

THIS Contract is made on

DAY of

2015

Between:

The Secretary of State for Education operating from Sanctuary Buildings, 20 Great Smith Street, London SW1P 3BT, acting through the National College for Teaching and Leadership (the "National College/NCTL"); and

- (1) Teach First, company limited by guarantee with registered company number 04478840; registered office address 4 More London Riverside, London, SE1 2AU; and registered charity in England and Wales no. 1098294 (**the "Provider"**)

It is agreed that:

1. The Secretary of State for Education operating from Sanctuary Buildings, 20 Great Smith Street, London SW1P 3BT will be acting through its executive agency, National College.
2. This form of agreement, together with the attached Schedules and appendices are the documents which collectively form the "**Contract**".
3. In the event of any conflict between the provisions of the clauses of this Contract, the provisions of the Schedules or Appendices, the following order of precedence shall apply:-
 - (b) the clauses of this Contract;
 - (c) Schedule 2 (Terms and Conditions) of this Contract;
 - (d) the requirement, as set out in Schedule 1 (The Specification) to this Contract;
 - (e) Schedules 3 to 12 to this Contract;
 - (f) any appendix to the relevant Schedule;
 - (h) the Provider's Solution, as set out in Schedule 12 to this Contract.

This document has been executed on the date stated at the beginning of this Contract.

SIGNED by the PROVIDER acting by
Authorised Signatory

In the presence of

Witness signature

Occupation

Address

Date

SIGNED by the NATIONAL COLLEGE acting by

Position

in the presence of

Witness signature

Occupation

Address

Date

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Schedule 1

The Requirement

Introduction

The Provider will provide services throughout England for the recruitment and leadership development element of the two year Teach First ITT and Leadership Development programme (hereafter referred to as the Programme). The purpose of this programme is to raise levels of pupil attainment in England's challenging schools by recruiting effective and inspirational teachers and leaders who will raise the achievement, access and aspirations of pupils.

The complete services that are combined to deliver against the objectives for this Programme are provided through two separate contracts. These are the:

- Teach First Initial Teacher Development (ITD) contract - which provides the Initial Teacher Training (ITT) element of the Programme including the pre-ITT Summer Institute. (Hereafter, the provider for this contract will also be referred to as "the ITD Provider").
- Leadership Development Programme (LDP) contract (i.e. this contract) - which provides the recruitment of high quality candidates, placement of them in challenging schools and the two year programme of leadership development training. (Hereafter, the provider for this contract will also be referred to as "the Provider").

The Programme operates in eligible schools and the criteria were last revised in May 2014. This was to reflect both the deprivation and educational performance and to better address educational disadvantage in towns and coastal areas. The system is based on points, where a school must score 5 points to become eligible. Economic deprivation is measured by a school's intake of children from the bottom 30% of the Income Deprivation Affecting Children Index (IDACI). Educational performance is assessed against average KS2 (primary) and KS4 (secondary) attainment of FSM and non-FSM pupils in a local authority over the last four years.

In the first year of the Programme, participants work as unqualified teachers and undertake employment-based Initial Teacher Training (ITT) leading to Qualified Teacher Status (QTS) and a PGCE. During this year, participants work as unqualified teachers teaching a slightly reduced timetable (not more than 90 per cent of the teaching duties normally required of a full-time qualified teacher). In the second year, if successful in gaining QTS and a PGCE, participants work as newly qualified teachers completing induction. Participants receive leadership development training throughout both years of the programme.

The Provider will be required to work closely with the ITD Provider to ensure successful delivery of high quality training, resulting in impactful teachers and alumni who have a lifelong commitment to the vision for the Programme. This means that the activities being delivered must support the ITT programme which is delivered by the ITD Provider. The Provider will therefore need to provide participants with a Leadership Development Programme which commences at the start of the trainee's ITT year and is well coordinated throughout. Data must be shared across the two contracts to ensure there is an ability to cross report and provide a consistent approach.

The vision that underpins the Programme is that no child's educational success is limited by their socio-economic background. Following extensive consultation, the previous provider, Teach First, developed the *2022 Impact Goals* which set out a vision for progress to be addressed through the programme. The 2022 Impact Goals are:

- To close the gap in numeracy and literacy between pupils attending schools in low income areas and those in wealthier areas, narrowing it by 90% in ten years;
- To close the gap in GCSE results between pupils at schools in low income areas and those in the wealthiest areas, narrowing it by 44% in ten years;
- Ensure pupils develop key strengths, including resilience and wellbeing, to support high aspirations;
- To see an increase in the number of young people from low-income communities who move into further education, employment or training once their compulsory education has ended;
- To narrow the gap in graduation rates for students from disadvantaged backgrounds so that every year at least 5,000 more graduate including 1,600 from the most selective universities.

These are not goals that can be achieved by the Programme alone but in partnership with others and other initiatives it aims to make a significant contribution. The Provider will ensure that participants are helping to achieve these goals.

Outputs and Timings

The Provider will be responsible for recruiting high quality candidates, placing them in challenging schools and providing the two year programme of leadership development training for the programme that builds on the ITT which is delivered by the ITD Pprovider. The outputs that will be delivered through the contract are as follows:

- Year 2 of the Leadership Development Programme for cohort 2014/15. This will be for up to 1328 Newly Qualified Teachers who will complete the ITT for the Programme in July 2015. Their second year of the Leadership Development Programme will commence on 1 September 2015 and will be completed by 31 August 2016;
- Years 1 and 2 for the Leadership Development Programme for cohort 2015/16. This will be for up to 2000 initial teacher trainees who will commence the ITT for the Programme in June 2015. Their Leadership Development Programme will commence on 1 September 2015 and will be completed by 31 August 2017;
- Recruitment and years 1 and 2 of the Leadership Development Programme for cohort 2016/17;
- Recruitment of 2000 ITT trainees for the 2016/17 cohort before June 2016 (including deferrals). All trainees must be placed before September 2016;
- Years 1 and 2 of the Teach First Leadership Development Programme for all recruits to the 2016/17 cohort (excluding those that are recorded as having left the programme and therefore do not continue to be funded by NCTL). This will be up to a maximum of 2000 participants. This programme will commence on 1 September 2016 and will be completed by 31 August 2018.

Requirements

Cohort 2016/17 recruitment

To attract the required number of applicants from priority areas and priority subjects, the Provider will be responsible for the overall marketing of the programme and the recruitment of candidates throughout England. It will undertake a national recruitment drive to final year undergraduates in targeted universities, as well as those who are recent graduates or career changers.

