



Department
for Education

December 2022

Framework Agreement for National Leaders of Education (NLE)

The Secretary of State for Education ⁽¹⁾
and [Contractor's name]⁽²⁾

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DATED As per Adobe Sign signature block

PARTIES

- (1) **THE SECRETARY OF STATE FOR EDUCATION** of Sanctuary Buildings, 20 Great Smith Street, London, SW1P 3BT (**DFE**); and
- (2) **[Contractor's Name]** employed in England and Wales by [Employer's name], URN [Number] whose registered address is [Employer's address] (the **Contractor**),

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

BACKGROUND

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- (A) The DFE wishes to refresh its cadre of the National Leaders of Education (NLE) to create a smaller force of skilled leaders with very strong experience of school improvement and who have the knowledge and skills to support struggling schools.
- (B) On 20/05/2022 the DFE advertised in the Find a Tender Service Portal (FTS) (reference 2022/S 000-013670), inviting prospective suppliers to submit proposals for the provision of the specialist advice services. In particular, prospective suppliers were asked to name the NLE who would provide the specialist advice required.
- (C) In its response to the FTS notice referred to above, the Contractor has represented to the DFE that it is capable of delivering the NLE services. On the basis of the Contractor's response to the advertisements and a subsequent tender process, the DFE has selected the Contractor to provide the Services.
- (D) This Framework Agreement sets out the work allocation procedure for purchasing the Services and the terms and conditions which will govern the provision of those Services.

AGREED TERMS

1. DEFINITIONS AND INTERPRETATION

- 1.1 In this Framework Agreement and each Statement of Works, unless otherwise provided or the context otherwise requires the following expressions shall have the following meanings:

Business Day	Mondays to Fridays (inclusive) in each week, excluding bank and other public holidays in England.
Change Control Note	a Change Control Note in the form set out in Schedule 5.
Charges	the charges payable by the DFE to the Contractor in accordance with a Statement of Works.
Commercially Sensitive Information	<p>the information set out in Schedule 7 comprising the information of a commercially sensitive nature relating to:</p> <ol style="list-style-type: none">(a) the Charges;(b) details of the Contractor's Intellectual Property Rights; and(c) the Contractor's business and investment plans <p>which the Contractor has indicated to DFE that, if disclosed by the DFE, would cause DFE significant commercial disadvantage or material financial loss.</p>
Confidential Information	any information which has been designated as confidential by either Party in writing or that ought to be considered as

confidential (however it is conveyed or on whatever media it is stored) including information the disclosure of which would, or would be likely to, prejudice the commercial interests of any person or trade secrets or Intellectual Property Rights of either Party and all Personal Data and Sensitive Personal Data within the meaning of the Data Protection Legislation.

Conflict of Interest	any actual or potential interest which may conflict with the duties owed by the Contractor and/or External Expert to the DFE under a Statement of Works, as more specifically described in the document entitled "Contractors' Register of Interests and Avoiding Conflicts of Interests - Policy and Process" created by DFE, as may be amended from time to time.
Contractor's Solution	the Contractor's proposal submitted in response to the DFE's invitation to tender.
Crown	the government of the United Kingdom (including the Northern Ireland Executive Committee and Northern Ireland Departments, the Scottish Executive and the National Assembly for Wales), including, but not limited to, government ministers, government departments, government offices and government agencies and " Crown Body " is an emanation of the foregoing.
Data Loss Event	any event that results, or may result, in unauthorised access to Personal Data held by the Processor under this Framework Agreement and/or any Statement of Works, and/or actual or potential loss and/or destruction of Personal Data in breach of this Framework Agreement and/or any Statement of Works, including any Personal Data Breach.
Data Processor Impact Assessment	an assessment by the Controller of the impact of the envisaged processing on the protection of Personal Data.
Data Protection Legislation	<ul style="list-style-type: none">(a) the GDPR, the LED and any applicable national implementing Laws as amended from time to time;(b) the DPA 2018 to the extent that it relates to processing of Personal Data and privacy; and(c) all applicable Law about the processing of Personal Data and privacy.
Data Subject Request	a request made by, or on behalf of, a Data Subject in accordance with rights granted pursuant to the Data Protection Legislation to access their Personal Data.
Default	a breach of the obligations of the relevant Party (including abandonment of this Framework Agreement and/or any Statement of Works in breach of its terms, repudiatory breach or breach of a fundamental term) or any other default, act, omission, negligence or statement of the relevant Party or the Personnel in connection with the subject-matter of this Framework Agreement and/or any Statement of Works and in respect of which such Party is liable to the other.
Deliverables	the specific outcomes the DFE requires the External Expert to perform or deliver under a Statement of Works.

Delivery Officer	a member of the DFE team engaged to define the DFE's requirements under each Statement of Works and act as a principal point of contact between the DFE and the Contractor.
DFE Premises	any premises owned by, leased or hired to or otherwise controlled by DFE or which DFE nominates as such by notice in writing to the Contractor.
DFE Security Standards	the security standards as set out in Schedule 6.
DFE Trade Marks	proprietary trade mark rights of DFE including those notified to the Contractor by DFE from time to time.
Dispute	any dispute, difference or question of interpretation arising out of or in connection with this Framework Agreement and/or any Statement of Works.
DOTAS	the Disclosure of Tax Avoidance Schemes rules which require a promoter of tax schemes to tell HMRC of any specified notifiable arrangements or proposals and to provide prescribed information on those arrangements or proposals within set time limits as contained in Part 7 of the Finance Act 2004 and in secondary legislation made under powers contained in Part 7 of the Finance Act 2004 and as extended to national insurance contributions by the National Insurance (Application of Part 7 of the Finance Act 2004) regulations 2012, SI 2012/1868 made under section 132A of the Social Security Administration Act 1992.
DPA	Data Protection Act 2018.
Education Establishment	the educational establishment in respect of which the Services may be provided under a Statement of Works.
EIRs	the Environmental Information Regulations 2004 and any guidance and/or codes of practice issued by the Information Commissioner or relevant government department in relation to them.
Employment Liabilities	<p>all actions, proceedings, costs (including reasonable legal costs), losses, damages, fines, penalties, compensation, awards, demands, orders, expenses and liabilities connected with or arising from all and any laws including, without limitation, directives, statutes, secondary legislation, orders, codes of practice, contractual obligations and other common law rights whether of the European Union, United Kingdom or any other relevant authority relating to or connected with:</p> <ul style="list-style-type: none"> (a) the employment and dismissal of employees (including their health and safety at work); and (b) the engagement, use and termination of individuals other than employees who provide services (including their health and safety at work), <p>and all wages, holiday pay and employment benefit costs due in respect of (a) or (b) above, including claims for protective awards.</p>
Expertise	the experience/skills/qualifications which are more particularly described in Schedule 1.

External Expertise Team	DFE's team of personnel engaged to facilitate the operation of this Framework Agreement and each Statement of Works on behalf of DFE.
FOIA	the Freedom of Information Act 2000 together with any guidance and/or codes of practice issued by the Information Commissioner or relevant government department in relation to it.
Force Majeure	<p>any event or occurrence which is outside the reasonable control of the Party concerned and which is not attributable to any act or failure to take reasonable preventative or mitigating action by that Party, including fire; flood; violent storm; pestilence; explosion; malicious damage; armed conflict; acts of terrorism; nuclear, biological or chemical warfare; or any other disaster, natural or man-made, but excluding:</p> <p>(a) any industrial action occurring within the Contractor's or any of its Sub-Contractor's organisation, or otherwise involving the Personnel;</p> <p>(b) the failure by any Sub-Contractor of the Contractor to perform its obligations under any sub-contract; and/or</p> <p>any event which should have been foreseen and prevented or avoided by a prudent provider of services similar to the Services, operating the standards required by this Framework Agreement and any relevant Statement of Works.</p>
Framework Commencement Date	1 st December 2022
Latest Framework End Date	30 November 2025
Framework Agreement	these terms and conditions together with all Schedules and Annexes.
GDPR	the General Data Protection Regulation (Regulation (EU) 2016/679).
General Anti Abuse Rule	<p>(a) the legislation in Part 5 of the Finance Act 2013; and</p> <p>(b) any future legislation introduced into parliament to counteract tax advantages arising from abusive arrangements to avoid NICs.</p>
Good Industry Practice	the standards, practices, methods and procedures conforming to the law and the degree of skill and care, diligence, prudence and foresight which would reasonably and ordinarily be expected from a skilled and experienced person or body engaged in a similar type of undertaking under the same or similar circumstances.
Halifax Abuse Principle	the principle explained in the CJEU Case C-255/02 Halifax and others.
HMRC	His Majesty's Revenue and Customs.
Information	all information of whatever nature, however conveyed and in whatever form, including in writing, orally, by demonstration,

electronically and in tangible, visual or machine-readable medium (including CD-Rom, magnetic and digital form).

Insolvency Event

- (a) the other Party suspends, or threatens to suspend, payment of its debts, or is unable to pay its debts as they fall due or admits inability to pay its debts, or:
 - (i) (being a company or LLP) is deemed unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986; or
 - (ii) (being a partnership) is deemed unable to pay its debts within the meaning of section 222 of the Insolvency Act 1986;
- (b) the other Party commences negotiations with one or more of its credits (using a voluntary arrangement, scheme of arrangement or otherwise) with a view to rescheduling any of its debts, or makes a proposal for or enters into any compromise or arrangement with one or more of its creditors or takes any step to obtain a moratorium pursuant to Section 1A and Schedule A1 of the Insolvency Act 1986 other than (in the case of a company, a LLP or a partnership) for the sole purpose of a scheme for a solvent amalgamation of that other Party with one or more other companies or the solvent reconstruction of that other Party;
- (c) a person becomes entitled to appoint a receiver over the assets of the other Party or a receiver is appointed over the assets of the other Party;
- (d) a creditor or encumbrancer of the other Party attaches or takes possession of, or a distress, execution or other such process is levied or enforced on or sued against, the whole or any part of the other Party's assets and such attachment or process is not discharged within fourteen (14) days;
- (e) the other Party suspends or ceases, or threatens to suspend or cease, carrying on all or a substantial part of its business;
- (f) where the other Party is a company, a LLP or a partnership:
 - (i) a petition is presented (which is not dismissed within 14 days of its service), a notice is given, a resolution is passed, or an order is made, for or in connection with the winding up of that other Party other than for the sole purpose of a scheme for a solvent amalgamation of that other Party with one or more other companies or the solvent reconstruction of that other Party;
 - (ii) an application is made to court, or an order is made, for the appointment of an administrator, or if a notice of intention to appoint an administrator is filed at Court or given or if an administrator is appointed, over the other Party;
 - (iii) (being a company or a (LLP) the holder of a qualifying floating charge over the assets of that other Party has become entitled to appoint or has appointed an administrative receiver; or

	<p>(iv) (being a partnership) the holder of an agricultural floating charge over the assets of that other Party has become entitled to appoint or has appointed an agricultural receiver; or</p> <p>(g) any event occurs, or proceeding is taken, with respect to the other Party in any jurisdiction to which it is subject that has an effect equivalent or similar to any of the events mentioned above; or</p> <p>where the Contractor is an individual, any similar or analogous events.</p>
Intellectual Property Rights	patents, inventions, trade-marks, service marks, logos, design rights(whether registrable or otherwise), applications for any of the foregoing, copyright, database rights, domain names, trade and/or business names, rights in confidential information and know how, moral rights and other similar rights or obligations whether registrable or not in any country (including but not limited to the United Kingdom) and the right to sue for passing off
IP Materials	shall have the meaning set out in Clause 16.1.
KPIs	the key performance indicators in relation to the Services set out in Schedule 3 with which the Contractor shall comply.
Law	any law, statute, subordinate legislation within the meaning of section 21(1) of the Interpretation Act 1978, bye-law, enforceable right within the meaning of section 2 of the European Communities Act 1972, regulation, order, mandatory guidance or code of practice, judgment of a relevant court of law, or directives or requirements of any regulatory body with which the Contractor is bound to comply.
LED	Law Enforcement Directive (Directive (EU) 2016/680).
Material Breach	<p>a breach (including an anticipatory breach) that is serious in the widest sense of having a serious effect on the benefit which the DFE would otherwise derive from:</p> <p>(a) a substantial portion of this Framework Agreement and/or any Statement of Works;</p> <p>(b) any of the obligations set out in Clauses 13, 14, 16, 18, 19, 21, and 23.</p>
Maximum Payable Daily Rate	£600, inclusive of VAT and any travelling and subsistence costs.
Milestones	a date or dates set out in a Statement of Works by which a particular Service must be achieved or delivered.
NICS	National Insurance Contributions.
National Leader of Education (NLE)	[Name] employed in England and Wales by [Employer's Name], URN [Number] whose registered address is [Employer's Address]
Occasion of Tax Non-	(a) any tax return of the Contractor submitted to a Relevant

Compliance	<p>Tax Authority on or after 1 October 2012 which is found on or after 1 April 2013 to be incorrect as a result of:</p> <ul style="list-style-type: none"> (i) a Relevant Tax Authority successfully challenging the Contractor under the General Anti Abuse Rule or the Halifax Abuse Principle or under any tax rules or legislation that have an effect equivalent or similar to the General Anti-Abuse Rule or the Halifax Abuse Principle; (ii) the failure of an avoidance scheme which the Contractor was involved in, and which was, or should have been, notified to the Relevant Tax Authority under the DOTAS or any equivalent or similar regime; and/or <p>(b) any tax return of the Contractor submitted to a Relevant Tax Authority on or after 1 October 2012 gives rise on or after 1 April 2013 to a criminal conviction in any jurisdiction for tax related offences which is not spent at the Framework Commencement Date or to a civil penalty for fraud or evasion.</p>
Outcomes	the outcomes that the DFE expects the Contractor to achieve in each relevant Deployment.
Personnel	all employees, workers, agents, consultants, servants, suppliers and contractors of the Contractor and/or any Sub-Contractor engaged in the performance of the Contractor's obligations under this Framework Agreement and/or any Statement of Works, including the External Expert.
Prohibited Act	<ul style="list-style-type: none"> (a) to directly or indirectly offer, promise or give any person working for or engaged by the DFE a financial or other advantage to: <ul style="list-style-type: none"> (i) induce that person to perform improperly a relevant function or activity; or (ii) reward that person for improper performance of a relevant function or activity; (b) to directly or indirectly request, agree to receive or accept any financial or other advantage as an inducement or a reward for improper performance of a relevant function or activity in connection with this Framework Agreement and/or any Statement of Works; (c) an offence: <ul style="list-style-type: none"> (i) under the Bribery Act 2010 (or any legislation repealed or revoked by such Act); (ii) under legislation or common law concerning fraudulent acts; or (iii) the defrauding, attempting to defraud or conspiring to defraud the DFE.
Protective Measures	appropriate technical and organisational measures which may include: pseudonymising and encrypting Personal Data,

	ensuring confidentiality, integrity, availability and resilience of systems and services, ensuring that availability of and access to Personal Data can be restored in a timely manner after an incident, and regularly assessing and evaluating the effectiveness of the such measures adopted by it including those set out in this Framework Agreement.
Regional Schools Commissioner (RSC) regions	<p>the contractor will be eligible for work in the following geographical regions;</p> <ul style="list-style-type: none"> • East England and North East London • East Midlands and the Humber • Lancashire and West Yorkshire • North • North West London and South Central • South East and South London • South West • West Midlands <p>These regions will be realigned and added to from 1st September 2022</p>
Register	the DFE's register of all NLE's who have been selected by the DFE to provide specialist advice services under their respective framework agreements.
Regulations	the Public Contract Regulations 2015.
Regulatory Body	a government department and regulatory, statutory and other entities, committees, ombudsmen and bodies which, whether under statute, rules, regulations, codes of practice or otherwise, are entitled to regulate, investigate, or influence the matters dealt with in this Framework Agreement and/or any Statement of Works or any other affairs of the DFE.
Relevant Conviction	a conviction for an offence involving violence or dishonesty, of a sexual nature or against minors, or for any other offence that is relevant to the nature of the Services.
Relevant Requirements	all applicable Law relating to bribery, corruption and fraud, including the Bribery Act 2010 and any guidance issued by the Secretary of State for Justice pursuant to section 9 of the Bribery Act 2010.
Relevant Tax Authority	HMRC or, if applicable, a tax authority in the jurisdiction in which the Contractor is established.
Replacement Contractor	any third party supplier appointed by the DFE to supply any services which are substantially similar to any of the Services in substitution for the Contractor following the expiry, termination or partial termination of this Framework Agreement and/or any Statement of Works.

