractor shall conduct its business, operations and activities in a politically neutral fashion.

33.4 Without prejudice to the foregoing provisions of this clause 33, if any Conflict of Interest (or potential Conflict of Interest) arises or is likely to arise, the Contractor shall:

33.4.1 take all reasonable steps to remove or avoid the Conflict of Interest or to prevent it occurring in each case, or to manage the conflict to the satisfaction of the DFE (acting reasonably); and

33.4.2 give the DFE a comprehensive and detailed written statement of the action it has taken.

33.5 If the DFE is not satisfied with the Contractor’s actions, the Contractor shall, on request by the DFE promptly end any relationship it may have with any third party, where that relationship has given rise to the Conflict of Interest (or potential Conflict of Interest).

33.6 Without prejudice to any other right or remedy it may have, the DFE may terminate the Contract with immediate effect by notice in writing and/or to take such other steps it deems necessary where, in the reasonable opinion of the DFE, there is any continuing breach by the Contractor of the provisions of this clause 33.

**34. FURTHER ASSURANCE**

34.1 The Parties shall do or procure the doing of all such acts and things and will execute or procure the execution of all such documents as may be reasonably required including on or subsequent to the end of the Contract to vest in the relevant all rights granted under the Contract and otherwise to comply with its terms.

**35. NOTICES**

35.1 Any notice, demand or communication in connection with the Contract shall be in writing and may be delivered by hand, pre-paid first class post or (where being sent to an address in a different country to where posted) airmail, facsimile or e-mail, addressed to the recipient at its registered office or its address (or such other address, facsimile number or e-mail address as may be notified in writing from time to time).

35.2 The notice, demand or communication shall be deemed to have been duly served:

35.2.1 if delivered by hand, when left at the proper address for service;

35.2.2 if given or made by prepaid first class post 48 hours after being posted or in the case of airmail 14 days after being posted;

35.2.3 if given or made by e-mail, at the time of transmission, provided that a confirming copy is sent by first class pre-paid post or (where being sent to an address in a different country to where posted) airmail to the other Party within 24 hours after transmission and that, in the case of transmission by e-mail where the time of transmission is not between 9.00 am and 5.00 pm, service shall be deemed to occur at 9.00 am on the next following Business Day (such times being local time at the address of the recipient).

35.3 If proceedings to which the Civil Procedure Rules apply have been issued, the provisions of Civil Procedure Rule 6 must be complied with in respect of the service of documents in connection with those proceedings.

**36. DISPUTE RESOLUTION**

36.1 Any Dispute shall be dealt with in accordance with this clause 36.

36.2 In the first instance, a representative of each Party will each use their reasonable endeavours to resolve the Dispute. If the Dispute cannot be resolved by such representatives within 15 days of the Dispute arising, it will be referred to a senior representative of each Party, who shall each use their reasonable endeavours to resolve the Dispute.

36.3 If a Dispute cannot be resolved by negotiation as referred to in clause 36.2 within 30 days of the Dispute arising, either Party may refer the Dispute for determination in accordance with the mediation procedure administered by the Centre for Effective Dispute Resolution, the costs of the mediator being split equally between the Parties, who shall otherwise bear their own costs.

**37. GOVERNING LAW AND JURISDICTION**

37.1 The Contract and any non-contractual obligations arising out of or connection with it will be governed by and construed in accordance with English Law.

37.2 The courts of England shall have exclusive jurisdiction to settle any dispute which arises out of or in connection with the Contract.

37.3 If any provision of the Contract is held by any court or other competent authority to be void or unenforceable in whole or part, the other provisions of the Contract and the remainder of the affected provisions shall continue to be valid.

**38. EXTENSION**

38.1Where the DFE deems the Contractor to be fully and properly performing its obligations under the Contract and if further capital funding is available to the DFE, the DFE may extend the Contract by a further 2 years by giving the Contractor 3 months’ notice.

38.2 The Extension must be executed as a Variation in accordance with schedule 6.

38.3 The terms of the Contract including the Charges or any rates identified in schedule 3 shall apply for the period of the Extension.

38.4 DFE is not obliged to enter into the Extension and this clause does not constitute a guarantee of further business.

**Schedule 3**

**Financials**

1. The DFE shall pay the Contractor the Charges in accordance with the Contract, subject to successful delivery of the Services against the KPIs or Service Levels set out in schedule 4.
2. The Charges are inclusive of all expenses incurred by the Contractor in relation to its provision of the Services and unless agreed otherwise between the Contractor and the DFE, the Contractor shall not be entitled to claim any expenses in addition to the Charges.

2. The DFE may review the detailed costs set out in the Implementation Plan to ensure that the Contract is value for money.

3. Indexation shall not apply to the Charges.

4. The Contractor shall be entitled to invoice the Charges following acceptance by the DFE of satisfactory completion of the Services or, where performance of the Services will continue, either monthly in arrears or on satisfactory completion of milestones as set out in the delivery milestones, outputs or outcomes (as set out in the tables below).

1. At any time during the Contract Period (including, for the avoidance of doubt, at any time before and/or after payment by the DfE to the Contractor) DfE shall be entitled to validate any claim for payment made by the Contractor. At all times the Contractor shall provide all necessary assistance as requested by the DfE (including without limitation, procuring the consent of participants) to enable DfE to validate any claim for payment made by the Contractor.

**Charges on Customers**

1. The Contractor nor its agents or sub-contractors, shall levy any charge on participants in respect of the Services express as expressly permitted (at its sole discretion) in advance and in writing by the DfE.

**Charges to Schools (School Contribution)**

1. The Contractor nor its agents or sub-contractors, shall levy any charge on schools in respect of the Services express as expressly permitted (at its sole discretion) in advance and in writing by DfE.

**Additional Costs**

1. Subject to the provisions of this Contract (including without limitation this schedule 3 (Financials) and Schedule 4 – (KPI’s Service Levels and Service Credits) and the detailed cost matrix, the fees are fixed and unless otherwise agreed in accordance with paragraph 30 of this schedule and Schedule 6 (Change Control) any additional or unforeseen costs incurred by the Contractor in delivering the Services shall be borne solely by the Contractor.

**Interruption of Service**

1. If there is at any time and interruption in the delivery of the Services as a result of a Default on the part of the Contractor, DfE shall not be liable for payment of any Fees which relate to such period of interruption caused by the Default by the Contractor.

**Final Claims**

1. Provided all previous claims have been paid (and subject to the provisions of this Contract and any antecedent breach), DfE shall have no further liability to make payment of any kind to the Contractor once the final claims have been paid.

**Recovery of Sums Due**

1. Whenever under the contract any sum of money is recoverable form or payable by the Contractor (including any sum which the Contractor is liable to pay to DfE in respect of any breach of the Contract), DfE may unilaterally deduct the sum from any sum due, or which at any later time may become any other agreement or contract with DfE or the Crown.
2. Any overpayment by either Party, whether the fees or of VAT or otherwise shall be the sum of money recoverable by the Party who made the overpayment from the Party in receipt of the overpayment.
3. The Contactor shall make any payments due to DfE without any deduction whether by way of set-off; counterclaim, discount, abatement or otherwise unless the Contractor has a valid court order requiring an amount equal to such deduction to be paid by DfE to the Contractor.
4. All payments due shall be made within a reasonable time unless otherwise specified in the Contract, in cleared funds, to such bank or building society ads the recipient Party may from time to time direct.

**Disputed Claims**

16. Notwithstanding paragraph 3.5 of this Schedule, payment by the DFE of all or any part of any Contract Price rendered or other claim for payment by the Contractor shall not signify approval. The DFE reserves the right to verify Contract Price after the date of payment and subsequently to recover any sums which have been overpaid.

17. If any part of a claim rendered by the Contractor is disputed or subject to question by the DFE either before or after payment then the DFE may call for the Contractor to provide such further documentary and oral evidence as it may reasonably require to verify its liability to pay the amount which is disputed or subject to question and the Contractor shall promptly provide such evidence in a form satisfactory to the DFE

18. If any part of a claim rendered by the Contractor is disputed or subject to question by the DFE, the DFE shall not withhold payment of the remainder.

19. If any fee rendered by the Contractor is paid but any part of it is disputed or subject to question by the DFE and such part is subsequently agreed or determined not to have been properly payable then the Contractor shall forthwith repay such part to the DFE.

20. The DFE shall be entitled to deduct from sums due to the Contractor by way of set-off any amounts owed to it or which are in dispute or subject to question either in respect of the fee for which payment is being made or any previous fee.

**Continuous Improvement**

21. The Contractor shall adopt a policy of continuous improvement in relation to the Services pursuant to which it will regularly review with the DFE the Services and the manner in which it is providing the Services with a view to reducing the Authority's costs, and/or improving the quality and efficiency of the Services. The Contractor and the Authority will provide to each other any information which may be relevant to assisting the objectives of continuous improvement and in particular reducing costs.