Recruitment for cohort 2016/17 is expected to start by June 2015. The Provider is responsible for recruiting up to 2000 suitable participants to start the 2016 Summer Institute for the ITT for the Programme in June 2016.

This recruitment will need to be in accordance with the subject breakdown agreed with NCTL, ensuring science numbers are split in line with the allocation breakdown.

The Provider will aim to recruit 70% of participants from Tier 1 or Russell Group universities. The Provider will also ensure that 95% of participants have a 2:1 or higher degree classification and above 300 UCAS points.

Initial assessment of cohort 2016/17 candidates

The Provider will be responsible for managing a robust assessment and selection process for cohort 2016/17. This will need to be carried out in an open, transparent, fair manner and be documented. The assessment criteria for the Programme draw on the principles, values and competency requirements of the Programme (the minimum requirements and competencies are published on the [Requirements](#) section of the existing Graduate site for the Programme). These criteria ensure that those selected are suitable for the leadership development. As identified within the criteria, the Provider will especially look for a commitment to excellence and high expectations of pupils.

All applicants will be screened and those candidates that are successful will be invited to an assessment centre where they will undertake assessment activities including a competency based interview, a group discussion based on a school case study and a sample teaching lesson. The Provider will give those applicants who are successful at the assessment centre an offer which is conditional on references and the outcome of the assessment of subject knowledge which is carried out by the ITD Provider.

A participant must meet both the requirements for the Programme and the Initial Teacher Training Criteria (published [Initial Teacher Training Criteria](#) section of gov.uk) to be accepted onto the Programme. The Provider will integrate the completion of the skills test into their enrolment process and will rescind the offer to the candidate if the candidate fails the skills assessment. Final acceptance in both cases does not occur until successful completion by the candidate of the Summer Institute which is managed by the ITD Provider.

The Provider will be responsible for ensuring that there is an opt-out, not opt in, option on participants' online registration form. This is so that unsuccessful applicants to the Programme can easily be registered to the NCTL Teacher Information Line unless they opt out.

Sourcing placement schools and placing cohort 2016/17 participants

The Provider will be responsible for promoting the Programme, targeting new schools and responding to requests for school placements. The Provider will provide a package of information which outlines key features of the programme, key requirements for schools, training providers and Teach First staff, and the placements procedure. The placement process will be a year-round focus for regional teams but initial contact with schools starts in November for meetings that begin in January.

On meeting the conditions of the offer (prior to the Summer Institute) the Provider will allocate the participant to one of the regions, taking into account the needs of the schools and the preferences of participants. School placements will be identified using the School Eligibility criteria as well as looking at the geographical spread and clustering of placements in a region.

The Provider will achieve an annual increase in the number of placement schools for the Programme and an annual increase in geographical reach to include rural and coastal areas, with over 55% of participants being placed in schools that are outside of London.

The Provider has discretion to place up to 5% of the national cohort outside of Teach First school eligibility criteria. These cases may be subject to monitoring at the discretion of the NCTL contract manager.

The Provider and the ITD Provider will determine whether there is sufficient capacity for the school to support a successful placement, based on an agreed set of criteria. Whilst many secondary participants are placed in groups within a single school, there is recognition that this is not always possible in the primary setting so therefore greater focus is put on clustering participants together geographically.

In taking a participant, schools will agree to the payment of fees to the Provider which enables the Provider to place teachers and provide services which will ensure the placement is sustainable and successful. The ITD Provider will ensure that mentoring arrangements are in place to support participants and agree funding with schools to cover the costs of such arrangements, including necessary training.

Design, preparation, delivery and quality assurance of the two year-long Leadership Development Programme

The Provider will be responsible for delivery of the Programme to trainee/NQT cohorts throughout England as identified under the Outputs and Timings section (i.e. cohort 2014/15 year 2, cohort 2015/16 and 2016/17 years 1 and 2).

The Provider role will be to lead, design, deliver and quality assure the two year Leadership Development Programme of training. The Provider will develop, manage and deliver a range of training, and associated guidance and support materials to ensure a consistency and coherence of approach to the delivery of the leadership development element of the Teach First programme, highlighting the distinctive nature of the Programme and ensuring appropriate opportunities and support for participants. All elements will need to provide Teach First participants with the skills, knowledge and attributes required to have an impact on pupils' achievement, access and aspiration over the two year Programme.

Governance Arrangements

The ITD Provider and the Provider will agree suitable governance arrangements that will enable:

- Effective management of the quality of the Programme in full, including all outputs and KPIs;
- Coherent planning, design, delivery and monitoring of all aspects of the Programme;
- Effective communication between ITD Provider and the Provider and Headteachers (or other school representatives).

Management Information

This information will be drawn from above contractual requirements through the established monthly operational meetings and quarterly contract management meetings, and annual strategic meeting. Any additional information required will be agreed in advance by both parties.

Data

The Provider will provide accurate data on all aspects of the provision to the National College for Teaching and Leadership and Department for Education, particularly in relation to the numbers of participants at key points in the Programme by phase, subject and region. The Provider will also supply data to the ITD Provider as required to enable the running of the Programme.

Key Performance Indicators

The KPIs for the Provider are set out in Schedule 4 of the contract.

Funding requirements

NCTL will provide funding which shall not exceed a maximum of 50% of the agreed value for the entire cost of the Programme. NCTL reserves the right to request evidence of this at the end of each financial or academic year.

Contract Term

This contract will be for an initial period (Term) of 39 months from 1 June 2015 to 31 August 2018. It is not the expectation of NCTL at the time of issuing this contract to extend beyond this.

The Provider must take into account that, in the event that this contract is re-tendered on expiry and awarded to a new supplier (or the services are brought in-house by the Department), the provisions of the Transfer of Undertakings (Protection of Employment) Regulations 2006 may apply.

