

CONTRACT TO OPERATE THE INSPIRING GOVERNANCE SERVICE FOR 2021-2022

THIS CONTRACT IS DATED

Parties

- 1) The Secretary of State for Education whose Head Office is at Sanctuary Buildings, Great Smith Street, London, SW1P 3BT acting as part of the Crown ("the Department"); and**
- 2) Education and Employers whose registered office is at Quantum House, 22-24 Red Lion Court, Fleet Street, London, EC4A 3EB**

Recitals

1. The Contractor has agreed to create and operate a service for the recruitment to governing boards of schools, single academies and multi-academy trusts on the terms and conditions set out in this Contract.
2. It is agreed that:
 - a. this contract, together with the attached schedules and annexes, collectively form the "Contract"; and
 - b. 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:
 - i. Schedule 1 (Terms and conditions)
 - ii. Schedule 2 (Statement of requirements);
 - iii. Schedules 3 to 8
3. The Department's reference number for this Contract is XXXXX.



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Schedule 1 – Terms and conditions

1. Interpretation

1.1. In this Contract the following words shall mean:-

"the Services"	the services to be performed by the Contractor as described in Schedule 1;
"Central Government Body"	means a body listed in one of the following sub-categories of the Central Government classification of the Public Sector Classification Guide, as published and amended from time to time by the Office for National Statistics: (a) Government Department; (b) Non-Departmental Public Body or Assembly Sponsored Public Body (advisory, executive, or tribunal); (c) Non-Ministerial Department; or (d) Executive Agency;
"the Contract Manager"	 Department for Education, 2 St Pauls Place, 123 Norfolk Street, Sheffield, S1 2FJ
"the Contractors Contract Manager"	 Education and Employers, Quantum House, 22-24 Red Lion Court, Fleet Street, London, EC4A 3EB
"Confidential Information"	the Department's Confidential Information and/or the Contractor's Confidential Information;
"Contracting Department"	any contracting Department as defined in Regulation 5(2) of the Public Contracts (Works, Services and Supply) (Amendment) Regulations 2000 other than the Department;
"Contractor Personnel"	all employees, agents, consultants and contractors of the Contractor and/or of any Sub-contractor;
"Crown"	means Queen Elizabeth II and any successor
"Crown Body"	any department, office or agency of the Crown;
"the Department"	The Department for Education (Department);
"Department's Confidential Information"	all Personal Data and any information, however it is conveyed, that relates to the business, affairs, developments, trade secrets, know-how, personnel, and suppliers of the Department, including all IPRs, together with all information

	derived from any of the above, and any other information clearly designated as being confidential (whether or not it is marked "confidential") or which ought reasonably be considered to be confidential;
"Environmental Information Regulations"	the Environmental Information Regulations 2004 together with any guidance and/or codes of practice issued by the Information Commissioner or relevant Government Department in relation to such regulations;
"FOIA"	the Freedom of Information Act 2000 and any subordinate legislation made under this Act from time to time together with any guidance and/or codes of practice issued by the Information Commissioner or relevant Government Department in relation to such legislation;
"Her Majesty's Government"	means the duly elected Government for the time being during the reign of Her Majesty and/or any department, committee, office, servant or officer of such Government
"Information"	has the meaning given under section 84 of the Freedom of Information Act 2000;
"Personal Data"	shall have the same meaning as set out in the Data Protection Act 1998;
"Property"	means the property, other than real property, issued or made available to the Contractor by the Client in connection with the Contract.
"Request for Information"	a request for information or an apparent request under the Code of Practice on Access to Government Information, FOIA or the Environmental Information Regulations;
"RSC"	Means Regional School Commissioner
"SME"	means a micro, small or medium-sized enterprise defined in accordance with the European Commission Recommendation 2003/361/EC and any subsequent revisions.
"Working Day"	any day other than a Saturday, Sunday or public holiday in England and Wales.

1.2. References to "Contract" mean this contract (and include the Schedules).
References to "Clauses" and "Schedules" mean clauses of and schedules to this Contract. The provisions of the Schedules shall be binding on the parties as if set out in full in this Contract.

1.3. Reference to the singular include the plural and vice versa and references to any gender include both genders. References to a person include any individual, firm, unincorporated association or body corporate.

2. Commencement and Continuation

2.1. The Contractor shall commence the Services on 1st April 2021 and, subject to Clause 10.1 shall complete the Services on or before 31st March 2022.

3. Contractor's Obligations

3.1. The Contractor shall promptly and efficiently complete the Services in accordance with the provisions set out in Schedule 1, and the special conditions set out in Schedule 6. Where there is any conflict between the terms of this Contract and the special conditions set out in Schedule 6, the special conditions shall prevail.

3.2. The Contractor shall comply with the accounting and information provisions of Schedule 2.

3.3. The Contractor shall comply with all statutory provisions including all prior and subsequent enactments, amendments and substitutions relating to that provision and to any regulations made under it.

4. Department's Obligations

4.1. The Department will comply with the payment provisions of Schedule 5.

5. Changes to the Department's Requirements

5.1. The Department shall notify the Contractor of any material change to the Department's requirement under this Contract.

5.2. The Contractor shall use its best endeavours to accommodate any changes to the needs and requirements of the Department provided that it shall be entitled to payment for any additional costs it incurs as a result of any such changes. The amount of such additional costs to be agreed between the parties in writing.

6. Management

6.1. The Contractor shall promptly comply with all reasonable requests or directions of the Contract Manager in respect of the Services.

6.2. The Contractor shall address any enquiries about procedural or contractual matters in writing to the Contract Manager. Any correspondence relating to this Contract shall quote the reference number set out in the Recitals to this Contract.

7. Contractor's Employees and Sub-Contractors

- 7.1. Where the Contractor enters into a contract with a supplier or contractor for the purpose of performing its obligations under the Contract (the "Sub-contractor") it shall ensure prompt payment in accordance with this clause 7.1. Unless otherwise agreed by the Department in writing, the Contractor shall ensure that any contract requiring payment to a Sub-contractor shall provide for undisputed sums due to the Sub-contractor to be made within a specified period from the receipt of a valid invoice not exceeding:
- 7.1.1. 10 days, where the Sub-contractor is an SME; or
- 7.1.2. 30 days either, where the sub-contractor is not an SME, or both the Contractor and the Sub-contractor are SMEs,
- 7.2. The Contractor shall comply with such terms and shall provide, at the Department's request, sufficient evidence to demonstrate compliance.
- 7.3. The Department shall be entitled to withhold payment due under clause 7.1 for so long as the Contractor, in the Department's reasonable opinion, has failed to comply with its obligations to pay any Sub-contractors promptly in accordance with clause 7.1. For the avoidance of doubt the Department shall not be liable to pay any interest or penalty in withholding such payment.
- 7.4. The Contractor shall take all reasonable steps to satisfy itself that its employees or sub-contractors (or their employees) are suitable in all respects to perform the Services.
- 7.5. The Contractor shall immediately notify the Department if they have any concerns regarding the propriety of any of its sub-contractors in respect of work/services rendered in connection with this Contract.
- 7.6. The Contractor, its employees and sub-contractors (or their employees), whilst on Departmental premises, shall comply with such rules, regulations and requirements (including those relating to security arrangements) as may be in force from time to time.
- 7.7. The Contractor shall ensure the security of all the Property whilst in its possession, during the supply of the Services, in accordance with the Department's reasonable security requirements as required from time to time.

8. Copyright

- 8.1. Copyright in all reports and other documents and materials arising out of the performance by the Contractor of their duties under this Contract are to be assigned to and shall vest in the Crown absolutely. This condition shall apply during the continuance of this Contract and after its termination howsoever arising.

9. Warranty and Indemnity

- 9.1. The Contractor warrants to the Department that the obligations of the Contractor under this Contract will be performed by appropriately qualified and trained personnel with reasonable skill, care and diligence and to such

high standards of quality as it is reasonable for the Department to expect in all the circumstances. The Department will be relying upon the Contractor's skill, expertise and experience in the performance of the Services and also upon the accuracy of all representations or statements made and the advice given by the Contractor in connection with the performance of the Services and the accuracy of any documents conceived, originated, made or developed by the Contractor as part of this Contract. The Contractor warrants that any goods supplied by the Contractor forming a part of the Services will be of satisfactory quality and fit for their purpose and will be free from defects in design, material and workmanship.

9.2. Without prejudice to any other remedy, if any part of the Services is not performed in accordance with this Contract then the Department shall be entitled, where appropriate to:

9.2.1. require the Contractor promptly to re-perform or replace the relevant part of the Services without additional charge to the Department; or

9.2.2. assess the cost of remedying the failure ("the assessed cost") and to deduct from any sums due to the Contractor the Assessed Cost for the period that such failure continues.

9.3. The Contractor shall be liable for and shall indemnify the Department in full against any expense, liability, loss, claim or proceedings arising under statute or at common law in respect of personal injury to or death of any person whomsoever or loss of or damage to property whether belonging to the Department or otherwise arising out of or in the course of or caused by the provision of the Services.

9.4. The Contractor shall be liable for and shall indemnify the Department against any expense, liability, loss, claim or proceedings arising as a result of or in connection with any breach of the terms of this Contract or otherwise through the default of the Contractor. The maximum liability of the Contractor under this clause shall be £1m.

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

9.6. The Contractor shall ensure that it has adequate insurance cover with an insurer of good repute to cover claims under this Contract or any other claims or demands which may be brought or made against it by any person suffering any injury damage or loss in connection with this Contract. The Contractor shall upon request produce to the Department, its policy or policies of insurance, together with the receipt for the payment of the last premium in respect of each policy or produce documentary evidence that the policy or policies are properly maintained.

10. Termination

- 10.1. This Contract may be terminated by either party giving to the other party at least 3 months' notice in writing.
- 10.2. In the event of any breach of this Contract by either party, the other party may serve a notice on the party in breach requiring the breach to be remedied within a period specified in the notice which shall be reasonable in all the circumstances. If the breach has not been remedied by the expiry of the specified period, the party not in breach may terminate this Contract with immediate effect by notice in writing.
- 10.3. In the event of a material breach of this Contract by either party, the other party may terminate this Contract with immediate effect by notice in writing.
- 10.4. This Contract may be terminated by the Department with immediate effect by notice in writing if at any time:-
- 10.4.1. the Contractor passes a resolution that it be wound-up or that an application be made for an administration order or the Contractor applies to enter into a voluntary arrangement with its creditors; or
 - 10.4.2. a receiver, liquidator, administrator, supervisor or administrative receiver be appointed in respect of the Contractor's property, assets or any part thereof; or
 - 10.4.3. the court orders that the Contractor be wound-up or a receiver of all or any part of the Contractor's assets be appointed; or
 - 10.4.4. the Contractor is unable to pay its debts in accordance with Section 123 of the Insolvency Act 1986.
 - 10.4.5. there is a change in the legal or beneficial ownership of 50% or more of the Contractor's share capital issued at the date of this Contract or there is a change in the control of the Contractor, unless the Contractor has previously notified the Department in writing. For the purpose of this Sub-Clause 10.4.5 "control" means the power of a person to secure that the affairs of the Contractor are conducted in accordance with the wishes of that person by means of the holding of shares or the possession of voting power.
 - 10.4.6. the Contractor is convicted (or being a company, any officers or representatives of the Contractor are convicted) of a criminal offence related to the business or professional conduct
 - 10.4.7. the Contractor commits (or being a company, any officers or representatives of the Contractor commit) an act of grave misconduct in the course of the business;
 - 10.4.8. the Contractor fails (or being a company, any officers or representatives of the Contractor fail) to fulfil his/their obligations relating to the payment of Social Security contributions;

- 10.4.9. the Contractor fails (or being a company, any officers or representatives of the Contractor fail) to fulfil his/their obligations relating to payment of taxes;
- 10.4.10. the Contractor fails (or being a company, any officers or representatives of the Contractor fail) to disclose any serious misrepresentation in supplying information required by the Department in or pursuant to this Contract.
- 10.5. Nothing in this Clause 10 shall affect the coming into, or continuance in force of any provision of this Contract which is expressly or by implication intended to come into force or continue in force upon termination of this Contract.

11. Retendering and Handover

- 11.1. Within 30 days of being requested by the Department, the Contractor shall provide, and thereafter keep updated, in a fully indexed and catalogued format, all the information reasonably necessary to enable the Department to issue tender documents for the future provision of replacement services.
- 11.2. The Department shall take reasonable precautions to ensure that the information referred to in clause 11.1 is given only to potential contractors who have qualified to tender for the future provision of the replacement services.
- 11.3. The Department 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 Department; and that they shall not use it for any other purpose.
- 11.4. The Contractor shall allow access to the Premises in the presence of the Department's authorised representative, to any person representing any potential contractor whom the Department has selected to tender for the future provision of the Services.
- 11.5. If access is required to the Contractor's Premises for the purposes of clause 11.4, the Department shall give the Contractor 7 days' notice of a proposed visit together with the names of all persons who will be visiting.
- 11.6. The Contractor shall co-operate fully with the Department 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.
- 11.7. Within 10 Business Days of being requested by the Department, the Contractor shall transfer to the Department, or any person designated by the Department, 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 Department.

12. Exit Management

- 12.1. If the Department 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 Department 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.
- 12.2. The Contractor will, within one month of the Effective Date, deliver to the Department, a plan which sets out the Contractor's proposals for achieving an orderly transition of Services from the Contractor to the Department and/or its Replacement Contractor at the end of the Term (an "Exit Plan").
- 12.3. 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 24.