Request for Information	a request for information under the FOIA or the EIR.
Return Date	the date(s) on which this Framework Agreement or, as applicable, the relevant Statement(s) of Work expires or terminates.
Returning Employees	those persons agreed by the Parties to be employed by the Contractor (and/or any Sub-Contractor) wholly or mainly in the supply of the Services (or the relevant part) immediately before the Return Date.
Services	any and all services to be performed by the Contractor under this Framework Agreement and each Statement of Works, including the provision of any Deliverables.
SOW End Date	the end date set out in the Statement of Works.
SOW Start Date	the start date set out in the Statement of Works.
Special Conditions	any conditions named as such in a Statement of Works.
Specification	the specification including any plans, drawings, data, description or other information relating to the Services, as set out in the relevant Statement of Works.
Statement of Works	a statement of works entered into by the Parties to document their agreement in respect of the Services, the form of which is set out in Appendix 1 of Schedule 2 to this Framework Agreement (and SOW shall be construed accordingly).
Sub-Contract	a contract between two (2) or more suppliers, at any stage of remoteness from DFE in a sub-contracting chain, made wholly or substantially for the purpose of performing (or contributing to the performance of) the whole or any part of this Framework Agreement and any Statement of Works.
Sub-Contractor	a third party with whom: <ul style="list-style-type: none"> (a) the Contractor enters into a Sub-Contract; or (b) a third party under (a) above enters into a Sub-Contract, or the servants or agents of that third party.
Sub-processor	any third Party appointed to process Personal Data on behalf of the Processor related to this Framework Agreement and/or any Statement of Works.
Supplier Code of Conduct	is the code of conduct set out here , as may be updated from time to time on the DFE's written notice to the Contractor.
TFEU	the Treaty on the Functioning of the European Union.
Total Cost	the total costs that the Contractor will charge to the DFE in relation to any Deployment Opportunity, inclusive of all taxes (other than VAT), duties, charges, costs and expenses (including all travel, accommodation and subsistence expenses)).
Treaties	TFEU and the Treaty on the European Union.

TUPE

the Transfer of Undertakings (Protection of Employment) Regulations 2006.

Variation

any variation to this Framework Agreement and/or Statement of Works requiring a Change Control Note to be completed in accordance with Schedule 5.

1.2 In this Framework Agreement and each Statements of Works, unless the context requires:

- 1.2.1 a reference to any Law includes a reference to that Law as amended, extended, consolidated or re-enacted from time to time;
- 1.2.2 the expression "person" means any individual, firm, body corporate, unincorporated association, partnership, government, state or agency of a state or joint venture;
- 1.2.3 the words "**include**", "**includes**", "**including**", "**included**", "**other**", "**in particular**", "**for example**" and similar words shall not limit the generality of the preceding words and shall be construed if they were immediately followed by the words "without limitation";
- 1.2.4 references to "Controller", "Processor", "Data Subject", "Personal Data", "Sensitive Personal Data" "Personal Data Breach", and "Data Protection Officer" shall have the meanings given in GDPR;
- 1.2.5 the masculine includes the feminine and the neuter, and the singular includes the plural and vice versa as the context shall admit or require;
- 1.2.6 any reference in this Framework Agreement to a Clause or Schedule is a reference to a clause or schedule of the this Framework Agreement and reference in any Schedule to Paragraphs relate to a paragraph of that Schedule.
- 1.2.7 the clause headings are included for convenience only and shall not affect the interpretation of this Framework Agreement and/or any Statement of Works;
- 1.2.8 the Schedules and Appendices form part of this Framework Agreement and shall have effect as if set out in full in the body of the this Framework Agreement and any reference to the Framework Agreement includes the Schedules and Appendices;

2. STRUCTURE OF THE FRAMEWORK AGREEMENT

- 2.1 This Framework Agreement is structured so that individual Statement of Works may be entered into by the Parties. Statements of Works are governed by and subject to this Framework Agreement.
- 2.2 The terms of this Framework Agreement shall, subject to any Special Conditions set out in each relevant Statement of Works, be incorporated into and shall form part of each Statement of Works to the express exclusion of any other terms and conditions of whatever nature (whether oral or written):
 - 2.2.1 on which any form of proposal is given to the DFE;
 - 2.2.2 subject to which the Statement of Works is accepted or purportedly accepted by the Contractor; or
 - 2.2.3 is contained in correspondence or elsewhere or implied by trade, custom or course of dealing.
- 2.3 Unless otherwise expressly agreed by the Parties, each Statement of Works shall constitute a separate contract under this Framework Agreement and, unless it is defined for the first time in a Statement of Works, any defined terms used in each Statement of Works shall have the same meaning as set out in this Framework Agreement.
- 2.4 The Contractor acknowledges that it has not been given any rights of exclusivity or any volume guarantees whatsoever.
- 2.5 In the event of any inconsistency or conflict between this Framework Agreement and any Statement of Works, the following order of precedence shall apply:
 - 2.5.1 any Special Conditions set out in a Statement of Works;
 - 2.5.2 the Framework Agreement;
 - 2.5.3 the remaining parts of the Statement of Works.

3. COMMENCEMENT AND DURATION

- 3.1 This Framework Agreement starts on the Framework Commencement Date and, unless terminated earlier in accordance with its terms, will continue until the Framework End Date.
- 3.2 Each Statement of Works shall commence on the SOW Start Date and, unless terminated in accordance with its terms, will continue until the later of:
 - 3.2.1 the SOW End Date; or
 - 3.2.2 if the DFE elects to extend the Statement of Works in accordance with Clause 3.3 the last day of the then current extension period,
- 3.3 The DFE may extend any Statement of Works for the period(s) of time set out in the Statement of Works by serving written notice to the Contractor in accordance with the Statement of Works.

4. MATCHING PROCESS

- 4.1 No Statement of Works will be binding on either Party until that Statement of Works has been agreed between the Parties in accordance with Schedule 2.

- 4.2 The Contractor shall not accept any work from the DFE (or any person acting on its behalf) under this Framework Agreement other than in accordance with the process set out in Schedule 2. The Contractor agrees that the DFE is under no obligation to pay for any works which purport to be delivered under this Framework Agreement where the process of agreeing those works has not been in accordance with Schedule 2.

5. THE SERVICES

- 5.1 The Contractor shall provide the Services in accordance with this Framework Agreement and each Statement of Works and shall undertake and be responsible for all the obligations of the Contractor and the NLE in respect of the Services.

- 5.2 In performing its obligations under this Framework Agreement and each Statement of Works, the Contractor shall:

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

5.2.2 comply with, and procure that its Personnel comply with:

(a) Law;

(b) Good Industry Practice;

(c) the Supplier Code of Conduct;

(d) any additional policies and procedures which may be set out in a Statement of Works; and

(e) the policies and procedures adopted by the DFE from time to time within such time periods which the DFE may reasonably require of the same being brought to the attention of the Contractor, including all safety, security and acceptable use policies of the DFE.

5.2.3 ensure that the Services are provided by competent and appropriately trained Personnel;

5.2.4 provide the DFE with such assistance as the DFE may reasonably require in respect of the supply of the Services;

5.2.5 gather collate and provide such information and co-operation as the DFE may reasonably request for the purposes of ascertaining the Contractor's compliance with its obligations under this Framework Agreement and each Statement of Works,

5.2.6 attend, and procure that the External Expert and any other necessary Personnel attend, such meetings as the DFE may reasonably require from time to time;

5.2.7 ensure that neither it nor any of its Personnel embarrasses the DFE or otherwise brings the DFE into disrepute by engaging in any act or omission which is reasonably likely to diminish the trust that the public places in the DFE; and

5.2.8 comply with all health and safety legislation, adopt and maintain safe operating systems of work and appropriate safety policies in order to protect the health and safety of Personnel, employees of the DFE and all other persons including members of the public.

- 5.3 In relation to each Statement of Works, the Contractor shall:

- 5.3.1 only use the NLE to provide the specific Services set out in that Statement of Works; and
- 5.3.2 ensure that, and shall procure the NLE to ensure that, the provision of those Services meets the requirements of the Specification and any additional requirements set out in a Statement of Works and that the Milestones (if any) are met.

6. PERFORMANCE

- 6.1 The Contractor shall, and shall procure that the NLE shall, ensure that the provision of the Services under each Statement of Works complies with the Key Performance Indicators.
- 6.2 If the DFE reasonably considers that any provision of this Framework Agreement and/or Statement of Works is at risk of not being complied with or has not been complied with then, without prejudice to any other right or remedy that it may have under this Framework Agreement, a Statement of Works or otherwise the DFE may:
 - 6.2.1 require the Contractor to remedy such failure (and any damage resulting from such failure) or remove such risk of failure within such period of time as the DFE may direct;
 - 6.2.2 require the Contractor to produce a plan of remedial action in order to remedy such failure (and any damage resulting from such failure) or remove such risk of failure, which (if such plan is required) shall be subject to the approval of the DFE (not to be unreasonably withheld) and which, once approved, the Contractor shall implement;
 - 6.2.3 monitor, supervise, direct and/or guide the Contractor's provision of the Services until the DFE reasonably considers that any failure or such risk of failure has been remedied or removed. The Contractor shall cooperate at all times with the DFE in this regard; and/or
 - 6.2.4 suspend (until such time as the DFE reasonably determines) on written notice to the Contractor:
 - (a) the Contractor's ability to apply for Deployment Opportunities; and/or
 - (b) the provision of any Services being performed under any this Framework Agreement and/or any Statement of Works.

7. NLE's and Contractors

- 7.1 The Contractor acknowledges that it will be unable to provide any Services under this Framework Agreement or any Statement of Works until:
 - 7.1.1 the DFE has confirmed to the Contractor in writing that it is satisfied with the outcome of an Enhanced Disclosure and Barring Services Check in relation to the External Expert; and
- 7.2 The Contractor shall ensure that, on or by the Framework Commencement Date or as soon as reasonably possible thereafter, the External Expert:
 - 7.2.1 has undertaken an Enhanced Disclosure and Barring Service Check; and
 - 7.2.2 registered for the Disclosure and Barring Service's "Update Service" (or any future equivalent) and given their permission to allow the DFE to review the outcome of their Enhanced Disclosures and Barring Service Check at any time. The External Expert shall maintain their registration to the Update Service throughout the term of this Framework Agreement and, if later, until the last Statement of Works entered into by the Parties expires or is terminated.

- 7.3 The Contractor shall ensure that it immediately notifies the DFE if the NLE discloses a Relevant Conviction or is found to have a Relevant Conviction as a result of a police check, through a Disclosure and Barring Service Check or otherwise.
- 7.4 Where the results of the Enhanced Disclosure and Barring Service Check are at any time, in the DFE's reasonable opinion, unsatisfactory, in accordance with the terms of this Framework Agreement the DFE may on written notice to the Contractor:
- 7.4.1 suspend (until such time as the DFE reasonably determines):
- (a) the Contractor's ability to apply for Deployment Opportunities; and/or
 - (b) the provision of any Services being performed under this Framework Agreement and/or any Statement of Works; or
- 7.4.2 terminate this Framework Agreement and/or any Statement of Works.
- 7.5 In the event that the DFE suspends the Contractor's ability to apply for Deployment Opportunities and/or perform the Services under the terms of this Framework Agreement and/or any Statement of Works, the Contractor shall only be entitled to subsequently apply for Deployment Opportunities and/or recommence the provision of any Services on written notice from the DFE.
- 7.6 The Contractor acknowledges the primary objective of the DFE entering into this Framework Agreement with the Contractor is to ensure that the DFE has the ability to engage the NLE in the provision of the Services under Statement of Works. Accordingly, the Contractor shall:
- 7.6.1 notify the DFE promptly of the absence of the NLE (including in the event of sickness or planned holiday);
- 7.6.2 give as much notice as is reasonably practicable to the DFE of its intention to remove the NLE from their employment or engagement; and
- 7.6.3 notify the DFE promptly if the Contractor becomes aware that the NLE intends to leave their employment or engagement with the Contractor.
- 7.7 The Contractor agrees that it will be unable to substitute its NLE with another. In the event that the NLE leaves the employment or engagement of the Contractor, the DFE may terminate this Framework Agreement and each Statement of Works with immediate effect on written notice to the Contractor.
- 7.8 To the extent that any of the obligations under this Framework Agreement apply to the NLE, the Contractor shall procure that such obligations are performed by the NLE in accordance with the terms of this Framework Agreement.
- 7.9 The Contractor shall be and shall remain fully liable for the acts and omissions of the NLE in respect of any obligations under this Framework Agreement and/or any Statement of Works which should, in DFE's opinion, acting reasonably, properly be performed by the NLE.

8. PERSONNEL

- 8.1 The DFE may refuse admission to DFE Premises and/or direct the Contractor to end the involvement in the Services of any Personnel whom the DFE believes is a security risk.
- 8.2 If the DFE require the removal of any Personnel pursuant to Clause 8.1, any Employment Liabilities and any other costs connected with that removal shall be at the Contractor's cost.

- 8.3 The Contractor shall use its reasonable endeavours to ensure continuity of Personnel and to ensure that the turnover rate of Personnel is at least as good as the prevailing industry norm for similar services, locations and environments.
- 8.4 The Contractor shall ensure that no person who discloses a Relevant Conviction or who is found to have any Relevant Convictions (whether as a result of a police check or through the Disclosure and Barring Service Procedures or otherwise), is employed or engaged in providing the Services without the DFE's prior written consent.
- 8.5 Except in respect of any transfer of staff under TUPE, from the Framework Commencement Date until the Framework End Date or, if later, the date upon which the last Statement of Works entered into between the Parties expires or is terminated) and for twelve (12) months thereafter the Contractor shall not (without the prior written consent of the DFE) solicit the services of any staff of the DFE who have been engaged in the management of the Framework Agreement, any Statement of Works or any significant part thereof either as principal, agent, employee, independent contractor or in any other form of employment or engagement other than by means of an open national advertising campaign and not specifically targeted at DFE staff.

9. SUB-CONTRACTING

- 9.1 The Contractor shall not Sub-Contract any of its rights or obligations under this Framework Agreement and/or any Statement of Works without the prior written consent of the DFE. For these purposes, the DFE may withhold its consent to the appointment of a Sub-Contractor for reasons including if the DFE reasonably considers that:
- 9.1.1 the appointment of a proposed Sub-Contractor may prejudice the provision of the Services and/or may be contrary to the interests of the DFE;
 - 9.1.2 the proposed Sub-Contractor is unreliable and/or has not provided reasonable services to its other customers;
 - 9.1.3 the proposed Sub-Contractor employs unfit persons; and/or
 - 9.1.4 the proposed Sub-Contractor should be excluded in accordance with Clause 9.6.
- 9.2 If requested by the DFE, the Contractor shall promptly provide to the DFE a copy of any proposed Sub-Contract and any further information reasonably requested by the DFE in relation to any proposed Sub-Contract.
- 9.3 In the event that the NLE is a supplier of services to the Contractor as opposed to an employee of the Contractor, the DFE consents to appointment by the Contractor of the NLE as a Sub-Contractor if all skills criteria can be met and proven and have been reviewed and approved by the DFE in line with original process criteria. The Contractor shall ensure that its Sub-Contract with the NLE contains obligations no less onerous on the NLE than those imposed on the Contractor under this Framework Agreement.
- 9.4 Where the DFE has consented to a Sub-Contract, copies of each Sub-Contract shall, at the request of the DFE, be promptly sent by the Contractor to the DFE upon the DFE's request.
- 9.5 The Contractor shall remain responsible for all acts and omissions of its Sub-Contractors and the acts and omissions of those employed or engaged by the Sub-Contractors as if they were its own.
- 9.6 If the DFE believes there are:
- 9.6.1 compulsory grounds for excluding a Sub-Contractor pursuant to regulation 57 of the Regulations, the Contractor shall replace or not appoint the Sub-Contractor; or
 - 9.6.2 non-compulsory grounds for excluding a Sub-Contractor pursuant to regulation 57 of the Regulations, the DFE may require the Contractor to replace or not appoint the Sub-Contractor and the Contractor shall comply with such requirement.