22. Without limiting paragraph 21 of this Schedule, the Contractor shall produce at the start of each Contract Year a plan for improving the provision of Services and/or reducing the Charges produced by the Contractor pursuant to this Schedule and reducing the Contract Price (without adversely affecting the performance of the Contract) during that Contract Year (**"Continuous Improvement Plan"**) for the Approval of the DFE. The Continuous Improvement Plan shall include, as a minimum, proposals in respect of the following:

22.1 identifying the emergence of new and evolving technologies which could improve the Services;

22.2 identifying changes in behaviour by the DFE that results in a cost saving and a reduction in the Contract Price;

22.3 identifying and implementing efficiencies in the Contractors internal processes and administration that may lead to cost savings and reductions in the Contract Prics;

22.4 identifying and implementing efficiencies in the way the DFE interacts with the Contractor that may lead to cost savings and reductions in the Contract Price;

22.5 identifying and implementing efficiencies in the Contractors supply chain that may lead to cost savings and reductions in the Contract Price;

22.6 baselining the quality of the Contractors Service and its cost structure and demonstrating the efficacy of its Continuous Improvement Plan on each element during the Contract Period; and

22.7 measuring and reducing the sustainability impacts of the Contractors operations and supply-chains pertaining to the Services, and identifying opportunities to assist the Authoritiy in meeting their sustainability objectives.

23. The initial Continuous Improvement Plan for the first (1st) Contract Year shall be submitted by the Contractor to the DFE for Approval within ninety (90) Business Days of the Contract Commencement Date.

24. The DFE shall notify the Contractor of its approval or rejection of the proposed Continuous Improvement Plan or any updates to it within twenty (20) Business Days of receipt. Within ten (10) Business Days of receipt of the DFE's notice of rejection and of the deficiencies of the proposed Continuous Improvement Plan, the Contractor shall submit to the DFE a revised Continuous Improvement Plan reflecting the changes required. Once approved by the DFE, the programme shall constitute the Continuous Improvement Plan for the purposes of this Contract.

25. Once the first Continuous Improvement Plan has been approved in accordance with paragraph 24 of this Schedule:

25.1 the Contractor shall use all reasonable endeavours to implement any agreed deliverables in accordance with the Continuous Improvement Plan; and

25.2 the Parties agree to meet as soon as reasonably possible following the start of each quarter (or as otherwise agreed between the DFE and the Contractor) to review progress against the Continuous Improvement Plan.

26. The Contractor shall update the Continuous Improvement Plan as and when required but at least once every Contract Year (after the first (1st) Contract Year) in accordance with the procedure and timescales set out in paragraph 22 of this Schedule.

27. All costs relating to the compilation or updating of the Continuous Improvement Plan and the costs arising from any improvement made pursuant to it and the costs of implementing any improvement, shall have no effect on and are included in the Contract Price.

28. Should the Contractors costs in providing the Services to the DFE be reduced as a result of any changes implemented by the DFE, all of the cost savings shall be passed on to the DFE by way of a consequential and immediate reduction in the Contract Price for the Services.

**Adjustment of the Contract Price**

1. The Contract Pricing Information shall only be varied:

29.1 due to a change in Law which is not already anticipated in the Contract, relates specifically to the business of the Authority, would not affect the supply of the same or similar services by the Contractor to another of its customers, which impacts on the performance of the Services and which comes into force after the Commencement Date, in relation to which the Parties agree that a change is required to all or part of the Contract Price;

29.2 where all or part of the Contract Price is reviewed and reduced in accordance with paragraphs 21 to 28 of this Schedule 3 (Continuous Improvement);

29.3 where all or part of the Contract Price is reviewed and reduced in accordance with paragraphs 30 and 31 of this Schedule 3 (Supplier Periodic Assessment of Contract Price);

**Supplier Periodic Assessment of Contract Price**

30. Every twelve (12) Months during the Contract Period, the Contractor shall assess the level of the Contract Price to consider whether it is able to reduce them.

31. Such assessments by the Contractor under paragraph 30 of this Schedule shall be carried out on the anniversary of the Contract Commencement Date each Contract Year (or in the event that such dates do not, in any Contract Year, fall on a Business Day, on the next Business Day following such dates). To the extent that the Contractor is able to decrease all or part of the Contract Price it shall promptly notify the DFE in writing and such reduction shall be implemented in accordance with paragraph 32 below.

**Implementation of Adjusted Contract Price**

32. Variations in accordance with the provisions of this Schedule to all or part the Contract Price (as the case may be) shall be made by the DFE to take effect:

32.1 where an adjustment to the Contract Price is made in accordance with paragraph 29 of this Schedule 3;

and the Parties shall amend the Contract Pricing Information shown in Annex 1 to this Schedule to reflect such variations.

**Annex 1 to Schedule 3 – Contract Pricing Information**

**Pricing Schedule – Annual Costs by Function**

**Schedule 4**

**KPIs, Service Levels and Service Credits**

1. The objectives of the Service Levels are to:

1.1 ensure that the Services are of a consistently high quality and meet the requirements of the DFE;

1.2 provide a mechanism whereby the DFE can attain meaningful recognition of inconvenience and/or loss resulting from the Contractor's failure to deliver the Services; and

1.3 incentivise the Contractor to meet the Service Levels and to remedy any failure to meet the Service Levels expeditiously.

**2. KEY PERFORMANCE INDICATORS (KPIs)**

2.1 The Contractor will be required to meet Performance Standards and return evidence substantiating performance against each of the KPIs monthly. Performance against KPIs will be discussed at contract management meetings.

2.2 The Contractor confirms that it has taken Performance Measures and Service Credits into account in calculating the Charges. Both Parties agree that the Performance Measures and Service Credits are a reasonable method of adjusting the Charges to reflect poor Contractor performance.

2.3 KPIs are, at the discretion of the DfE, subject to refinement following contract award in light of Contractor experience.

2.4 Where the specified level of performance for the KPI is not met, this will be considered a ‘service failure’ and Penalty Points will be applied as set out in Table 1.

2.5 The DfE may, at its sole discretion, apply a financial consequence to the invoiced value for that month in accordance with the number of penalty points accrued. This will be a maximum of 15% and will be calculated as follows:

|  |  |
| --- | --- |
| **Penalty Points Accrued in a Month** | **% Reduction applied to invoiced value for that Month** |
| 0 | 0% |
| 1 - 4 | 3% |
| 5 - 9 | 6% |
| 10 - 14 | 9% |
| 15 - 19 | 12% |
| 20 - 24 | 15% |

2.6 Where the Contractor fails to meet the specified level of performance for the KPI in any 2 consecutive months, at either party’s request to the other party, both parties must meet to work together in good faith to attempt to understand why the monthly Performance Standards have not been achieved. Strategies jointly agreed between the parties must be implemented to attempt to enable the Contractor to achieve the monthly Performance Standards. If the parties agree on a strategy, and, in the month following the implementation of the strategy, the Contractor fails to achieve any of the monthly Performance Standards, DfE may terminate this agreement on 30 days’ notice to the Contractor.

2.7 If the Contractor fails to meet any of the monthly Performance Standards in any 3 consecutive months, DfE may terminate this agreement on 30 Business Days’ notice to the Contractor.