13. Status of Contractor

- 13.1. In carrying out its obligations under this Contract the Contractor agrees that it will be acting as principal and not as the agent of the Department.
- 13.2. The Contractor shall not say or do anything that may lead any other person to believe that the Contractor is acting as the agent of the Department.

14. Confidentiality

- 14.1. Except to the extent set out in this clause or where disclosure is expressly permitted elsewhere in this Contract, each party shall:
 - 14.1.1. treat the other party's Confidential Information as confidential and safeguard it accordingly; and
 - 14.1.2. not disclose the other party's Confidential Information to any other person without the owner's prior written consent.
- 14.2. Clause 14 shall not apply to the extent that:
 - 14.2.1. such disclosure is a requirement of Law placed upon the party making the disclosure, including any requirements for disclosure under the FOIA, Code of Practice on Access to Government Information or the Environmental Information Regulations pursuant to Clause 13 (Freedom of Information);

- 14.2.2. such information was in the possession of the party making the disclosure without obligation of confidentiality prior to its disclosure by the information owner;
 - 14.2.3. such information was obtained from a third party without obligation of confidentiality;
 - 14.2.4. such information was already in the public domain at the time of disclosure otherwise than by a breach of this Contract; or
 - 14.2.5. it is independently developed without access to the other party's Confidential Information.
- 14.3. The Contractor may only disclose the Department's Confidential Information to the Contractor Personnel who are directly involved in the provision of the Project and who need to know the information, and shall ensure that such Contractor Personnel are aware of and shall comply with these obligations as to confidentiality.
- 14.4. The Contractor shall not, and shall procure that the Contractor Personnel do not, use any of the Department's Confidential Information received otherwise than for the purposes of this Contract.
- 14.5. The Contractor shall ensure that their employees, servants or such professional advisors or consultants are aware of the Contractor's obligations under this Contract.
- 14.6. Nothing in this Contract shall prevent the Department from disclosing the Contractor's Confidential Information:
- 14.6.1. on a confidential basis to any Central Government Body for any proper purpose of the Department or of the relevant Central Government Body;
 - 14.6.2. to Parliament and Parliamentary Committees or if required by any Parliamentary reporting requirement;
 - 14.6.3. to the extent that the Department (acting reasonably) deems disclosure necessary or appropriate in the course of carrying out its public functions;
 - 14.6.4. on a confidential basis to a professional adviser, consultant, supplier or other person engaged by any of the entities described in Clause 14.6.1 (including any benchmarking organisation) for any purpose relating to or connected with this Contract;
 - 14.6.5. on a confidential basis for the purpose of the exercise of its rights under this Contract, including audit rights, step-in rights and exit management rights; or

- 14.6.6. on a confidential basis to a proposed successor body in connection with any assignment, novation or disposal of any of its rights, obligations or liabilities under this Contract.
- 14.7. The Department shall use all reasonable endeavours to ensure that any Central Government Body, Contracting Department, employee, third party or Sub-contractor to whom the Contractor's Confidential Information is disclosed pursuant to clause 12 is made aware of the Department's obligations of confidentiality.
- 14.8. Nothing in this clause 14 shall prevent either party from using any techniques, ideas or know-how gained during the performance of the Contract in the course of its normal business to the extent that this use does not result in a disclosure of the other party's Confidential Information or an infringement of Intellectual Property Rights.
- 14.9. The parties acknowledge that, except for any information which is exempt from disclosure in accordance with the provisions of the FOIA, the content of this Contract is not Confidential Information. The Department shall be responsible for determining in its absolute discretion whether any of the content of the Contract is exempt from disclosure in accordance with the provisions of the FOIA.
- 14.10. Subject to Clause 14.9, the Contractor hereby gives his consent for the Department to publish the Contract in its entirety, including from time to time agreed changes to the Contract, to the general public.
- 14.11. The Department may consult with the Contractor to inform its decision regarding any redactions but the Department shall have the final decision in its absolute discretion.
- 14.12. The Contractor shall assist and cooperate with the Department to enable the Department to publish this Contract.

15. Freedom of Information

- 15.1. The Contractor acknowledges that the Department is subject to the requirements of the FOIA and the Environmental Information Regulations and shall assist and cooperate with the Department to enable the Department to comply with its information disclosure obligations.
- 15.2. The Contractor shall and shall procure that its Sub-contractors shall:
- 15.2.1. transfer to the Department all Requests for Information that it receives as soon as practicable and in any event within 2 working days of receiving a Request for Information;
- 15.2.2. provide the Department with a copy of all Information in its possession, or power in the form that the Department requires within 5 working days (or such other period as the Department may specify) of the Department's request; and

15.2.3. provide all necessary assistance as reasonably requested by the Department to enable the Department to respond to the Request for Information within the time for compliance set out in section 10 of the FOIA or regulation 5 of the Environmental Information Regulations.

15.3. The Department shall be responsible for determining in its absolute discretion and notwithstanding any other provision in this Contract or any other agreement whether any Information is exempt from disclosure in accordance with the provisions of the FOIA or the Environmental Information Regulations.

15.4. In no event shall the Contractor respond directly to a Request for Information unless expressly authorised to do so by the Department.

15.5. The Contractor acknowledges that (notwithstanding the provisions of Clause 13) the Department may, acting in accordance with the Ministry of Justice's Code of Practice on the Discharge of the Functions of Public Authorities under Part 1 of the Freedom of Information Act 2000 ("**the Code**"), be obliged under the FOIA, or the Environmental Information Regulations to disclose information concerning the Contractor or the Project:

15.5.1. in certain circumstances without consulting the Contractor; or

15.5.2. following consultation with the Contractor and having taken their views into account;

provided always that where 15.5.1 applies the Department shall, in accordance with any recommendations of the Code, take reasonable steps, where appropriate, to give the Contractor advanced notice, or failing that, to draw the disclosure to the Contractor's attention after any such disclosure.

15.6. The Contractor shall ensure that all Information is retained for disclosure and shall permit the Department to inspect such records as requested from time to time.

16. Access and Information

16.1. The Contractor shall provide access at all reasonable times to the Department's internal auditors or other duly authorised staff or agents to inspect such documents as the Department considers necessary in connection with this Contract and where appropriate speak to the Contractors employees.

17. Transfer of Responsibility on Expiry or Termination

17.1. The Contractor shall, at no cost to the Department, promptly provide such assistance and comply with such timetable as the Department may reasonably require for the purpose of ensuring an orderly transfer of responsibility upon the expiry or other termination of this Contract. The Department shall be entitled to require the provision of such assistance both

prior to and, for a reasonable period of time after the expiry or other termination of this Contract.

17.2. Such assistance may include (without limitation) the delivery of documents and data in the possession or control of the Contractor which relate to this Contract, including the documents and data, if any, referred to in the Schedule.

17.3. The Contractor undertakes that it shall not knowingly do or omit to do anything which may adversely affect the ability of the Department to ensure an orderly transfer of responsibility.

18. Tax Indemnity

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

18.2. Where the Contractor is liable to National Insurance Contributions (NICs) in respect of consideration received under this contract, it shall at all times comply with the Social Security Contributions and Benefits Act 1992 (SSCBA) and all other statutes and regulations relating to NICs in respect of that consideration.

18.3. The Department may, at any time during the term of this contract, ask the Contractor to provide information which demonstrates how the Contractor complies with Clauses 18.1 and 18.2 above or why those Clauses do not apply to it.

18.4. A request under Clause 18.3 above may specify the information which the Contractor must provide and the period within which that information must be provided.

18.5. The Department may terminate this contract if-

18.5.1. in the case of a request mentioned in Clause 18.3 above if the Contractor:

18.5.1.1. fails to provide information in response to the request within a reasonable time, or

18.5.1.2. provides information which is inadequate to demonstrate either how the Contractor complies with Clauses 18.1 and 18.2 above or why those Clauses do not apply to it;

18.5.2. in the case of a request mentioned in Clause 18.4 above, the Contractor fails to provide the specified information within the specified period, or

- 18.5.3. it receives information which demonstrates that, at any time when Clauses 18.1 and 18.2 apply, the Contractor is not complying with those Clauses.
- 18.6. The Department may supply any information which it receives under Clause 18.3 to the Commissioners of Her Majesty's Revenue and Customs for the purpose of the collection and management of revenue for which they are responsible.
- 18.7. The Contractor warrants and represents to the Department that it is an independent contractor and, as such, bears sole responsibility for the payment of tax and national insurance contributions which may be found due from it in relation to any payments or arrangements made under this Contract or in relation to any payments made by the Contractor to its officers or employees in connection with this Contract.
- 18.8. The Contractor will account to the appropriate authorities for any income tax, national insurance, VAT and all other taxes, liabilities, charges and duties relating to any payments made to the Contractor under this Contract or in relation to any payments made by the Contractor to its officers or employees in connection with this Contract.
- 18.9. The Contractor shall indemnify Department against any liability, assessment or claim made by the HM Revenue and Customs or any other relevant authority arising out of the performance by the parties of their obligations under this Contract (other than in respect of employer's secondary national insurance contributions) and any costs, expenses, penalty fine or interest incurred or payable by Department in connection with any such assessment or claim.
- 18.10. The Contractor authorises the Department to provide the HM Revenue and Customs 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 this Contract whether or not Department is obliged as a matter of law to comply with such request.
- 18.11. The Consultant shall register for value added tax if and when required by law and shall promptly notify the Department for Work and Pensions of his liability for Class 2 and, where appropriate, Class 4 national insurance contributions.

19. Amendment and variation

- 19.1. No amendment or variation to this Contract shall be effective unless it is in writing and signed by or on behalf of each of the parties hereto. The Contractor shall comply with any formal procedures for amending or varying contracts which the Department may have in place from time to time.

20. Assignment and Sub-contracting

- 20.1. The benefit and burden of this Contract may not be assigned or sub-contracted in whole or in part by the Contractor without the prior written consent of the Department. Such consent may be given subject to any conditions which the Department considers necessary. The Department may withdraw its consent to any sub-contractor where it no longer has reasonable grounds to approve of the sub-contractor or the sub-contracting arrangement and where these grounds have been presented in writing to the Contractor.

21. The Contract (Rights of Third Parties) Act 1999

- 21.1. This Contract is not intended to create any benefit, claim or rights of any kind whatsoever enforceable by any person not a party to the Contract.

22. Waiver

- 22.1. No delay by or omission by either Party in exercising any right, power, privilege or remedy under this Contract shall operate to impair such right, power, privilege or remedy or be construed as a waiver thereof. Any single or partial exercise of any such right, power, privilege or remedy shall not preclude any other or further exercise thereof or the exercise of any other right, power, privilege or remedy.

23. Notices

- 23.1. Any notices to be given under this Contract shall be delivered personally or sent by post or by facsimile transmission to the Contract Manager (in the case of the Department) or to the address set out in this Contract (in the case of the Contractor). Any such notice shall be deemed to be served, if delivered personally, at the time of delivery, if sent by post, 48 hours after posting or, if sent by facsimile transmission, 12 hours after proper transmission.

24. Dispute resolution

- 24.1. The Parties shall use all reasonable endeavours to negotiate in good faith and settle amicably any dispute that arises during the continuance of this Contract.
- 24.2. Any dispute not capable of resolution by the parties in accordance with the terms of Clause 22 shall be settled as far as possible by mediation in accordance with the Centre for Dispute Resolution (CEDR) Model Mediation Procedure.
- 24.3. No party may commence any court proceedings/arbitration in relation to any dispute arising out of this Contract until they have attempted to settle it by mediation, but any such mediation may be terminated by either party at any time of such party wishing to commence court proceedings/arbitration.

25. Discrimination

- 25.1. The Contractor shall not unlawfully discriminate within the meaning and scope of any law, enactment, order, or regulation relating to discrimination

(whether in race, gender, religion, disability, sexual orientation or otherwise) in employment.

- 25.2. The Contractor shall take all reasonable steps to secure the observance of Clause 23.1 by all servants, employees or agents of the Contractor and all suppliers and sub-contractors employed in the execution of the Contract.

26. Law and Jurisdiction

- 26.1. This Contract shall be governed by and interpreted in accordance with English Law and the parties submit to the jurisdiction of the English courts.

27. Force Majeure

- 27.1. A party will not be liable if delayed in or prevented from performing its obligations under this Contract due to a Force Majeure event, provided that it:

27.1.1. promptly notifies the other of the Force Majeure event and its expected duration, and

27.1.2. uses reasonable endeavours to minimise the effects of that event.

- 27.2. If, due to a Force Majeure event, a party:

27.2.1. is unable to perform a material obligation, or

27.2.2. is delayed in or prevented from performing its obligations for a continuous period of twenty (20) Business Days OR total in any twelve (12) months of operation of this Contract of more than thirty (30) Business Days, the other party may within ten (10) Business Days terminate this Contract on notice.

28. TUPE

- 28.1. The parties agree that the provisions of Schedule 6 – Special Clauses (28) shall apply to any relevant transfer of staff under this agreement if TUPE applies to the commencement or termination of this agreement.

- 28.2. The parties acknowledge and agree that the TUPE Regulations may apply as a result of the expiry or termination of this Agreement and shall co-operate with each other to determine whether the TUPE Regulations will apply to the transfer of the Services in whole or part to a new service provider or back in-house to the Company.

29. Intellectual Property

- 29.1. All Intellectual Property Rights in materials:

29.1.1. furnished to or made available to the Contractor by or on behalf of the Department (the "Department IP Materials") shall remain the property of the Department (save for Copyright and Database Rights which shall remain the property of the Crown); and

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

(together the "IP Materials").