Schedule 2
Terms and Conditions

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1. INTERPRETATION

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

“Area”	England, being the area in respect of which the Provider is appointed to provide the Services
“Associated Company”	any company which is, in relation to another company, its holding company or its subsidiary or a subsidiary of its holding company. “Holding company” and “subsidiary” will have the meanings attributed to them in section 736 and 736A of the Companies Act 1985 and section 1159 of the Companies Act 2006.
“Business Days”	Mondays to Fridays (inclusive) in each week, excluding bank and other public holidays in England
“Charges”	<i>the fees payable to the Provider for the provision of any Services that are described in, and/or calculated in accordance with, Schedule 3 (Financials and Invoicing) and are subject to clause 3”.</i>
“Coastal communities”	villages, towns and cities along the coast of England based on the ONS 2011 census analysis published online at: http://www.ons.gov.uk/ons/rel/census/2011-census-analysis/coastal-communities/rft-coastal-communities.xls
“Contract”	this Contract, together with the attached Schedules and appendices
“Contracting Authority”	any contracting authority as defined in Regulation 3 of the Public Contracts Regulations 2006
“Departmental Data”	means any data, text, drawings, diagrams, images or sounds (together with any database made up of any of these) which are embodied in any electronic, magnetic, optical, paper or any other media and which: <ul style="list-style-type: none">• Is provided to the Provider by or on behalf of NCTL in connection with the Contract, or• Is any Personal Data for which NCTL is the Data Controller.
“Data Handling Schedule”	the applicable standard Data Handling Schedule of the Department as referred to in clause 10 , as

updated by the Department from time to time with the Provider's prior agreement, and the applicable version of which as at the Effective Date is set out in Schedule 10 (Data Handling Schedule)

“the Department”

Department for Education (DfE)

“Designated Information Systems”

any information systems notified to the Provider from time to time by the Department which the Department requires the Provider to use in connection with the Services, and including the Department's computerised Learning Gateway System

“Departmental Security Standards”

Means NCTL's specification for security that the Provider is required to deliver as set out in Schedule 10 (Data Handling Schedule)

“ Department IP”

as defined in **clause 8.12**

“ Department Trade Marks”

proprietary trade mark rights of NCTL including, but not limited to, those notified to the Provider by NCTL from time to time

“ Department Premises”

any premises owned by, leased or hired to or otherwise controlled by the Department, or which the Department nominates as such by notice in writing to the Provider

“Effective Date”

the date of contract signature

“Employment Liabilities”

all actions, proceedings, costs, losses, damages, fines, penalties, compensation, awards, demands, orders, expenses and liabilities connected with or arising from all and any laws relating to or connected with:
(1) the employment and dismissal of employees (including their health and safety at work); and
(2) the engagement, use and termination of individuals other than employees who provide services (including their health and safety at work), and all wages, holiday pay and employment benefit costs due in respect of (1) or (2) above

“Force Majeure”

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 preventative action by that Party, including fire;

	<p>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 Provider's or any of its sub-contractor's organisation, or otherwise involving the Provider Personnel; or</p> <p>(b) the failure by any sub-contractor of the Provider to perform its obligations under any sub-contract</p>
"Good Industry Practice"	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
"Good Industry Standard"	the implementation of products and solutions, and the exercise of that degree of skill, care, prudence, efficiency, foresight and timelines as would be expected from a leading company within the relevant industry or business sector.
"Implementation Plan"	the plan and time for the completion of the obligations of the Provider under this Contract as specified Schedule 5 (Implementation Plan) as the same may be replaced by any subsequent more detailed plan and time schedule as the Parties may agree in writing from time to time
"Intellectual Property Rights"	patents, inventions, trade-marks, service marks, logos, design rights (whether registerable 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 registerable or not in any country (including but not limited to the United Kingdom) and the right to sue for passing off
"IP Materials"	the National College IP Materials (as defined in clause 8.1.1)
"IT Security Health Check"	means an assessment to identify vulnerabilities in IT systems and networks which may compromise the confidentiality, integrity or availability of information held on that IT system.

“Key Performance Indicators”	the key performance indicators in relation to the Services that the Provider is obliged to comply with, as set out in Schedule 4 (KPIs)
“Key Personnel”	any of the Provider Personnel identified as such in Schedule 8 (Key Personnel) or otherwise identified as such by the Department pursuant to clause 14.11
“London”	defined as the Greater London Authority administrative area and is based on the boundaries of London boroughs. A full listing of London borough names and codes on the Open Geography portal . The names and codes are in the UK local authority districts downloadable file. Within this file the London boroughs have codes beginning with E09.
“New Service Provider”	as defined in clause 12.5
“Normal Working Hours”	Monday to Friday between 0900 and 1700 hours excluding official UK holidays
“Participants”	the individuals taking part in the Programme
“Parties”	the Department for Education and the Provider (and any of its sub-contractors)
"Performance Monitoring Report"	the monthly report prepared by the Provider in accordance with Schedule 4 (KPIs)
"Performance Review Meeting"	the regular meeting between the Provider and the Department to manage and review the Provider's performance under the Contract, as further described in clause 8 of Schedule 6 (Governance and Reporting)
“Personal Data”	means information relating to an individual who can be identified from it, as defined in the Data Protection Act 1998;”
“Programme”	the Teach First Leadership Development Programme as identified and described in more detail in the Requirement
“Provider Personnel”	the Provider’s employees, agents, consultants sub-contractors and contractors and/or those of any of the Provider’s sub-contractors and contractors

“Provider’s Software System”	the Provider’s software used in the provision of the Services
“Provider’s Solution”	the Provider’s proposal submitted in response to the Invitation to Tender, attached at Schedule 12 (Provider’s Solution)
“Provider’s Branding and Style Guidelines”	the branding and style guidelines of the Provider from time to time notified to NCTL.
“Provider’s Trade Marks”	those proprietary trade mark rights of the Provider notified to NCTL by the Provider from time to time.
“Quality Standards”	the quality standards published by BSI British Standards, the National Standards Body of the United Kingdom, the International Organisation for Standardization or other reputable or equivalent body, (and their successor bodies) that a skilled and experienced operator in the same type of industry or business sector as the Provider would reasonably and ordinarily be expected to comply with, and as may be further detailed in the Requirement
“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
“Requirement”	the description of Services and the manner in which the same are to be provided, set out in Schedule 1 (The Specification)
“Rural”	Rural schools are those classified on Edubase with one of the following ‘Urban / Rural’ categories: Hamlet and Isolated Dwelling - less sparse; Hamlet and Isolated Dwelling – sparse; Village - sparse; Village - less sparse; Town and Fringe - less sparse; Town and Fringe – sparse.
“Services”	the specific services described in the Requirement Schedule 1
“Services Commencement Date”	1 June 2015

"Service Failure"	any defect in or failure of all or any part of the Services which results in a failure to provide the affected Services in accordance with the Key Performance Indicators;
"Service Period"	shall have the following meaning: Service Period shall be a calendar month during this Contract save that the final Service Period of this Contract shall commence on the first day of the calendar month in which the Contract expires or terminates and shall end on the expiry or termination of the Contract;
"Term"	The Period from the Service Commencement Date to 31 August 2018
"Transfer Plan"	the plan setting out the Parties' obligations upon the termination of the Contract as set out in Schedule 9 (Step-In Rights and Exit Management) as the same may be amended and added to by the Parties pursuant to this Contract
"TUPE"	the Transfer of Undertakings (Protection of Employment) Regulations 2006 as amended or replaced from time to time.
"VAT"	Value Added Tax chargeable under the VAT Act 1994, or any successor Act, or any tax which replaces or complements Value Added Tax.
"Year of this Contract"	the period from the Services Commencement Date to 12 months following the Services Commencement Date to the date of its expiry or termination

1.2 The following notes of construction and interpretation apply to each and every part of this Contract:

- references to a statute or statutory provision shall, unless the context otherwise requires, include a reference to that statute or statutory provision as from time to time amended, modified, extended, re-enacted or consolidated and all statutory instruments or orders made pursuant to it whether replaced before or after the date of this Contract which are in force prior to the date of this Contract.
- the expression "person" means any individual, firm, body corporate, unincorporated association, partnership, government, state or agency of a state or joint venture.
- the expression "Party" means a party to this Contract and "Parties" means both parties to this Contract.