2.8 Table 1: KPIs

|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
| **KPI** | | **Measure** | **Monitoring Period and Method** | **Penalty for failure to meet KPI** | | |
| **Standard Achieved** | **Penalty Points** | |
| 1. | The Contractor collects timely and high quality self-assessment and metric reports from NPQ Providers. | **90%** of NPQ Providers submit accurate and complete self-assessments and metric reports to the Contractor on time (every 6 months in years 1 and 2 of a providers’ provision, and annually thereafter). | **Monthly -** DfE will review NPQ Providers’ returns to ensure all that are due have been collected, are complete, have been verified by the Contractor, and conform to the requirements of the specification and quality framework. | 70 - 89 % | 1 | |
| 50 - 69% | 2 | |
| 0 - 49% | 3 | |
| 2. | The Contractor collects timely and high quality feedback from NPQ participants. | **90%** of participant feedback due is collected by the Contractor on time (every 6 months in years 1 and 2 of a providers’ provision and annually thereafter) and delivered in the agreed format. | **Monthly -** DfE will review participant feedback to ensure all that is due has been collected, and that it conforms to the requirements of the specification. | 70 - 89 % | 1 | |
| 50 - 69% | 2 | |
| 0 - 49% | 3 | |
| 3. | The Contractor delivers timely and high quality feedback on providers’ performance. | **90%** of the Contractor’s feedback on provider self-assessments, metrics returns and participant feedback is delivered to the provider and DfE in the agreed format, within one month of receipt. | **Monthly -** DfE will review the Contractor’s reports on the performance of NPQ Providers’ monthly to ensure they are delivered on time and conform to the requirements of the specification. | 70 - 89 % | 1 | |
| 50 - 69% | 2 | |
| 0 - 49% | 3 | |
| 4. | The Contractor ensures NPQ provision is high quality. | **70%** of NPQ providers are meeting or exceeding the requirements and metrics in the Quality Framework in the first year of the contract period; and **90%** thereafter. | **Monthly -** DfE will review each providers’ performance against the Quality Framework monthly. |  | Year 1 | Year 2+ |
| 70 - 89% | 0 | 1 |
| 50 - 69% | 1 | 2 |
| 0 - 49% | 2 | 3 |
| 5. | The Contractor manages underperformance effectively. | The Contractor has identified, and is monitoring the implementation of, remedial action for **100%** of NPQ Providers that are not meeting the requirements and metrics in the Quality Framework. | **Monthly -** DfE will review the Contractor’s feedback to NPQ Providers monthly and its follow-up activity. | 70 – 99% | 1 | |
| 50 – 69% | 2 | |
| 0 – 49% | 3 | |
| 6. | The Contractor ensures that periodic performance reviews are timely and high quality. | The Contractor undertakes **90%** of periodic performance reviews in line with the schedule agreed by DfE, including delivering a written report in the agreed format, within one month of completion. | **Monthly -** DfE will review the Contractor’s progress against the agreed schedule of performance and review written reports to ensure they conform to DfE’s requirements. | 70 - 89% | 1 | |
| 50 - 69% | 2 | |
| 0 - 49% | 3 | |
| 7. | The Contractor carries out timely moderation. | The Contractor calls in **100%** of assessment scripts no later than 30 days after a provider has completed its own assessment, and confirms the outcome of the moderation within 30 days. | **Monthly -** DfE will review the Contractor’s sampling activities and turn-around timescales. | 80 – 99% | 1 | |
| 50 – 79% | 2 | |
| 0 – 49% | 3 | |
| 8. | The Contractor supplies DfE with timely, accurate and high quality management information and analysis in relation to the performance of NPQ Providers. | The Contractor delivers **90%** of requests for management information or analysis on NPQ Providers/provision, in a format agreed with DfE, within the following timescales:   * 1 working day for an urgent request * 10 working days for a routine request | **Monthly -** DfE will review the Contractor’s performance against requests in that month. | 80 – 99% | 1 | |
| 50 – 79% | 2 | |
| 0 – 49% | 3 | |

**3. PERFORMANCE MONITORING**

3.1. The Contractor shall manage the Contract and any Sub-contractors, including addressing poor performance. The Contractor must therefore ensure that all systems and processes used for the monitoring and recording of performance are robust, provide a clear audit trail of evidence and give confidence to the DFE that the Contractor and its supply chain are delivering the Services in accordance with its contractual obligations.

3.2 The DFE will regularly monitor Contractor performance. The initial Contract review will be informed by the award of Contract process and reviewed thereafter.

3.3 The Contractor will be required to appoint a named Contractor Performance Manager who will cooperate with the DFE Performance Manager to ensure that the Contract is delivered as specified in the Contract and that required standards and contractual performance levels are met.

**4. CONTRACT PERFORMANCE REVIEWS**

4.1 The purpose of the Contract performance reviews is to encourage an open and regular dialogue between the Parties with the purpose of ensuring that the Services, including the contractual standards and outputs are being delivered appropriately and to drive up the performance and quality of the Services. They will encourage the Parties to review performance, discuss opportunities for continuous improvement and raise and address any complaints or persistent problems encountered with the Contract. Where issues cannot be immediately addressed, the DFE and the Contractor may follow the dispute resolution process detailed in clause 36 or the Performance Improvement Process as detailed in the Contract.

4.2 Review meetings between the DFE and the Contractor shall also cover, as appropriate, resolving disputes and/or dealing with contractual breaches in accordance with the terms and conditions of this Contract.

4.3 Contractor performance reviews must be formally undertaken and documented. The Contractor will be expected to provide any additional Management Information required by the DFE to facilitate the reviews and arrange where necessary access to any of its delivery locations, including those operated by Sub-contractors.

4.4 Any improvements or actions agreed between the Parties will form part of the continuous improvement activity recorded in the performance improvement plan. It will be the Contractor’s responsibility to develop the performance improvement plan which will be discussed and agreed with the Performance Manager.

**5. CONTRACTOR MANAGEMENT INFORMATION (MI) REQUIREMENTS**

5.1 The DFE intends, wherever it can, to capture and collate information through its IT system(s). However, the DFE does reserve the right to make reasonable requests for information (at no additional charge) from the Contractor including ad-hoc requests for information from time to time.

5.2 The Contractor shall supply information requested relevant to the delivery of the Services to the DFE, using formats and to timescales specified by the DFE.

5.3 The Contractor shall also capture and use their own MI and retain evidence for contractual and performance purposes. This should include pipeline data (forward look performance information relating to attainment of Participants) to inform performance discussions with the Contractor Performance Managers and robust tracking systems to be able to identify and performance manage Participants.

5.4 Where an on-going, short-term or one-off requirement is agreed, both Parties agree that it shall be included, or deemed to be included within this Schedule.

5.5 The Contractor shall supply Management Information relevant to the delivery of the Services to the DFE, using formats and to timescales as detailed in the Specification.

5.6 The DFE shall be entitled to amend the reporting frequency and format in respect of any or all Management Information or waive the requirement for any aspect of the Management Information to be reported upon by giving the Contractor not less than one (1) Month's notice in writing.

**6. PERFORMANCE IMPROVEMENT**

6.1 Without prejudice to any other rights or remedies arising under this Contract, including under Clause 23.7 (Termination on Material Breach), if the Contractor fails to achieve a KPI Target on two or more occasions within any twelve (12) Month rolling period, the Contractor acknowledges and agrees that the DFE shall have the right to exercise (in its absolute and sole discretion) all or any of the following remedial actions:

6.1.1 The DFE shall be entitled to require the Contractor, and the Contractor agrees to prepare and provide to the DFE, an plan for improvement (an **“Improvement Plan”**) within ten (10) Business Days of a written request by the DFE for such Improvement Plan. Such Improvement Plan shall be subject to the DFE’s prior approval and the Contractor will be required to implement any approved Improvement Plan, as soon as reasonably practicable.

6.1.2 The DFE shall be entitled to require the Contractor, and the Contractor agrees to attend, within a reasonable time one (1) or more meetings at the request of the DFE in order to resolve the issues raised by the DFE in its notice to the Contractor requesting such meetings.

6.1.3 The DFE shall be entitled to serve an Improvement Notice on the Contractor and the Contractor shall implement such requirements for improvement as set out in the Improvement Notice.

6.1.4 In the event that the DFE has, in its absolute and sole discretion, invoked one or more of the remedies set out above and the Contractor either:

(a) fails to implement such requirements for improvement as set out in the Improvement Notice; and/or

(b) fails to implement an Improvement Plan Approved by the DFE;

then (without prejudice to any other rights and remedies of termination provided for in this Contract), the DFE shall be entitled to terminate this Contract for material Default.

**Schedule 5**

**Mobilisation Plan**

* + - 1. The Contractor shall adhere to the Mobilisation Plan set out below.
      2. The Contractor shall be responsible for implementing and managing the Services required during the Mobilisation Period and for taking all such steps as may be necessary so as to ensure that from 1 June 2018 the Contractor is able to commence quality assurance activities in accordance with the provisions of the Contract.

3. The Contractor shall monitor its performance against the Mbiliation Plan and report to the DFE on its performance

**Schedule 6**

**Change Control Procedure**

1 The Parties acknowledge that minor changes to the Contract may be necessary to reflect operational and administrative procedures during the Term and that such minor changes may be agreed in writing between the Parties' respective contract managers.

2 The Contractor shall use reasonable endeavours to incorporate minor changes requested by the DFE within the current Charges and shall not serve a Contractor Notice of Change unless the change involves a demonstrable material increase to its costs or requires a material change to the Contract.

3 Either Party may request a Variation provided that such Variation does not amount to a material change.

4. The DFE may request a Variation by completing the Change Control Note and giving the Contractor sufficient information to assess the extent of the Variation and consider whether any change to the Charges are required in order to implement the Variation within a reasonable time limit specified by the DFE. If the Contractor accepts the Variation it shall confirm it in writing within 21 days of receiving the Change Control Note.

5. If the Contractor is unable to accept the Variation or where the Parties are unable to agree a change to the Charges, the DFE may allow the Contractor to fulfil its obligations under the Contract without Variation or if the Parties cannot agree to the Variation the Dispute will be determined in accordance with clause 36.

6. If the Contractor wishes to introduce a change to the Contract it may request a Variation by serving the Change Control Note on DFE.

7. The DFE shall evaluate the Contractor’s proposed Variation in good faith, taking into account all relevant issues.

8. The DFE shall confirm in writing within 21 days of receiving the Change Control Note if it accepts or rejects the Variation.