30. Publicity And Promotion

30.1. Subject to clause 15.2, without prejudice to the Department'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.

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

30.3. 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 Department's name, brand or Department Trade Marks or the Personal Data of the Department to sell, promote, market or publicise the Contractor's other programmes, courses, services or other activities.

30.4. Subject to clauses 12 and 15 the Department 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.

31. Monitoring And Remediation

31.1. The Department 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.

31.2. During such visits, the Department 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.

31.3. If the Department 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:

- 31.3.1. 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 Department (not to be unreasonably withheld) and which, once approved, the Contractor shall implement; and
- 31.3.2. monitor, supervise, direct and/or guide the Contractor's provision of the Services until the Department reasonably considers that any such risk has been remedied or removed. The Contractor shall cooperate at all times with the Department in this regard.
- 31.4. 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 Department 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 Department may direct.
- 31.5. The Department may review from time to time the progress of the Contractor against the Implementation Plan. The Contractor shall cooperate with the Department in this regard and provide any information and evidence reasonably required by the Department.
- 31.6. The Department may instruct the Contractor to take appropriate remedial action where the Department reasonably considers that the Implementation Plan is not being complied with or is at risk of not being complied with and the Contractor shall take such remedial action.

32. Non-solicitation

- 32.1. The parties shall not, during the term of this Contract and for 12 months following the termination of this Contract either directly or indirectly solicit or entice away (or seek to attempt to solicit or entice away) from the employment of the other party any person employed by such other party in the provision of the Services or (in the case of the Department) in the receipt and/or administration of the Services save where an individual replies in good faith to a publicly advertised vacancy.

As witness the hands of the parties

Authorised to sign for and on behalf of the Secretary of State for Education

Signature:

Name in CAPITALS: [REDACTED]

Position in Organisation: Contracts Manager

Address: Department for Education, Sanctuary Buildings,
Great Smith Street, London SW1P 3BT

Date:

Authorised to sign for and on behalf of Education and Employers
(Company Registration number 06886359, Registered charity 1130760)

Signature:

Name in CAPITALS: [REDACTED]

Position in Organisation: Chief Executive Officer

Address: Quantum House, 22-24 Red Lion Court, Fleet Street, London, EC4A 3EB

Date:

Schedule 2 – STATEMENT OF REQUIREMENTS

SPECIFICATION

1 Introduction/Background

1.1 The Government's vision, as set out in the [Governance Handbook](#) and other Department guidance to which the handbook signposts, is to see robust and effective governance in every school and academy trust. As the first line of accountability, the Department recognises that high quality effective and ethical governance is key to success in our school system and for the future of children and young people.

1.2 Given the emphasis on the strategic role of the governing board, the Department recognises the importance of continuing to fund governor and trustee recruitment services. In doing so, ensuring the appointment of appropriately skilled and diverse people in order to meet the increasing demands of the governance role.

1.3 The Department is therefore looking to award a contract to fund the delivery of a national service to recruit governors to the boards of Local Authority maintained schools and academy Local Governing Bodies (LGBs), and to provide on-boarding support for volunteers and the recruiting board throughout the recruitment process. This contract, with a value of £550,000, will run from 1 April 2021-31 March 2022.

2 Purpose

2.1 Schools and academies need governing boards that have a balance and diversity of knowledge, skills and experience to enable them to be effective. Governors and trustees have a huge opportunity to make a positive impact, and we need even more people to come forward to invest in their local community and help shape young people's futures.

2.2 Evidence indicates that when the leadership and management of a school or academy is less than good, a common underlying weakness is the failure of governors and trustees to hold school and trust leaders to account. With the growth of an increasingly school-led system this means that the governance role has become even more important and that governing boards are likely to face increasing challenges.

2.3 Through procuring the service outlined in this specification our aim is to help governing boards recruit and retain people with the right skills and from a range of backgrounds in order to govern well. In doing so, we aim to secure the improvements and efficiencies we need schools and trusts across the system to achieve over the coming years.

2.4 References in the specification to ‘governing boards’ should be read to include both the governing bodies of maintained schools and the trust boards of academies and multi-academy trusts, as well as any subsidiary governance structures, including LGBs, that may be put in place.

2.5 We have defined the key features of effective governance in the [Governance Handbook](#); the [Competency Framework for Governance](#) sets out the knowledge, skills and behaviours that school and academy governing boards need to be effective; the [Governance structures and roles](#) provides an explanation of how governing boards of maintained schools and academy trusts are structured with descriptions of the various roles and responsibilities.

3 Scope

3.1 Our priorities in funding governance recruitment services are outlined below at Table 1.

Table 1.

Scope: Governance Recruitment	
3.2.	To provide a recruitment offer enabling all state funded educational institutions in England that provide education to pupils of compulsory school age, to have access to high quality people with the commitment, skills and knowledge to help secure effective governance. This includes all establishments that are maintained by a local authority and those establishments with whom the Secretary of State has entered into academy arrangements, including primary and secondary maintained schools and academies, special schools and special academies, free schools, University Technical Colleges (UTCs), studio schools and alternative provision institutions that are LA maintained or are academies. This includes single academy trusts, academy trusts with three or under schools and any larger trusts who approach us directly, or who have not been able to secure trustee recruitment support from Academy Ambassadors. It does not cover further and higher education providers such as 6th Form Colleges, Further Education Colleges and Higher

	Education Institutions or educational institutions outside of England. Nor does it cover independent special schools.
3.3.	To provide greater support and target resources to those governing boards in most need, for example: schools and academies with less than good Ofsted judgements; trusts deemed by the Department as 'high need'; schools and trusts with identified financial concerns; and schools and academies where governance is identified as weak. To achieve this, we have set key performance indicators (KPIs) - see Schedule 3, directing support to those schools, academies and trusts that the Department identify are most in need.
3.4	Appointments to boards can include chairs but not members.
3.5	To maximise the impact of those volunteers introduced to boards through high-quality onboarding and effective screening and matching.
3.6	To help create diverse boards, made up of volunteers from a wide range of backgrounds and cultures, with the supplier responsible for delivering against ethnicity and age KPIs (see Schedule 3).
3.7	To promote the importance of governance and generate demand from schools and trusts for skilled board members, especially for those schools and trusts in most need where governance is weak.
3.8	To promote the importance of governance and generate increased support from employers of the benefits to their organisation of their employees being involved in school governance.
3.9	To build in continuous improvement and lessons learned throughout the contract lifetime to ensure that findings are fed into delivery on an ongoing basis.
3.10	To build-in supplier evaluation as a minimum requirement, to provide a level of assurance on the overall quality and effectiveness of the programme.
3.11	Through no/low cost marketing and communication strategies, the provider must ensure that their services and/or programme secures a high profile across the sector.

4 Requirements: Trustee and Governor Recruitment Services

4.1 To achieve our aim in helping governing boards to recruit and retain people with the right skills and from a range of backgrounds to support effective governance, the provider will, as a minimum, need to meet the requirements set out in Table 2 below.

Table 2.

Requirements: Trustee and Governor Recruitment Services
<p>4.2. Perceptions of Governance</p> <ul style="list-style-type: none"> a. Increase public perceptions and celebrate the valuable role played by those in governance as a challenging but important tool in delivering world-class education in schools and trusts. b. Work with schools and trusts to help foster a culture change towards governance, highlighting the benefits and positive impacts effective governance can have and how this can be improved through recruiting high-calibre volunteers.
<p>4.3. Service Delivery: Supply</p> <ul style="list-style-type: none"> a. Identify and recruit suitable, high-calibre, skilled volunteers across all areas of England who have the commitment to serve on governing boards. With a strong prioritisation towards supporting those governing boards most in need, as identified by the Department (Department) and defined through KPIs. b. Ensure that all volunteers matched to vacancies are suited to the boards requirements and have the relevant skills, expertise, behaviours and commitment to fulfil the role on offer. The board (recruiter) is responsible for ensuring that the proposed appointee is aware of any legal or statutory requirements. It is also the responsibility of the board (recruiter) to conduct Disclosure and Barring Service (DBS) checks, manage conflicts of interest, undertake any other checks and take-up of references before appointing the volunteer put forward. c. Design and deliver sound and effective, easy-to-use recruitment processes that maximise the impact of the people introduced onto boards through effective gathering of information, screening and matching. Ensuring that processes are proportionately robust to screen out ineligible individuals (as determined in legislation or academy articles of association) and/or unsuitable individuals (for example those who are prohibited, or restricted or those with known extremist views) from being recruited and introduced to schools and trusts. d. Design and deliver a service that is not burdensome for volunteers or boards

(recruiters) to use. The provider should consider operating as far as possible a self-service model in which governing boards can search and select suitable volunteers themselves, whilst ensuring that all volunteers matched have the relevant skills and behaviours needed to meet the boards' needs. In doing so, providers will be expected to reduce to a minimum the cost of meeting the majority of boards' needs, increasing the overall volume of placements possible within the resources of the contract and leaving maximum resource available to provide tailored support where it is most needed.

- e. Design and deliver a high-quality 'onboarding' service to help ensure prospective volunteers understand the roles and responsibilities of a governor/trustee, the time commitment required and what will be expected of them in advance of their accepting a position on the board. The provider must build in mechanisms to ensure that volunteers confirm their commitment to and understanding of the role before they are able to progress to the matching stage.
- f. Actively maintain volunteer momentum, interest and commitment, through managing volunteer expectations as to the time taken from volunteering to being introduced/appointed to a board. Ensuring that robust processes are in place to seek and monitor feedback from both volunteers and boards and drive continuous improvement.
- g. Help improve the diversity of governing boards through a requirement to recruit volunteers across England who are representative of their community, with a particular focus in recruiting people from a range of diverse backgrounds including ethnicity and age.
- h. Work with the business community, business organisations and professional bodies to convince them of the benefits to them and their employees/members of being involved in governance. In doing so identify high-calibre individuals with a strong interest in helping to improve school and trust governance who are willing to offer their time, experience and expertise in a voluntary/pro-bono capacity. Joining-up with the other recruitment provider, Academy Ambassadors, to offer a coordinated package of support for employers and professional bodies in helping them establish active governance recruitment and support networks within their organisations.

4.4. Service Delivery: Demand

- a. Generate the required demand and commitment from governing boards across England (and other appointing and nominating bodies such as sponsors, foundations, dioceses, and local authorities) who are seeking to recruit high-calibre, skilled and experienced people in order to meet the minimum number of volunteers recruited as outlined through the contract KPIs (see Schedule 3).
- b. Employing their governance expertise, the provider must work with boards to understand their differing needs and requirements, with a focus on any skills gaps of the board, to ensure that those volunteers proposed and placed can have the most impact.
- c. Through low/no cost marketing and communication strategies, the provider must ensure that the service achieves a high profile across the sector and with relevant stakeholders for example academies and maintained sector, local authorities, dioceses and nominating bodies as well as Department Regional Schools Commissioner (RSC) and Education and Skills Funding Agency (ESFA) teams, so that potentially interested parties are aware of the service. This will include running an attractive, high-quality website where visitors can learn more about the service, how it works, the positive impacts of governance, and how prospective volunteers can take forward their interest.
- d. Develop and maintain a high-quality, efficient service for boards to register their interest in support, minimising any burdens on the board and any nominated lead contact from the board.

4.5. Matching

- a. Establish and maintain effective and collaborative working relationships with a range of stakeholders, including but not limited to Department RSC teams, other appointing and nominating bodies such as foundations, dioceses, and local authorities to identify boards where additional support is most needed, in particular those boards deemed high-need as determined in the KPIs (Schedule 3) and to put forward those volunteers with the relevant and desirable skills, knowledge and characteristics to support boards with the challenges faced.
- b. Develop a clear and high-quality process for identifying and matching the needs of governing boards with volunteers they have recruited, ensuring that volunteers will enhance the effectiveness of a board if successfully placed. This process should be as efficient as possible to reduce the time for

<p>boards to receive suitable candidates and volunteers to be placed on a board.</p> <p>c. Understand and familiarise themselves with the requirements and appointment processes for LA maintained schools with a religious character and trusts comprising academies with a religious character in order to identify those individuals who would meet the additional eligibility criteria to serve as foundation governors/members and ensure they are placed effectively where possible.</p> <p>d. Ensure that robust processes are in place to effectively monitor and follow-up un-filled vacancies where volunteers have been matched and introduced to boards, but not placed. Taking prompt action to understand and resolve issues (both from the volunteer and board perspective) and building this into continuous improvement.</p>
<p>4.6. Supplier Collaboration</p> <p>a. Develop and agree a Memorandum of Understanding for how they will work effectively and collaboratively with Academy Ambassadors, ensuring the services on offer have the highest collective impact and present a coherent offer to schools, academies, trusts, volunteers and employers.</p>
<p>4.7. Key Performance Indicators (KPIs)</p> <p>a. Proactively develop high-quality, innovative processes and services to successfully deliver against the KPIs and Service Level Agreements as outlined at Schedule 3.</p>
<p>4.8. Staffing</p> <p>a. Develop a staffing model and organisational structure that has the necessary skills, capability, capacity, experience and leadership at every level to deliver the requirements set out in this specification and in order to achieve the KPIs and SLAs as set out in Schedule 3.</p> <p>b. The contractor will be responsible for identifying, understanding and adhering to any TUPE requirements.</p>
<p>4.9 Quality Assurance</p> <p>a. Establish and maintain high-quality standards and assurance arrangements for all aspects of the services to be delivered as outlined in this specification, including but not limited to complaints handling processes and procedures.</p>

- b. Establish robust governance structures to ensure high performance and accountability. This should include as a minimum:
 - I. identifying the key delivery risks with plans for mitigating risks if they materialise;
 - II. having key metrics for measuring the success of the service;
 - III. identifying and managing any conflicts of interest;
 - IV. having a security plan that protects departmental and personal data and adheres to any relevant data regulations as set out in Department terms and conditions.
- c. Undertake provider-led self-evaluation as outlined in Schedule 4 and build in continuous improvement and lessons learned throughout the contract lifetime to ensure that findings are fed into delivery on an ongoing basis.
- d. Analyse, assess and share findings of own performance with the Department in accordance with the schedules set out in Schedule 4.