- the words “include”, “includes”, “including” and “included” will be construed without limitation unless inconsistent with the context.
- the masculine includes the feminine and the neuter, and the singular includes the plural and vice versa as the context shall admit or require.
- any reference in this Contract to a clause, Schedule or Appendix is a reference to a clause, Schedule or Appendix of this Contract and references in any Schedule or Appendix to clauses relate to the clauses in that Schedule or Appendix.
- the clause headings are included for convenience only and shall not affect the interpretation of this Contract.
- the Schedules, Appendices and recitals form part of this Contract and shall have effect as if set out in full in the body of this Contract and any reference to this Contract includes the Schedules, Appendices and recitals.
- in the event of any conflict between the provisions of the clauses of this Contract and the provisions of the Schedules or Appendices, the following order of precedence shall apply:-
 - a) Schedule 2 (Terms and Conditions);
 - b) Schedule 1 (the Requirement);
 - c) Schedules 3 to 12.
- in the event of any conflict between the provisions of any Schedule and the provisions of any Appendix, the provisions of the Schedule shall prevail.
- In the event of any conflict between the provisions of any Schedule and or the provisions of any Appendix and the clauses of this Contract, the clauses of this Contract shall prevail.

2. THE SERVICES

Programme delivery

- 2.1 The Provider shall provide the Services in accordance with the Requirement and undertake and be responsible for all obligations of the Provider in respect of the Services identified in the Requirement, provided that the Provider shall not in any way be responsible or liable under this contract for a failure to deliver the Services in accordance with its obligations under this Contract in so far as such failure arises as a result of a failure of the Department to comply with its obligations under this Contract or any act or omission of NCTL.

Other services and obligations

- 2.2 Any requests for services in addition to the Services shall be made in accordance with clause 13.
- 2.3 The Provider shall in performing its obligations under this Contract:

- 2.3.1 conform to the requirements of the Requirement and the Provider's Solution
In the event of any conflict between the same the provisions of the Requirement shall prevail;
- 2.3.2 carry out and complete the Services in a proper professional manner (taking account of the standards of a reasonably proficient practitioner) and in conformity with all reasonable directions and requirements of NCTL (including in connection with the provision of leadership development and courses using resources and materials and following formats and guidelines specified by the Department from time to time) received in writing;
- 2.3.3 comply with Good Industry Practice;
- 2.3.4 ensure that the Services are provided by competent and appropriately trained personnel;
- 2.3.5 comply with the Quality Standards;
- 2.3.6 comply with the Key Performance Indicators;
- 2.3.7 comply with the Implementation Plan;
- 2.3.8 make use of any Designated Information Systems in accordance with and subject to any licence terms notified in writing to the Provider by NCTL from time to time (provided that NCTL shall provide the Provider with at least 14 (fourteen) days written notice of any such licence terms prior to being required to comply with the same) and in accordance with the Requirement, but only for the purposes of performance of the Services. Further, in connection with its use of any Designated Information Systems the Provider shall keep secure and not disclose to any third party the log-in, password and any other security measures provided to it in relation to its use of any Designated Information Systems and shall, without prejudice to the generality of this **clause 2.3.8** and the provisions of Schedule 10, comply with all information security policies and guidelines from time to time notified to it by NCTL;
- 2.3.9 in so far as is reasonably practicable and necessary to carry out the Services, comply with any policies and procedures adopted by the Department from time to time within 14 (fourteen) Business days of the same being brought to the attention of the Provider in writing by the Department; and
- 2.3.10 comply with applicable law and any applicable codes of practice or governmental regulation which are compulsory. Without prejudice to the generality of the foregoing, the Provider shall:
 - 2.3.10.1 proactively monitor its compliance with all relevant legislation and notify the Department of any legislative changes which shall materially impact upon the Provider's obligations in relation to the provision of the Services;
 - 2.3.10.2 adopt and maintain safe operating systems of work and appropriate safety policies in order to protect the health and safety of its personnel, employees of the Department, the Participants and all other persons including members of the public;

- 2.3.10.3 comply with all safety, security, acceptable use and other policies of the Department which are notified to it and which are necessary for the Provider to carry out the Services;
 - 2.3.10.4 comply with all relevant health and safety legislation; and
 - 2.3.10.5 comply with all relevant disability discrimination legislation.
- 2.4 NCTL may in connection with this Contract provide data and materials to the Provider and access to systems and databases (including any Designated Information Systems), for the purposes of providing the Services. Without prejudice to the foregoing and subject to **clause 2.3.8**, the Provider may use the same but only to the extent necessary to enable the Provider to provide the Services.
- 2.5 All equipment and other property brought onto NCTL Premises shall be at the Provider's own risk and NCTL shall have no liability for any loss of or damage to any such equipment and property unless the Provider is able to demonstrate that such loss or damage was caused by the negligence of NCTL.
- 2.6 Any land or Department Premises made available from time to time to the Provider by NCTL in connection with this Contract, shall be made available to the Provider on a non-exclusive licence basis free of charge and shall be used by the Provider solely for the purpose of performing its obligations under this Contract. The Provider shall have the use of such land or Department Premises as licensee and shall vacate the same on completion, termination or abandonment of this Contract or the task in respect of which such land or Department Premises was made available. The Parties agree that there is no intention on the part of NCTL to create a tenancy of any nature whatsoever in favour of the Provider or any of the Provider Personnel and that no such tenancy has or shall come into being and, notwithstanding any rights granted pursuant to this Contract, NCTL retains the right at any time to use any Department Premises in any manner it sees fit.