9. The DFE may at its absolute discretion reject any request for a Variation proposed by the Contractor.

**Change Control Note**

|  |  |  |  |
| --- | --- | --- | --- |
| **Contract Number:** |  | **DFE Contract / Programme Manager:** |  |
| **Contractor:** |  | **Original Contract Value (£):** |  |
| **Contract Start Date:** |  | **Contract Expiry Date:** |  |

|  |  |
| --- | --- |
| **Variation Requested:** |  |
| **Originator of Variation:**  (tick as appropriate) | DfE  Contractor |
| **Date:** |  |
| **Reason for Variation:** |  |
| **Summary of Variation:**  (e.g. specification, finances, contract period) |  |
| **Date of Variation commencement:** |  |
| **Date of Variation expiry:**  (if applicable) |  |
| **Total Value of Variation £**  (if applicable) |  |
| **Payment Profile:**  (if applicable) e.g. milestone payments |  |
| **Revised daily rate:**  (if applicable) |  |
| **Impact on original contract:**  (if applicable) |  |
| **Supporting Information:**  (please attach all supporting documentation for this Change Control) |  |
| **Terms and Conditions** | Save as herein amended all other terms and conditions of the Original Contract shall remain in full force and effect. |

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **Variation Agreed** | | | | |
| **For the Contractor** | | **For the DfE** | |  |
| **Signature:** |  | **Signature:** |  |  |
| **Full Name:** |  | **Full Name:** |  |  |
| **Title:** |  | **Title:** |  |  |
| **Date:** |  | **Date:** |  |  |
|  |  |  |  |  |

**Please note that no works / services described in this form should be undertaken, and no invoices will be paid until both copies of the CCN are signed, returned and counter-signed.**

|  |  |  |  |
| --- | --- | --- | --- |
| **To be entered by the Commercial department:** | | | |
| **Commercial Contact:** |  | **Reference Number:** |  |
| **Date received:** |  | **EC Reference:** |  |

**Schedule 7**

**Key Personnel and Key Sub Contractors**

**Key Personnel**

The individuals listed in the table below are Key Personnel:

|  |  |  |
| --- | --- | --- |
| **Name** | **Role** | **Period of Involvement** |
|  |  |  |
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**Key Sub-Contractors**

The Contractor may sub-contract its obligations under the Contract to the Sub-Contractors listed in the table below.

| **Key Sub-Contractor Name and Address (if not the same as the registered office)** | **Registered Office and Company Number** | **Related Product/Service Description** | **Sub-contract Price expressed as a percentage of total projected charges over term** | **Role in delivery of the Services** |
| --- | --- | --- | --- | --- |
| N/A | N/A | N/A | N/A | N/A |
|  |  |  |  |  |
|  |  |  |  |  |
|  |  |  |  |  |

**Schedule 8**

**Data, Systems Handling and Security**

**Definitions**

|  |  |
| --- | --- |
|  |  |
| **“Data Loss Event”** | any event that results, or may result, in unauthorised access to Personal Data held by the Contractor under this Contract, and/or actual or potential loss and/or destruction of Personal Data in breach of this Contract, including any Personal Data Breach. |
|  |  |
| **“Data Protection Impact Assessment”** | an assessment by the Controller of the impact of the envisaged processing on the protection of Personal Data. |
|  |  |
| **“Data Subject Access Request”** | a request made by, or on behalf of, a Data Subject in accordance with rights granted pursuant to the Data Protection Legislation to access their Personal Data. |
| **“Controller”, “Processor,” “Data Subject”, “Personal Data”, “Personal Data Breach”, “Data Protection Officer”** | shall have the meanings given in the GDPR; |
| **“GDPR”** | the General Data Protection Regulation (Regulation (EU) 2016/679) |
| **“LED”** | Law Enforcement Directive (Directive (EU) 2016/680) |
| **“Protective Measures”** | appropriate technical and organisational measures which may include: pseudonymising and encrypting Personal Data, ensuring confidentiality, integrity, availability and resilience of systems and services, ensuring that availability of and access to Personal Data can be restored in a timely manner after an incident, and regularly assessing and evaluating the effectiveness of the such measures adopted by it. |
| **“Sub-processor”** | any third Party appointed to process Personal Data on behalf of the Contractor related to this Contract |

1.1 The Parties acknowledge that for the purposes of the Data Protection Legislation, the DFE is the Controller and the Contractor is the Processor. The only processing that the Contractor is authorised to do is listed in Schedule 8 Annex 2 by the DFE and may not be determined by the Contractor.

1.2 The Contractor shall notify the DFE immediately if it considers that any of the DFE's instructions infringe the Data Protection Legislation.

1.3 The Contractor shall provide all reasonable assistance to the DFE in the preparation of any Data Protection Impact Assessment prior to commencing any processing. Such assistance may, at the discretion of the DFE, include:

(a) a systematic description of the envisaged processing operations and the purpose of the processing;

(b) an assessment of the necessity and proportionality of the processing operations in relation to the Services;

(c) an assessment of the risks to the rights and freedoms of Data Subjects; and

(d) the measures envisaged to address the risks, including safeguards, security measures and mechanisms to ensure the protection of Personal Data.

1.4 The Contractor shall, in relation to any Personal Data processed in connection with its obligations under this Contract:

(a) process that Personal Data only in accordance with Schedule 8 Annex 2, unless the Contractor is required to do otherwise by Law. If it is so required the Contractor shall promptly notify the DFE before processing the Personal Data unless prohibited by Law;

(b) ensure that it has in place Protective Measures, which have been reviewed and approved by the DFE as appropriate to protect against a Data Loss Event having taken account of the:

(i) nature of the data to be protected;

(ii) harm that might result from a Data Loss Event;

(iii) state of technological development; and

(iv) cost of implementing any measures;

(c) ensure that :

(i) the Personnel do not process Personal Data except in accordance with this Contract (and in particular Schedule 8 Annex 2);

(ii) it takes all reasonable steps to ensure the reliability and integrity of any Personnel who have access to the Personal Data and ensure that they:

(A) are aware of and comply with the Contractor’s duties under this clause;

(B) are subject to appropriate confidentiality undertakings with the Contractor or any Sub-processor;

(C) are informed of the confidential nature of the Personal Data and do not publish, disclose or divulge any of the Personal Data to any third Party unless directed in writing to do so by the DFE or as otherwise permitted by this Contract; and

(D) have undergone adequate training in the use, care, protection and handling of Personal Data; and

(d) not transfer Personal Data outside of the EU unless the prior written consent of the DFE has been obtained and the following conditions are fulfilled:

(i) the DFE or the Contractor has provided appropriate safeguards in relation to the transfer (whether in accordance with GDPR Article 46 or LED Article 37) as determined by the DFE;

(ii) the Data Subject has enforceable rights and effective legal remedies;

(iii) the Contractor complies with its obligations under the Data Protection Legislation by providing an adequate level of protection to any Personal Data that is transferred (or, if it is not so bound, uses its best endeavours to assist the DFE in meeting its obligations); and

(iv) the Contractor complies with any reasonable instructions notified to it in advance by the DFE with respect to the processing of the Personal Data;

(e) at the written direction of the DFE, delete or return Personal Data (and any copies of it) to the DFE on termination of the Contract unless the Contractor is required by Law to retain the Personal Data.

1.5 Subject to clause 1.6, the Contractor shall notify the DFE immediately if it:

(a) receives a Data Subject Access Request (or purported Data Subject Access Request);

(b) receives a request to rectify, block or erase any Personal Data;

(c) receives any other request, complaint or communication relating to either Party's obligations under the Data Protection Legislation;

(d) receives any communication from the Information Commissioner or any other regulatory authority in connection with Personal Data processed under this Contract;

(e) receives a request from any third Party for disclosure of Personal Data where compliance with such request is required or purported to be required by Law; or

(f) becomes aware of a Data Loss Event.

1.6 The Contractor’s obligation to notify under clause 1.5 shall include the provision of further information to the DFE in phases, as details become available.

1.7 Taking into account the nature of the processing, the Contractor shall provide the DFE with full assistance in relation to either Party's obligations under Data Protection Legislation and any complaint, communication or request made under clause 1.5 (and insofar as possible within the timescales reasonably required by the DFE) including by promptly providing:

(a) the DFE with full details and copies of the complaint, communication or request;

(b) such assistance as is reasonably requested by the DFE to enable the DFE to comply with a Data Subject Access Request within the relevant timescales set out in the Data Protection Legislation;

(c) the DFE, at its request, with any Personal Data it holds in relation to a Data Subject;

(d) assistance as requested by the DFE following any Data Loss Event;

(e) assistance as requested by the DFE with respect to any request from the Information Commissioner’s Office, or any consultation by the DFE with the Information Commissioner's Office.