10. SUPPLY CHAIN PROTECTION

- 10.1 The Contractor shall ensure that all Sub-Contracts contain provisions:
- 10.1.1 giving the Contractor a right to terminate the Sub-Contract if the Sub-Contractor fails to comply in the performance of the Sub-Contract with legal obligations in the fields of environmental, social or labour law;
 - 10.1.2 requiring the Contractor or other party receiving goods or services under the contract to consider and verify invoices under that contract in a timely fashion;
 - 10.1.3 that if the Contractor or other party fails to consider and verify an invoice in accordance with Clause 10.1.2 the invoice shall be regarded as valid and undisputed for the purpose of Clause 10.1.4 after a reasonable time has passed;
 - 10.1.4 requiring the Contractor or other party to pay any undisputed sums which are due from it to the Sub-Contractor within a specified period not exceeding thirty (30) days of verifying that the invoice is valid and undisputed;
 - 10.1.5 giving the DFE a right to publish the Contractor's compliance with its obligation to pay undisputed invoices within the specified payment period;
 - 10.1.6 requiring the Sub-Contractor to include a clause to the same effect as this in any contracts it enters into wholly or substantially for the purpose of performing or contributing to the performance of the whole or any part of this Framework Agreement and/or any Statement of Works.
- 10.2 The Contractor shall pay any undisputed sums which are due from it to a Sub-Contractor within thirty (30) days of verifying that the invoice is valid and undisputed.

11. TUPE

- 11.1 The Parties do not consider that this Framework Agreement or the arrangements pursuant to it (including but not limited to any Statements of Work) will give rise to a relevant transfer for the purposes of TUPE, either on commencement, during or on termination of this Framework Agreement and/or any Statements of Work (although the DFE provides no warranty or representation in this respect).
- 11.2 Notwithstanding Clause 11.1, no later than six (6) months prior to the expiry or termination of this Framework Agreement or the relevant Statement of Work (or, if earlier, after notice to terminate this Framework Agreement or the relevant Statement of Work has been given by either Party) the Contractor shall fully and accurately disclose to the DFE, within thirty (30) days of the request, all information that the DFE may reasonably request in relation to the Personnel including the following:
- 11.2.1 the total number of Personnel whose employment/engagement shall terminate at the end of this Framework Agreement or, as applicable, the relevant Statement of Work;
 - 11.2.2 the age, gender, salary or other remuneration, future pay settlements and redundancy and pensions entitlement of the Staff referred to in Clause 11.2.1;
 - 11.2.3 the terms and conditions of employment/engagement of the Personnel referred to in Clause 11.2.1, their job titles and qualifications;
 - 11.2.4 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

- 11.2.5 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**).

- 11.3 At intervals determined by the DFE (which shall not be more frequent than once every thirty (30) days) the Contractor shall give the DFE updated TUPE Information.
- 11.4 Each time the Contractor supplies TUPE Information to the DFE it shall warrant its completeness and accuracy and the DFE may assign the benefit of this warranty to any Replacement Contractor.
- 11.5 The DFE may use TUPE Information for the purposes of any retendering process.
- 11.6 Notwithstanding Clause 11.1, if TUPE applies to the transfer of the Services on expiry or termination of this Framework Agreement or any Statement of Work, or is alleged to apply, the Contractor shall indemnify and keep indemnified the DFE, the Crown and any Replacement Contractor against all actions, suits, claims, demands, losses, charges, damages, costs and expenses and other liabilities which they may suffer or incur as a result of or in connection with:
- 11.6.1 the provision of TUPE Information;
 - 11.6.2 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 Return Date;
 - 11.6.3 any failure or alleged 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;
 - 11.6.4 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
 - 11.6.5 any claim by any person employed or engaged by the Contractor or any Sub-Contractor whose name is not included in the list of Returning Employees.
- 11.7 If the Contractor becomes aware that TUPE Information it provided has become inaccurate or misleading, it shall promptly notify the DFE and provide the DFE with up to date TUPE Information.
- 11.8 This Clause 11 applies during the term of this Framework Agreement and indefinitely thereafter.
- 11.9 Notwithstanding Clause 11.1, the Contractor undertakes to the DFE that, during the twelve (12) months prior to the termination or expiry of this Framework Agreement or the relevant Statement of Work (or, if earlier, after notice to terminate this Framework Agreement or the relevant Statement of Work has been given by either Party) the Contractor shall not (and shall procure that any Sub-Contractor shall not) without written approval of DFE (such approval not to be unreasonably withheld or delayed):
- 11.9.1 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 cessation of the Services by the Contractor);

- 11.9.2 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);
- 11.9.3 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 cessation of the Services by the Contractor); or
- 11.9.4 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.
- 11.10 Without prejudice to Clause 11.6, in the event that any Personnel (or any other person employed or engaged or formerly employed or engaged by the Contractor or any Sub-Contractor) transfer across to the DFE (or the Crown) on the relevant Return Date pursuant to the application of TUPE or otherwise, or it is alleged that such a person's employment or engagement has so transferred, the DFE (or the Crown) may (but shall not be obliged to) dismiss such person with immediate effect and the Contractor shall indemnify the DFE and/or the Crown in respect of all actions, suits, claims, demands, losses, charges, damages, costs and expenses and other liabilities which the DFE and/or the Crown may suffer or incur relating to the costs of their employment or engagement, any dismissal and any claim such a person may have arising out of their employment or engagement (whether with the Contractor, any Sub-Contractor and/or the DFE and/or the Crown) or the termination of that employment or engagement, including any claim of unfair dismissal, wrongful dismissal and any claim in relation to outstanding remuneration and, for the avoidance of doubt, references in this Clause 11.10 to dismissal, employment and engagement include but shall not be limited to references to purported dismissal, purported employment and purported engagement.

12. CHARGES

- 12.1 In consideration of the Contractor's performance of its obligations under this Framework Agreement and each Statement of Works, the DFE shall pay the Charges to the Contractor.
- 12.2 The Contractor shall submit its invoice(s) in accordance with the details set out in the relevant Statement of Works to APinvoices-DFE-U@sscl.gov.uk@education.gov.uk. copying in Angela Webdale – angela.webdale@education.gov.uk ensuring cross-reference- of PO number to ensure prompt payment in accordance with terms. The invoice shall be received by the DFE no later than the last working day of the month immediately following the month in which the Services to which the invoice relates were performed.
- 12.3 The Contractor shall not be entitled to increase the Charges set out as the daily agreed rate..
- 12.4 Unless otherwise agreed in a Statement of Works, the Charges for the Services shall be:
- 12.4.1 Inclusive of any applicable VAT ; and
- 12.4.2 inclusive of all taxes, duties, charges, costs and expenses (including all travel, accommodation and subsistence expenses) of whatever nature the Contractor incurs in providing the Services and performing all other obligations under this Framework Agreement and each Statement of Works.
- 12.5 The Contractor shall notify the DFE of any direct VAT charges for the delivery of the Services. The Contractor shall identify VAT separately on invoices, including identifying the elements of the Charges that are subject to VAT at the standard rate or at any other rates and that are zero rated or exempt from VAT.
- 12.6 The Contractor shall ensure that each of its invoices is based on the latest version of the DFE template invoice as will be made available to the Contractor by the DFE from time to time.

- 12.7 Subject to Clause 12.8, the DFE intends to pay undisputed invoices within thirty (30) days of receipt. Undisputed invoices not paid within thirty (30) days are subject to interest at the rate of 2% per annum above the base rate from time to time of Barclays Bank. This Clause 12.7 is a substantial remedy for late payment of any sum payable under this Framework Agreement and any Statement of Works in accordance with Section 8(2) Late Payment of Commercial Debts (Interest) Act 1998.
- 12.8 The DFE is not obliged to pay any invoice which:
- 12.8.1 is not submitted in accordance with this Framework Agreement and/or a Statement of Works and in particular, within the timescales stated in Clause 12.2; and/or
 - 12.8.2 where, in the DFE's reasonable opinion, the Services have not been properly performed.
- 12.9 If the DFE disputes any amount specified in an invoice it shall pay such amount of the invoice as is not in dispute and within ten (10) Business Days notify the Contractor of the reasons for disputing the invoice. The DFE may withhold the disputed amount pending resolution of the dispute.
- 12.10 The Parties shall use all reasonable endeavours to resolve any dispute over invoices within ten (10) Business Days of the dispute being raised, after which period either Party may refer the matter to the procedure set out in Clause 44.
- 12.11 Payment of the Charges by the DFE shall be without prejudice to any rights the DFE may have by reason of any Services, or any part thereof, failing to comply with any provision of this Framework Agreement and/or any Statement of Works. Any breach by the Contractor of this Framework Agreement and/or any Statement of Works shall not be deemed to be accepted or waived by the DFE by reason of such payment.
- 12.12 The DFE may deduct from or offset against any monies due or becoming due to the Contractor under this Framework Agreement and/or any Statement of Works (including the Charges) any monies due from the Contractor under this Framework Agreement and/or any Statement of Works.

13. TAX AND VAT

- 13.1 Where the Contractor is liable to be taxed in the UK in respect of consideration received under this Framework Agreement and/or any Statement of Works it shall at all times comply with the Income Tax (Earnings and Pensions) Act 2003 and all other statutes and regulations relating to income tax in respect of that consideration.
- 13.2 If the Services are liable for VAT the Contractor shall comply with HMRC rules and regulations. The Contractor shall be liable for paying to HMRC any identified VAT including those which may fall due.
- 13.3 If the Contractor is liable to NICs in respect of consideration received under this Framework Agreement and/or a Statement of Works it shall comply with the Social Security Contributions and Benefits Act 1992 and all other statutes and regulations relating to NICs in respect of that consideration.
- 13.4 The DFE may ask the Contractor to provide information which demonstrates how the Contractor complies with Clauses 13.1 to 13.3 or why those Clauses do not apply to it.
- 13.5 A request under Clause 13.4 may specify the information which the Contractor must provide and the period within which that information must be provided.
- 13.6 The DFE may terminate this Framework Agreement and/or any Statement of Works on written notice to the Contractor if:

- 13.6.1 in the case of a request mentioned in Clause 13.4 the Contractor:
- (a) fails to provide information in response to the request within a reasonable time; or
 - (b) provides information which does not demonstrate either how the Contractor complies with Clauses 13.1 to 13.3 or why those Clauses do not apply to it;
- 13.6.2 it receives information which demonstrates that, if Clauses 13.1 to 13.3 apply, the Contractor is not complying with those Clauses.
- 13.7 The DFE may supply any information which it receives under Clause 13.4 to HMRC.
- 13.8 The Contractor will account to the appropriate authorities for, and bears sole responsibility for, any applicable income tax, national insurance, VAT and all other taxes, liabilities, charges and duties relating to any payments made to the Contractor under this Framework Agreement and each Statement of Works and in relation to any payments made by the Contractor to its officers or employees in connection with this Framework Agreement and each Statement of Works. The Contractor shall indemnify DFE against any liability, assessment or claim made by the HMRC or any other relevant authority arising out of the performance by the Contractor of its obligations under this Framework Agreement and each Statement of Works (other than in respect of employer's secondary national insurance contributions) and any costs, expenses, penalty fine or interest incurred or payable by DFE in connection with any such assessment or claim.
- 13.9 The Contractor authorises the DFE to provide HMRC and all other departments or agencies of the Government with any information which they may request as to fees and/or expenses paid or due to be paid under this Framework Agreement and each Statement of Works.
- 13.10 If, during the period commencing on the Framework Commencement Date until the Framework End Date (or if later, the date upon which the last Statement of Works entered into between the Parties expires or is terminated), an Occasion of Tax Non-Compliance occurs, the Contractor shall:
- 13.10.1 notify the DFE in writing of such fact within five (5) Business Days of its occurrence; and
 - 13.10.2 promptly give the DFE:
 - (a) details of the steps it is taking to address the Occasion of Tax Non-Compliance and to prevent the same from recurring, together with any mitigating factors it considers relevant; and
 - (b) such other information in relation to the Occasion of Tax Non-Compliance as the DFE may reasonably require.

14. PREVENTION OF CORRUPTION

- 14.1 The Contractor represents and warrants that neither it, nor to the best of its knowledge any Personnel, have at any time prior to the Framework Commencement Date:
- 14.1.1 committed a Prohibited Act or been formally notified that it is subject to an investigation or prosecution which relates to an alleged Prohibited Act; and/or
 - 14.1.2 been listed by any government department or agency as being debarred, suspended, proposed for suspension or debarment, or otherwise ineligible for participation in government procurement programmes or contracts on the grounds of a Prohibited Act.
- 14.2 The Contractor shall not:
- 14.2.1 commit a Prohibited Act; and/or

- 14.2.2 do or suffer anything to be done which would cause the DFE or any of its employees, consultants, contractors, Sub-Contractors or agents to contravene any of the Relevant Requirements or otherwise incur any liability in relation to the Relevant Requirements.
- 14.3 The Contractor shall:
 - 14.3.1 and procure that its Sub-Contractors shall, establish, maintain and enforce, policies and procedures which are adequate to ensure compliance with the Relevant Requirements and prevent the occurrence of a Prohibited Act; and
 - 14.3.2 keep appropriate records of its compliance with its obligations under Clause 14.3.1 and make such records available to the DFE on request.
- 14.4 The Contractor shall immediately notify the DFE in writing if it becomes aware of any breach of Clauses 14.1 and/or 14.2, or has reason to believe that it has or any of the Personnel have:
 - 14.4.1 been subject to an investigation or prosecution which relates to an alleged Prohibited Act;
 - 14.4.2 been listed by any government department or agency as being debarred, suspended, proposed for suspension or debarment, or otherwise ineligible for participation in government procurement programmes or contracts on the grounds of a Prohibited Act; and/or
 - 14.4.3 received a request or demand for any undue financial or other advantage of any kind in connection with the performance of this Framework Agreement and/or any Statement of Works or otherwise suspects that any person directly or indirectly connected with the this Framework Agreement and/or any Statement of Works has committed or attempted to commit a Prohibited Act.
- 14.5 If the Contractor notifies the DFE pursuant to Clause 14.4, the Contractor shall respond promptly to the DFE's enquiries, co-operate with any investigation, and allow the DFE to audit any books, records and any other relevant documentation.
- 14.6 If the Contractor is in Default under Clauses 14.1 and/or 14.2, the DFE may by notice:
 - 14.6.1 require the Contractor to remove from performance of this Framework Agreement and/or any Statement of Works any Personnel whose acts or omissions have caused the Default; or
 - 14.6.2 immediately terminate this Framework Agreement and/or any Statement of Works.
- 14.7 Any notice served by the DFE under Clause 14.6 shall specify the nature of the Prohibited Act, the identity of the party who the DFE believes has committed the Prohibited Act and the action that the DFE has taken (including, where relevant, the date on which the Framework Agreement and/or Statement of Works shall terminate).

15. DISCRIMINATION

- 15.1 The Contractor shall perform its obligations under this Framework Agreement and each Statement of Works in accordance with all applicable equality law.
- 15.2 The Contractor shall comply with DFE's equality and diversity policy as given to the Contractor from time to time and any other requirements and instructions which the DFE reasonably imposes in connection with any equality obligations imposed on the DFE at any time under equality law.
- 15.3 The Contractor shall indemnify the DFE in full from and against all Employment Liabilities that may arise as a result of any claims brought against the DFE by any of its employees, agents, consultants and contractors ("**DFE Personnel**") and/or any of the Personnel where such claim

arises from any act or omission of the Contractor and/or Personnel in respect of anti-discrimination legislation.