4.10 Management Information

- a. Provide management information (MI) to meet the needs of the Department's contract management processes, for the purposes of quality assurance and achievement against KPIs, and to help improve the Department's evidence base on the state of governance in schools.
- b. Establish robust and effective processes to collect, track, maintain and share data about the volunteers and boards using their services. The MI required by the Department is set out in Schedule 4.
- c. Propose and agree with the Department, within one month of contract signature, any additional management information (MI) to be collected from volunteers in order to deliver the required services as outlined in this specification. Any additional data collected must not place unnecessary burdens on volunteers or the boards they serve and must be approved by the Department in advance.
- d. Ensure all management information and other data collected from volunteers, and boards is securely collected, stored and shared in accordance with Department processes and procedures as outlined in Schedule 1.

SCHEDULE 3

Key Performance Indicators, Service Levels and Performance Management

Key Performance Indicators (KPIs)

1. This schedule sets out the Key Performance Indicators (KPIs) and Service Level Agreements (SLAs) against which the Contractor shall measure its performance. The object of the KPIs and Service Levels is to:
 - a. Ensure that the Services are of a consistently high quality and meet the requirements of the Department as set out in the Contract.
 - b. Provide a mechanism whereby the Department can attain meaningful recognition of inconvenience and/or loss resulting from the Contractor's failure to deliver the Services; and
 - c. Incentivise the Contractor to meet the KPIs and Service Levels expeditiously.

KPIs

2. The Parties shall monitor Contractor performance against each of the KPIs listed in Table 1 below at the agreed intervals.
3. The Contractor shall send to the Department a quarterly report (an example template is provided at Annex 1 of this document) which provides performance and success against each KPI as relevant for the governance recruitment service.
4. If at the end of each financial year the Contractor:
 - a. achieves all KPIs, no financial penalty will accrue
 - b. does not achieve against all or some KPIs, KPI credits will be applied in accordance with the values in Table 1 below.

KPI Credits

5. The Contractor agrees that:

- a. for the maintained school governor and LGB Contract (Inspiring Governance) the Charges will be reduced by up to [REDACTED] of the total contract value in the FY 2021-22 (this equates to [REDACTED]), subject to the individual financial penalties shown in Table 1 below.

6. The Parties agree that the KPI Credits are a reasonable method of adjusting the Charges to address poor performance.

Remedial action in the event of failure to achieve KPIs

7. Without prejudice to any other rights under this Contract, if the Contractor fails to achieve any KPI on one or more occasions within any twelve (12) month rolling period, the Contractor agrees that the Department shall have the right to exercise (in its absolute and sole discretion) one or more of the following remedial actions in addition to the Department's entitlement to KPI Credits:

- a. Upon request the Department may require the Contractor to produce a Performance Improvement Plan, which the Contractor shall prepare and provide to the Department within ten (10) Working Days of a written request. The Performance Improvement Plan shall be subject to approval by the Department. The Contractor shall implement any approved Performance Improvement Plan as soon as reasonably practicable; and
- b. The Department may serve an Improvement Notice on the Contractor and the Contractor shall implement such requirements for improvement as set out in the Improvement Notice.

8. In the event that the Department has, in its absolute and sole discretion, invoked one or more of the remedies set out above and the Contractor:

- a. Fails to implement such requirements for improvement as set out in the Improvement Notice; and/or
- b. Fails to implement a Performance Improvement Plan approved by the Department to the Department's satisfaction;
- c. Then (without prejudice to any other rights and remedies of termination provided for in this Contract), the Department may treat the continuing failure as a Material Breach and may terminate the Contract immediately on notice to the Contractor.

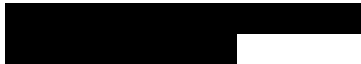




Table 1 - Maintained Schools and LGBs – Inspiring Governance

	KPI	Measure	Monitoring Method	Financial Penalty	Target and Measure for application of Financial Penalty
1	Minimum volumes MV 1 - 3	<p>MV 1: For FY 2021-22 a minimum of 600 appointments¹ to boards of maintained schools or to academy LGBs.</p> <p>MV 2: Work to achieve an aspirational target that a minimum of 50% of those placed should be to boards of Maintained Schools who have been rated as 'Requires Improvement' or 'Inadequate' by Ofsted, or LGBs in trusts that are deemed to be 'high-need'² The 50% is on a fixed target of 600 appointments, and is not linked to an increase if appointments rise above that figure.</p> <p>MV 3: The remaining % of minimum appointments can be to maintained schools</p>	Quarterly monitoring during the duration of the contract.	<div></div> <div></div> <div></div>	Success against target will be measured at: 31 March 2022

¹ Includes chairs but not members

² High-need' is identified as a school or trust that:

- Is a maintained school or single academy trust judged as being 'Requires Improvement' or 'Inadequate' at the most recent Ofsted inspection
- Is an Academy Trust with multiple academies where >40% of its academies have been judged as being 'Requires Improvement' or 'Inadequate' at the most recent Ofsted inspection
- Is an Academy Trust with multiple academies where at least one of its academies have been judged as being 'Requires Improvement' or 'Inadequate' in at least two consecutive Ofsted inspections
- Is an Academy Trust that has been issued a 'Financial Notice to Improve'
- Any other maintained school or Academy Trust identified by RSC offices or ESFA as being 'high-need'

		and academy LGBs via the 'Directed or Organic' routes.			
2	Geographical spread GS 1 - 2	<p>GS 1:</p> <ul style="list-style-type: none"> A minimum of 8% of the total number of appointments must be made in each of the 8 RSC regions. No more than 25% of the total number of appointments can be made in any one RSC region³ <p>GS2: At least 60% of those appointed and placed should be to schools or LGBs situated outside of London.⁴</p>	Quarterly monitoring during the duration of the contract.	 	Success against target will be measured at: 31 March 2022
3	Volunteer characteristics VC 1 - 4	<p>VC 1: At least 14% of those recruited should identify themselves as being from a BAME background.</p> <p>VC 2: A minimum of 25% of volunteers recruited and appointed should be aged between 18 to 35.</p> <p>VC 3: A minimum of 25% of volunteers recruited and appointed should be aged between 36 to 50.</p>	Quarterly monitoring during the duration of the contract.	  	Success against target will be measured at: 31 March 2022

³ The 8 RSC regions are: East of England and North-East London, East Midlands and the Humber, Lancashire and West Yorkshire, North of England, North-West London and South-Central England, South-East England and South London, South-East England, and the West Midlands

⁴ London boroughs of Barking and Dagenham, Barnet, Bexley, Brent, Bromley, Camden, Croydon, Ealing, Enfield, Greenwich, Hackney, Hammersmith and Fulham, Haringey, Harrow, Havering, Hillingdon, Hounslow, Islington, Kensington and Chelsea, Kingston upon Thames, Lambeth, Lewisham, Merton, Newham, Redbridge, Richmond upon Thames, Southwark, Sutton, Tower Hamlets, Waltham Forest, Wandsworth, Westminster

		VC 4: Appointments should be no more than 40/60% in favour of male/female.			
4	Volunteer Expertise VE 1	VE1: At least 60% of those placed onto a board should have identified themselves as having >50% of the skills/expertise requested by the board.	Quarterly monitoring during the duration of the contract. Achievement to be measured and reported by the supplier in line with the MI requirements set out in Schedule 4.		Success against target will be measured at: 31 March 2022
5	Satisfaction S 1 - 4	Through supplier led quality assurance processes the recruitment and matching service must for the contract year: S1: Be identified as 'good or higher' by at least 90% of those volunteers placed that respond to the survey. S2: Be identified as 'good or higher' by at least 90% of the boards whose vacancies are filled.	Quarterly monitoring during the duration of the contract. Satisfaction will be measured through supplier led quality assurance processes (to be agreed by Department in line with Schedule 4).		Success against target will be measured at: 31 March 2022

		<p>S3: A minimum 30% survey response rate must be achieved for S1 and S2 above.</p> <p>Through supplier led quality assurance processes the onboarding support for volunteers must for the contract year:</p> <p>S4: Be identified as “good or higher” by at least 90% of those volunteers placed that respond to the survey.</p>			
6	Management information MI 1	MI1: All information requested as set out in Schedule 4 of this direct award is submitted to the department on time.	Quarterly monitoring during the duration of the contract.		Success against target will be measured on a quarterly basis throughout the duration of the contract.

Service Level Agreements (SLAs)

1. The Contractor shall ensure compliance with the Service Levels listed in Table 2 below.
2. The Contractor and the Department shall monitor the Contractor's performance against each of the Service Levels listed in Table 2.
3. The Contractor shall send to the Department a quarterly performance report (an example template is provided at Annex A) with a Red, Amber or Green rating ("RAG rating") against each Service Level. Red would indicate failed to achieve or a high risk of failure to achieve, Amber would indicate medium risk of failing to achieve and Green indicates fully on track or achieved.

Remedial action in the event of failure to achieve SLAs

4. Without prejudice to any other rights under this Contract, if the Contractor fails to meet two (2) or more Service Levels for more than three (3) consecutive months, the Contractor agrees that the Department shall have the right to exercise (in its absolute and sole discretion) one or more of the following remedial actions:
 - a. Upon request the Department may require the Contractor to produce a Performance Improvement Plan, which the Contractor shall prepare and provide to the Department within ten (10) Working Days of a written request. The Performance Improvement Plan shall be subject to approval by the Department. The Contractor shall implement any approved Performance Improvement Plan as soon as reasonably practicable; and
 - b. The Department may serve an Improvement Notice on the Contractor and the Contractor shall implement such requirements for improvement as set out in the Improvement Notice.
5. In the event that the Department has, in its absolute and sole discretion, invoked one or more of the remedies set out above and the Contractor:
 - a. Fails to implement such requirements for improvement as set out in the Improvement Notice; and/or
 - b. Fails to implement a Performance Improvement Plan approved by the Department to the Department's satisfaction;

- c. Then (without prejudice to any other rights and remedies of termination provided for in this Contract), the Department may treat the continuing failure as a Material Breach and may terminate the Contract immediately on notice to the Contractor.

Table 2 SLAs

Subject	Service Level
Onboarding Support	The Contractor must ensure all appointees understand the overarching roles and responsibilities of a governor and/or trustee, the commitment required and the part they can play in contributing towards effective governance before applying and throughout the application and placement process. A record of their understanding must be made and held.
Reporting and Meetings	Submit to the Department Contract Manager a completed quarterly report by the twenty-fifth (25 th) of the month following the end of the quarter, highlighting performance against all KPIs and SLAs, including the submission of all/agreed management information. An example reporting template is provided at Annex 1 of this document.
	Attend quarterly contract management meetings.
	Attend any ad hoc development and operational meetings as required by the department.
Administration/ Communication	Respond to one hundred per cent (100%) of queries and correspondence within three (3) working days from the date of receipt.
Complaints	The Contractor's Performance Manager (or appointed personnel) must respond to all complaints from service users orally by telephone or in person, as well as in writing, within five (5) working days from the date of the complaint.
Finance	Ensure that valid invoices are submitted to Department within twenty (20) working days of the end of the relevant service period.

Commercial/Contract Management	Ensure that all Change Control Notices or Contract Variation documentation is signed by both Parties prior to any additional work being undertaken.
Regional engagement	The Contractor must react promptly and take any action identified by Regional School Commissioner (RSC)/ESFA offices to help strengthen a trust/school board. Any requested action must be completed within a timescale agreed with the relevant RSC office on a case-by-case basis.
Stakeholder collaboration	The Contractor must work collaboratively with other governance stakeholders and the sector to better understand regional governance landscapes and needs. These stakeholders should include, but are not limited to, RSC offices, ESFA, Local Authorities, Diocese, Chambers of Commerce etc.
	The Contractor must develop and agree a Memorandum of Understanding (within two-months of contract signature) for how they will work effectively and collaboratively with Academy Ambassadors ensuring the services on offer have the highest collective impact and present a coherent offer to schools, academies, trusts, volunteers and employers.

Performance management arrangements

1. The Department shall monitor performance and progress against the contract KPIs and SLAs on a quarterly basis and during performance review meetings. The Contractor shall cooperate with the Department in this regard and provide any information and evidence reasonably required by the Department within five (5) Working Days of a request being received.
2. The Contractor shall appoint a named Performance/Contract Manager who will cooperate with the Department to ensure that the Contract is delivered as specified in the Contract and that Service Levels and KPIs are achieved.
3. The purpose of the performance review meetings is to encourage regular and open dialogue between the Parties. The Parties shall review performance, discuss opportunities for continuous improvement, and address any complaints or persistent problems or issues encountered.
4. Performance reviews shall be documented. The Contractor shall provide any information requested by the Department to facilitate the reviews and arrange, where necessary, access to any of Contractor Premises or delivery locations, including those operated by Sub-Contractors.
5. The Department may instruct the Contractor to take appropriate remedial action where the Department reasonably considers that the Performance Improvement Plan is not being complied with, and the Contractor must take such remedial action as requested by the Department.
6. If there is a failure to achieve a Service Level or KPI, the Contractor shall use all reasonable endeavours to immediately minimise the impact of any failure and to prevent such a failure from recurring.
7. The Contractor shall ensure that all systems and processes used for the monitoring and recording of performance are robust and in accordance with the data and security requirements set out in the Contract.