1.8 The Contractor shall maintain complete and accurate records and information to demonstrate its compliance with this clause. This requirement does not apply where the Contractor employs fewer than 250 staff, unless:

(a) the DFE determines that the processing is not occasional;

(b) the DFE determines the processing includes special categories of data as referred to in Article 9(1) of the GDPR or Personal Data relating to criminal convictions and offences referred to in Article 10 of the GDPR; or

(c) the DFE determines that the processing is likely to result in a risk to the rights and freedoms of Data Subjects.

1.9 The Contractor shall allow for audits of its Data Processing activity by the DFE or the DFE’s designated auditor.

1.10 The Contractor shall designate a Data Protection Officer if required by the Data Protection Legislation.

1.11 Before allowing any Sub-processor to process any Personal Data related to this Contract, the Contractor must:

(a) notify the DFE in writing of the intended Sub-processor and processing;

(b) obtain the written consent of the DFE;

(c) enter into a written agreement with the Sub-processor which give effect to the terms set out in this clause 1 such that they apply to the Sub-processor; and

(d) provide the DFE with such information regarding the Sub-processor as the DFE may reasonably require.

1.12 The Contractor shall remain fully liable for all acts or omissions of any Sub-processor.

1.13 The Contractor may, at any time on not less than 30 Working Days’ notice, revise this clause by replacing it with any applicable controller to processor standard clauses or similar terms forming part of an applicable certification scheme (which shall apply when incorporated by attachment to this Contract).

1.14 The Parties agree to take account of any non-mandatory guidance issued by the Information Commissioner’s Office. The DFE may on not less than 30 Business Days’ notice to the Contractor amend this Contract to ensure that it complies with any guidance issued by the Information Commissioner’s Office.

1.15 This Schedule 8 shall apply during the Contract Term and indefinitely after its expiry.

**SCHEDULE 8 – ANNEX 1**

**DFE SECURITY STANDARDS**

|  |  |
| --- | --- |
| “BPSS”  “Baseline Personnel Security Standard” | a level of security clearance described as pre-employment checks in the National Vetting Policy. Further information can be found at: <https://www.gov.uk/government/publications/government-baseline-personnel-security-standard> |
| “CCSC”  “Certified Cyber Security Consultancy” | is NCSC's approach to assessing the services provided by consultancies and confirming that they meet NCSC's standards. This approach builds on the strength of CLAS and certifies the competence of suppliers to deliver a wide and complex range of cyber security consultancy services to both the public and private sectors. See website:  <https://www.ncsc.gov.uk/scheme/certified-cyber-consultancy> |
| “CCP”  “Certified Professional” | is a NCSC scheme in consultation with government, industry and academia to address the growing need for specialists in the cyber security profession and are building a community of recognised professionals in both the UK public and private sectors. See website:  <https://www.ncsc.gov.uk/scheme/certified-professional> |
| “CC”  “Common Criteria” | the Common Criteria scheme provides assurance that a developer’s claims about the security features of their product are valid and have been independently tested against recognised criteria. |
| “CPA”  “Commercial Product Assurance”  [formerly called “CESG Product Assurance”] | is an ‘information assurance scheme’ which evaluates commercial off the shelf (COTS) products and their developers against published security and development standards. These CPA certified products can be used by government, the wider public sector and industry. See website: <https://www.ncsc.gov.uk/scheme/commercial-product-assurance-cpa> |
| “Cyber Essentials”  “Cyber Essentials Plus” | Cyber Essentials is the government backed, industry supported scheme to help organisations protect themselves against common cyber-attacks. Cyber Essentials and Cyber Essentials Plus are levels within the scheme.  There are a number of certification bodies that can be approached for further advice on the scheme; the link below points to one of these providers: <https://www.iasme.co.uk/apply-for-self-assessment/> |
|  |  |
| "DFE’s Data"  “DFE’s Information” | is any data or information owned or retained in order to meet DFE business objectives and tasks, including:  (a) any data, text, drawings, diagrams, images or sounds (together with any repository or database made up of any of these components) which are embodied in any electronic, magnetic, optical or tangible media, and which are:  (i) supplied to the Contractor by or on behalf of the DFE; or  (ii) which the Contractor is required to generate, process, store or transmit pursuant to this Contract; or  (b) any Personal Data for which the DFE is the Data Controller; |
| “DfE”  “DFE” | means the DFE for Education |
| “DFE Security Standards” | means the DFE’s security policy or any standards, procedures, process or specification for security that the Contractor is required to deliver. |
| “Digital Marketplace / GCloud” | the Digital Marketplace is the online framework for identifying and procuring cloud technology and people for digital projects. Cloud services (e.g. web hosting or IT health checks) are on the G-Cloud framework. |
| “FIPS 140-2” | this is the Federal Information Processing Standard (FIPS) Publication 140-2, (FIPS PUB 140-2), entitled ‘Security Requirements for Cryptographic Modules’. This document is the de facto security standard used for the accreditation of cryptographic modules. |
| “Good Industry Practice”  “Industry Good Practice” | means the exercise of that degree of skill, care, prudence, efficiency, foresight and timeliness as would be expected from a leading company within the relevant industry or business sector. |
| “Good Industry Standard”  “Industry Good Standard” | means the implementation of products and solutions, and the exercise of that degree of skill, care, prudence, efficiency, foresight and timeliness as would be expected from a leading company within the relevant industry or business sector. |
| “GSC”  “GSCP” | means the Government Security Classification Policy which establishes the rules for classifying HMG information. The policy is available at: <https://www.gov.uk/government/publications/government-security-classifications> |
| “HMG” | means Her Majesty’s Government |
| “ICT” | means Information and Communications Technology (ICT) is used as an extended synonym for information technology (IT), used to describe the bringing together of enabling technologies used to deliver the end-to-end solution |
| “ISO/IEC 27001” “ISO 27001” | is the International Standard for Information Security Management Systems Requirements |
| “ISO/IEC 27002” “ISO 27002” | is the International Standard describing the Code of Practice for Information Security Controls. |
| “ISO 22301” | is the International Standard describing for Business Continuity |
| “IT Security Health Check (ITSHC)”  “IT Health Check (ITHC)”  “Penetration Testing” | means an assessment to identify risks and vulnerabilities in systems, applications and networks which may compromise the confidentiality, integrity or availability of information held on that IT system. |
| “Need-to-Know” | the Need-to-Know principle is employed within HMG to limit the distribution of classified information to those people with a clear ‘need to know’ in order to carry out their duties. |
| “NCSC” | The National Cyber Security Centre (NCSC) formerly CESG is the UK government’s National Technical Authority for Information Assurance. The NCSC website is <https://www.ncsc.gov.uk> |
| “OFFICIAL”  “OFFICIAL-SENSITIVE” | the term ‘OFFICIAL’ is used to describe the baseline level of ‘security classification’ described within the Government Security Classification Policy (GSCP) which details the level of protection to be afforded to information by HMG, for all routine public sector business, operations and services.  the ‘OFFICIAL–SENSITIVE’ caveat is used to identify a limited subset of OFFICIAL information that could have more damaging consequences (for individuals, an organisation or government generally) if it were lost, stolen or published in the media, as described in the Government Security Classification Policy. |
| “Secure Sanitisation” | Secure sanitisation is the process of treating data held on storage media to reduce the likelihood of retrieval and reconstruction to an acceptable level. Some forms of sanitisation will allow you to re-use the media, while others are destructive in nature and render the media unusable. Secure sanitisation was previously covered by “Information Assurance Standard No. 5 - Secure Sanitisation” (“IS5”) issued by the former CESG. Guidance can now be found at: <https://www.ncsc.gov.uk/guidance/secure-sanitisation-storage-media>  The disposal of physical documents and hardcopy materials advice can be found at: <https://www.cpni.gov.uk/secure-destruction> |
| “Security and Information Risk Advisor”  “CCP SIRA”  “SIRA” | the Security and Information Risk Advisor (SIRA) is a role defined under the NCSC Certified Professional (CCP) Scheme. See also:  <https://www.ncsc.gov.uk/articles/about-certified-professional-scheme> |
| “SPF”  “HMG Security Policy Framework” | This is the definitive HMG Security Policy which describes the expectations of the Cabinet Secretary and Government’s Official Committee on Security on how HMG organisations and third parties handling HMG information and other assets will apply protective security to ensure HMG can function effectively, efficiently and securely. <https://www.gov.uk/government/publications/security-policy-framework> |
| ”Tailored Assurance”  [formerly called “CTAS”, or,  ”CESG Tailored Assurance”] | is an ‘information assurance scheme’ which provides assurance for a wide range of HMG, MOD, Critical National Infrastructure (CNI) and public sector customers procuring IT systems, products and services, ranging from simple software components to national infrastructure networks. <https://www.ncsc.gov.uk/documents/ctas-principles-and-methodology> |