- 15.4 The Contractor shall provide all reasonable cooperation, assistance and information as the DFE may request in connection with any investigation by the DFE into any complaint or other grievance received by it from any of the DFE Personnel or Personnel in respect of anti-discrimination legislation which may have arisen from, or been contributed to by, any act or omission of the Contractor and/or any Personnel.

16. INTELLECTUAL PROPERTY RIGHTS

- 16.1 All Intellectual Property Rights in materials:

16.1.1 furnished to or made available to the Contractor by or on behalf of the DFE (the "**DFE IP Materials**") shall remain the property of the DFE; and

16.1.2 prepared by or for the Contractor on behalf of the DFE in connection with this Framework Agreement and/or any Statement of Works (the "**Service Specific IP Materials**") shall vest in the DFE,

(together the "**IP Materials**").

- 16.2 The Contractor shall not, and shall ensure that Personnel shall not, use or disclose IP Materials without the DFE's approval in writing save to the extent necessary for the performance by the Contractor of its obligations under this Framework Agreement and each Statement of Works.

- 16.3 The DFE grants to the Contractor a royalty free, non-exclusive, non-transferable licence from the Framework Commencement Date until the Framework End Date (or if later, the date upon which the last Statement of Works entered into between the Parties expires or is terminated) to use the Intellectual Property Rights in the IP Materials to the extent necessary for the performance by the Contractor of its obligations under this Framework Agreement and each Statement of Works, including a right to grant sub-licences to Sub-Contractors provided that:

16.3.1 any Sub-Contractor has entered into a confidentiality undertaking with the Contractor on the same terms as set out in Clause 21; and

16.3.2 the Contractor shall not, without the DFE's prior written consent, use the IP Materials for any other purpose or for the benefit of any persons other than the DFE.

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

- 16.5 The Contractor shall waive or procure a waiver on an irrevocable and unconditional basis of any moral rights subsisting in copyright produced by or in connection with this Framework Agreement and/or any Statement of Works or the performance of Framework Agreement and/or any Statement of Works.

- 16.6 The Contractor shall ensure that the third party owner of any Intellectual Property Rights that are or which may be used to perform the Services grants to the DFE a non-exclusive licence or, if itself a licensee of those rights, shall grant to the DFE an authorised sub-licence, to use, reproduce, modify, develop and maintain the Intellectual Property Rights in the same. Such licence or sub-licence shall be non-exclusive, perpetual, royalty-free, worldwide and irrevocable

and shall include the right for the DFE to sub-licence, transfer, novate or assign to a Replacement Contractor. The Contractor shall notify the DFE of any third party Intellectual Property Rights to be used in connection with this Framework Agreement and/or any Statement of Works prior to their use in connection with this Framework Agreement and/or any Statement of Works or the creation or development of the Service Specific IP Materials.

- 16.7 The Contractor shall not infringe any Intellectual Property Rights of any third party in performing its obligations under this Framework Agreement and/or any Statement of Works and the Contractor shall indemnify and keep indemnified the DFE and any Replacement Contractor from and against all actions, suits, claims, demands, losses, charges, damages, costs and expenses and other liabilities which the DFE may suffer or incur as a result of or in connection with any breach of this Clause 16, except to the extent that any such claim arises from:
- 16.7.1 items or materials supplied by the DFE; or
 - 16.7.2 the use of data supplied by the DFE which is not required to be verified by the Contractor under any provision of this Framework Agreement or the relevant Statement of Works.
- 16.8 The DFE shall notify the Contractor in writing of any claim or demand brought against the DFE for infringement or alleged infringement of any Intellectual Property Right in materials supplied and/or licensed by the Contractor.
- 16.9 The Contractor shall at its own expense conduct all negotiations and any litigation arising in connection with any claim for infringement of Intellectual Property Rights in materials supplied and/or licensed by the Contractor to the DFE, provided always that the Contractor shall:
- 16.9.1 consult the DFE on all substantive issues which arise during the conduct of such litigation and negotiations;
 - 16.9.2 take due and proper account of the interests and concerns of the DFE; and
 - 16.9.3 not settle or compromise any claim without the DFE's prior written consent (not to be unreasonably withheld or delayed).
- 16.10 The DFE shall at the request of the Contractor afford to the Contractor all reasonable assistance for the purpose of contesting any claim or demand made or action brought against the DFE or the Contractor by a third party for infringement or alleged infringement of any third party Intellectual Property Rights in connection with the performance of the Contractor's obligations under this Framework Agreement and/ or any Statement of Works subject to the Contractor indemnifying the DFE on demand and in full for all reasonable costs and expenses (including, but not limited to, legal costs and disbursements) incurred in doing so.
- 16.11 Notwithstanding Clause 16.9, the DFE may take any action it deems appropriate with respect to any such claim and shall have exclusive control of such claim. If the DFE takes action the Contractor shall at the request of the DFE afford to the Contractor all reasonable assistance to the DFE for the purpose of contesting such claim.
- 16.12 If a claim, demand or action for infringement or alleged infringement of any Intellectual Property Right is made in connection with this Framework Agreement and/or any Statement of Works or in the reasonable opinion of the Contractor is likely to be made, the Contractor shall notify the DFE and, at its own expense and subject to the consent of the DFE (not to be unreasonably withheld or delayed), use reasonable endeavours to:
- 16.12.1 modify any or all of the Service Specific IP Materials and, where relevant, the Services without reducing the performance or functionality of the same, or substitute alternative materials or services of equivalent performance and functionality, so as to avoid the infringement or the alleged infringement, provided that the provisions of this Clause 16 shall apply mutatis mutandis to such modified materials or services or to the substitute materials or services; or

- 16.12.2 procure a licence to use and supply the Service Specific IP Materials, other relevant Intellectual Property Rights and Services, which are the subject of the alleged infringement, on terms which are acceptable to the DFE.
- 16.13 If the Contractor is unable to comply with Clauses 16.12.1 and 16.12.2 within twenty (20) Business Days of receipt of the Contractor's notification the DFE may terminate this Framework Agreement and/or any Statement of Works with immediate effect by notice in writing.
- 16.14 The Contractor grants to the DFE and, if requested by DFE, to a Replacement Contractor, a royalty-free, perpetual, irrevocable and non-exclusive licence (with a right to sub-licence) to use any Intellectual Property Rights the Contractor owned or developed prior to the Framework Commencement Date or otherwise not in connection with this Framework Agreement and/or any Statement of Works ("**Contractor IP**") and which the DFE (or a Replacement Contractor) reasonably requires in order to exercise its rights and take the benefit of this Framework Agreement and/or any Statement of Works including the Services provided and the use and further development of the IP Materials.
- 16.15 The DFE shall comply with the reasonable instructions of the Contractor in respect of the way in which it uses the Contractor IP.
- 16.16 If the Contractor is not able to grant to the DFE a licence to use any Contractor IP for any reason, including due to any Intellectual Property Rights that a third party may have in such Contractor IP, the Contractor shall use its reasonable endeavours to:
- 16.16.1 procure that the third party owner of any Intellectual Property Rights that are or that may be used to perform this Framework Agreement and/or any Statement of Works grants to the DFE a licence on the terms set out in Clause 16.14; or
- 16.16.2 if the Contractor is itself a licensee of those rights and is able to do so under the terms of its licence, grant to the DFE a sub-licence on the terms set out in Clause 16.14.
- 16.17 The Contractor shall not knowingly do or permit to be done, or omit to do in connection with its use of Intellectual Property Rights which are or are to be the DFE IP Materials any act or thing which:
- 16.17.1 would or might jeopardise or invalidate any trade mark application or registration comprised within the same or give rise to an application to remove or amend any such application or registration from the register maintained by the relevant trade mark registry; or
- 16.17.2 would or might prejudice the right or title of the DFE to any of the DFE IP Materials.
- 16.18 The Contractor shall comply with the DFE's branding guidelines and shall not use any other branding, including its own, other than as set out in the DFE's branding guidelines or as otherwise agreed with the DFE.
- 16.19 When using DFE Trade Marks the Contractor shall observe all reasonable directions given by the DFE from time to time as to colour and size and the manner and disposition thereof on any materials it provides to persons in connection with the Services. The Contractor may not:
- 16.19.1 adopt or use any trade mark, symbol or device which incorporates or is confusingly similar to, or is a simulation or colourable imitation of, any DFE Trade Mark, or unfairly competes with any DFE Trade Mark; or
- 16.19.2 apply anywhere in the world to register any trade marks identical to or so nearly resembling any DFE Trade Mark as to be likely to deceive or cause confusion

17. EQUIPMENT

- 17.1 All property which belongs or is leased or licensed to the Contractor brought onto DFE Premises shall be at the Contractor's own risk and the DFE shall have no liability for any loss of or damage to any such equipment and property.

18. PROTECTION OF PERSONAL DATA

- 18.1 The Parties shall comply with Schedule 4 in relation to the processing of Personal Data under this Framework Agreement and/or any Statement of Works.

19. INFORMATION SECURITY

- 19.1 The Contractor shall comply with the DFE's information security policy set out in Schedule 6.
- 19.2 If, through any Default of the Contractor, data transmitted or processed in connection with this Framework Agreement and/or any Statement of Works is either lost or sufficiently degraded as to be unusable, the Contractor shall be liable for the cost of reconstitution of that data and shall reimburse the DFE in respect of any charge levied for its transmission and any other costs charged in connection with such Default.

20. PUBLICITY AND PROMOTION

- 20.1 The Contractor shall not and shall procure that its Personnel shall not:
- make any press announcements or publicise this Framework Agreement and/or any Statement of Works or their respective contents in any way; or use the DFE's name, brand or DFE Trade Marks or the Personal Data of the DFE to sell, promote, market or publicise the Contractor's other programmes, courses, services or other activities, without the prior written consent of the DFE.
- 20.2 Subject to Clauses 16 and 21, DFE may disclose, copy and otherwise distribute to the public, including but not limited to, by way of the Open Government Licence, any information arising out of the Services or comprised in any work relating to the Services.

21. CONFIDENTIALITY

- 21.1 Except to the extent set out in this Clause 21 or if disclosure or publication is expressly permitted elsewhere in this Framework Agreement, each Party shall treat all Confidential Information belonging to the other Party as confidential and shall not disclose any Confidential Information belonging to the other Party to any other person without the other Party's consent.
- 21.2 The Contractor hereby gives its consent for the DFE to publish the whole Framework Agreement and each Statement of Works including from time to time agreed changes to the Framework Agreement and each Statement of Works.
- 21.3 The Contractor may only disclose the DFE's Confidential Information to its Personnel who are directly involved in the provision of the Services and who need to know the information for the Contractor's performance of its obligations under this Framework Agreement and/or any Statement of Works. The Contractor shall ensure that its Personnel are aware of and shall comply with these obligations as to confidentiality.
- 21.4 The Contractor shall not, and shall procure that its Personnel do not, use any of the DFE's Confidential Information received otherwise than for the purposes of this Framework Agreement and/or any relevant Statement of Works.
- 21.5 Clause 21.1 shall not apply to the extent that:
- 21.5.1 such disclosure is a requirement of law placed upon the Party making the disclosure, including any requirements for disclosure under the FOIA or the EIR;

- 21.5.2 such information was in the possession of the Party making the disclosure without obligation of confidentiality prior to its disclosure by the information owner;
 - 21.5.3 such information was obtained from a third party without obligation of confidentiality;
 - 21.5.4 such information was already in the public domain at the time of disclosure otherwise than by a breach of this Framework Agreement and/or any Statement of Works;
 - 21.5.5 it is independently developed without access to the other Party's Confidential Information.
- 21.6 Nothing in this Clause 21 shall prevent the DFE disclosing any Confidential Information obtained from the Contractor:
- 21.6.1 for the purpose of the examination and certification of the DFE's accounts;
 - 21.6.2 for the purpose of any examination pursuant to section 6(1) of the National Audit Act 1983 of the economy, efficiency and effectiveness with which the DFE has used its resources;
 - 21.6.3 to any other crown body and the Contractor hereby acknowledges that all government departments receiving such Confidential Information may further disclose the Confidential Information to other government departments on the basis that the information is confidential and is not to be disclosed to a third party which is not part of any government department;
 - 21.6.4 to any consultant, contractor or other person engaged or employed by the DFE provided that the DFE discloses only the information which is necessary for the purpose concerned and requests that the information is treated in confidence and that a confidentiality undertaking is given where appropriate.
- 21.7 Nothing in Clauses 21.1 to 21.6 shall prevent either Party from using any techniques, ideas or know-how gained during the performance of its obligations under this Framework Agreement and each Statement of Works in the course of its normal business, to the extent that this does not result in a disclosure of the other Party's Confidential Information or an infringement of the other Party's Intellectual Property Rights.
- 21.8 The DFE shall endeavour to ensure that any government department, employee, third party or sub-contractor to whom the Contractor's Confidential Information is disclosed pursuant to Clause 21.6 is made aware of the DFE's obligations of confidentiality.
- 21.9 If the Contractor does not comply with Clauses 21.1 to 21.5 the DFE may terminate this Framework Agreement and/or any Statement of Works immediately on written notice to the Contractor.

22. FREEDOM OF INFORMATION

- 22.1 The Contractor acknowledges that the DFE is subject to the requirements of the FOIA and the EIR.
- 22.2 The Contractor shall transfer to the DFE all Requests for Information that it receives as soon as practicable and in any event within two (2) Business Days of receipt and:
 - 22.2.1 give the DFE a copy of all Information in its possession or control in the form that the DFE requires within five (5) Business Days (or such other period as the DFE may specify) of the DFE's request;
 - 22.2.2 provide all necessary assistance as reasonably requested by the DFE to enable the DFE to comply with its obligations under the FOIA and EIR; and

- 22.2.3 not respond to directly to a Request for Information unless authorised to do so in writing by the DFE.
- 22.3 The Contractor acknowledges that the DFE may be required under the FOIA and EIRs to disclose Information (including Commercially Sensitive Information) without consulting or obtaining consent from the Contractor. The DFE shall determine in its absolute discretion and notwithstanding any other provision in this Framework Agreement or any other agreement whether the Commercially Sensitive Information and any other Information is exempt from disclosure in accordance with the provisions of the FOIA and/or the EIR.
- 23. OFFICIAL SECRETS ACT AND FINANCE ACT**
- 23.1 The Contractor shall comply with the provisions of:
- 23.1.1 the Official Secrets Acts 1911 to 1989; and
- 23.1.2 section 182 of the Finance Act 1989.
- 24. LIABILITY**
- 24.1 Neither Party excludes or limits its liability (if any) to the other:
- 24.1.1 for breach of any obligations arising under section 12 Sale of Goods Act 1979 or section 2 Supply of Goods and Services Act 1982;
- 24.1.2 for personal injury or death resulting from the its negligence;
- 24.1.3 under section 2(3) Consumer Protection Act 1987;
- 24.1.4 for its own fraud; or
- 24.1.5 for any other matter which it would be unlawful for it to exclude or to attempt to exclude its liability.
- 24.2 Subject to Clauses 24.1 and 24.4, the Contractor shall indemnify the DFE and keep the DFE indemnified fully against all claims, proceedings, demands, charges, actions, damages, costs, breach of statutory duty, expenses and any other liabilities which may arise out of the supply, or the late or purported supply, of the Services or the performance or non-performance by the Contractor or any Personnel, including in respect of death or personal injury, loss of or damage to property, financial loss arising from any advice given or omitted to be given by the Contractor, or any other loss which is caused directly by any act or omission of the Contractor.
- 24.3 The Contractor does not exclude or limit its liability (if any) for any Default under Clause 13, 16, 18, 19 and 21.
- 24.4 Subject to Clauses 24.1, 24.3 and 24.6, neither Party shall have any liability to the other under or in connection with this Framework Agreement and/or any Statement of Works, whether in contract, tort (including negligence) or otherwise:
- 24.4.1 for any losses of an indirect or consequential nature; or
- 24.4.2 for any claims for loss of profits, revenue, business or opportunity (whether direct, indirect or consequential);
- 24.5 Subject to Clauses 24.1, 24.3 and 24.4, the maximum liability of either Party to the other under this Framework Agreement and any Statements of Works entered into pursuant to it, whether in contract, tort (including negligence) or otherwise:
- 24.5.1 in respect of damage to property is limited to £1,000,000 in respect of any one incident or series of connected incidents; and

- 24.5.2 in respect of any claim not covered by Clause 24.5.1, is limited in each calendar year in aggregate to the greater of 150% of the sum of the Charges payable in that year or the sum of £1,000,000.
- 24.6 The DFE may recover from the Contractor the following losses incurred by the DFE to the extent they arise as a result of a Default by the Contractor:
- 24.6.1 any additional operational and/or administrative costs and expenses incurred by the DFE, including costs relating to time spent by or on behalf of the DFE in dealing with the consequences of the default;
 - 24.6.2 any wasted expenditure or charges;
 - 24.6.3 the additional costs of procuring a Replacement Contractor for the remainder of any Statement of Works which shall include any incremental costs associated with the Replacement Contractor above those which would have been payable under a Statement of Works;
 - 24.6.4 any compensation or interest paid to a third party by the DFE; and
 - 24.6.5 any fine or penalty incurred by the DFE and any costs incurred by the DFE in defending any proceedings which result in such a fine or penalty.
- 24.7 Except as otherwise expressly provided by this Framework Agreement and/or the relevant Statement of Works, all remedies available to either Party for breach of this Framework Agreement and/or any Statement of Works are cumulative and may be exercised concurrently or separately, and the exercise of any one remedy shall not be deemed an election of such remedy to the exclusion of other remedies.