Annex A PERFORMANCE AGAINST SLAs			
Subject	Service Level	RAG	Comments
Onboarding Support	The Contractor must ensure all appointees understand the overarching roles and responsibilities of a governor and/or trustee, the commitment required and the part they can play in contributing towards effective governance before applying and throughout the application and placement process. A record of their understanding must be made and held.		
Reporting and Meetings	Submit to the Department Contract Manager a completed quarterly report by the twenty-fifth (25 th) of the month following the end of the quarter, highlighting performance against all KPIs and SLAs, including the submission of all/agreed management information		
	Attend quarterly contract management meetings.		
	Attend any ad hoc development and operational meetings as required by the department.		
Administration/ Communication	Respond to one hundred per cent (100%) of queries and correspondence within three (3) working days from the date of receipt.		
Complaints	The Contractor's Performance Manager (or appointed personnel) must respond to all complaints from service users orally by telephone or in person, as well as in writing, within five (5) working days from the date of the complaint.		
Finance	Ensure that valid invoices are submitted to Department within twenty (20) working days of the end of the relevant service period.		

Commercial/Contract Management	Ensure that all Change Control Notices or Contract Variation documentation is signed by both Parties prior to any additional work being undertaken.		
Regional engagement	The Contractor must react promptly and take any action identified by Regional School Commissioner (RSC) offices to help strengthen a trust/school board. Any requested action must be completed within a timescale agreed with the relevant RSC office on a case-by-case basis		
Stakeholder collaboration	The Contractor must work collaboratively with other governance stakeholders and the sector to better understand regional governance landscapes and needs. These stakeholders should include, but are not limited to, RSC offices, ESFA, Local Authorities, Diocese, Chambers of Commerce etc.		
	The Contractor must develop and agree a Memorandum of Understanding (within two-months of contract signature) for how they will work effectively and collaboratively with Academy Ambassadors ensuring the services on offer have the highest collective impact and present a coherent offer to schools, academies, trusts, volunteers and employers.		

Key successes / key activity completed in period

Issues/risks
Comms/Marketing
Future plans/priorities
Anything else to raise?

Annex 1: Example Reporting Templates

Inspiring Governance Maintained Schools and LGBs Example Reporting Template

PERFORMANCE AGAINST KPIS
<u>KPI – Minimum volumes (MV1 – MV3)</u>
<p>MV1: In FY 2021-22 A minimum of 600 appointments to boards of maintained schools or to academy LGBs.</p> <p>MV 2: Work to achieve an aspirational target that a minimum of 50% of those placed should be to boards of Maintained Schools who have been rated as ‘Requires Improvement’ or ‘Inadequate’ by Ofsted, or LGBs in trusts that are deemed to be ‘high-need’⁵ The 50% is on a fixed target of 600 appointments, and is not linked to an increase if appointments rise above that figure.</p> <p>MV3: The remainder of the minimum appointments can be to maintained schools and academy LGBs via the ‘Directed or Organic’ routes.</p>
Performance against KPI:
<u>KPI – Geographical spread (GS1 – GS2)</u>
<ul style="list-style-type: none"> GS1: A minimum of 8% of the total number of appointments must be made in each of the 8 RSC regions. GS2: No more than 25% of the total number of appointments can be made in any one RSC region⁶

⁵ High-need’ is identified as a school or trust that:

- Is a maintained school or single academy trust judged as being ‘Requires Improvement’ or ‘Inadequate’ at the most recent Ofsted inspection
- Is an Academy Trust with multiple academies where >40% of its academies have been judged as being ‘Requires Improvement’ or ‘Inadequate’ at the most recent Ofsted inspection
- Is an Academy Trust with multiple academies where at least one of its academies have been judged as being ‘Requires Improvement’ or ‘Inadequate in at least two consecutive Ofsted inspections
- Is an Academy Trust that has been issued a ‘Financial Notice to Improve’
- Any other maintained school or Academy Trust identified by RSC offices or ESFA as being ‘high-need’

⁶ The 8 RSC regions are: East of England and North-East London, East Midlands and the Humber, Lancashire and West Yorkshire, North of England, North-West London and South-Central England, South-East England and South London, South-East England, and the West Midlands

<ul style="list-style-type: none"> • GS3: At least 60% of those appointed and placed should be to schools or LGBs situated outside of London
Performance against KPI:
<u>KPI – Volunteer Characteristics (VC1 – VC4)</u> <ul style="list-style-type: none"> • VC1: At least 14% of those recruited and appointed should identify themselves as being from a BAME background • VC2: A minimum of 25% of volunteers recruited and appointed should be aged between 18 to 35 • VC3: A minimum of 25% of volunteers recruited and appointed should be aged between 36 to 50 • VC4: Appointments should be no more than 40/60% in favour of male/female.
Performance against KPI:
<u>KPI – Volunteer Expertise (VE1)</u> <ul style="list-style-type: none"> • VE1: At least 60% of those placed onto a board should have identified themselves as having >50% of the skills/expertise requested by the board.
Performance against KPI:
<u>KPI – Satisfaction (S1 – S3)</u> <ul style="list-style-type: none"> • Through supplier lead quality assurance processes the service must, per annum:

<ul style="list-style-type: none"> ○ S1 Be identified as 'good or higher' by at least 90% of the volunteers placed ○ S2: Be identified as 'good or higher' by at least 90% of the boards whose vacancies are filled ○ S3: A minimum 30% survey response rate must be achieved for S1 and S2 above <p>Through supplier led quality assurance processes the onboarding support for volunteers must for the contract year:</p> <ul style="list-style-type: none"> • S4: Be identified as "good or higher" by at least 90% of those volunteers placed that respond to the survey.
Performance against KPI:
<u>KPI – Management Information (MI1)</u>
<ul style="list-style-type: none"> • M1: All information requested (as set out in Schedule 4) is submitted to the department on time.
Performance against KPI:
Other information to report on
Total number of volunteers recruited in quarter, with breakdowns showing region, expertise, age, gender, ethnicity and recruitment channel
To be discussed and agreed with contractor post contract start. To include a measure of volunteers serving remotely from their governing board, criteria for reporting to be agreed.
Total number of new vacancies registered in quarter, with breakdowns showing region, school type and expertise required
To be discussed and agreed with contractor post contract start.
Average and standard deviation of time taken from a single vacancy being registered to a) the Contractor offering individuals to fill the vacancy and b) the board confirming their intention to appoint to fill the vacancy

To be discussed and agreed with contractor post contract start.

Frequency distribution of the number of volunteers offered per live vacancy

To be discussed and agreed with contractor post contract start.

Frequency distribution of vacancies remaining unfilled by month since registered

To be discussed and agreed with contractor post contract start.

Number of registered vacancies withdrawn, with breakdown of reasons given

To be discussed and agreed with contractor post contract start.

SCHEDULE 4 – MANAGEMENT INFORMATION AND EVALUATION REQUIREMENTS

1. Management Information Requirements – Trustee and Governor Recruitment

- 1.1. To strengthen our understanding of the impact of government funded recruitment support and to help inform, evidence and monitor the quality and success of Contractor delivery, the Department intends to collect management information (MI) as outlined in Table 1 below.
- 1.2. The Department requires the Contractor to participate fully in the provision of MI and monitoring of key performance and service level indicators.
- 1.3. The Contractor must collect and share with the Department the data requirements as outlined in the table below throughout the operation of the service. The Contractor may propose to the Department (within one-month post contract signature) any additional management information (MI) they may wish to collect from volunteers and boards in order to effectively deliver the required services as outlined in this specification. Any proposed/additional data to be collected however, must not place any unnecessary burdens on volunteers or the boards they serve and must be approved by the Department in advance.
- 1.4. The Department will issue a template to the Contractor, setting out the required MI that the Contractor must collect and return as part of contract reporting arrangements.
- 1.5. MI must be submitted to the Department on a quarterly basis, using the Department's specified secure transfer system. Information on how to register and use the secure system will also be provided once the contract is in place.
- 1.6. The Department reserves the right to request additional MI during the course of the contract. Any additional MI requirements will be agreed with the Contractor with at least one-month's notice.
- 1.7. In addition, the Contractor will be required to:
 - 1.7.1. Submit to the Department a completed quarterly report using the example template provided by the department (see Schedule 3).
 - 1.7.2. Attend as a minimum, quarterly contract management meetings.
 - 1.7.3. Attend any ad hoc development and operations meetings as required by the Department.

Table 1	
MI Field descriptor	Options for responses
<i>Information about the volunteer</i>	
First name	
Surname	
Email address	
Phone	
Ethnicity	<ul style="list-style-type: none"> • White: White British; Irish; Traveller of Irish heritage; Gypsy/ Roma; Any other White background • Mixed: White and Black Caribbean; White and Black African; White and Asian; Any other Mixed background • Asian: Indian; Pakistani; Bangladeshi; Any other Asian background • Black: Black Caribbean; Black African; Any other Black background • Chinese • Any other ethnic group • Prefer not to say
Gender	<ul style="list-style-type: none"> • Male • Female • Non-Binary • No gender • Prefer not to say
Religious affiliation	<ul style="list-style-type: none"> • No religion • Church of England • Roman Catholic • Other Christian • Buddhist • Hindu • Jewish • Muslim • Sikh • Any other religion • Prefer not to say
Skills	Creative (Arts, Innovation) Community Relations Links with Employers/Local Businesses Corporate Governance Data Analysis Teaching/Learning Curriculum Child Welfare/Safeguarding Education System Special Educational Needs Recent (last 10 years) experience of being in education

	Income Generation/Business Development Building/Premises Finance Audit Accounting Health and Safety HR - Personnel and Recruitment Career Development/Coaching/Mentoring IT/Technology Law Marketing, Communications, PR Procurement/Purchasing Risk Management / Compliance Strategic Leadership, Management Chairing / Non-Executive Experience Change Management Monitoring Performance/Quality Assurance Negotiation/Mediation Problem Solving Project Management
Governance experience	Select: <ul style="list-style-type: none"> • new governor/trustee • experienced governor/trustee
Employment status	Select: <ul style="list-style-type: none"> • f/t student • f/t employment • p/t employment • retired • not currently in employment • other (please specify)
Date first registered	
Date appointed	
Name of school/trust where appointed	
URN or Trust ID of school/trust where appointed	
Position appointed to	Select: <ul style="list-style-type: none"> • (Academies) trust board; local governing board • (Maintained schools) governor • (All) chair
<i>Information about the recruiter</i>	
School/trust name	
URN or Trust ID	
Name of contact	
Email of contact	

Date vacancy registered	
Number of vacancies	
Skills and experience required	<p> Creative (Arts, Innovation) Community Relations Links with Employers/Local Businesses Corporate Governance Data Analysis Teaching/Learning Curriculum Child Welfare/Safeguarding Education System Special Educational Needs Recent (last 10 years) experience of being in education Income Generation/Business Development Building/Premises Finance Audit Accounting Health and Safety HR - Personnel and Recruitment Career Development/Coaching/Mentoring IT/Technology Law Marketing, Communications, PR Procurement/Purchasing Risk Management / Compliance Strategic Leadership, Management Chairing / Non-Executive Experience Change Management Monitoring Performance/Quality Assurance Negotiation/Mediation Problem Solving Project Management </p>

2. Evaluation Requirements – Trustee and Governor Recruitment

- 2.1. In addition to the requirement for the Contractor to collect Management Information as outlined at section 1 of this document, the Department also requires the Contractor to facilitate the collection of evaluation information. This will improve and strengthen the Department's evidence base on the state of governance in schools,
- 2.2. The Department requires that the Contractor undertakes to issue a survey to all matched volunteers and recruiting boards to gauge their satisfaction with the service provided. Furthermore, the Department will be prescriptive on the wording of particular questions posed to ensure comparability of evaluation and impact across the Academy Ambassadors and Inspiring Governance contracts. The Department will issue the Contractor with the final survey questions within two months following contract signature.
- 2.3. The Contractor must make every effort to encourage responses to the survey, sending follow-up reminders where necessary, to achieve a good rate of response in line with the KPI requirements set out in Schedule 3.
- 2.4. The Contractor is required to collect and analyse the results of the survey and submit the survey data to the Department at the end of each quarter using the Department's secure transfer system. Further information on the timings and submission of the survey data and how to use the secure system will be provided post contract signature.
- 2.5. In addition, the Department reserves the right to appoint an external provider(s) to evaluate the recruitment services. This is to ensure objectivity in monitoring the effectiveness of the recruitment and induction processes, and to share experience and evidence going forward so that the marketplace might become more effective and sustainable.
- 2.6. The evaluation may involve looking at the processes, access, delivery and quality of content and materials offered and to seek the views of volunteers and recruiting boards.
- 2.7. The Contractor shall cooperate with external evaluators if required, to assess how the services have been implemented (process evaluation). The Contractor agrees that the results of the evaluation shall become public.
- 2.8. The Contractor shall throughout the term of the contract cooperate at all times with the external evaluators, if appointed, and agrees to provide such information requested by the external evaluators in order that the effects of the delivery of the service can be assessed.
- 2.9. Upon request, the Contractor shall supply the external evaluators with accurate and sufficient data as required.
- 2.10. The Contractor shall issue volunteers and boards who sign up with the service with a privacy notice (which the Department will provide post contract signature) that explains how their personal data may be used for the purposes

of evaluation and monitoring of the programme. The privacy notice will make clear that in using the service both volunteers and boards are agreeing to take part in a survey and any follow-up evaluation, if required, and that their information will be shared with the Department and any recruited external evaluator.