* 1. The Contractor shall comply with DFE Security Standards for Contractors which include but are not constrained to the following clauses.
  2. Where the Contractor will provide ICT products or services or otherwise handle information at OFFICIAL on behalf of the DFE, the requirements under Cabinet Office Procurement Policy Note – Use of Cyber Essentials Scheme certification - [Action Note 09/14](https://www.gov.uk/government/publications/procurement-policy-note-0914-cyber-essentials-scheme-certification) 25 May 2016, or any subsequent updated document, are mandated; that “contractors supplying products or services to HMG shall have achieved, and retain certification at the appropriate level, under the HMG Cyber Essentials Scheme”. The certification scope must be relevant to the services supplied to, or on behalf of, the DFE.
  3. The Contractor shall have achieved, and be able to maintain, independent certification to ISO/IEC 27001 (Information Security Management Systems Requirements). The ISO/IEC 27001 certification must have a scope relevant to the services supplied to, or on behalf of, the DFE. The scope of certification and the statement of applicability must be acceptable, following review, to the DFE, including the application of controls from ISO/IEC 27002 (Code of Practice for Information Security Controls).
  4. The Contractor shall follow the UK Government Security Classification Policy (GSCP) in respect of any DFE’s Data being handled in the course of providing this service, and will handle this data in accordance with its security classification. (In the event where the Contractor has an existing Protective Marking Scheme then the Contractor may continue to use this but must map the HMG security classifications against it to ensure the correct controls are applied to the DFE’s Data).
  5. DFE Data being handled in the course of providing an ICT solution or service must be segregated from all other data on the Contractor’s or sub-contractor’s own IT equipment to protect the DFE’s Data and enable the data to be identified and securely deleted when required. In the event that it is not possible to segregate any of the DFE’s Data then the Contractor and any sub-contractor shall be required to ensure that it is stored in such a way that it is possible to securely delete the data in line with Clause 1.14.
  6. The Contractor shall have in place and maintain physical security, in line with those outlined in ISO/IEC 27002 including, but not limited to, entry control mechanisms (e.g. door access) to premises and sensitive areas
  7. The Contractor shall have in place and maintain an access control policy and process for the logical access (e.g. identification and authentication) to ICT systems to ensure only authorised personnel have access to DFE’s Data.
  8. The Contractor shall have in place and shall maintain procedural, personnel, physical and technical safeguards to protect DFE’s Data, including but not limited to: physical security controls; good industry standard policies and process; anti-virus and firewalls; security updates and up-to-date patching regimes for anti-virus solutions; operating systems, network devices, and application software, user access controls and the creation and retention of audit logs of system use.
  9. Any data in transit using either physical or electronic transfer methods across public space or cyberspace, including mail and couriers systems, or third party provider networks must be protected via encryption which has been certified to FIPS 140-2 standard or a similar method approved by the DFE prior to being used for the transfer of any of DFE’s Data.
  10. Storage of DFE’s Data on any portable devices or media shall be limited to the absolute minimum required to deliver the stated business requirement and shall be subject to Clause 1.11 and 1.12 below.
  11. Any portable removable media (including but not constrained to pen drives, flash drives, memory sticks, CDs, DVDs, or other devices) which handle, store or process DFE’s Data to deliver and support the service, shall be under the control and configuration management of the contractor or (sub-)contractors providing the service, shall be both necessary to deliver the service and shall be encrypted using a product which has been certified to FIPS140-2 standard or another encryption standard that is acceptable to the DFE.
  12. All portable ICT devices, including but not limited to laptops, tablets, smartphones or other devices, such as smart watches, which handle, store or process DFE’s Data to deliver and support the service, shall be under the control and configuration management of the contractor or sub-contractors providing the service, and shall be necessary to deliver the service. These devices shall be full-disk encrypted using a product which has been certified to FIPS140-2 standard or another encryption standard that is acceptable to the DFE.
  13. Whilst in the Contractor’s care all removable media and hardcopy paper documents containing DFE’s Data must be handled securely and secured under lock and key when not in use and shall be securely destroyed when no longer required, using either a cross-cut shredder or a professional secure disposal organisation.
  14. When necessary to hand carry removable media and/or hardcopy paper documents containing DFE’s Data, the media or documents being carried shall be kept under cover and transported in such a way as to ensure that no unauthorised person has either visual or physical access to the material being carried. This clause shall apply equally regardless of whether the material is being carried inside or outside of company premises.
  15. At the end of the contract or in the event of equipment failure or obsolescence, all DFE's information and data, in either hardcopy or electronic format, that is physically held or logically stored on the Contractor’s ICT infrastructure must be securely sanitised or destroyed and accounted for in accordance with the current HMG policy using a NCSC approved product or method. Where sanitisation or destruction is not possible for legal, regulatory or technical reasons, such as a Storage Area Network (SAN) or shared backup tapes, then the Contractor or sub-contractor shall protect the DFE’s information and data until the time, which may be long after the end of the contract, when it can be securely cleansed or destroyed.
  16. Access by Contractor or sub-contractor staff to DFE’s Data shall be confined to those individuals who have a “need-to-know” in order to carry out their role; and have undergone mandatory pre-employment screening, to a minimum of HMG Baseline Personnel Security Standard (BPSS); or hold an appropriate National Security Vetting clearance as required by the DFE. All Contractor or sub-contractor staff must complete this process before access to DFE’s Data is permitted.
  17. All Contractor or sub-contractor employees who handle DFE’s Data must have annual awareness training in protecting information.
  18. The Contractor shall, as a minimum, have in place robust Business Continuity arrangements and processes including IT disaster recovery plans and procedures that conform to ISO 22301 to ensure that the delivery of the contract is not adversely affected in the event of an incident. An incident shall be defined as any situation that might, or could lead to, a disruption, loss, emergency or crisis to the services delivered. If a ISO 22301 certificate is not available the supplier will provide evidence of the effectiveness of their ISO 22301 conformant Business Continuity arrangements and processes including IT disaster recovery plans and procedures. This should include evidence that the Contractor has tested or exercised these plans within the last 12 months and produced a written report of the outcome, including required actions.
  19. Any suspected or actual breach of the confidentiality, integrity or availability of DFE’s Data being handled in the course of providing this service, or any non-compliance with these DFE Security Standards for Contractors, or other Security Standards pertaining to the solution, shall be investigated immediately and escalated to the DFE by a method agreed by both parties.
  20. The Contractor shall ensure that any IT systems and hosting environments that are used to handle, store or process DFE’s Data shall be subject to independent IT Health Checks (ITHC) using a NCSC approved ITHC provider before go-live and periodically (at least annually) thereafter. The findings of the ITHC relevant to the service being provided are to be shared with the DFE and all necessary remedial work carried out. In the event of significant security issues being identified, a follow up remediation test may be required.
  21. The Contractor or sub-contractors providing the service will provide the DFE with full details of any storage of DFE’s Data outside of the UK or any future intention to host DFE Data outside the UK or to perform any form of ICT management, support or development function from outside the UK. The Contractor or sub-contractor will not go ahead with any such proposal without the prior written agreement from the DFE.
  22. The DFE reserves the right to audit the Contractor or sub-contractors providing the service within a mutually agreed timeframe but always within seven days of notice of a request to audit being given. The audit shall cover the overall scope of the service being supplied and the Contractor’s, and any sub-contractors, compliance with the clauses contained in this Section.
  23. The Contractor shall contractually enforce all these DFE Security Standards for Contractors onto any third-party suppliers, sub-contractors or partners who could potentially access DFE’s Data in the course of providing this service.
  24. The Contractor and sub-contractors shall undergo appropriate security assurance activities as determined by the DFE. Contractor and sub-contractors shall support the provision of appropriate evidence of assurance and the production of the necessary security documentation such as completing the DFE Security Assurance Model (DSAM) process or the Business Service Assurance Model (BSAM). This will include obtaining any necessary professional security resources required to support the Contractor’s and sub-contractor’s security assurance activities such as: a NCSC Certified Cyber Security Consultancy (CCSC) or NCSC Certified Professional (CCP) Security and Information Risk Advisor (SIRA)

**SCHEDULE 8 ANNEX 2**

**Processing, Personal Data and Data Subjects**

The Contractor shall comply with any further written instructions with respect to processing by the DFE.

Any such further instructions shall be incorporated into this Schedule.

|  |  |
| --- | --- |
| Description | Details |
| Subject matter of the processing | 1. Data on NPQ course participant (i.e. data about individuals undertaking NPQs), as provided by NPQ course providers. 2. Feedback from NPQ course participants about the quality of NPQ course provision. |
| Duration of the processing | The Contract duration |
| Nature and purposes of the processing | Collecting, analysing, storing and sharing data in order to:   * validate the identity of NPQ course participants * quality assure the performance of NPQ course providers, notably against performance metrics * moderate NPQ course participants’ assessment projects.. |
| Type of Personal Data | NPQ course participants’:   * names * email addresses * dates of birth * Teacher Reference Number * employment information, including school details such as URN, name, address, postcode and Free School Meals data * addresses * disability and ethnicity data   Other personal data that may be included in NPQ participants’ assessment projects |
| Categories of Data Subject | Principally NPQ course participants, although assessment projects may include details of participants colleagues or pupils |
| Plan for return and destruction of the data  once the processing is complete UNLESS requirement under union or member state law to preserve that type of data | At the end or termination of the contract, the Contractor will be required to delete all records and information it holds following the handover provisions as agreed with the DFE. The DFE will require data destruction letters from the Contractor for all data. |

**Schedule 9**

**Commercially Sensitive Information**

1.1 Without prejudice to the DFE’s general obligation of confidentiality, the Parties acknowledge that the DFE may have to disclose Information in or relating to the Contract following a Request for Information pursuant to clause 16 (Freedom of Information).