25. INSURANCE

- 25.1 The Contractor shall effect and maintain in force with a reputable insurance company:
- 25.1.1 employer's liability and public liability insurances for the sum and range of cover as DFE deems to be appropriate but not less than £5,000,000 for any one claim;
 - 25.1.2 professional indemnity insurances for the sum and range of cover as DFE deems to be appropriate not less than £1,000,000 for any one claim and insurance to cover the liability of the Contractor under this Framework Agreement and each Statement of Works.
- 25.2 The Contractor shall supply to the DFE on demand copies of the insurance policies maintained under Clause 25.1.
- 25.3 The provisions of any insurance or the amount of cover shall not relieve the Contractor of any liabilities under this Framework Agreement and/or any Statement of Works.
- 25.4 It shall be the responsibility of the Contractor to determine the amount of insurance cover that will be adequate to enable the Contractor to satisfy any liability it has under, or in connection with, this Framework Agreement and each Statement of Works.

26. WARRANTIES AND REPRESENTATIONS

- 26.1 The Contractor warrants and represents that:
- 26.1.1 it has full capacity and authority and all necessary consents (including where its procedures so require, the consent of its parent company) to enter into and perform its obligations under this Framework Agreement and each Statement of Works and this Framework Agreement and each Statement of Works is executed by a duly authorised representative of the Contractor;

- 26.1.2 in entering into this Framework Agreement and each Statement of Works it has not committed any fraud;
- 26.1.3 all information contained in any submissions made by the Contractor as part of the procurement process, including its response to the PQQ and ITT (if applicable), the Contractor Solution and any other documents submitted remains true, accurate and not misleading, save as may have been specifically disclosed in writing to the DFE prior to execution of the Framework Agreement;
- 26.1.4 no claim is being asserted and no litigation, arbitration or administrative proceeding is presently in progress or, to the best of its knowledge and belief, pending or threatened against it or any of its assets which will or might, and it is not subject to any contractual obligation, compliance with which is likely to, have a material adverse effect on its ability to perform its obligations under this Framework Agreement and each Statement of Works;
- 26.1.5 it owns, has obtained or is able to obtain valid licences for all Intellectual Property Rights that are necessary for the performance of its obligations under this Framework Agreement and each Statement of Works;
- 26.1.6 the Service Specific IP Materials will be its original work and will not have been copied wholly or substantially from another party's work or materials provided that this Clause 26.1.6 shall not apply to any IP Materials used by the Contractor under permission or licence from any other person or entity (including, without limitation, any Sub-Contractor) that has, in turn, been licensed to the DFE in accordance with Clause 16.6;
- 26.1.7 the use by the DFE of any Intellectual Property Rights assigned or licensed to it by the Contractor under this Framework Agreement and each Statement of Works will not infringe or conflict with the rights of any third party;
- 26.1.8 in the 3 years (or actual period of existence if the Contractor has been in existence for less time) prior to the Framework Commencement Date:
- (a) it has conducted all financial accounting and reporting activities in compliance in all material respects with the generally accepted accounting principles that apply to it in any country where it files accounts;
 - (b) it has been in full compliance with all applicable securities and tax laws and regulations in the jurisdiction in which it is established; and
 - (c) it has not done or omitted to do anything which could have a material adverse effect on its assets, financial condition or position as an ongoing business concern or its ability to fulfil its obligations under this Framework Agreement and each Statement of Works;
- 26.1.9 it has and will continue to hold all necessary regulatory approvals from the Regulatory Bodies necessary to perform its obligations under this Framework Agreement and each Statement of Works; and
- 26.1.10 it has notified the DFE in writing of any Occasions of Tax Non-Compliance or any litigation in which it is involved that is in connection with any Occasion of Tax Non-Compliance.
- 26.2 If the Contractor becomes aware that a representation or warranty given by it under Clause 26.1 has been breached, is untrue or is misleading, it shall immediately notify the DFE of the relevant occurrence in sufficient detail to enable the DFE to make an accurate assessment of the situation.

- 26.3 The fact that any provision within this Framework Agreement and/or any Statement of Works is expressed as a warranty shall not preclude any right of termination which the DFE may have in respect of breach of that provision by the Contractor.

27. MONITORING

- 27.1 The DFE and/or the National Audit Office and/or their respective authorised representatives may visit on reasonable notice to the Contractor any premises of the Contractor 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 this Framework Agreement and each Statement of Works and otherwise to monitor and quality assure the provision of the Services.
- 27.2 During the visits conducted under Clause 27.1, the DFE and/or the National Audit Office and/or their respective authorised representatives may inspect and take copies of such of the records of the Contractor as relate to the performance of their obligations under this Framework Agreement and each Statement of Works. The Contractor shall also provide such assistance, access and explanations as may be reasonably required as a result of such visits.
- 27.3 The Contractor shall keep and maintain until six (6) years after expiry or termination of this Framework Agreement, or if later the date upon which the last Statement of Works entered into by the Parties expires or terminates (or such other period as may be agreed between the Parties in writing), full and accurate records of this Framework Agreement and each Statement of Works including the Services supplied under it and all Charges.
- 27.4 The Contractor agrees to make available to the DFE, free of charge, whenever requested, copies of audit reports obtained by the Contractor in relation to the Services.
- 27.5 The Contractor (and its agents) shall permit the Comptroller and Auditor General (and his appointed representatives) access free of charge during normal business hours on reasonable notice to all such documents (including computerised documents and data) and other information as the Comptroller and Auditor General may reasonably require for the purposes of his financial audit of the DFE and for carrying out examinations into the economy, efficiency and effectiveness with which the DFE has used its resources. The Contractor shall provide such explanations as are reasonably required for these purposes.

28. FORCE MAJEURE

- 28.1 If either Party is prevented or delayed in the performance of any of its obligations under this Framework Agreement and/or any Statement of Works by Force Majeure, that Party shall immediately serve notice in writing on the other Party specifying the nature and extent of the circumstances giving rise to Force Majeure and shall, subject to service of such notice and to Clauses 28.2 and 28.3, have no liability in respect of the performance of such of its obligations as are prevented by the Force Majeure events during the continuation of such events, and for such time after they cease as is necessary for that Party, using all reasonable endeavours, to recommence its affected operations in order for it to perform its obligations.
- 28.2 The Party claiming to be to be prevented or delayed in the performance of any of its obligations under this Framework Agreement and/or a Statement of Works by reason of Force Majeure shall use reasonable endeavours to end Force Majeure or to find solutions by which its obligations may be performed despite the Force Majeure.
- 28.3 Where the Contractor is prevented from performance of its obligations by Force Majeure it shall consult at regular intervals in good faith and use reasonable endeavours to agree with the DFE any steps to be taken and an appropriate timetable in which those steps should be taken to enable continued provision of the Services affected by the Force Majeure.
- 28.4 If the Contractor is prevented from performance of its obligations:

- 28.4.1 under a Statement of Works for a continuous period in excess of one (1) month, the DFE may terminate that Statement of Works on service of written notice to the Contractor;
- 28.4.2 under a Statement of Works and/or this Framework Agreement for a continuous period of three (3) months, the DFE may terminate to this Framework Agreement and any and all Statement of Works to which the Contractor is a party to on service of written notice to the Contractor,

in which case neither Party shall have any liability to the other except that rights and liabilities which accrued prior to such termination shall continue to subsist.

29. TERMINATION

- 29.1 The DFE may terminate this Framework Agreement at any time on three (3) months' written notice to the Contractor.
- 29.2 The DFE may terminate a Statement of Works at any time by serving to the Contractor the amount of written notice set out in that Statement of Works.
- 29.3 The DFE may terminate this Framework Agreement and/or any Statement of Works with immediate effect on written notice if:
- 29.3.1 the Contractor is in Default and:
- (a) if the Default is (in the opinion of the DFE) capable of remedy, the Contractor has not remedied the Default to the satisfaction of the DFE within such timescales as the DFE may reasonably require;
 - (b) the Default is not, in the opinion of the DFE, capable of remedy; or
 - (c) the Default is a Material Breach;
 - (d) the Default occurs after a prior warning notice has been issued to the contractor;
- 29.3.2 the Contractor's warranty in Clause 26.1.10 is materially untrue;
- 29.3.3 an Insolvency Event occurs;
- 29.3.4 the Contractor commits a material breach of its obligation to notify the DFE of any Occasion of Non-Tax Compliance;
- 29.3.5 the Contractor has not, in performing its obligations under this Framework Agreement and each Statement of Works, complied with its legal obligations in respect of environmental, social or labour law;
- 29.3.6 this Framework Agreement has been subject to a substantial modification which requires a new procurement procedure pursuant to regulation 72(9) of the Regulations;
- 29.3.7 the Contractor was and/or NLE was, at the time this Framework Agreement was awarded, in one of the situations specified in regulation 57(1) of the Regulations, including as a result of the application of regulation 57(2), and should therefore have been excluded from the procurement procedure which resulted in the award of this Framework Agreement; or
- 29.3.8 this Framework Agreement should not have been awarded to the Contractor in view of a serious infringement of the obligations under the Treaties and the Regulations which has been declared by the Court of Justice of the European Union in a procedure under Article 258 of the TFEU.

- 29.4 The Contractor may terminate this Framework Agreement at any time on thirty (30) days written notice to the DfE, provided no Statement of Works are outstanding.
- 29.5 The Contractor shall notify the DFE immediately in writing of any proposal or negotiations which will or may result in a merger, take-over, change of control, change of name or status including if the Contractor undergoes a change of control within the meaning of section 1124 of the Corporation Taxes Act 2010 (**Change of Control**). The DFE may terminate this Framework Agreement and/or any Statement of Works with immediate effect on written notice to the Contractor within six (6) months of:
- 29.5.1 being notified that a Change of Control has occurred; or
- 29.5.2 where no notification has been made, the date that the DFE becomes aware of the Change of Control
- but shall not be permitted to terminate where approval was granted prior to the Change of Control.
- 29.6 The Parties agree that if there are multiple Statements of Works and as a result of the termination of any of them the continuing performance of any other Statement of Works becomes redundant or impossible the DFE may also terminate any such Statement of Works on written notice to the Contractor.
- 29.7 If the DFE terminates this Framework Agreement and/or any Statement of Works under Clause 29.3:
- 29.7.1 and makes other arrangements for the supply of the Services, the DFE may recover from the Contractor the cost reasonably incurred of making those other arrangements; and
- 29.7.2 the DFE shall make no further payments to the Contractor (for Services supplied by the Contractor prior to termination and in accordance with the terms of this Framework Agreement and/or the relevant Statement of Works but where the payment has yet to be made by the DFE), until the DFE has established the final cost of making the other arrangements envisaged under this Clause 29.7.
- 29.8 If the DFE terminates this Framework Agreement and/or any Statement of Works the DFE shall make no further payments to the Contractor except the Charges owing for the Services properly performed prior to the date of termination.
- 29.9 If the DFE fails to pay the Contractor undisputed sums of money when due the Contractor shall give notice to the DFE of its failure to pay. If the DFE fails to pay such undisputed sums within ninety (90) Business Days of the date of such notice, the Contractor may terminate this Framework Agreement and/or any Statement of Works in writing with immediate effect, save that such right of termination shall not apply where the failure to pay is due to the DFE exercising its rights under Clause 12.12 or to Force Majeure.

30. CONSEQUENCES OF TERMINATION

- 30.1 Save as otherwise expressly provided in this Framework Agreement and/or a Statement of Works, termination or expiry of this Framework Agreement and/or a Statement of Works shall be without prejudice to any rights, remedies or obligations accrued under this Framework Agreement and/or the relevant Statement of Works prior to termination or expiration including under Clauses 12, 13, 14, 16, 18, 19, 21, 22, 23, 24, 26, 27, 29, 30 and 45.
- 30.2 Termination or expiry of this Framework Agreement shall not affect the validity and the continuance of any Statement of Works that has been entered into between the Parties prior to the date of termination or expiry of this Framework Agreement. In the event of termination or expiry of this Framework Agreement each Statement of Works which has been entered into

between the Parties shall continue in its own right until it expires or is terminated in accordance with its terms.

- 30.3 On termination or expiry of this Framework Agreement and/or each Statement of Works, and in any event, upon request by the DFE, the Contractor shall (at the DFE's option) securely return and/or securely destroy all materials which have been made available by or on behalf of the DFE and/or which are owned by the DFE, including all Personal Data, DFE IP Materials and Service Specific IP Materials.
- 30.4 The Contractor shall co-operate fully with the DFE in order to enable an efficient and detailed knowledge transfer from the Contractor to the DFE at the end of each Statement of Works including allowing full access to the External Expert, copies of all documents, reports, summaries and any other information requested by the DFE. The Contractor shall comply with the DFE's request for information as soon as reasonable possible and, in any event, no later than five (5) Business Days from the date that that request was made.

31. ASSIGNMENT AND NOVATION

- 31.1 The Contractor may not assign, novate, transfer, charge the benefit and/or delegate the burden of the whole or any part of this Framework Agreement and/or any Statement of Works without the prior written consent of the DFE.
- 31.2 Where the DFE gives its consent under Clause 31.1 the Contractor shall provide to the DFE the document affecting such assignment, novation, transfer, charge and/or delegation promptly upon the DFE's request.
- 31.3 The DFE may at its discretion assign, novate, transfer, charge the benefit and/or delegate the burden of the whole or any part of this Framework Agreement and/or any Statement of Works:
- 31.3.1 any Central Government Body; or
- 31.3.2 to a body other than a Central Government Body (including any private sector body) which performs any of the functions that previously had been performed by the DFE,
- and the Contractor shall, at the DFE's request, enter into a novation agreement in such form as the DFE shall reasonably specify in order to enable the DFE to exercise its rights pursuant to this Clause.
- 31.4 A change in the legal status of the DFE such that it ceases to be a Central Government Body shall not (subject to Clause 31.5) affect the validity of this Framework Agreement and/or any Statement of Works and this Framework Agreement and each Statement of Works shall be binding on any successor body to the DFE.
- 31.5 If the DFE assigns, novates or otherwise disposes of any of its rights, obligations or liabilities under this Framework Agreement and/or any Statement of Works to a body which is not a Central Government Body or if a body which is not a Central Government Body succeeds the DFE (any such body a "**Successor Body**"), the Contractor shall have the right to terminate for an Insolvency Event affecting the Successor Body identical to the right of termination of the DFE under Clause 29.3.3 (as if references in that Clause 29.3.3 to the Contractor and references to a Party in the definition of Insolvency Event were references to the Successor Body)

32. COSTS

- 32.1 Except as otherwise set out in this Framework Agreement and/or any Statement of Works, the Parties will each bear their own costs and expenses incurred in respect of compliance with their obligations under this Framework Agreement and each Statement of Works.