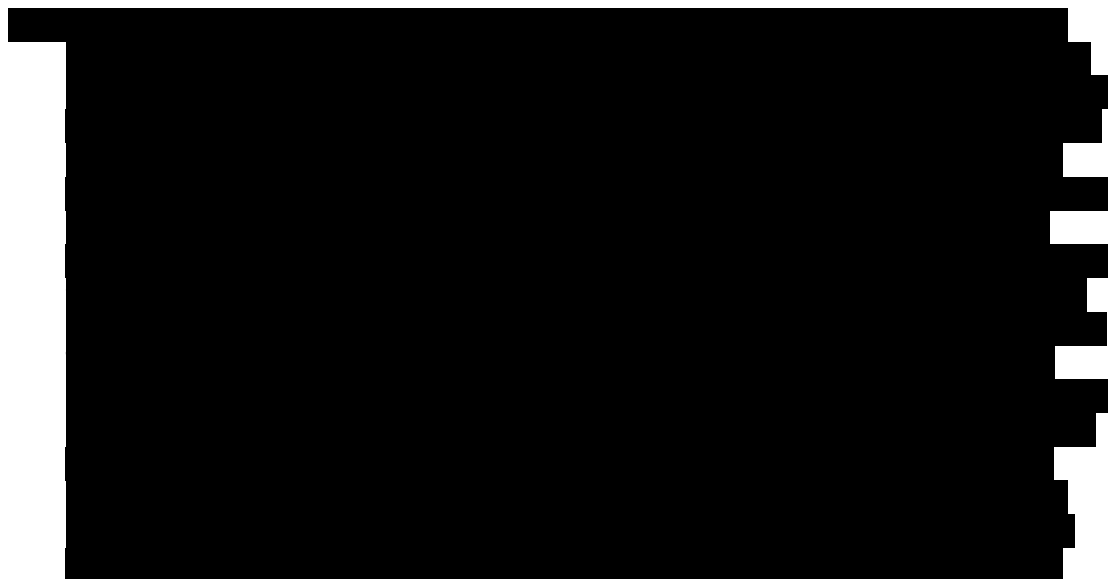
Step-in Rights

- 2.7 The parties shall comply with the provisions of **Schedule 9** (Step-in / Transfer / Exit Plan) in relation to step-in.

3. CHARGES

- 3.1 Except where otherwise expressly stated in this Contract, the only charges to be paid by NCTL for the performance by the Provider of its obligations under this Contract shall be the Charges, which shall be inclusive of all costs and expenses incurred by the Provider in the performance of such obligations, as set out in Schedule 3
- 3.2 In consideration for the provision of the Services NCTL shall pay the Charges in accordance with the Schedule 3 (Financials and Invoicing), subject to receipt of correct invoices being issued by the Provider.
- 3.3 The Provider shall not be entitled to increase the charges per unit (i.e. the charge per participant) (the "**Per Participant Charge**") identified in Schedule 3 (Financials and Invoicing) throughout the Term. Save as otherwise agreed in any other contract between the parties (and not limited to the contract between NCTL and the Provider's subsidiary Teach First Initial Teacher Development Limited (TFITD) for the provision of ITT services) NCTL shall not be responsible

for paying the Provider for the delivery of the Programmes other than payment of the Charges as specified in this clause 3 and Schedule 3 (Financials and Invoicing).



- 3.5 Payment of the Charges by NCTL shall be without prejudice to any rights NCTL may have by reason of any Services, or any part thereof, failing to comply with any provision of this Contract and any breach by the Provider of this Contract shall not be deemed to be accepted or waived by NCTL by reason of such payment.
- 3.6 NCTL reserves the right to deduct from or offset against any monies due or becoming due to the Provider under this Contract (including the Charges) any monies due from the Provider under this Contract or otherwise under any other agreement or account whatsoever with the Provider.
- 3.7 If any sum properly due and payable under this Contract is not paid when due then the Party entitled to receive such sum shall be entitled to charge interest on that sum from the due date until payment is made in full, both before and after any judgment, at two per cent per annum over Bank of England base rate from time to time. The Parties agree that this **clause 3.7** is a substantial remedy for late payment of any sum payable under this Contract in accordance with section 8(2) Late Payment of Commercial Debts (Interest) Act 1998. The Provider shall not, in the event of late payment or for any other reason (except to the extent set out in **clause 23**), be entitled to suspend performance of the Services or any of its other obligations under this Contract.

4. AUDIT AND MONITORING

4.1 NCTL (or its authorised representatives) shall be permitted to visit any premises of the Provider or any other premises at which the Services (or any part of them) are being or are to be performed to ascertain that the Provider is conforming in all respects with its obligations arising under or in connection with this Contract and otherwise to monitor and quality assure the provision of the Services, subject to NCTL giving reasonable notice to the Provider and any visit taking place during Normal Working Hours, or such other hours during which any of the Services are being provided. During such visits, NCTL shall be entitled to inspect and take copies of such of the records of the Provider as relate to their performance of obligations arising under or in connection with this Contract. Where NCTL reasonably considers

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

- 4.1.1 require the Provider to produce a plan of remedial action in order to remedy or remove such risk, which shall be subject to the approval of NCTL (not to be unreasonably withheld) and which, once approved, the Provider shall implement; and
- 4.1.2 monitor, supervise, direct and / or guide the Provider's provision of the Services until NCTL reasonably considers that any such risk has been remedied or removed. The Provider shall cooperate at all times with NCTL in this regard.
- 4.2 Without prejudice to the generality of **clause 4.1**, if the Provider fails to comply with any provision of this Contract or the Provider fails to supply any of the Services in accordance with the provisions of this Contract and such failure is capable of remedy, then NCTL may instruct the Provider to remedy the failure and the Provider shall at its own cost and expense remedy such failure (and any damage resulting from such failure) within 21 (twenty one) days or such other greater period of time as NCTL may direct.
- 4.3 Without prejudice to the generality of **clause 4.1** and the provisions of the Implementation Plan, NCTL shall be entitled to review from time to time the progress of the Provider against the Implementation Plan. The Provider shall cooperate with NCTL in this regard and provide any information and evidence reasonably required by NCTL. NCTL shall be entitled to instruct the Provider to take appropriate remedial action where NCTL reasonably considers that the Implementation Plan is not being complied with or are at risk of not being complied with and the Provider shall take such remedial action.