1.2 In this Schedule the Parties have sought to identify the Contractor's Confidential Information that is genuinely commercially sensitive and the disclosure of which would be contrary to the public interest.

1.3 Where possible the Parties have sought to identify when any relevant Information will cease to fall into the category of Information to which this Schedule applies.

1.4 Without prejudice to the DFE’s obligation to disclose Information in accordance with the FOIA and the EIR, the DFE will, acting reasonably but in its sole discretion, seek to apply the commercial interests exemption set out in s.43 of the FOIA to the Information listed below.

|  |  |  |
| --- | --- | --- |
| CONTRACTOR’S COMMERCIALLY SENSITIVE INFORMATION | DATE | DURATION OF CONFIDENTIALITY |
| Financial information (including cost breakdown) | 25/04/2018 | Six years |
| Personnel | 25/04/2018 | Six years |
| Implementation and mobilisation plans | 25/04/2018 | Six years |
| Contractors solution | 25/04/2018 | Six years |

**Schedule 10**

**Financial Distress**

**1. DEFINITIONS**

In this Schedule, the following definitions shall apply:

|  |  |
| --- | --- |
| **“Credit Rating Level”** | a credit rating level issued by the Rating Agency as specified in Annex 2; |
| **“Credit Rating Threshold”** | the minimum Credit Rating Level for the Contractor as set out in Annex 3; |
| **“Rating Agency”** | the rating agency listed in Annex 1; and |
| **“Financial Distress Event”** | the occurrence of one or more of the events listed in Paragraph 3.1 of this Schedule (*Financial Distress*); |
| **“Financial Distress Service Continuity Plan”** | a plan setting out how the Contractor will ensure the continued performance and delivery of the Services in accordance with the Contract in the event that a Financial Distress Event occurs; |
|  |  |

**2. CREDIT RATING AND DUTY TO NOTIFY**

2.1 The Contractor warrants and represents to the DFE for the benefit of the DFE that as at the Commencement Date the Credit Rating Level for the Contractor issued by the Rating Agency is set out in Annex 2.

2.2 The Contractor shall promptly notify (or shall procure that its auditors promptly notify) the DFE in writing if there is any downgrade in the Credit Rating Level issued by the Rating Agency for the Contractor (and in any event within 5 Business Days of the occurrence of the downgrade).

2.3 If there is any downgrade in the Credit Rating Level issued by the Rating Agency for the Contractor, the Contractor shall ensure that the Contractor’s auditors thereafter provide the DFE within 10 Business Days of the end of each Year and within 10 Business Days of a written request by the DFE (such requests not to exceed 4 in any Year) with written calculations of the quick ratio for the Contractor as at the end of each Year or such other date as may be requested by the DFE. For these purposes the “quick ratio” on any date means:

A+B+C

D

where:

(a) is the value at the relevant date of all cash in hand and at the bank of the Contractor;

(b) is the value of all marketable securities held by the Contractor determined using closing prices on the Business Day preceding the relevant date;

(c) is the value at the relevant date of all account receivables of the Contractor; and

(d) is the value at the relevant date of the current liabilities of the Contractor.

2. The Contractor shall:

(a) regularly monitor the Credit Rating Level of the Contractor with the Rating Agency; and

(b) promptly notify (or shall procure that its auditors promptly notify) the DFE in writing following the occurrence of a Financial Distress Event or any fact, circumstance or matter which could cause a Financial Distress Event and in any event, ensure that such notification is made within 10 Business Days of the date on which the Contractor first becomes aware of the Financial Distress Event or the fact, circumstance or matter which could cause a Financial Distress Event.

2.5 For the purposes of determining whether a Financial Distress Event has occurred pursuant to the provisions of Paragraph 3.1(a), the credit rating of the Contractor, shall be deemed to have dropped below the Credit Rating Threshold if the Rating Agency has rated the Contractor at or below the Credit Rating Threshold.

**3. CONSEQUENCES OF A FINANCIAL DISTRESS EVENT**

3.1 The following shall constitute a Financial Distress Event:

(a) the Credit Rating Level of the Contractor dropping below the Credit Rating Threshold;

(b) the Contractor issuing a profits warning to a stock exchange or making any other public announcement, in each case about a material deterioration in its financial position or prospects;

(c) there being a public investigation into improper financial accounting and reporting, suspected fraud or any other impropriety of the Contractor;

(d) the Contractor committing a material breach of covenant to its lenders;

(e) a Sub‑contractor notifying the DFE that the Contractor has not satisfied any material sums properly due under a specified invoice and not subject to a genuine dispute; or

(f) any of the following:

i) commencement of any litigation against the Contractor with respect to financial indebtedness greater than £5m or obligations under a service contract with a total contract value greater than £5m;

ii) non-payment by the Contractor of any financial indebtedness;

iii) any financial indebtedness of the Contractor becoming due as a result of an event of default; or

iv) the cancellation or suspension of any financial indebtedness in respect of the Contractor,

in each case which the DFE reasonably believes (or would be likely reasonably to believe) could directly impact on the continued performance and delivery of the Services in accordance with this Contract;

3.2 Immediately upon notification of the Financial Distress Event to the DFE by the Contractor (or if the DFE becomes aware of the Financial Distress Event without notification and bring the event to the attention of the Contractor), the Contractor shall have the obligations and the DFE shall have the rights and remedies set out in paragraphs 3.3 to 3.6.

3.3 In the event of a late or non-payment of a Sub-contractor pursuant to Paragraph 3.1(f), the DFE shall not exercise any of its rights or remedies under Paragraph 3.4 without first giving the Contractor 10 Business Days to:

(a) rectify such late or non-payment; or

(b) demonstrate to the DFE's reasonable satisfaction that there is a valid reason for late or non-payment.

3.4 The Contractor shall:

(a) at the request of the DFE, meet the DFE as soon as reasonably practicable (and in any event within 3 Business Days of the initial notification (or awareness) of the Financial Distress Event (or such other period as the DFE may permit and notify to the Contractor in writing) to review the effect of the Financial Distress Event on the continued performance and delivery of the Services in accordance with this Contract; and

(b) where the DFE reasonably believes (taking into account the discussions and any representations made under Paragraph 3.4 (a) that the Financial Distress Event could impact on the continued performance and delivery of the Services in accordance with this Contract:

i) submit to the DFE for its approval, a draft Financial Distress Service Continuity Plan as soon as reasonably practicable (and in any event, within 10 Business Days of the initial notification (or awareness) of the Financial Distress Event or such other period as the DFE may permit and notify to the Contractor in writing); and

(c) provide such financial information relating to the Contractor as the DFE may reasonably require.

3.5 The DFE shall not withhold its approval of a draft Financial Distress Service Continuity Plan unreasonably. If the DFE does not approve the draft Financial Distress Service Continuity Plan, it shall inform the Contractor of its reasons and the Contractor shall take those reasons into account in the preparation of a further draft Financial Distress Service Continuity Plan, which shall be resubmitted to the DFE within 5 Business Days of the rejection of the first draft. This process shall be repeated until the Financial Distress Service Continuity Plan is approved by DFE or referred to the Dispute Resolution Procedure under Paragraph 3.6.

3.6 If the DFE considers that the draft Financial Distress Service Continuity Plan is insufficiently detailed to be properly evaluated, will take too long to complete or will not ensure the continued performance of the Contractor’s obligations in accordance with the Contract, then it may either agree a further time period for the development and agreement of the Financial Distress Service Continuity Plan or escalate any issues with the draft Financial Distress Service Continuity Plan using the Dispute Resolution Procedure.

3.7 Following approval of the Financial Distress Service Continuity Plan by the DFE, the Contractor shall:

(a) on a regular basis (which shall not be less than monthly), review the Financial Distress Service Continuity Plan and assess whether it remains adequate and up to date to ensure the continued performance and delivery of the Services in accordance with this Contract;

(b) where the Financial Distress Service Continuity Plan is not adequate or up to date in accordance with Paragraph 3.7(a), submit an updated Financial Distress Service Continuity Plan to the DFE for its approval, and the provisions of Paragraphs 3.5 and 3.6 shall apply to the review and approval process for the updated Financial Distress Service Continuity Plan; and

(c) comply with the Financial Distress Service Continuity Plan (including any updated Financial Distress Service Continuity Plan).