33. MISTAKES IN INFORMATION

- 33.1 The Contractor shall be responsible for the accuracy of all drawings, documents and information prepared by it or on its behalf in connection with the provision of the Services and shall pay the DFE any extra costs occasioned by any discrepancies, errors or omissions therein. Neither the DFE's approval of any such drawings, documents and information nor its failure to discern any defect in or omission from any such drawings, documents and information shall absolve or relieve the Contractor from any of its responsibilities duties and obligations under this Framework Agreement and/or any Statement of Works.

34. SEVERENCE

- 34.1 If any provision of this Framework Agreement and/or any Statement of Works (or any part of any provision) is held to be void or otherwise unenforceable by any court of competent jurisdiction, such provision (or part) shall to the extent necessary to ensure that the remaining provisions of this Framework Agreement and/or the Statement of Works are not void or unenforceable be deemed to be deleted and the validity and/or enforceability of the remaining provisions shall not be affected.

35. RELATIONSHIP OF THE PARTIES

- 35.1 Nothing in this Framework Agreement and/or any Statement of Works is intended to or shall operate to create a partnership, joint venture, or relationship of employer and employee or principle and agent between the Parties, and neither Party shall have authority to act in the name or on behalf of or otherwise to bind the other in any way (including making any representation or warranty, the assumption of any obligation or liability and the exercise of any right or power).

36. WAIVER

- 36.1 No failure or delay by either Party under this Framework Agreement and/or any Statement of Works to exercise any right, power or remedy will operate as a waiver of it nor will any partial exercise preclude any further exercise of the same, or of some other right, power or remedy.
- 36.2 Unless otherwise provided in this Framework Agreement and/or any Statement of Works, rights and remedies under this Framework Agreement and/or any Statement of Works are cumulative and do not exclude any rights or remedies provided by law, in equity or otherwise

37. CHANGE CONTROL

- 37.1 Any requirement for a Variation shall be subject to Schedule 5.

38. ENTIRE AGREEMENT

- 38.1 This Framework Agreement and each Statement of Works contain all the terms which the Parties have agreed in relation to the subject matter and supersede any prior written or oral agreements, representations or understandings between the Parties.
- 38.2 Notwithstanding Clause 38.1, if a number of Statements of Works relate to the same subject matter, such Statements of Works shall be read in conjunction with one another.
- 38.3 Nothing in this Clause 38 shall exclude any liability which on Party would otherwise have to the other in respect of any statements made fraudulently.

39. COUNTERPARTS

- 39.1 This Framework Agreement and each Statement of Works may be executed in any number of counterparts, each of which so executed and delivered shall constitute an original, but together shall constitute one and the same instrument.

40. CONTRACTS (RIGHTS OF THIRD PARTIES) ACT 1999

- 40.1 The provisions of Clause 11.6 confer benefits on a Replacement Contractor and are intended to be enforceable by a Replacement Contractor by virtue of the Contracts (Rights of Third Parties) Act 1999.
- 40.2 Subject to Clause 40.1, a person who is not a Party to this Framework Agreement may not enforce any of its terms (or the terms of any Statement of Works formed under it) under the CRTPA but this does not affect any right or remedy of any person which exists or is available otherwise than pursuant to the CRTPA and does not apply to the Crown.
- 40.3 A Replacement Contractor may not enforce or take steps to enforce the provisions of Clause 40.1 without DFE's prior written consent.
- 40.4 The Parties may amend the terms of this Framework Agreement and any Statement of Works without the consent of any Replacement Contractor.

41. CONFLICTS OF INTEREST

- 41.1 Prior to entering into any Statement of Works, and if a Statement of Works has been entered into, immediately on becoming aware, the Contractor shall and shall procure that the External Expert shall declare to the DFE whether it and/or they have any Conflicts of Interest. In doing so, the Contractor shall, and shall procure the External Expert shall, provide to the DFE full particulars of the Conflict of Interest which has arisen or may arise.
- 41.2 Depending on the nature and timing of any Conflict of Interest declared under Clause 41.1, the DFE may take such action as the DFE considers reasonably necessary which may include:
 - 41.2.1 requiring the Contractor to take all reasonable steps to remove or avoid the Conflict of Interest, to prevent it from occurring, or to otherwise manage the conflict to the satisfaction of the DFE (acting reasonably). In doing so the Contractor shall give the DFE a comprehensive and detailed written statement of the action it has taken and any such other information or evidence the DFE may reasonably require;
 - 41.2.2 decline the Contractor's bid for the Deployment Opportunity; and/or
 - 41.2.3 terminate the relevant Statement of Works on written notice to the Contractor.
- 41.3 In the event that the DFE determines or has reason to believe (acting reasonably) that the Contractor and/or External Expert has withheld details of any Conflict of Interest the DFE may take such action as it considers reasonably necessary which may include:
 - 41.3.1 issuing the Contractor with a warning letter;
 - 41.3.2 suspending (until such time as the DFE reasonably determines) on written notice to the Contractor:
 - (a) the Contractor's ability to apply for Deployment Opportunities; and/or
 - (b) the provision of any Services being performed under this Framework Agreement and/or any existing Statement of Works; or
 - 41.3.3 terminating this Framework Agreement and/or any Statement of Works on written notice to the Contractor.
- 41.4 The Contractor acknowledges, and shall procure that the External Expert acknowledges, that the DFE may retain a record of all Conflicts of Interest which are declared by the Contractor and/or External Expert in connection with this Framework Agreement and/or any Statement of Works. The Contractor acknowledges, and shall procure that the External Expert acknowledges, that the DFE may not invite the Contractor to apply for Deployment Opportunities where it has a

reasonable belief that a Conflict of Interest exists. Accordingly, the Contractor shall, and shall procure that the External Expert shall, keep the DFE informed of the status of any Conflicts of Interest which may have been declared.

- 41.5 In performing its obligations under this Framework Agreement and/or any Statement of Works, the Contractor shall conduct its business, operations and activities in a politically neutral fashion.

42. FURTHER ASSURANCE

- 42.1 The Parties shall do or procure the doing of all such acts and things and will execute or procure the execution of all such documents as may be reasonably required including on or subsequent to the end of this Framework Agreement and/or Statement of Works to give effect to the meaning of this Framework Agreement and each Statement of Works.

43. NOTICES

- 43.1 Any notice, demand or communication in connection with this Framework Agreement and/or any Statement of Works shall be in writing and may be delivered by hand, pre-paid first class post or (where being sent to an address in a different country to where posted) airmail, facsimile or e-mail, addressed to the recipient at its registered office or its address (or such other address, facsimile number or e-mail address as may be notified in writing from time to time).
- 43.2 The notice, demand or communication shall be deemed to have been duly served:
- 43.2.1 if delivered by hand, when left at the proper address for service;
 - 43.2.2 if given or made by prepaid first class post forty (48) hours after being posted or in the case of airmail fourteen (14) days after being posted;
 - 43.2.3 if given or made by facsimile or e-mail, at the time of transmission, provided that a confirming copy is sent by first class pre-paid post or (where being sent to an address in a different country to where posted) airmail to the other Party within twenty four (24) hours after transmission and that, in the case of transmission by e-mail where the time of transmission is not between 9.00am and 5.00pm, service shall be deemed to occur at 9.00 am on the next following Business Day (such times being local time at the address of the recipient).
- 43.3 If proceedings to which the Civil Procedure Rules apply have been issued, the provisions of Civil Procedure Rule 6 must be complied with in respect of the service of documents in connection with those proceedings.

44. DISPUTE RESOLUTION

- 44.1 Any Dispute shall be dealt with in accordance with in accordance with this Clause 44.
- 44.2 In the first instance, a representative of each Party will each use their reasonable endeavours to resolve the Dispute. If the Dispute cannot be resolved by such representatives within fifteen (15) days of the Dispute arising, it will be referred to a senior representative of each Party, who shall each use their reasonable endeavours to resolve the Dispute.
- 44.3 If a Dispute cannot be resolved by negotiation as referred to in Clause 44.2 within thirty (30) days of the Dispute arising, either Party may refer the Dispute for determination in accordance with the mediation procedure administered by the Centre for Effective Dispute Resolution, the costs of the mediator being split equally between the Parties, who shall otherwise bear their own costs.
- 44.4 The Contractor shall continue to provide the Services in accordance with the terms of this Framework Agreement and any Statement of Works until a Dispute has been resolved.

45. GOVERNING LAW AND JURISDICTION

- 45.1 This Framework Agreement, each Statement of Works and any issues, disputes or claims (whether contractual or non-contractual) arising out of or in connection with their subject matter or formation shall be governed by and construed in accordance with English Law.
- 45.2 The Parties agree that the courts of England shall have exclusive jurisdiction to settle any dispute or claim (whether contractual or non-contractual) that arises out of in connection with this Framework Agreement or each Statement of Works or their subject matter or formation.

This Framework Agreement has been entered into on the date stated at the beginning of it.

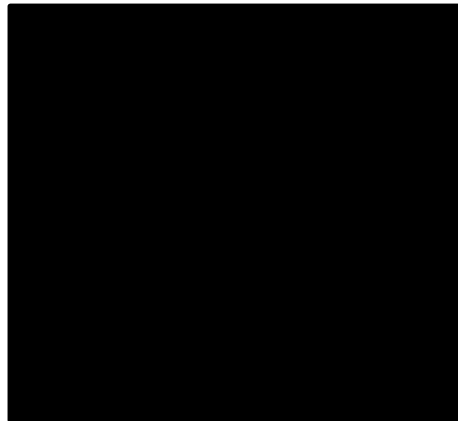
For and on behalf of: The Secretary of State for Education

Signature

Name

Title

Date



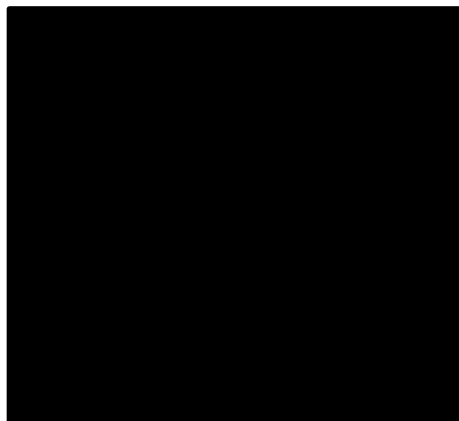
For and on behalf of: Contractor

Signature

Name

Title

Date



SCHEDULE 1

Service Specification

1. Overview

DfE is looking to recruit a new smaller cadre of NLEs who have a strong track record of improving schools who have been graded 'Inadequate' or 'Requires Improvement' by Ofsted.

All applicants must either meet the following criteria:

You must be named on Ofsted report(s) (since September 2005) as the headteacher of a school that:

- has received an improved Ofsted rating from Requires Improvement (RI) to Outstanding or Inadequate to Good/Outstanding and been in post for at least a year before the inspection showing the improvement. (If you have left the school the inspection must be within 1 year of you leaving).

In addition, you must:

- have had no Ofsted inspections resulting in a decline to RI or Inadequate whilst in post (excluding during the first year) or within 3 years after leaving a school.

or

Have already successfully made a case to apply via the exceptions route during the Expression of Interest phase of the procurement. The DfE will have confirmed whether any applications made were successful in writing via Jaggaer. If you missed the opportunity to express an interest via the exceptions route, it is no longer possible to do so for this recruitment round.

Any applications from individuals failing to satisfy either of these criteria will not be scored.

DfE aims to recruit sufficient numbers across England to ensure that support is available when needed; however, demand for support will vary across the regions and will be led by Ofsted ratings and the eligibility criteria for the Trust and school improvement offer.

2. The Roles

We are looking for headteachers who have a very strong record of improving a school from an Ofsted rating of Inadequate to Good or from Requires Improvement to Outstanding. There is a need to recruit NLEs nationwide and across all phases and types of education.

The ability to quickly develop professional and effective relationships in order to swiftly diagnose areas for improvement in struggling schools is essential. The appointed individuals will be adept at delivering difficult messages clearly and sensitively, whilst also being able to influence through the use of credible evidence and established methods.

All successful candidates will be required to participate in a bespoke NLE development programme, which will be delivered across six terms by the Institute of Teaching.

The successful candidates for all roles must:

- Collaborate effectively
- Communicate with impact
- Have the ability to influence others
- Demonstrate effective curriculum design
- Demonstrate best practice teaching
- Demonstrate best practice behaviour management
- Plan effective staff development
- Plan strategically

3. Department resources

The successful Bidders will be expected to work closely with:

- Regional Delivery Division colleagues
- Policy colleagues
- Regional Delivery Partners
- The Institute of Teaching

Most activity will occur remotely however, some of the development programme will take place face to face.

SCHEDULE 2

ALLOCATION OF WORK

1. GENERAL

- 1.1 The matching of NLEs to schools requiring support through the Trust and School Improvement Offer will be led by DfE Regional teams supported by externally contracted resource - Regional Delivery Partners. The decision of which is the most appropriate system leader to support a school will be based on the following factors and all matches will be agreed by DfE Regional teams –
- 1.1.1 Regional growth priorities for DfE Regional teams – this will determine whether a trust would be the most appropriate choice and which one
 - 1.1.2 Geography – whilst support could be delivered remotely, it may be more appropriate to match a system leader that is situated closer to the school. This may also be beneficial as the system leader will have a greater understanding of the local context of the school.
 - 1.1.3 The NLE's strengths/experience and background – they must suit the requirements of the supported school. Examples include:
 - Leadership and management
 - Quality of teaching
 - Learning and assessment
 - Personal development
 - Behaviour and welfare
 - 1.1.4 Capacity – of the system leader to provide the support required
 - 1.1.5 Any pre-existing relationships between the parties - whether it is likely that a system leader is well-placed to support a particular school

The reasons why a specific system leader has been chosen will be documented.

2. STATEMENTS OF WORKS

- 2.1 Following work allocation process set out above:
- 2.1.1 the DFE shall complete a Statement of Works and send this to the NLE
 - 2.1.2 the NLE shall arrange signature of the Statement of Works by an authorised signatory of the Contractor and return the document to the DFE; and
 - 2.1.3 the DFE will countersign the Statement of Works and return a copy of the completed document to the NLE
- 2.2 A Statement of Works will come into effect on the date set out in the Statement of Works when signed by both Parties.
- 2.3 Should the Contractor and/or NLE require any amendments to a Statement of Works which is prepared by the DFE in accordance with Paragraph 4.1.1 it shall promptly notify the DFE with the details of any amendments that it reasonably considers necessary. The DFE is under no obligation to accept any proposed amendments and all correspondence and discussions in respect of them shall be deemed subject to contract unless and until such amendments are incorporated into any Statement of Works which is completed by the Parties.

APPENDIX 1 (PART 1 OF 2)

STATEMENT OF WORKS

DATE XX/XX/20

PARTIES

- (1) **THE SECRETARY OF STATE FOR EDUCATION** of Sanctuary Buildings, 20 Great Smith Street, London, SW1P 3BT (**DFE**); and
- (2) **[NAME OF CONTRACTOR]** registered in England and Wales under number [●] whose registered office is [Insert registered office address] (the **Contractor**).

BACKGROUND

- (A) On [DATE] the DFE and Contractor entered into a Framework Agreement for NLE (the **Framework Agreement**).
- (B) The DFE wishes to engage the Contractor to provide Services described in this Statement of Works, which, subject to Paragraph C below, shall be performed by the External Expert.
- (C) The Parties acknowledge that,
- (i) where the Contractor has entered into the Framework Agreement as a sole trader in its own name, the Contractor will provide the expert advice services directly to the DFE as the NLE; and
- (ii) where the Contract has entered into the Framework Agreement as a corporate body, it will provide the expert advice services using the NLE only,

in each case subject to the terms and conditions of this Statement of Works and the Framework Agreement.