- 2.11. The Contractor agrees to limit their own data collection to ensure that volunteers and recruiting boards are not over-evaluated. The Contractor must seek approval from the Department in advance of issuing any other surveys or undertaking any additional evaluation of the service to volunteers or boards.
- 2.12. As and when requested by the external evaluators, the Contractor must provide information and access to service users to support the design and planning of the evaluation as well as the carrying out of the evaluation and the evidence gathering.

Schedule 5 – Financials

- 1 The Department shall pay the Contractor the Charges in accordance with the Contract, subject to successful delivery of the Services, progress against KPIs and performance against service levels set out in Schedule 3. 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 Department, the Contractor shall not be entitled to claim any expenses in addition to the Charges.
- 2 The Department may review the detailed activity 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 monthly in arrears as set out in the table below.
- 5 Schedule 3 sets out the percentage of the total payment which is linked to successful delivery against KPIs and the points at which reward payments will be made for progress against these KPIs.
- 6 This table sets out the proposed payment schedule from 1 April 2021 to 31 March 2022:

Task	Cost (£)	Cumulative total (£)	Invoice date
Provision of Inspiring Governance Service April 2021			tbc
Provision of Inspiring Governance Service May 2021			
Provision of Inspiring Governance Service June 2021			
Provision of Inspiring Governance Service July 2021			
Provision of Inspiring Governance Service August 2021			
Provision of Inspiring Governance Service September 2021			
Provision of Inspiring Governance Service October 2021			
Provision of Inspiring Governance Service November 2021			
Provision of Inspiring Governance Service December 2021			
Provision of Inspiring Governance Service January 2022			
Provision of Inspiring Governance Service February 2022			
Provision of Inspiring Governance Service March 2022			

Reward payment for achievement of KPIs March 2022			
Grand total for service (inc VAT)			
Grand total inc. all reward payments if achieved		550,000.00	

- 7 Funds allocated to a particular accounting year are available for that accounting year only. The allocation of funds in the Table may not be altered except with the prior written consent of the Department.
- 8 The Contractor shall maintain full and accurate accounts and associated records for the Service against the expenditure to fulfil this contract. Such accounts shall be retained for at least 6 years after the end of the financial year in which the last payment was made under this Contract. Input and output VAT shall be included as separate items in such accounts.
- 9 The Contractor shall permit duly authorised staff or agents of the Department or the National Audit Office to examine the accounts at any reasonable time and shall furnish oral or written explanations of the account if required. The Department reserves the right to have such staff or agents carry out examinations into the economy, efficiency and effectiveness with which the Contractor has used the Department's resources in the performance of this Contract.
- 10 Invoices shall be prepared by the Contractor on the invoice dates specified in the Table in arrears and shall contain sufficient detail in order that they can be assessed and audited as required. The Contractor or his or her nominated representative or accountant shall certify on the invoice that the amounts claimed were expended wholly and necessarily by the Contractor on the Service in accordance with the Contract and that the invoice does not include any costs being claimed from any other body or individual or from the Department within the terms of another contract.
- 11 Invoices shall be sent, within 30 days of the end of the relevant month to AccountsPayable.OCR@education.gov.uk quoting the Contract reference number. The Department undertakes to pay correctly submitted invoices within 5 days of receipt. The Department is obliged to pay invoices within 30 days of receipt from the day of physical or electronic arrival at the nominated address of the Department. Any correctly submitted invoices that are not paid within 30 days will be subject to the provisions of the Late Payment of Commercial Debt (Interest) Act 1998. A correct invoice is one that: is delivered in timing in accordance with the contract; is for the correct sum; in respect of goods/services supplied or delivered to the required quality (or are expected to be at the required quality); includes the date, supplier name, contact details and bank details; quotes the relevant purchase order/contract reference and has been delivered to the nominated address. If any problems arise, contact the Department's Contract Manager. The Department aims to reply to complaints within 10 working days. The Department shall not be responsible for any delay in payment caused by incomplete or illegible invoices.
- 12 The Contractor shall have regard to the need for economy in all expenditure. Where any expenditure in an invoice, in the Department's reasonable opinion, is excessive having due regard to the purpose for which it was incurred, the Department shall only be liable to reimburse so much (if any) of the expenditure disallowed as, in the

Department's reasonable opinion after consultation with the Contractor, would reasonably have been required for that purpose.

- 13 If this Contract is terminated by the Department due to the Contractor's insolvency or default at any time before completion of the Service, the Department shall only be liable under paragraph 1 to reimburse eligible payments made by, or due to, the Contractor before the date of termination.
- 14 On completion of the Service or on termination of this Contract, the Contractor shall promptly draw-up a final invoice, which shall cover all outstanding expenditure incurred for the Service. The final invoice shall be submitted not later than 30 days after the date of completion of the Service.
- 15 The Department shall not be obliged to pay the final invoice until the Contractor has carried out all the elements of the Service specified as in Schedule 2.
- 16 It shall be the responsibility of the Contractor to ensure that the final invoice covers all outstanding expenditure for which reimbursement may be claimed. Provided that all previous invoices have been duly paid, on due payment of the final invoice by the Department all amounts due to be reimbursed under this Contract shall be deemed to have been paid and the Department shall have no further liability to make reimbursement of any kind.

Schedule 6 – Special clauses

1. Intellectual Property Rights and Copyright

"Intellectual Property Rights"	means patents, trademarks, service marks, design rights (whether registerable or otherwise), applications for any of the foregoing, know-how, rights protecting databases, trade or business names and other similar rights or obligations whether registerable or not in any country (including but not limited to the United Kingdom).
"the Act"	means the Copyright Designs and Patents Act 1988;
"Copyright"	means any and all copyright, design right (as defined by the Act) and all other rights of a like nature which may, during the course of this Contract, come into existence in or in relation to any Work (or any part thereof);
"Crown and/or Her Majesty"	both mean Queen Elizabeth II and any successor to Her Majesty;
"HMSO"	means Her Majesty's Stationery Office;
"Her Majesty's Government"	means the duly elected Government for the time being during the reign of Her Majesty and/or any department, committee, office, servant or officer of such Government;
"Work"	means any and all Works including but not limited to literary, dramatic, musical or artistic works, sound recordings, films, broadcasts or cable programmes, typographical arrangements and designs (as the same are defined in the Act) which are created from time to time during the course of this Contract by the Contractor or by or together with others at the Contractor's request or on its behalf and where such works directly relate to or are created in respect of the performance of this Contract or any part of it.

1.1. The Contractor agrees that the Crown shall be legally and beneficially entitled to any and all Intellectual Property Rights and Copyright and the Contractor hereby assigns to the Crown any and all residual title which it may have in any and all such Intellectual Property Rights and/or Copyright.

1.2. The Contractor undertakes that it shall, from time to time, take all such steps and execute all such documents as the Crown or HMSO on its behalf may reasonably require to fully vest in the Crown any and all residual title, whether legal or beneficial, to the Intellectual Property Rights and/or Copyright.

Copyright warranties

1.3. The Contractor now warrants to the Crown, HMSO and the Department (and to any assignees and licensees of each) that all Works will not infringe in whole or in part any copyright or like right or any other intellectual property right of any other person (wheresoever) and agrees to indemnify and hold harmless Her Majesty and/or Her Majesty's Government against any and all claims, demands, proceedings, expenses and losses, including any of a consequential nature, arising directly or indirectly out of any act of the foregoing in relation to any

Work, where such act is or is alleged to be an infringement of a third party's copyright or like right or other intellectual property right (wheresoever).

1.4. The warranty and indemnity contained in Clause 1.3 above shall survive the termination of this Contract and shall exist for the life of the Copyright.

2. Ownership of Drawings Specifications and Other Data

2.1. Any data, drawings or specifications gathered, completed or provided in connection with this Contract shall become or, as the case may be, remain the property of the Department and be delivered up to the Department on completion or termination of the Contract.

3. Not used

4. Contractor's Standards

4.1. The Contractor shall as far as practicable satisfy the Department that it operates to an acceptable standard such as BS 5750, BS EN ISO 9000 or an equivalent.

5. Not used

6. Not used

7. Not used

8. Not used

9. Not used

10. Not used

11. Data Protection Act

"Affiliate"	in relation to a body corporate, any other entity which directly or indirectly Controls, is Controlled by, or is under direct or indirect common Control with, that body corporate from time to time;
"Contractor Personnel"	all employees, agents, Contractors and contractors of the Contractor and/or of any Sub-contractor;
"Control"	means that a person possesses, directly or indirectly, the power to direct or cause the direction of the management and policies of the other person (whether through the ownership of voting shares, by contract or otherwise) and "Controls" and "Controlled" shall be interpreted accordingly;
"Regulatory Bodies"	those government departments and regulatory, statutory and other entities, committees 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 this Contract or any other affairs of the Department and "Regulatory Body" shall be construed accordingly.

"Sub-contractor"	the third party with whom the Contractor enters into a Sub-contract or its servants or agents and any third party with whom that third party enters into a Sub-contract or its servants or agents;
"Working Day"	any day other than a Saturday, Sunday or public holiday in England and Wales.

11.1. With respect to the parties' rights and obligations under this Contract, the parties agree that the Department is the Data Controller and that the Contractor is the Data Processor. For the purposes of this Clause 11, the terms "Data Controller", "Data Processor", "Data Subject", "Personal Data", "Process" and "Processing" shall have the meaning prescribed under the DPA.

11.2. The Contractor shall:

11.2.1. Process the Personal Data only in accordance with instructions from the Department (which may be specific instructions or instructions of a general nature as set out in this Contract or as otherwise notified by the Department to the Contractor during the period of the Contract);

11.2.2. Process the Personal Data only to the extent, and in such manner, as is necessary for the provision of the Services or as is required by law or any Regulatory Body;

11.2.3. Implement appropriate technical and organisational measures to protect the Personal Data against unauthorised or unlawful processing and against accidental loss, destruction, damage, alteration or disclosure. These measures shall be appropriate to the harm which might result from any unauthorised or unlawful Processing, accidental loss, destruction or damage to the Personal Data and having regard to the nature of the Personal Data which is to be protected;

11.2.4. Take reasonable steps to ensure the reliability of any Contractor Personnel who have access to the Personal Data;

11.2.5. Obtain prior written consent from the Department in order to transfer the Personal Data to any Sub-contractors or Affiliates for the provision of the Services;

11.2.6. Ensure that all Contractor Personnel required to access the Personal Data are informed of the confidential nature of the Personal Data and comply with the obligations set out in this Clause 11;

11.2.7. Ensure that none of Contractor Personnel publish, disclose or divulge any of the Personal Data to any third party unless directed in writing to do so by the Department;

11.2.8. Notify the Department within 5 working days if it receives:

11.2.8.1. a request from a Data Subject to have access to that person's Personal Data; or

11.2.8.2. a complaint or request relating to the Department's obligations under the Data Protection Legislation;

- 11.2.9. Provide the Department with full cooperation and assistance in relation to any complaint or request made, including by:
- 11.2.9.1. providing the Department with full details of the complaint or request;
 - 11.2.9.2. complying with a data access request within the relevant timescales set out in the Data Protection Legislation and in accordance with the Department's instructions;
 - 11.2.9.3. providing the Department with any Personal Data it holds in relation to a Data Subject (within the timescales required by the Department); and
 - 11.2.9.4. providing the Department with any information requested by the Department;
- 11.2.10. Permit the Department or the Department's Representative (subject to reasonable and appropriate confidentiality undertakings), to inspect and audit the Contractor's data processing activities (and/or those of its agents, subsidiaries and Sub-contractors) and comply with all reasonable requests or directions by the Department to enable the Department to verify and/or procure that the Contractor is in full compliance with its obligations under this Contract;
- 11.2.11. Provide a written description of the technical and organisational methods employed by the Contractor for processing Personal Data (within the timescales required by the Department); and
- 11.2.12. Not Process or otherwise transfer any Personal Data outside the European Economic Area. If, after the Commencement Date, the Contractor (or any Sub-contractor) wishes to Process and/or transfer any Personal Data outside the European Economic Area, the following provisions shall apply:
- 11.2.12.1. the Contractor shall submit a request for change to the Department which shall be dealt with in accordance with any Change Control Procedure
 - 11.2.12.2. the Contractor shall set out in its request for change details of the following:
 - a) the Personal Data which will be Processed and/or transferred outside of the United Kingdom;
 - b) the country or countries in which the Personal Data will be Processed and/or to which the Personal Data will be transferred outside of the United Kingdom;
 - c) any Sub-contractors or other third parties who will be Processing and/or transferring Personal Data outside of the United Kingdom; and

- d) how the Contractor will ensure an adequate level of protection and adequate safeguards (in accordance with the Data Protection Legislation and in particular so as to ensure the Department's compliance with the Data Protection Legislation) in respect of the Personal Data that will be Processed and/or transferred outside of the United Kingdom;

11.2.12.3.in providing and evaluating the request for change, the parties shall ensure that they have regard to and comply with then-current Department, Government and Information Commissioner Office policies, procedures, guidance and codes of practice on, and any approvals processes in connection with, the Processing and/or transfers of Personal Data outside of the United Kingdom and/or overseas generally; and

11.2.12.4.the Contractor shall comply with such other instructions and shall carry out such other actions as the Department may notify in writing, including:

- a) incorporating standard and/or model clauses (which are approved by the Government of the United Kingdom as offering adequate safeguards under the Data Protection Legislation) in this Contract or a separate data processing agreement between the parties; and
- b) procuring that any Sub-contractor or other third party who will be Processing and/or transferring the Personal Data outside of the United Kingdom enters into a direct data processing agreement with the Authority on such terms as may be required by the Department, which the Contractor acknowledges may include the incorporation of standard and/or model clauses (which are approved by the Government of the United Kingdom as offering adequate safeguards under the Data Protection Legislation)."