5. COLLABORATIVE OBLIGATIONS

- 5.1 The Parties where NCTL requests shall during the continuance of this Contract work together on a collaborative basis to develop resources, materials and programmes in connection with the Programme(s). For the avoidance of doubt, nothing in this clause will affect the agreement between the parties as to the ownership of the intellectual property, which is as set out in clause 8 of this Contract. In particular and in furtherance of the purposes of this Contract, the Parties may:
 - 5.1.1 exchange research findings, publications, academic teaching resources and other written materials in their possession which relate to the Programme(s);
 - 5.1.2 develop collaborative research programmes in the Programme(s); and
 - 5.1.3 organise joint academic activities in the Programmes(s) including meetings, seminars, symposia or lectures, and conferences.
- 5.2 Save as stated to the contrary elsewhere in this Contract, nothing in this Contract:
 - 5.2.1 prevents or is intended to prevent either Party from collaborating or otherwise co-operating in the Programme(s) with any other person;

- 5.2.2 obliges or is intended to oblige a Party to disclose to the other all or specific materials in its possession relating to the Programme(s) not to incur costs, out of pocket or otherwise, in relation to such activities; or
- 5.2.3 is to be construed as an obligation on either Party to enter into any further agreement relating to any collaboration between the Parties.

6. ADDITIONAL PROVIDER OBLIGATIONS

In particular and in furtherance of the purposes of this Contract the Provider shall:

- 6.1 Keep NCTL up to date with all progress in relation to the Services by the Performing Monitoring Report;
- 6.2 Attend Performance Review Meetings;
- 6.3 Provide NCTL with such baseline data and information as may be reasonably requested by NCTL in order for NCTL to monitor and analyse the provision of the Services including conducting comparative reviews against other service providers;
- 6.4 Comply with the reporting and governance requirements set out in Schedule 6 (Reporting and Governance); and
- 6.5 Undertake any other activities reasonably required by NCTL in connection with the Services and agreed by the Provider, in accordance with clause 13.

7. NCTL'S OBLIGATIONS

7.1 In particular and in furtherance of the purposes of this Contract NCTL shall:

- 7.1.1 comply with its responsibilities set out in Schedule 7 (NCTLs Responsibilities);
- 7.1.2 exchange with the Provider research findings, publications, academic teaching resources and other written materials in its possession which relate specifically to the Services;
- 7.1.3 provide a project manager who will be the point of contact between NCTL and the Provider during the term of this Contract; and
- 7.1.4 work with the Provider in a "spirit of collaboration" in furtherance of the objectives of this Contract.

8. INTELLECTUAL PROPERTY

8.1 All Intellectual Property Rights in any materials:

- 8.1.1 furnished to or made available to the Provider by or on behalf of NCTL ("**National College IP Materials**") shall remain the property of NCTL; and

[REDACTED]

8.1.3 prepared by or for the Provider:

8.1.3.1 before the Effective Date; or

8.1.3.2 otherwise not in connection with this Contract,

including but not limited to those relating to the Provider's Programme (including but not limited to the Provider's recruitment processes, policies and procedures and its support processes, policies and procedures for its participants) (the "**Provider's IP Materials**") shall belong to the Provider,

8.2 The Provider shall not, and shall ensure that the Provider Personnel shall not, (except when necessary for the performance of this Contract or carrying out the Programme) without prior written approval of NCTL, use or disclose the National College IP Materials or any Intellectual Property Rights in the National College IP Materials for any purpose.



8.4 Subject to clause 8 and without prejudice to **clause 8.1**, where applicable the Provider shall ensure that the third party owner of any Intellectual Property Rights that are or which may be needed to use and receive the full benefit of the licence over the Service Specific IP Materials referred to in clause 8.1.2 grants to NCTL a non-exclusive licence or, if itself a licensee of those rights, shall grant to NCTL an authorised sub-licence, to use, reproduce, modify, develop and maintain the Service Specific IP Materials and the Intellectual Property Rights in the same. Such licence or sub-licence shall be non-exclusive, perpetual, royalty free and irrevocable. The Provider shall in any event notify NCTL of any third party Intellectual Property Rights to be used in connection with this Contract prior to the use of the same in connection with this Contract or the creation or development of the Service Specific IP Materials.

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

8.5.1 items or materials supplied by or on behalf of NCTL; or

8.5.2 the use of data supplied by NCTL which is not required to be verified by the Provider under any provision of this Contract.

8.6 NCTL shall notify the Provider in writing of any claim or demand brought against NCTL for infringement or alleged infringement of any Intellectual Property Right

in materials supplied or licensed by the Provider. The Provider shall promptly notify NCTL in writing of any infringement by a third party of any Intellectual Property Right in the National College IP Materials of which it becomes aware.

8.7 Where required by NCTL, the Provider 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 or licensed by the Provider to NCTL, provided always that the Provider:

- 8.7.1 shall consult NCTL on all substantive issues which arise during the conduct of such litigation and negotiations;
- 8.7.2 shall take due and proper account of the interests and concerns of NCTL; and
- 8.7.3 shall not settle or compromise any claim without NCTL's prior written consent (not to be unreasonably withheld or delayed).

Notwithstanding the above NCTL shall be entitled to take any action it deems appropriate with respect to any such claim and where it directs NCTL shall have exclusive control of such claim. Where NCTL takes action the Provider shall at the request of NCTL afford to the Provider all reasonable assistance to NCTL for the purpose of contesting any such claim.

8.8 NCTL shall at the request of the Provider afford to the Provider all reasonable assistance for the purpose of contesting any claim or demand made or action brought against NCTL or the Provider by a third party for infringement or alleged infringement of any third party Intellectual Property Rights in connection with the performance of the Provider's obligations under this Contract subject to the Provider indemnifying NCTL on demand and in full for all costs and expenses (including, but not limited to, legal costs and disbursements) incurred in doing so. The Provider shall not, however, be required to indemnify NCTL in relation to any costs and expenses incurred in relation to or arising out of a claim, demand or action to the extent relating to the matters in **clause 8.7.1 and 8.7.2**.

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

- 8.9.1 modify any or all of the Service Specific IP Materials which it has developed or which have been developed on its behalf in connection with this Contract 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 herein shall apply mutatis mutandis to such modified materials or services or to the substitute materials or services; or
- 8.9.2 procure a licence to use and supply the Service Specific IP Materials and Services, which are the subject of the alleged infringement, on terms which are acceptable to NCTL,

and in the event that the Provider is unable to comply with **clauses 8.9.1 and 8.9.2** within 20 Business Days of receipt of the Provider's notification NCTL may terminate this Contract with immediate effect by notice in writing.