OPERATIVE TERMS

Deployment Ref:	[Enter details here]
Jaggaer Ref: (Must be quoted on invoice(s))	
<u>NLEDetails</u> Name: Email Address:	[Enter details here]
SOW Start Date	This Statement of Works shall commence on [INSERT DATE].
SOW End Date	Subject to this Statement of Works being extended or terminated in accordance with its terms, this Statement of Works shall end on [INSERT DATE].
Extension Period:	The DFE may extend any Outcome within this Statement of Works for 2 period(s) of up to 3 months, by giving the Contractor 2 day's written notice before its expiry.
Notice period for termination for convenience	This Statement of Works may be terminated by the DFE by serving written notice on the Contractor at least 2 days prior to the final outcome deadline.

	Any Outcome may be terminated by the DFE by serving written notice on the Contractor at least 2 days prior to the outcome deadline.			
Agreed Outcomes		Description of Outcomes	Outcome Value	Date To Be achieved
	1	See Annex A for details	£	[Enter date here]
	2	See Annex A for details	£	[Enter date here]
	3	See Annex A for details	£	[Enter date here]
	4	See Annex A for details	£	[Enter date here]
	5	See Annex A for details	£	[Enter date here]
Statement of Works total value (£)	[Enter details here]			
Invoice Frequency	Invoices shall be raised monthly in arrears upon achievement of the relevant Outcome.			
Polices and Security Requirements	As detailed in the framework agreement.			
Data Processing	Will Data Processing activities be undertaken by the Contractor – No			

For and on behalf of: The Secretary of State for Education

Signature
Authorised Signatory

Name

Title

Date

For and on behalf of: Contractor

Signature
Authorised Signatory

Name

Title

Date

APPENDIX 1 (PART 2 OF 2)
TEMPLATE STATEMENT OF WORKS

DATA PROCESSING DETAILS

Description	Details
Identity of the Controller and Processor	
Subject matter of the processing	
Duration of the processing	
Nature and purposes of the processing	
Type of Personal Data	
Categories of Data Subject	
Plan for return and destruction of the data once the processing is complete UNLESS requirement under union or member state law to preserve that type of data	

SCHEDULE 3

PERFORMANCE

1. INTRODUCTION

1.1 The objectives of the KPIs are to:

- 1.1.1 ensure that the Services are of a consistently high quality and meet the requirements of the DFE;
- 1.1.2 provide a mechanism whereby the DFE can attain meaningful recognition of inconvenience and/or loss resulting from the Contractor's failure to deliver the Services; and
- 1.1.3 incentivise the Contractor to meet the KPIs and to remedy any failure to meet the KPIs expeditiously.

2. PERFORMANCE MONITORING

2.1 The KPIs that the DFE will use to monitor the Contractor's and NLE's performance of the Services under each Statement of Works are as follows:

	KPI	Performance Measure
KPI1	Stakeholder Engagement	The NLE maintained a professional level of conduct with all stakeholders (both internal and external).
KPI2	Delivering to timescales	The Services were completed within the agreed timescales (including achieving any agreed milestones) and the DFE was notified of completion. All DFE queries and emails have been responded to within the required timescales and in full.
KPI3	Quality of Service	The Services were completed to the agreed standard and without the need for re-work or correction
KPI4	Adherence to Security	The NLE adhered to the security standards set out in the Framework Agreement
KPI5	Accuracy of invoices	The invoice submitted correctly matched the amount set out in the Statement of Works and was received by the DFE no later than the end of the month immediately following the month in which the Services to which the invoice relates were performed.

- 2.2 The Contractor acknowledges that, upon receipt of each invoice submitted by the Contractor in relation to a Statement of Works, the DFE shall ascertain whether or not the Contractor and NLE achieved the KPIs in relation to the Services performed under that Statement of Works by requiring the relevant Delivery Officer to complete a performance monitoring form.
- 2.3 In the event that in relation to any of the Services to which the invoice relates there has been a failure to meet the KPIs, then the DFE may take such action as it considers reasonably necessary depending on the severity of the issue, which may include:
- 2.3.1 issuing a warning letter;
 - 2.3.2 requiring the Contractor to undertake any of the actions required under Clause 6.2;
 - 2.3.3 suspending (until such time as the DFE reasonably determines) on written notice to the Contractor:
 - (a) the Contractor's ability to apply for Deployment Opportunities; and/or
 - (b) the provision of the Services being performed under this Framework Agreement and/or any Statement of Works;
 - 2.3.4 exercising its rights under Clause 29.

SCHEDULE
PERSONAL DATA

- 1.1 The Parties acknowledge that the factual arrangement between them dictates the role of each Party in respect of Data Protection Legislation. Therefore,
 - 1.1.1 to the extent that each Party is, in its own right, an independent Controller of the Personal Data, Paragraph 1.2 shall apply; and
 - 1.1.2 to the extent that the Contractor is a Processor of the Personal Data on behalf of the DFE, Paragraphs 1.3 to 1.14 shall apply.
- 1.2 Where each Party is an independent Controller of the Personal Data in its own right, each Party shall ensure that:
 - 1.2.1 it complies with its obligations under Data Protection Legislation with respect to its processing of Personal Data under or in connection with this Framework Agreement and/or any Statement of Works;
 - 1.2.2 it has in place Protective Measures, which are appropriate to protect against a Data Loss Event having taken account of the nature of the data to be protected, harm that might result from a Data Loss Event, state of technological development and cost of implementing any measures; and
 - 1.2.3 all fair processing notices have been given, and (as applicable) all necessary consents have been obtained by the Controller in each case in accordance with Data Protection Legislation to allow the Controller to disclose any Personal Data to the other for the purposes of this Framework Agreement and/or the relevant Statement of Works.
- 1.3 Where the Contractor processes Personal Data on behalf of the DFE, the only processing that the Contractor is authorised to do:
 - 1.3.1 in relation to this Framework Agreement is listed in the Appendix 2 of this Schedule; and
 - 1.3.2 in relation to a Statement of Works is listed in the Data Processing Details set out in the relevant Statement of Works.
- 1.4 The Contractor may not determine the processing which it undertakes, which may only be done by the DFE.
- 1.5 The Contractor shall notify the DFE immediately if it considers that any of the DFE's instructions infringe the Data Protection Legislation.
- 1.6 The Contractor shall provide all reasonable assistance to the DFE in the preparation of any Data Protection Impact Assessment prior to commencing any processing. Such assistance may, at the discretion of the DFE, include:
 - 1.6.1 a systematic description of the envisaged processing operations and the purpose of the processing;
 - 1.6.2 an assessment of the necessity and proportionality of the processing operations in relation to the Services;
 - 1.6.3 an assessment of the risks to the rights and freedoms of Data Subjects; and

- 1.6.4 the measures envisaged to address the risks, including safeguards, security measures and mechanisms to ensure the protection of Personal Data.
- 1.7 The Contractor shall, in relation to any Personal Data processed in connection with its obligations under this Framework Agreement and/or any Statement of Works:
 - 1.7.1 process that Personal Data only in accordance with the Appendix 2 to this Schedule, unless the Contractor is required to do otherwise by Law. If it is so required the Contractor shall promptly notify the DFE before processing the Personal Data unless prohibited by Law;
 - 1.7.2 ensure that it has in place Protective Measures, which are appropriate to protect against a Data Loss Event, which the DFE may reasonably reject (but failure to reject shall not amount to approval by the DFE of the adequacy of the Protective Measures), having taken account of the:
 - (a) nature of the data to be protected;
 - (b) harm that might result from a Data Loss Event;
 - (c) state of technological development; and
 - (d) cost of implementing any measures;
 - 1.7.3 ensure that :
 - (a) the Personnel do not process Personal Data except in accordance with this Framework Agreement and, in respect of a particular Statement of Works, that Statement of Works;
 - (b) it takes all reasonable steps to ensure the reliability and integrity of any Personnel who have access to the Personal Data and ensure that they:
 - (i) are aware of and comply with the Contractor's duties under this Schedule;
 - (ii) are subject to appropriate confidentiality undertakings with the Contractor or any Sub-processor;
 - (iii) are informed of the confidential nature of the Personal Data and do not publish, disclose or divulge any of the Personal Data to any third Party unless directed in writing to do so by the DFE or as otherwise permitted by this Framework Agreement or the relevant Statement of Works; and
 - (iv) have undergone adequate training in the use, care, protection and handling of Personal Data;
 - 1.7.4 not transfer Personal Data outside of the EU unless the prior written consent of the DFE has been obtained and the following conditions are fulfilled:
 - (a) the DFE or the Contractor has provided appropriate safeguards in relation to the transfer (whether in accordance with GDPR Article 46 or LED Article 37) as determined by the DFE;
 - (b) the Data Subject has enforceable rights and effective legal remedies;
 - (c) the Contractor complies with its obligations under the Data Protection Legislation by providing an adequate level of protection to any Personal Data that is transferred (or, if it is not so bound, uses its best endeavours to assist the DFE in meeting its obligations); and

- (d) the Contractor complies with any reasonable instructions notified to it in advance by the DFE with respect to the processing of the Personal Data;
- 1.7.5 at the written direction of the DFE, delete or return Personal Data (and any copies of it) to the DFE on termination or expiry of this Framework Agreement and, to the extent relating to any Statement of Works, on termination or expiry of that Statement of Works unless the Contractor is required by Law to retain the Personal Data.
- 1.8 Subject to Paragraph 1.9, the Contractor shall notify the DFE immediately if it:
 - 1.8.1 receives a Data Subject Request (or purported Data Subject Request);
 - 1.8.2 receives a request to rectify, block or erase any Personal Data;
 - 1.8.3 receives any other request, complaint or communication relating to either Party's obligations under the Data Protection Legislation;
 - 1.8.4 receives any communication from the Information Commissioner or any other regulatory authority in connection with Personal Data processed under this Framework Agreement and/or any Statement of Works;
 - 1.8.5 receives a request from any third party for disclosure of Personal Data where compliance with such request is required or purported to be required by Law; or
 - 1.8.6 becomes aware of a Data Loss Event.
- 1.9 The Contractor's obligation to notify under Paragraph 1.8 shall include the provision of further information to the DFE in phases, as details become available.
- 1.10 Taking into account the nature of the processing, the Contractor shall provide the DFE with full assistance in relation to either Party's obligations under Data Protection Legislation and any complaint, communication or request made under Paragraph 1.8 (and insofar as possible within the timescales reasonably required by the DFE) including by promptly providing:
 - 1.10.1 the DFE with full details and copies of the complaint, communication or request;
 - 1.10.2 such assistance as is reasonably requested by the DFE to enable the DFE to comply with a Data Subject Request within the relevant timescales set out in the Data Protection Legislation;
 - 1.10.3 the DFE, at its request, with any Personal Data it holds in relation to a Data Subject;
 - 1.10.4 assistance as requested by the DFE following any Data Loss Event;
 - 1.10.5 assistance as requested by the DFE with respect to any request from the Information Commissioner's Office, or any consultation by the DFE with the Information Commissioner's Office.
- 1.11 The Contractor shall maintain complete and accurate records and information to demonstrate its compliance with the obligations set out in this Schedule where the Contractor is a Processor. This requirement does not apply where the Contractor employs fewer than 250 staff, unless:
 - 1.11.1 the DFE determines that the processing is not occasional;
 - 1.11.2 the DFE determines the processing includes special categories of data as referred to in Article 9(1) of the GDPR or Personal Data relating to criminal convictions and offences referred to in Article 10 of the GDPR; and

- 1.11.3 the DFE determines that the processing is likely to result in a risk to the rights and freedoms of Data Subjects.
- 1.12 The Contractor shall allow for audits of its Data Processing activity by the DFE or the DFE's designated auditor.
- 1.13 Before allowing any Sub-processor to process any Personal Data related to this Framework Agreement and/or a Statement of Works, the Contractor must:
 - 1.13.1 notify the DFE in writing of the intended Sub-processor and processing;
 - 1.13.2 obtain the written consent of the DFE;
 - 1.13.3 enter into a written agreement with the Sub-processor which give effect to the terms set out in this Schedule such that they apply to the Sub-processor; and
 - 1.13.4 provide the DFE with such information regarding the Sub-processor as the DFE may reasonably require.
- 1.14 The Contractor shall remain fully liable for all acts or omissions of any Sub-processor.
- 1.15 Each Party shall designate its own data protection officer if required by the Data Protection Legislation.
- 1.16 The DFE may, at any time on not less than thirty (30) Business Days' notice, revise this Schedule by replacing it with any applicable controller to processor and/or controller / controller standard clauses or similar terms forming part of an applicable certification scheme (which shall apply when incorporated by attachment to this Framework Agreement).
- 1.17 The Parties agree to take account of any guidance issued by the Information Commissioner's Office. The DFE may on not less than thirty (30) Business Days' notice to the Contractor amend this Framework Agreement to ensure that it complies with any guidance issued by the Information Commissioner's Office.

APPENDIX 2

DATA PROCESSING DETAILS

This Schedule shall be completed by the DFE, who may take account of the view of the Contractor, however the final decision as to the content of this Schedule shall be with the DFE at its absolute discretion.

1. The contact details of the DFE's Data Protection Officer are: Emma Wharram.
2. The contact details of the Contractor's Data Protection Officer are:
3. The Contractor shall comply with any further written instructions with respect to processing by the DFE.
4. Any such further instructions shall be incorporated into this Schedule.

Description	Details
Identity of the Controller and Processor	Except where the factual arrangements dictate otherwise (as more particularly described in Paragraph 1.1 of Schedule 4 of the Framework Agreement) the Parties acknowledge that for the purposes of the Data Protection Legislation, the DFE is the Controller and the Contractor is the Processor.
Subject matter of the processing	The Contractor may process Personal Data under this Framework Agreement in order to ensure that the Contractor can effectively deliver the Service to the DFE.
Duration of the processing	For as long as is strictly necessary for the Contractor to comply with its obligations under this Framework Agreement.
Nature and purposes of the processing	<u>Nature</u> The nature of the processing which may be undertaken are collection, recording, storage, retrieval, disclosure by transmission, dissemination and data destruction, each to the extent permitted under this Framework Agreement. <u>Purpose</u> To enable the Contractor to perform its obligations under this Framework Agreement.
Type of Personal Data	Name, job title, place of work, email address, telephone number
Categories of Data Subject	DFE current and former personnel (including all employees, staff, workers, consultants, volunteers, agents and temporary workers). Personnel of Education Establishments (including teachers, CEOs and Board members).

Plan for return and destruction of the data once the processing is complete
UNLESS requirement under union or member state law to preserve that type of data

The Personal Data will be, at the DFE's option, either securely returned and/or securely destroyed the earlier of DFE's request, the date upon which the Personal Data is no longer required for the performance of the Contractor's obligations, or upon expiry or termination of this Framework Agreement.