3.8 Where the Contractor reasonably believes that the relevant Financial Distress Event under Paragraph 3.1 (or the circumstance or matter which has caused or otherwise led to it) no longer exists, it shall notify the DFE and the Parties may agree that the Contractor shall be relieved of its obligations under Paragraph 3.7.

**4. TERMINATION RIGHTS**

4.1 The DFE shall be entitled to terminate this Contract if:

(a) the Contractor fails to notify the DFE of a Financial Distress Event in accordance with Paragraph 2.4(b).

(b) the Parties fail to agree a Financial Distress Service Continuity Plan (or any updated Financial Distress Service Continuity Plan) in accordance with Paragraphs 3.4 to 3.6; and/or

(c) the Contractor fails to comply with the terms of the Financial Distress Service Continuity Plan (or any updated Financial Distress Service Continuity Plan) in accordance with Paragraph 3.7(c).

**5. PRIMACY OF CREDIT RATINGS**

5.1 Without prejudice to the Contractor’s obligations and the DFE’s rights and remedies under Paragraph 2, if, following the occurrence of a Financial Distress Event pursuant to any of Paragraphs 3.1(b) to 3.1(f), the Rating Agencies review and report subsequently that the credit ratings do not drop below the relevant Credit Rating Threshold, then:

(a) the Contractor shall be relieved automatically of its obligations under Paragraphs 3.4; and

(b) the DFE shall not be entitled to require the Contractor to provide financial information in accordance with Paragraph 3.4(c).

**Schedule 10 – Annex 1: Rating Agency**

1. Sid4Gov (Dun and Bradstreet)

**Schedule 10 – Annex 2: Credit Rating Level**

1. Credit Rating (Failure Score) / 100
   * Rating Agency 1: Sid4Gov (Dun and Bradstreet)

**Schedule 10 – Annex 3: Credit Rating Threshold**

|  |  |  |
| --- | --- | --- |
| Entity | Credit Rating | Credit Threshold |
| Tribal Education Ltd. |  |  |

**Schedule 11**

**The Contractor’s Solution**

**Annex 1: Draft Function A Reporting Template**

**National Professional Qualifications**

**Regular Monitoring and Improvement Report**

**[Name of Provider]**

**[Date of Report]**

**1 Provider information**

|  |  |
| --- | --- |
| Date of accreditation | [validated date format] |
| Region | [drop-down list – multi-select] |
| Name of lead contact |  |
| Lead contact telephone number |  |
| Lead contact email address |  |
| NPQs being delivered | [drop-down list multi-select] |

**2 Participants’ information** *[delete qualifications that are not offered by provider]*

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| National Professional  Qualification | Number of active participants | Percentage of target | Change  ( +/- ) | Numbers from schools with >30% FSM | Numbers of participants from non-white British backgrounds |
| NPQML |  |  |  |  |  |
| NPQSL |  |  |  |  |  |
| NPQH |  |  |  |  |  |
| NPQEL |  |  |  |  |  |
| Total |  |  |  |  |  |

**3 Evidence received and verified**

|  |  |
| --- | --- |
| **Evidence source** | **Summary analysis** |
| Provider’s self-assessment |  |
| Provider’s performance against metrics in the Quality Framework, |  |
| Participant feedback on overall quality of Provider’s provision |  |
| Other |  |

**4 Overall assessment of provision**

|  |  |
| --- | --- |
| Strengths | [insert up to 5 bullet points] |
| Weaknesses | [insert up to 5 bullet points] |

**5 Summary of performance against the Quality Framework**

|  |  |  |  |
| --- | --- | --- | --- |
| *Provider’s leadership and management* | | | |
|  |  | Evaluative comment | Evidence |
| A | General management |  |  |
| B | Engagement strategy |  |  |
| C | Resourcing and contingency planning |  |  |
| D | Recruitment and admission of participants  (metrics 1, 2 and 3) |  |  |
| E | Transparency |  |  |
| F | Continuous improvement |  |  |
| G | Complaints and appeals procedures |  |  |
| H | Preventing and dealing with malpractice and maladministration |  |  |
| *Provider’s provision* | | | |
| I | Design of content |  |  |
| J | Types of study |  |  |
| K | Availability of venues |  |  |
| L | Support for participants |  |  |
| M | Accurate assessment of participants  (metrics 4 and 5) |  |  |
| N | Use of participant feedback  (metric 6) |  |  |
| O | Participant retention and achievement  (metric 7) |  |  |

**6 Remedial action required**

□ Tick if no action is required

|  |  |
| --- | --- |
| Extenuating circumstances and how they have been accounted for |  |
|  | |
| Standard not met | Actions required |
|  |  |
|  |  |
|  |  |
|  | |
| Monitoring plan and timeframe |  |

**7 Risk of serious underperformance resulting in default**

|  |  |
| --- | --- |
| Areas of underperformance identified |  |
| Substantiating evidence |  |
| Recommendation to DfE |  |

**Annex 2: Draft Function B Reporting Template**

**National Professional Qualifications**

**Performance Review Report**

**[Name of Provider]**

**[Date of Report]**

**1 Provider information**

|  |  |
| --- | --- |
| Date of accreditation | [validated date format] |
| Region | [drop-down list – multi-select] |
| Name of lead contact |  |
| Lead contact telephone number |  |
| Lead contact email address |  |
| NPQs being delivered | [drop-down list multi-select] |

**2 Review information**

|  |  |
| --- | --- |
| Name(s) of reviewer(s) |  |
| Date(s) of visit(s) |  |
| Provider’s personnel interviewed |  |
| Participants interviewed |  |
| Direct observations |  |
| Documents reviewed |  |
| Metrics reviewed |  |
| Date of most recent self-assessment |  |
| Other review activities |  |

**3 Participation information** *[delete qualifications that are not offered by provider]*

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| National Professional  Qualification | Number of active participants | Percentage of target | Change  ( +/- ) | Numbers from schools with >30% FSM | Numbers of participants from non-white British backgrounds |
| NPQML |  |  |  |  |  |
| NPQSL |  |  |  |  |  |
| NPQH |  |  |  |  |  |
| NPQEL |  |  |  |  |  |
| Total |  |  |  |  |  |

**4 Overall Assessment of provider’s performance**

|  |  |  |
| --- | --- | --- |
| 1. | Overall alignment to Content and Assessment Framework |  |
| 2. | Provision is grounded in high-quality evidence and research |  |
| 3. | Overall aggregated mean score (see detailed scores below) |  |

**5 Detailed assessment of performance against the Quality Framework**

|  |  |  |  |
| --- | --- | --- | --- |
| *Provider’s leadership and management* | | | |
|  |  | Evidence | Score |
| A | General management |  |  |
| B | Engagement strategy |  |  |
| C | Resourcing and contingency planning |  |  |
| D | Recruitment and admission of participants  (metrics 1, 2 and 3) |  |  |
| E | Transparency |  |  |
| F | Continuous improvement |  |  |
| G | Complaints and appeals procedures |  |  |
| H | Preventing and dealing with malpractice and maladministration |  |  |
| *Provider’s provision* | | | |
| I | Design of content |  |  |
| J | Types of study |  |  |
| K | Availability of venues |  |  |
| L | Support for participants |  |  |
| M | Accurate assessment of participants  (metrics 4 and 5)  *[Commentary in this section will need to reference the proportion of participants that will present for their final assessment within 18 months of formally starting their programme]* |  |  |
| N | Use of participant feedback  (Metric 6)  *[Commentary in this section also needs to include an aggregated mean rating of participant feedback scores as part of the evidence gathering process.]* |  |  |
| O | Participant retention and achievement  (metric 7) |  |  |

**6 Remedial action required**

□ Tick if no action is required (aggregated mean score 7-10) and go to section 7 below

|  |  |
| --- | --- |
| Extenuating circumstances and how they have been accounted for |  |
|  | |
| Standard not met | Actions required |
|  |  |
|  |  |
|  |  |
|  | |
| Monitoring plan and timeframe |  |

**7 Best practice identified**

|  |  |
| --- | --- |
| Exceptional performance / best practice identified | Opportunities for sharing and disseminating with other providers |
|  |  |

1. Accredited providers will be required to submit annual recruitment targets for each NPQ level offered. [↑](#footnote-ref-1)
2. The target percentage will be adjusted for each accredited provider to reflect the nature of the school population in their area of operation and notified to the provider by DfE. See section 5 and Annex A for further details. [↑](#footnote-ref-2)
3. The target percentage will be adjusted for each accredited provider to reflect the nature of the relevant teaching population in their specified area of operation. See section 5 and Annex A for further details. [↑](#footnote-ref-3)
4. A sample of participants’ assessment scripts will be subject to national moderation by DfE/its QA Agent. See section 5 for further details. [↑](#footnote-ref-4)