- 8.10 For the duration of this Contract only, the Provider grants to NCTL a royalty-free, irrevocable and non-exclusive licence to use any of the Provider's IP Materials which NCTL reasonably requires in order to exercise its rights under and take the benefit of this Contract including the Services provided and the use and further development of the Service Specific IP Materials.
- 8.11 NCTL agrees to comply with the reasonable instructions of the Provider in respect of the way in which it uses the Provider's IP Materials licensed under clause 8.110.
- 8.12 The Provider shall not knowingly do or permit to be done, nor omit to do in connection with its use of Intellectual Property Rights which are or are to become owned by NCTL (the "Department IP") any act or thing which:
- 8.12.1 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
 - 8.12.2 would or might prejudice the right or title of NCTL to any Department IP.
- 8.13 The Provider shall comply with NCTL's Branding Guidelines if using the logos of either NCTL or its Executive Agencies. These are that the logo:
- 8.13.1 Must be applied to a white background
 - 8.13.2 Should have an exclusion zone around it equal to the width of the crown
 - 8.13.3 Must not be amended in any way (eg stretched, rearranged, recoloured)
 - 8.13.4 Should have a contextual phrase before it (usually either "Funded by" or "Supported by" - logo files with this text in place can be supplied).
 - 8.13.5 Should have prominence with other logos applied in the same way
- 8.14 The Provider shall not use any other branding, except the Teach First and / or Teach First Initial Teacher Development names and logos, other than as agreed with NCTL. Nothing in this Agreement shall permit NCTL, without the Provider's prior written consent, to allow or license any third party to use Teach First's, Teach First Initial Teacher Training's name or logo whether during or after the term of this contract including any New Services Provider under **clause 12.5**.
- 8.15 When using Department Trade Marks the Provider shall observe all reasonable directions given by NCTL 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 Provider may not:
- 8.15.1 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 Department Trade Mark, or unfairly competes with any Department Trade Mark; or

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

NCTL shall use the Provider's Trade Marks without alteration and shall observe all reasonable directions given by the Provider from time to time as to colour and size and the manner and disposition thereof on any materials it may produce or provide during the term of this Contract (including complying with the Provider's Branding and Style Guidelines).

9. DATA HANDLING, CONFIDENTIALITY AND FREEDOM OF INFORMATION

- 9.1 All Parties (including any relevant sub-contractors) shall comply at all times with the provisions of the Data Handling Schedule, the applicable version as set out in Schedule 10 (Data Handling Schedule). If revisions are required to the Data Handling Schedule following the date of this Contract as a result of changes in government policy or guidelines and/or policies/guidelines in education or children's services then NCTL may, at its discretion, notify the Provider that a revised version of the Data Handling Schedule is applicable and the date from which it will be applicable (subject to the prior agreement of the Provider to the new Data Handling Schedule), and from such date such version shall be the applicable version of the Data Handling Schedule for the purposes of this **clause 9.1**, provided that to the extent that deviations from NCTL standard data handling policy have been agreed between the parties such deviations will be carried through to the revised versions.

10. DEPARTMENT DATA

- 10.1 The Provider shall ensure that all Departmental Data is delivered to NCTL in accordance with the provisions of Schedule 10 (Data Handling Schedule).
- 10.2 NCTL consents to the Provider sharing Departmental Data and / or statistical data based on Departmental Data with its Associated Companies or, in the case of third parties, with third parties provided that:
- 10.2.1 such data has been anonymised so as not to comprise personal data;
- or
- 10.2.2 such sharing is reasonably considered to be in pursuit of the Provider's purposes;
- 10.2.2.1 the Provider has obtained the specific consent of the individual to which Departmental Data relates; and
- 10.2.2.2 such sharing is compliant with the Data Protection Act 1998.
- 10.3 NCTL grants the Provider with a royalty-free, perpetual, irrevocable and non-exclusive licence to use Departmental Data following the termination of this Contract ("Licence") subject to the terms set out in this **clause 10**.
- 10.4 The Licence:

- 10.4.1 is specifically and only for the Provider to use Departmental Data for the Provider's purposes;
- 10.4.2 subject to clause 10.2, does not permit the Provider to transfer or make available Departmental Data to any other parties;
- 10.4.3 does not permit the Provider to use Departmental Data directly for the purposes of delivering any services or products that compete with any services or products delivered by or on behalf of NCTL.

10.5 The Provider grants to NCTL a royalty-free, perpetual, irrevocable and non-exclusive licence to use any data (but not any personal data), text, drawings, diagrams, images or sounds (together with any database made up of any of these) which are embodied in any electronic, magnetic, optical, paper or other media and which the Provider is required to generate, process, store or transmit pursuant to the Contract (the Provider's Data) following the termination of this Contract.

10.6 The licence granted pursuant to clause 10.5:

- 10.6.1 is specifically and only for NCTL to use the Provider's Data for NCTL's purposes;
- 10.6.2 does not permit NCTL to transfer or make available the Provider's Data to any other parties, save for any analysis and reporting NCTL is required to carry out, in which case NCTL will notify the Provider before any such data is shared externally; and
- 10.6.3 does not permit NCTL to use the Provider's Data directly for the purposes of delivering any services or products that compete with any services or products delivered by or on behalf of the Provider.

11. TERM AND TERMINATION

- 11.1 This Contract commences on the Services Commencement Date and, subject to any provision of this Contract for earlier termination, remains in force for the Term.
- 11.2 Either Party shall be entitled to terminate this Contract immediately by written notice to the other if that other Party:
 - 11.2.1 commits any continuing or material breach of any of the provisions of this Contract or, in the case of the Provider materially fails to meet the thresholds identified in Schedule 4 (KPIs) and, in the case of a breach which is capable of remedy, fails to remedy such breach within 30 (thirty) days of receipt of written notice giving particulars of such breach and requiring it to be remedied;
 - 11.2.2 being a company, summons a meeting of its creditors, makes a proposal for a voluntary arrangement, becomes subject to any voluntary arrangement, is unable to pay its debts within the meaning of section 123 Insolvency Act 1986, has a receiver, manager or administrative receiver appointed over any of its assets, undertakings or income, has passed a resolution for its winding-up (save for the purpose of a voluntary reconstruction or amalgamation previously approved in writing by the Party serving notice), is subject to a petition presented to any court for its winding-up (save for the purpose of a voluntary reconstruction or amalgamation previously approved in writing by the Party serving notice), is subject to a petition presented to any court for its administration, has a

provisional liquidator appointed, has a proposal made for a compromise or arrangement under Part 26 Companies Act 2006 or is the subject of a notice to strike off the register at Companies House or has an administrator appointed in respect of it or is the subject of an application for administration filed at any court or a notice of appointment of an administrator filed at any court or a notice of intention to appoint an administrator given by any person;