11.3. The Contractor shall comply at all times with the Data Protection Legislation and shall not perform its obligations under this Contract in such a way as to cause the Department to breach any of its applicable obligations under the Data Protection Legislation.

12. Departmental Security Standards

"CESG"	is the UK government's National Technical Authority for Information Assurance. The website is www.cesg.gov.uk/Pages/homepage.aspx
"Data", "Data Controller", "Data Processor", "Personal Data", "Sensitive Personal Data", "Data Subject", "Process" and "Processing"	shall have the meanings given to those terms by the Data Protection Act 1998

"Department's Data"	<p>(a) the data, text, drawings, diagrams, images or sounds (together with any database made up of any of these) which are embodied in any electronic, magnetic, optical or tangible media, and which are:</p> <p>(i) supplied to the Contractor by or on behalf of the Department; or</p> <p>(ii) which the Contractor is required to generate, process, store or transmit pursuant to this Contract; or</p> <p>(b) any Personal Data for which the Department is the Data Controller;</p>
"Departmental Security Standards"	means the Department's specification for security that the Contractor is required to deliver.
"Good Industry 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"	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.
"IT Security Health Check"	means an assessment to identify vulnerabilities in IT systems and networks which may compromise the confidentiality, integrity or availability of information held on that IT system.

12.1. The Contractor shall comply with Departmental Security Standards for Contractors which include but are not constrained to the following clauses.

12.2. Where the Contractor will process personal data on behalf of the Department or other data deemed sensitive by the Department or supply ICT products or services to, or on behalf of, the Department, the Contractor will be expected to have achieved, and be able to maintain, certification to the appropriate level, under the HMG Cyber Essentials Scheme. The certification must have a scope relevant to the services supplied to, or on behalf of, the Department. Alternatively, the Contractor must demonstrate, to the satisfaction of the Department, compliance with the requirements of the Cyber Essentials Scheme.

12.3. The Contractor will be expected to be able to conform to ISO/IEC 27001 (Information Security Management Systems Requirements), including the application of an appropriate selection of controls from ISO/IEC 27002 (Code of Practice for Information Security Controls).

12.4. The Contractor will adopt the UK Government Security Classification Policy in respect of any Departmental 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 Departmental Data).

- 12.5. Departmental Data being handled in the course of providing this service must be segregated from other data on the Contractor's own IT equipment to protect the Departmental Data and enable it to be securely deleted when required. In the event that it is not possible to segregate the Departmental Data then the Contractor is required to ensure that it is stored in such a way that it is possible to securely delete the data in line with Clause 12.13.
- 12.6. The Contractor will have in place and maintain physical (e.g. door access) and logical (e.g. identification and authentication) access controls to ensure only authorised access to Departmental Data.
- 12.7. The Contractor will have in place and maintain technical safeguards to protect Departmental Data, including but not limited to: Good Industry Standard anti-virus and firewalls; up-to-date patches for operating system, network device, and application software.
- 12.8. Any electronic transfer methods across public space or cyberspace must be protected via encryption which has been certified to FIPS140-2 or certified under a CESSG (e.g. CAPS or CPA) or CESSG-endorsed scheme, or a similar method approved by the Department prior to being used for the transfer of any Departmental Data.
- 12.9. Any portable removable media (including but not constrained to pen drives, memory sticks, CDs, DVDs, PDPs, USB devices) which handle, store or process in any way Departmental Data to deliver and support the service, shall be under the configuration management of the (sub-)contractors providing the service, shall be necessary to deliver the service, and shall be full-disk encrypted using a product which has been certified to FIPS140-2 or certified under a CESSG (e.g. CAPS or CPA) or CESSG-endorsed scheme or uses another encryption standard that is acceptable to the Department.
- 12.10. All portable ICT devices (including but not limited to laptops, PDAs, smartphones) which handle, store or process in any way Departmental Data to deliver and support the service, shall be under the configuration management of the (sub-)contractors providing the service, shall be necessary to deliver the service, and shall be full-disk encrypted using a product which has been certified to FIPS140-2 or certified under a CESSG (e.g. CAPS or CPA) or CESSG-endorsed scheme or uses another encryption standard that is acceptable to the Department.
- 12.11. Storage of Departmental Data on any portable devices or media shall be limited to the minimum required to deliver the business requirement.
- 12.12. All paper holding Departmental Data must be securely protected whilst in the Contractor's care and securely destroyed when no longer required using a cross-cutting shredder and/or a professional secure waste paper organisation.
- 12.13. Paper documents containing Departmental Data shall be transmitted, both within and outside company premises in such a way as to make sure that no unauthorised person has access.

- 12.14. At the end of the contract or in the event of failure or obsolescence, all equipment holding Departmental Data must be securely cleansed or destroyed using a CESG approved product or method. Where this is not possible e.g. for legal or regulatory reasons, or technical reasons such as where there is storage area network (SAN) or shared backup tapes, then the Contractor must protect the equipment until the time (which may be long after the end of the contract) when it can be securely cleansed or destroyed.
- 12.15. Access by Contractor staff to Departmental Data shall be confined to those individuals who have a “need-to-know” and whose access is essential for the purpose of their duties. All employees with direct or indirect access to Departmental Data must be subject to pre-employment checks equivalent to or higher than the Baseline Personnel Security Standard (BPSS): Details of the standard are available at the HMG website www.gov.uk/government/publications/security-policy-framework.
- 12.16. All Contractor employees who handle Departmental Data must have annual awareness training in protecting information.
- 12.17. The Contractor must have robust and ISO 22301 conformant Business Continuity arrangements and processes including IT disaster recovery plans and procedures to ensure that the delivery of the contract is not adversely affected in the event of an incident or crisis;
- 12.18. Any non-compliance with these Departmental Security Standards for Contractors, or any suspected or actual breach of the confidentiality or integrity of Departmental Data being handled in the course of providing this service, shall be immediately escalated to the Department by a method agreed by both parties.
- 12.19. The Contractor shall ensure that any IT systems and hosting environments that are used to hold Departmental Data being handled, stored or processed in the course of providing this service are periodically (at least annually) subject to IT Health Checks, and that the findings of those which are relevant to the service provided to the Department are shared with the Department and necessary remedial work carried out.
- 12.20. The Contractor will provide details of any proposal to store or host Departmental Data outside the UK or to perform ICT management or support from outside the UK and will not go ahead with such a proposal without prior agreement from the Department.
- 12.21. The Department reserves the right to audit the Contractor with 24 hours’ notice in respect to the Contractor’s compliance with the clauses contained in this Section.
- 12.22. The Contractor shall contractually enforce all these Departmental Security Standards for Contractors onto any third-party suppliers, sub-contractors or partners who could potentially access Departmental Data in the course of providing this service.

13. Not used

14. Not used

15. Not used

16. Not used

17. Not used

18. Contractor's co-operation with Departmental objectives

- 18.1. In performing the Contract, the Contractor shall at all times co-operate with the Department to maximise value for money, sustainable delivery where it is not detrimental to the interests of either Party to do so.

19. Not used

20. Not used

21. Not used

22. Not used

23. Equality

- 23.1. The Contractor shall at all times provide the service in accordance with the Department's commitment to equal opportunities to all sections of the community including the obligations placed on public bodies by the Equalities Act 2006, the Disability Discrimination Act 2005, the Employment Equality (Age) Regulations, the Race Relations Amendment Act 2000 and the Sex Discrimination Act 1975.
- 23.2. The Contractor shall establish adequate managerial and supervisory arrangements for staff to be made aware of and to comply with discrimination legislation and the equality specifications within this contract.
- 23.3. The Contractor shall ensure that sufficient, instructed and competent staff are available to provide services to all sections of the community including those who do not speak English.
- 23.4. Catering – the Contractor should ensure that the produce can meet the requirements of a diverse community.
- 23.5. The Contractor shall support and co-operate with Department initiatives aimed at improving services (and/or access to services) to different groups in the community.
- 23.6. The Contractor shall provide any information regarding the delivery of its services to ensure the Department meets its statutory obligations.

24. Not used

25. Not used

26. Step In Rights

"Charges"	the charges for the provision of the Services set out in and derived in accordance with Schedule 2, including any Milestone Payment, Stage Payment or Service Charge;
"Default"	any breach of the obligations of the relevant party (including but not limited to fundamental breach or breach of a fundamental term) or any other default, act, omission, negligence or statement of the relevant party, its employees, servants, agents or Sub-contractors in connection with or in relation to the subject-matter of this Agreement and in respect of which such party is liable to the other;
"Delay"	the period of time by which the implementation of the Services by reference to the Implementation Plan is delayed arising from a failure to Achieve a Milestone;
"Force Majeure Event"	any cause affecting the performance by a party of its obligations arising from acts, events, omissions, happenings or non-happenings beyond its reasonable control, including acts of God, riots, war or armed conflict, acts of terrorism, acts of government, local government or Regulatory Bodies, fire, flood, storm or earthquake, or disaster but excluding any industrial dispute relating to the Contractor, the Contractor Personnel or any other failure in the Contractor or the Sub-contractor's supply chain;
"Insolvency Event"	<p>the occurrence of any of the following events (or any event analogous to any of the following in a jurisdiction other than England and Wales) in relation to the relevant entity:</p> <p>the entity passing a resolution for its winding up or a court of competent jurisdiction making an order for the entity to be wound up or dissolved or the entity being otherwise dissolved;</p> <p>the appointment of an administrator of or, the making of an administration order in relation to the entity or the appointment of a receiver or administrative receiver of, or an encumbrancer taking possession of or selling, the whole or part of the entity's undertaking, assets, rights or revenue;</p> <p>the entity entering into an arrangement, compromise or composition in satisfaction of its debts with its creditors or any class of them or takes steps to obtain a moratorium or makes an application to a court of competent jurisdiction for protection from its creditors;</p> <p>the entity being unable to pay its debts or being [capable of being] deemed unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986; or</p> <p>the entity entering into any arrangement, compromise or compromise or composition in satisfaction of its debts with its creditors;</p> <p>;However, a resolution by the relevant entity or a court order that such entity be wound up for the purpose of a bona fide reconstruction or amalgamation shall not amount to an Insolvency Event; amalgamation shall not amount to an Insolvency Event;</p>
"Regulatory Bodies"	those government departments and regulatory, statutory and other entities, committees 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 this Agreement or

	any other affairs of the Authority and "Regulatory Body" shall be construed accordingly;
"Required Action"	has the meaning given in clause 26. (Step-In Rights);
"Working Day"	any day other than a Saturday, Sunday or public holiday in England and Wales.

26.1. The Department may take action under this clause in the following circumstances:

- 26.1.1. there is a Default entitling the Department to terminate in accordance with Clause 10 (Termination);
- 26.1.2. there is a Default by the Contractor that is materially preventing or materially delaying the performance of the Services or Project or any part of the Services or Project;
- 26.1.3. there is a Delay that has or the Department reasonably anticipates will result in the Contractor's failure to achieve a milestone;
- 26.1.4. a Force Majeure Event occurs which materially prevents or materially delays the performance of the Services or Project or any part of the Services or Project;
- 26.1.5. where the Contractor is not in breach of its obligations under this Contract but the Department considers that the circumstances constitute an emergency;
- 26.1.6. where a Regulatory Body has advised the Department that the exercise by the Department of its rights under this clause is necessary;
- 26.1.7. because a serious risk exists to the health or safety of persons, property or the environment;
- 26.1.8. to discharge a statutory duty; and/or on the occurrence of an Insolvency Event in respect of the Contractor.

Action To Be Taken Prior To Exercise Of The Right Of Step-in

- 26.2. Before the Department exercises its right of step-in under this Clause 26 it shall permit the Contractor the opportunity to demonstrate to the Department's reasonable satisfaction within 5 working days that the Contractor is still able to provide the Services or Project in accordance with the terms of this Contract and/or remedy the circumstances giving rise to the right to step-in without the requirement for the Department to take action.
- 26.3. If the Department is not satisfied with the Contractor's demonstration pursuant to clause 26.2, the Department may:
 - 26.3.1. where the Department considers it expedient to do so, require the Contractor by notice in writing to take those steps that the Department

considers necessary or expedient to mitigate or rectify the state of affairs giving rising to the Department's right to step-in;

26.3.2. appoint any person to work with the Contractor in performing all or a part of the Services or Project (including those provided by any Sub-contractor); or

26.3.3. take the steps that the Department considers appropriate to ensure the performance of all or part of the Services or Project (including those provided by any Sub-contractor).

26.4. The Contractor shall co-operate fully and in good faith with the Department, or any other person appointed in respect of clause 26.3.2, and shall adopt any reasonable methodology in providing the Services or Project recommended by the Department or that person.