SCHEDULE 5

CHANGE CONTROL PROCEDURE

1. The Parties acknowledge that minor changes to this Framework Agreement and/or any Statement of Works may be necessary to reflect operational and administrative procedures during the term of this Framework Agreement and/or any Statement of Works and that such minor changes may be agreed in writing between the Parties' respective contract managers.
2. The Contractor shall use reasonable endeavours to incorporate minor changes requested by the DFE within this Framework Agreement and/or any Statement of Works and shall not request a Variation unless the change requires a material change to the Framework Agreement and/or Statement of Works or, in relation to a Statement of Works, involves a demonstrable material increase to its costs.
3. Either Party may request a Variation provided that such Variation does not amount to a material change.
4. The DFE may request a Variation by completing the Change Control Note and giving the Contractor sufficient information to assess the extent of the Variation and consider whether any change to the Charges (to the extent the Variation relates to a Statement of Works) are required in order to implement the Variation within a reasonable time limit specified by the DFE. If the Contractor accepts the Variation it shall confirm it in writing within twenty (21) days of receiving the Change Control Note (or such other reasonable timescale as the DFE may reasonable require taking into account the length of a Statement of Works).
5. If the Contractor is unable to accept the Variation or where, in relation to a Statement of Works, the Parties are unable to agree a change to the Charges, the DFE may allow the Contractor to fulfil its obligations under this Framework Agreement and/or the relevant Statement of Works without Variation or if the Parties cannot agree to the Variation the Dispute will be determined in accordance with Clause 44.
6. If the Contractor wishes to introduce a change to this Framework Agreement and/or any Statement of Works, it may request a Variation by serving the Change Control Note on the DFE giving the DFE sufficient information to assess the extent of the Variation.
7. The DFE shall confirm in writing within twenty (21) days of receiving the Change Control Note if it accepts or rejects the Variation.
8. The DFE may, in its absolute discretion, reject any request for a Variation proposed by the Contractor.
9. Without prejudice to Paragraph 8, each Party shall evaluate the other's proposed Variation in good faith, taking into account all relevant issues.

Change Control Note

Deployment Ref		DFE Contract / Programme Manager	Andy Hurdle
Contractor		Original SoW Value (£)	
SoW Start Date		SoW Expiry Date	

Variation Requested	
Originator of Variation (tick as appropriate)	<u>DFE</u> <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 SoW after Variation £ (if applicable)	
Payment Profile (if applicable) e.g. milestone payments	
Impact on original SoW (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 [Framework Agreement][Statement of Works] shall remain in full force and effect.

Variation Agreed

For and on behalf of: **The Secretary of State for Education**

Signature
 Authorised Signatory
 Name
 Title
 Date

For and on behalf of: **Contractor**

Signature
 Authorised Signatory
 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.

SCHEDULE 6

INFORMATION SECURITY POLICY

"BPSS" "Baseline Personnel Security Standard"	a level of security clearance described as pre-employment checks in the National Vetting Policy. Further information can be found at: https://www.gov.uk/government/publications/government-baseline-personnel-security-standard
"CCSC" "Certified Cyber Security Consultancy"	is NCSC's approach to assessing the services provided by consultancies and confirming that they meet NCSC's standards. This approach builds on the strength of CLAS and certifies the competence of suppliers to deliver a wide and complex range of cyber security consultancy services to both the public and private sectors. See website: https://www.ncsc.gov.uk/scheme/certified-cyber-consultancy
"CCP" "Certified Professional"	is a NCSC scheme in consultation with government, industry and academia to address the growing need for specialists in the cyber security profession and are building a community of recognised professionals in both the UK public and private sectors. See website: https://www.ncsc.gov.uk/scheme/certified-professional
"Cyber Essentials" "Cyber Essentials Plus"	Cyber Essentials is the government backed, industry supported scheme to help organisations protect themselves against common cyber-attacks. Cyber Essentials and Cyber Essentials Plus are levels within the scheme. There are a number of certification bodies that can be approached for further advice on the scheme; the link below points to one of these providers: https://www.iasme.co.uk/apply-for-self-assessment/
"Department's Data" "Department's Information"	is any data or information owned or retained in order to meet departmental business objectives and tasks, including: (a) any data, text, drawings, diagrams, images or sounds (together with any repository or database made up of any of these components) which are embodied in any electronic, magnetic, optical or tangible media, and which are: (i) supplied to the Contractor by or on behalf of the Department; or (ii) which the Contractor is required to generate, process, store or transmit pursuant to this Contract; or (b) any Personal Data for which the Department is the Data Controller;
"DfE" "Department"	means the Department for Education
"Departmental Security Standards"	means the Department's security policy or any standards, procedures, process or specification for security that the Contractor is required to deliver.

"FIPS 140-2"	this is the Federal Information Processing Standard (FIPS) Publication 140-2, (FIPS PUB 140-2), entitled 'Security Requirements for Cryptographic Modules'. This document is the de facto security standard used for the accreditation of cryptographic modules.
"Good Industry Practice" "Industry Good Practice"	means the exercise of that degree of skill, care, prudence, efficiency, foresight and timeliness as would be expected from a leading company within the relevant industry or business sector.
"Good Industry Standard" "Industry Good Standard"	means the implementation of products and solutions, and the exercise of that degree of skill, care, prudence, efficiency, foresight and timeliness as would be expected from a leading company within the relevant industry or business sector.
"GSC" "GSCP"	means the Government Security Classification Policy which establishes the rules for classifying HMG information. The policy is available at: https://www.gov.uk/government/publications/government-security-classifications
"HMG"	means Her Majesty's Government
"ICT"	means Information and Communications Technology (ICT) is used as an extended synonym for information technology (IT), used to describe the bringing together of enabling technologies used to deliver the end-to-end solution
"ISO/IEC 27001" "ISO 27001"	is the International Standard for Information Security Management Systems Requirements
"ISO/IEC 27002" "ISO 27002"	is the International Standard describing the Code of Practice for Information Security Controls.
"ISO 22301"	is the International Standard describing for Business Continuity
"Need-to-Know"	the Need-to-Know principle is employed within HMG to limit the distribution of classified information to those people with a clear 'need to know' in order to carry out their duties.
"NCSC"	The National Cyber Security Centre (NCSC) formerly CESG is the UK government's National Technical Authority for Information Assurance. The NCSC website is https://www.ncsc.gov.uk

<p>"OFFICIAL"</p> <p>"OFFICIAL-SENSITIVE"</p>	<p>the term 'OFFICIAL' is used to describe the baseline level of 'security classification' described within the Government Security Classification Policy (GSCP) which details the level of protection to be afforded to information by HMG, for all routine public sector business, operations and services.</p> <p>the 'OFFICIAL–SENSITIVE' caveat is used to identify a limited subset of OFFICIAL information that could have more damaging consequences (for individuals, an organisation or government generally) if it were lost, stolen or published in the media, as described in the Government Security Classification Policy.</p>
<p>"Secure Sanitisation"</p>	<p>Secure sanitisation is the process of treating data held on storage media to reduce the likelihood of retrieval and reconstruction to an acceptable level. Some forms of sanitisation will allow you to re-use the media, while others are destructive in nature and render the media unusable. Secure sanitisation was previously covered by "Information Assurance Standard No. 5 - Secure Sanitisation" ("IS5") issued by the former CESG. Guidance can now be found at:</p> <p>https://www.ncsc.gov.uk/guidance/secure-sanitisation-storage-media</p> <p>The disposal of physical documents and hardcopy materials advice can be found at:</p> <p>https://www.cpni.gov.uk/secure-destruction</p>
<p>"Security and Information Risk Advisor"</p> <p>"CCP SIRA"</p> <p>"SIRA"</p>	<p>the Security and Information Risk Advisor (SIRA) is a role defined under the NCSC Certified Professional (CCP) Scheme. See also:</p> <p>https://www.ncsc.gov.uk/articles/about-certified-professional-scheme</p>
<p>"SPF"</p> <p>"HMG Security Policy Framework"</p>	<p>This is the definitive HMG Security Policy which describes the expectations of the Cabinet Secretary and Government's Official Committee on Security on how HMG organisations and third parties handling HMG information and other assets will apply protective security to ensure HMG can function effectively, efficiently and securely.</p> <p>https://www.gov.uk/government/publications/security-policy-framework</p>

- 1.1 The Contractor shall comply with Departmental Security Standards for Contractors which include but are not constrained to the following Paragraphs.
- 1.2 Where the Contractor will provide ICT products or services or otherwise handle information at OFFICIAL on behalf of the Department, the requirements under Cabinet Office Procurement Policy Note – Use of Cyber Essentials Scheme certification - [Action Note 09/14](#) 25 May 2016, or any subsequent updated document, are mandated; that "contractors supplying products or services to HMG shall have achieved, and retain certification at the appropriate level, under the HMG Cyber Essentials Scheme". The certification scope must be relevant to the services supplied to, or on behalf of, the Department.
- 1.3 The Contractor shall be able to demonstrate conformance to, and show evidence of such conformance to the ISO/IEC 27001 (Information Security Management Systems Requirements) standard, including the application of controls from ISO/IEC 27002 (Code of Practice for Information Security Controls).

- 1.4 The Contractor shall follow the UK Government Security Classification Policy (GSCP) 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).

(Guidance: The Department's expectations are that all contractors shall handle the Department's information in a manner compliant with the GSCP. Details of the GSCP can be found on the GOV.UK website at: <https://www.gov.uk/government/publications/government-security-classifications>.)

- 1.5 Departmental Data being handled in the course of providing an ICT solution or service must be segregated from all other data on the Contractor's or sub-contractor's own IT equipment to protect the Departmental Data and enable the data to be identified and securely deleted when required. In the event that it is not possible to segregate any Departmental Data then the Contractor and any sub-contractor shall be required to ensure that it is stored in such a way that it is possible to securely delete the data in line with Paragraph 1.15.
- 1.6 The Contractor shall have in place and maintain physical security, in line with those outlined in ISO/IEC 27002 including, but not limited to, entry control mechanisms (eg door access) to premises and sensitive areas
- 1.7 The Contractor shall have in place and maintain an access control policy and process for the logical access (e.g. identification and authentication) to ICT systems to ensure only authorised personnel have access to Departmental Data.
- 1.8 The Contractor shall have in place and shall maintain procedural, personnel, physical and technical safeguards to protect Departmental Data, including but not limited to: physical security controls; good industry standard policies and process; anti-virus and firewalls; security updates and up to date patching regimes for anti-virus solutions; operating systems, network devices, and application software, user access controls and the creation and retention of audit logs of system use.
- 1.9 Any data in transit using either physical or electronic transfer methods across public space or cyberspace, including mail and couriers systems, or third party provider networks must be protected via encryption which has been certified to FIPS 140-2 standard or a similar method approved by the Department prior to being used for the transfer of any Departmental Data.
- 1.10 Storage of Departmental Data on any portable devices or media shall be limited to the absolute minimum required to deliver the stated business requirement and shall be subject to Paragraphs 1.11 and 1.12 below.
- 1.11 Any portable removable media (including but not constrained to pen drives, flash drives, memory sticks, CDs, DVDs, or other devices) which handle, store or process Departmental Data to deliver and support the service, shall be under the control and configuration management of the contractor or (sub-)contractors providing the service, shall be both necessary to deliver the service and shall be encrypted using a product which has been certified to FIPS140-2 standard or another encryption standard that is acceptable to the Department.
- 1.12 All portable ICT devices, including but not limited to laptops, tablets, smartphones or other devices, such as smart watches, which handle, store or process Departmental Data to deliver and support the service, shall be under the control and configuration management of the contractor or sub-contractors providing the service, and shall be necessary to deliver the service. These devices shall be full-disk encrypted using a product which has been certified to FIPS140-2 standard or another encryption standard that is acceptable to the Department.
- 1.13 Whilst in the Contractor's care all removable media and hardcopy paper documents containing Departmental Data must be handled securely and secured under lock and key when not in use

and shall be securely destroyed when no longer required, using either a cross-cut shredder or a professional secure disposal organisation.

- 1.14 When necessary to hand carry removable media and/or hardcopy paper documents containing Departmental Data, the media or documents being carried shall be kept under cover and transported in such a way as to ensure that no unauthorised person has either visual or physical access to the material being carried. This Paragraph shall apply equally, regardless of whether the material is being carried inside or outside of company premises.
- 1.15 At the end of the contract or in the event of equipment failure or obsolescence, all Departmental information and data, in either hardcopy or electronic format, that is physically held or logically stored on the Contractor's ICT infrastructure must be securely sanitised or destroyed and accounted for in accordance with the current HMG policy using a NCSC approved product or method. Where sanitisation or destruction is not possible for legal, regulatory or technical reasons, such as a Storage Area Network (SAN) or shared backup tapes, then the Contractor or sub-contractor shall protect the Department's information and data until the time, which may be long after the end of the contract, when it can be securely cleansed or destroyed.
- *(Guidance: Where there is no acceptable secure sanitisation method available for a piece of equipment, or it is not possible to sanitise the equipment due to an irrecoverable technical defect, the storage media involved shall be destroyed using an HMG approved method described at <https://www.ncsc.gov.uk/guidance/secure-sanitisation-storage-media>.)*
 - *(Guidance: Further advice on appropriate destruction and disposal methods for physical and hardcopy documents can be found at: <https://www.cpni.gov.uk/secure-destruction>)*
- 1.16 Access by Contractor or sub-contractor staff to Departmental Data shall be confined to those individuals who have a "need-to-know" in order to carry out their role; and have undergone mandatory pre-employment screening, to a minimum of HMG Baseline Personnel Security Standard (BPSS); or hold an appropriate National Security Vetting clearance as required by the Department. All Contractor or sub-contractor staff must complete this process before access to Departmental Data is permitted.
- *(Guidance: Further details of the requirements for HMG BPSS clearance are available on the website at: <https://www.gov.uk/government/publications/government-baseline-personnel-security-standard>)*
 - *(Guidance: Further details of the requirements for National Security Vetting, if deemed necessary for this contract are available at: <https://www.gov.uk/government/publications/hmg-personnel-security-controls>)*
- 1.17 All Contractor or sub-contractor employees who handle Departmental Data must have annual awareness training in protecting information.
- *(Guidance: Further details relating to awareness training and government expectations how information must be handled can be found: <https://www.gov.uk/government/publications/government-security-classifications>)*
- 1.18 Any suspected or actual breach of the confidentiality, integrity or availability of Departmental Data being handled in the course of providing this service, or any non-compliance with these Departmental Security Standards for Contractors, or other Security Standards pertaining to the solution, shall be investigated immediately and escalated to the Department by a method agreed by both parties.
- 1.19 The Contractor or sub-contractors providing the service will provide the Department with full details of any storage of Departmental Data outside of the UK or any future intention to host Departmental Data outside the UK or to perform any form of ICT management, support or development function from outside the UK. The Contractor or sub-contractor will not go ahead with any such proposal without the prior written agreement from the Department.
- *(Guidance: The offshoring of HMG information outside of the UK is subject to approval by the Departmental SIRO.*

- 1.20 The Department reserves the right to audit the Contractor or sub-contractors providing the service within a mutually agreed timeframe but always within seven days of notice of a request to audit being given. The audit shall cover the overall scope of the service being supplied and the Contractor's, and any sub-contractors, compliance with the Paragraphs contained in this Schedule.
- 1.21 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.
- 1.22 The Contractor and sub-contractors shall undergo appropriate security assurance activities as determined by the Department. Contractor and sub-contractors shall support the provision of appropriate evidence of assurance and the production of the necessary security documentation such as completing the DfE Security Assurance Model (DSAM) process or the Business Service Assurance Model (BSAM). This will include obtaining any necessary professional security resources required to support the Contractor's and sub-contractor's security assurance activities such as: a NCSC Certified Cyber Security Consultancy (CCSC) or NCSC Certified Professional (CCP) Security and Information Risk Advisor (SIRA)
- *(Guidance: It is Departmental policy that suppliers of business services shall provide evidence of an acceptable level of security assurance concerning their organisation. Further advice and guidance on the Department's DSAM and BSAM processes can be supplied on request. Information about the HMG Supplier Assurance Framework can be found at: <https://www.gov.uk/government/publications/government-supplier-assurance-framework>*
 - *(Guidance: Further information on the CCP and CCSC roles described above can be found on the NCSC website at: <https://www.ncsc.gov.uk/scheme/certified-professional> and <https://www.ncsc.gov.uk/scheme/certified-cyber-consultancy>)*

SCHEDULE 7
RENUMERATION

The NLE will be paid a daily rate of £600 for **NLE** work carried out for DFE between 16 September 2022 and 15 September 2024.

Travel, subsistence and any other expenses are included in the daily rate

Individuals will be taxed at source

NLE are responsible for ensuring that they meet tax obligations

VAT is not payable in addition to the daily rate

Payment Terms are in line with Government declared standards throughout the contract period.

Throughout the full contract period

END OF DOCUMENT