Exercise of the Right of Step-in

26.5. If the Contractor:

26.5.1. fails to confirm within 10 working days of a notice served pursuant to clause 26.3.126.3.1 that it is willing to comply with that notice; or

26.5.2. fails to work with a person appointed in accordance with clause 26.3.1; or

26.5.3. fails to take the steps notified to it by the Department pursuant to clause 26.3.1,

then the Department may take action under this clause either through itself or with the assistance of third party contractors, provided that the Contractor may require any third parties to comply with any confidentiality undertaking

26.6. If the Department takes action pursuant to clause 26.5, the Department shall serve notice ("Step-in Notice") on the Contractor. The Step-in Notice shall set out the following:

26.6.1. the action the Department wishes to take and in particular the Services it wishes to control;

26.6.2. the reason for and the objective of taking the action and whether the Department reasonably believes that the primary cause of the action is due to the Contractor's Default;

26.6.3. the date it wishes to commence the action;

26.6.4. the time period which it believes will be necessary for the action;

26.6.5. whether the Department will require access to the Contractor's premises;

- 26.6.6. to the extent practicable, the effect on the Contractor and its obligations to provide the Services during the period the action is being taken.
- 26.7. Following service of a Step-in Notice, the Department shall:
- 26.7.1. take the action set out in the Step-in Notice and any consequential additional action as it reasonably believes is necessary to achieve (together, the "Required Action");
 - 26.7.2. keep records of the Required Action taken and provide information about the Required Action to the Contractor;
 - 26.7.3. co-operate wherever reasonable with the Contractor in order to enable the Contractor to continue to provide any Services in relation to which the Department is not assuming control; and
 - 26.7.4. act reasonably in mitigating the cost that the Contractor will incur as a result of the exercise of the Department's rights under this clause.
- 26.8. For so long as and to the extent that the Required Action is continuing, then:
- 26.8.1. the Contractor shall not be obliged to provide the Services or Project to the extent that they are the subject of the Required Action;
 - 26.8.2. subject to clause 26.9, the Department shall pay to the Contractor the Charges after the deduction of any applicable Service Credits, Delay Payments and the Department's costs of taking the Required Action.
- 26.9. If the Required Action results in:
- 26.9.1. the degradation of any Services or Project not subject to the Required Action; or
 - 26.9.2. the non-achievement of a milestone,
- beyond that which would have been the case had the Department not taken the Required Action, then the Contractor shall be entitled to an agreed adjustment of the Charges, provided that the Contractor can demonstrate to the reasonable satisfaction of the Department that the Required Action has led to the degradation or non-achievement.
- 26.10. Before ceasing to exercise its step in rights under this clause the Department shall deliver a written notice to the Contractor ("Step-Out Notice"), specifying:
- 26.10.1. the Required Action it has actually taken; and
 - 26.10.2. the date on which the Department plans to end the Required Action ("Step-Out Date") subject to the Department being satisfied with the Contractor's ability to resume the provision of the Services or Project and the Contractor's plan developed in accordance with clause 26.11.

- 26.11. The Contractor shall, following receipt of a Step-Out Notice and not less than 20 working days prior to the Step-Out Date, develop for the Department's approval a draft plan ("Step-Out Plan") relating to the resumption by the Contractor of the Services or Project, including any action the Contractor proposes to take to ensure that the affected Services or Project satisfy the requirements of this Contract.
- 26.12. If the Department does not approve the draft Step-Out Plan, the Department shall inform the Contractor of its reasons for not approving it. The Contractor shall then revise the draft Step-Out Plan taking those reasons into account and shall re-submit the revised plan to the Department for the Department's approval. The Department shall not withhold or delay its approval of the draft Step-Out Plan unnecessarily.
- 26.13. The Contractor shall bear its own costs in connection with any step-in by the Department under this Clause 26, provided that the Department shall reimburse the Contractor's reasonable additional expenses incurred directly as a result of any step-in action taken by the Department under:
- 26.13.1. clauses 26.1.4 or 26.1.7; or
- 26.13.2. clauses 26.1.8, 26.1.9 and 26.1.10 (insofar as the primary cause of the Department serving the Step-In Notice is identified as not being the result of a Contractor's Default).]

27. Not used

28. TUPE

- 28.1. No later than 6 Months prior to the end of the Term the Contractor shall fully and accurately disclose to the Department, within 30 days of the request, all information that the Department may reasonably request in relation to the Staff including the following:
- 28.1.1. the total number of Staff whose employment/engagement shall terminate at the end of the Term;
- 28.1.2. the age, gender, salary or other remuneration, future pay settlements and redundancy and pensions entitlement of the Staff referred to in clause 28.1.1;
- 28.1.3. the terms and conditions of employment/engagement of the Staff referred to in clause 28.1.1 their job titles and qualifications;
- 28.1.4. 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
- 28.1.5. 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").

- 28.2. At intervals determined by the Department (which shall not be more frequent than once every 30 days) the Contractor shall give the Department updated TUPE Information.
- 28.3. Each time the Contractor supplies TUPE Information to the Department it shall warrant its completeness and accuracy and the Department may assign the benefit of this warranty to any Replacement Contractor.
- 28.4. The Department may use TUPE Information for the purposes of any retendering process.
- 28.5. If TUPE applies to the transfer of the Services on termination of the Contract, the Contractor shall indemnify and keep indemnified the Department, 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:
- 28.5.1. the provision of TUPE Information;
 - 28.5.2. 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;
 - 28.5.3. 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 Department or a Replacement Contractor to comply with its duties under regulation 13 of TUPE;
 - 28.5.4. 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
 - 28.5.5. any claim by any person who is transferred by the Contractor to the Department and/or a Replacement Contractor whose name is not included in the list of Returning Employees.
- 28.6. If the Contractor becomes aware that TUPE Information it provided has become inaccurate or misleading, it shall promptly notify the Department and provide the Department with up to date TUPE Information.
- 28.7. This clause 28 applies during the Term and indefinitely thereafter.
- 28.8. The Contractor undertakes to the Department 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 the Department (such approval not to be unreasonably withheld or delayed):

- 28.8.1. 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);
- 28.8.2. 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);
- 28.8.3. 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
- 28.8.4. 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.

29. Not used

Disclaimer

No information contained on the Department's website, this notice or in any communication made between the Department and any party in connection with these procurement requirements, shall be relied upon as constituting a contract, agreement or representation that any contract will necessarily be offered.

The Department expressly reserves the right to change without notice any documents and/or communications relating to its requirements in whole or in part as it sees fit, including in relation to proposed timetables or to the structure or content of any proposed procurement process. Whilst the information contained on this website and any supporting documentation relating to the Department's requirements are believed to be correct at time of issue, under no circumstances shall the Department incur any liability in respect of their accuracy, adequacy or completeness this supporting documentation or any third party's reliance on them, nor is any express or implied warranty given.

30. Prime Contractor obligation to advertise sub-contracts

"Contracts Finder" means the facility provided by the Cabinet Office to advertise contract opportunities available at contractsfinder.co.uk and any successor facility or website.

“SME” means a micro, small or medium-sized enterprise defined in accordance with the European Commission Recommendation 2003/361/EC and any subsequent revisions.

“Identified Prime Contractor” has the meaning given to it in clause 30.1.

30.1. The Contractor shall be an “Identified Prime Contractor” when:

30.1.1. the Contract Price is greater than £5m and

30.1.2. the Contractor intends to, or has, sub-contracted any requirement of this Contract, irrespective of whether or not such intention was set out in any tender documents;

30.2. Where a Contractor is an Identified Prime Contractor it must:

30.2.1. ensure that any sub-contracting opportunity is sufficiently advertised in the reasonable consideration of the Department. If the Contractor advertises the opportunity on Contracts Finder it shall be unreasonable for the Department to consider that the opportunity has not been sufficiently advertised;

30.2.2. satisfy the Department that it has an effective plan to use SMEs as sub-contractors where it would be economical to do so;

30.2.3. take any other step reasonably required by the Department in relation to the use of SMEs as sub-contractors.

31. Not used

32. Tax Compliance

“Occasion of Tax Non-Compliance” means:

- a) any tax return of the Supplier submitted to a Relevant Tax Authority on or after 1 October 2012 is found on or after 1 April 2013 to be incorrect as a result of:
 - i) a Relevant Tax Authority successfully challenging the Supplier 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 Supplier was involved in, and which was, or should have been, notified to a Relevant Tax Authority under the DOTAS or any equivalent or similar regime; and/or
- b) any tax return of the Supplier 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 Effective Date or to a civil penalty for fraud or evasion.

"DOTAS" means: the Disclosure of Tax Avoidance Schemes rules which require a promoter of tax schemes to tell HM Revenue & Customs 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 Contributions (Application of Part 7 of the Finance Act 2004) Regulations 2012, SI 2012/1868 made under s.132A Social Security Administration Act 1992.

"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 national insurance contributions.

"Halifax Abuse Principle" means: the principle explained in the CJEU Case C-255/02 Halifax and others.

"Relevant Tax Authority" means: HM Revenue & Customs, or, if applicable, a tax authority in the jurisdiction in which the Supplier is established.

32.1. 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.

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

b) notify the Department in writing of such fact within 5 working days of its occurrence; and

c) 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.

32.3. In the event that:

- a) the warranty given by the Contractor pursuant to Clause 32.1 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 32.2; 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.

Schedule 7 – Implementation plan

This plan covers the update of all IT processes and systems to meet the required KPIs and MI as laid out in Schedules 3 and 4 as a part of this Contract.

Update 1 – Religious Affiliation Monitoring Data – This change will introduce religious affiliation to the monitoring information section of all volunteers who sign up with IG to potentially become a governor. We have been advancing this update with our developers and the change will be made on Thursday 18th March (ahead of the new contract commencement). We are very clear with those volunteers signing up that this is their personal data and the message within the monitoring section reads as follows:

This monitoring information is only used internally to help us ensure our volunteers fully represent wider society. It is personal to you and therefore never shared with governor recruiters or teachers. It is always aggregated to summary level and anonymised if ever shared with funders for contractual reporting purposes.

Religious affiliation	<ul style="list-style-type: none"> • No religion • Church of England • Roman Catholic • Other Christian • Buddhist • Hindu • Jewish • Muslim • Sikh • Any other religion • Prefer not to say
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Update 2 – ‘Creative’ added to skill sets – This change will be made by April 1st and introduces a creative skill set option that will be made available as an option to IG volunteer sign ups. Below is the table mapping current IG sign up options against the DfE’s specified contract skill sets. All other skills sets are covered.

DfE skill sets	Comparable IG skills sets
Creative (Arts, Innovation)	No comparator – to be introduced
Community engagement (Local employers, Local community groups, Students, Parents)	-Community Relations -Links with Employers/Local Businesses
Corporate governance	Corporate Governance
Data analysis and data management	Data Analysis
Education (Education policy, Education delivery, Child welfare and	-Teaching/Learning Curriculum - Child Welfare/Safeguarding

Safeguarding, Special Educational Needs and Disabilities (SEND))	<ul style="list-style-type: none"> - Education System - Special Educational Needs - Recent (last 10 years) experience of being in education
Entrepreneurial and business management	Income Generation/Business Development
Estates management	Building/Premises
Finance (Accounting, Audit, Financial management, Financial accountability)	<ul style="list-style-type: none"> - Finance - Audit - Accounting
Health and Safety	Health and Safety
HR (Staffing, Performance management)	<ul style="list-style-type: none"> -HR - Personnel and Recruitment -Career Development/Coaching/Mentoring
IT	IT/Technology
Legal	Law
PR (Marketing and communications)	Marketing, Communications, PR
Procurement/Purchasing (Contract management)	Procurement/Purchasing
Risk management	Risk Management / Compliance
Strategic Leadership (Setting direction, Decision-making, Building effective teams)	<ul style="list-style-type: none"> - Strategic Leadership, Management - Chairing / Non-Executive Experience
Turnaround (Change management, Growth management, Transformation management)	Change Management
Other {please specify}	<ul style="list-style-type: none"> -Monitoring Performance/Quality Assurance -Negotiation/Mediation -Problem Solving -Project Management

Update 3 – A record of volunteers understanding of the roles and responsibilities of a governor –

We are currently exploring the best options to ensure the system captures a record/ self declaration of understanding of the roles and responsibilities of being a governor. This will either be a tick box during the sign up process itself or an option for volunteers to record this within their record which would also signpost them to further resources. We will advise the DfE when this has been done.

Update 4 – Changes related to the removal of the NGA support offer – We are currently in the process of revising all automated e-mails generated by the

Salesforce system (to both volunteers and recruiters) removing any reference to the NGA support offer - which will not be provided beyond April 1st under this new contract. This has included a significant amount of work to remove references to the the NGA from both our website and the 'behind the login' platforms that volunteers and recruiters see once they have registered with IG.

Update 5 – Accessibility – we are currently in the process of revising our websites to ensure they meet the standards set for Accessibility and screen readers.

Schedule 8 – 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 Department 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 Department 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 Department. 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 Department 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 the Department.
7. The Department shall evaluate the Contractor's proposed Variation in good faith, taking into account all relevant issues.
8. The Department shall confirm in writing within 21 days of receiving the Change Control Note if it accepts or rejects the Variation.
9. The Department may at its absolute discretion reject any request for a Variation proposed by the Contractor.

Change Control Note

Contract Number		Contract Manager	
Contractor		Original Contract Value (£)	
Contract Start Date		Contract Expiry Date	

Variation Requested	
Originator of Variation (tick as appropriate)	Department <input type="checkbox"/> Contractor <input type="checkbox"/>
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: Signature Full name Title Date		For the Department: Signature Full name Title 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	

Organisation Chart Redacted