- 11.2.3 being an individual, partnership or firm has entered into any composition or arrangement with its creditors, has a bankruptcy order made against it, has been made subject to an application for an interim order under section 253 Insolvency Act 1986 or an order under section 273 Insolvency Act 1986, has a petition presented for an Administration Order under Part III Insolvent Partnerships Order 1994 ("the Order"), has a petition presented for winding up as an unregistered company under Part IV or V of the Order, has an interim receiver of its property appointed under section 286 Insolvency Act 1986, is unable to pay its debts within the meaning of sections 267 and 268 Insolvency Act 1986, has a receiver or manager appointed over any of its assets, has a receiver appointed under the Mental Health Act 1983, dies or by reason of any illness (including mental disorder or infirmity), accident or injury or any other cause whatsoever becomes unable for a consecutive period of 3 (three) months or for an aggregate period of 5 (five) months in any one consecutive period of 12 (twelve) months to comply with its obligations under this Contract; or
- 11.2.4 has any distraint, execution or other process levied or enforced on any of its property.
- 11.3 NCTL shall be entitled to terminate this Contract (or any part of it) immediately by written notice to the Provider if:
 - 11.3.1 the Provider has a change in management and/or control (as defined in section 416 and 840 of the Income and Corporation Taxes Act 1988 provided that this shall not apply to any changes of trustees of the Provider); or
 - 11.3.2 the Provider being an individual, is subject to a term of imprisonment whether or not suspended.
- 11.4 NCTL may terminate this Contract at any time without any liability to the Provider whatsoever by serving three 3 month's written notice on the Provider where any funding from governmental or other sources for the provision of the Services, or for a programme or a project to which the provision of the Services relates (including the Programme), is withdrawn, reallocated or no longer available in such a way that the Programme cannot reasonably continue.
- 11.5 NCTL may terminate this Contract at any time by giving at least six months prior written notice to the Provider.
- 11.6 In the event NCTL terminates under **clause 11.4 or 11.5** then it shall pay to the Provider by way of compensation for all direct loss, costs and expenses incurred by the Provider as a consequence of such termination:
 - 11.6.1 such part of the Charges that are then properly due and payable to the Provider pursuant to **clause 3** and Schedule 3 (Financials and Invoicing); and

- 11.6.2 any disengagement and other costs reasonably and unavoidably incurred by the Provider as a direct consequence of such termination (excluding any loss of profit), provided that the Provider shall use all reasonable endeavours to mitigate the amount of such costs and has provided (promptly upon request by NCTL) such evidence of the reasonableness and unavoidability of such costs and the Provider's mitigation of the same as NCTL shall reasonably request.
- 11.7 Termination or expiry of this Contract shall not prejudice any right or action of a Party accruing under or in connection with this Contract prior to termination. Those provisions of this Contract which expressly or impliedly have effect after termination (including **clauses 8, 10, 11, 12, 24, 25 and 33**) will continue to be enforceable notwithstanding termination of this Contract.
- 11.8 Following termination or expiry of this Contract NCTL shall not be bound by any provisions of this Contract to make further payments to the Provider other than in respect of amounts properly due to the Provider for Services performed prior to the date of termination or in accordance with **clauses 11.6**.
- 11.9 If NCTL terminates this Contract pursuant to **clause 11.2 or 11.3** the Provider shall indemnify NCTL in full in respect of all liabilities loss or damage and reasonable costs and expenses incurred or suffered by NCTL in connection with or resulting from such termination.
- 11.10 Upon termination or expiry of this Contract for any reason the following provisions shall apply:
- 11.10.1 the parties shall comply with the provisions of Schedule 9 (Step-in / Transfer / Exit Plan) in relation to exit assistance;
- 11.10.2 the Provider will promptly supply to NCTL copies of all work-in-progress, documentation, records, information (in whatsoever form) as is reasonably necessary for the efficient transfer of Services and other obligations of the Provider under this contract to NCTL or a third party provider;
- 11.10.3 the Provider will use its reasonable endeavours to procure that consent of a third party is obtained (whenever required) in relation to any assignment or novation to NCTL or its nominee of any contracts connected to its performance of this Contract as NCTL may reasonably require and shall cooperate itself with, and use all reasonable endeavours to procure, such assignment and novation;
- 11.10.4 if and to the extent required by NCTL, the Provider shall comply with its obligations under, and provide the Services to NCTL identified in, the Transfer Plan.
- 11.11 Where termination relates to a part of this Contract only then such of the above provisions as are relevant and applicable thereto shall apply. The Parties agree that the Provider shall be entitled to charge NCTL its reasonable costs directly incurred in providing assistance to NCTL following termination or expiry calculated in accordance with the provisions of the Transfer Plan, unless termination by NCTL in accordance **clauses 11.1 or 11.3** when all such transfer assistance and Services shall be provided free of charge.

11.12 NCTL shall have an option to require (in consideration for the continuing payment of the Charges relevant thereto) the Provider to provide NCTL any or all of the Services, for a specified period of up to twelve months following termination or expiry of this Contract in order to enable selection of a new provider and the efficient transfer of the Services by NCTL.

11.13 If the Provider terminates this Contract pursuant to **clause 11.2.1** NCTL shall indemnify the Provider in full in respect of all liabilities loss or damage and reasonable costs and expenses incurred or suffered by the Provider in connection with or resulting from such termination.

12. TUPE REGULATIONS

12.1 The parties agree that the commencement of this Contract and the provision of the Services by the Provider does not constitute a relevant transfer for the purposes of TUPE.

12.2 Not less than 3 months prior to the end of the Term and at any time following notice of termination of this Contract being given, within 10 Business Days of receiving a written request from NCTL, the Provider shall provide in writing to NCTL an accurate and complete list of the names of all the Provider employees engaged wholly or mainly in the provision of the Services together with the following information in respect of such personnel:

12.2.1 age;

12.2.2 employment commencement date (including continuous employment for statutory purposes);

12.2.3 job title and/or grade;

12.2.4 salary and other material remuneration and benefits;

12.2.5 material terms and conditions of employment, including notice periods;

12.2.6 existing, threatened or likely contractual, statutory or other outstanding employment-related claims or complaints; and

12.2.7 whether or not each such person is dedicated to the provision of the relevant Services for the purposes of TUPE ("Relevant Employees").

12.3 The Provider to provide in writing to NCTL on or before the Effective Date an accurate and complete list of the names of all the Provider employees engaged wholly or mainly in the provision of the Services together with the information requested in respect of such personnel as detailed in the table in Schedule 11.

12.4 Without prejudice to the provisions of **clause 12.2**, the Provider shall as soon as reasonably practicable use its reasonable endeavours to co-operate with any other reasonable requests made by NCTL for information concerning Relevant Employees.

12.5 The Provider undertakes to NCTL that within 3 months prior to the end of the Term and any Extended Period, and in any event following notice of termination of this Contract being given, the Provider shall not without the prior agreement of NCTL (such agreement not to be unreasonably withheld or delayed):

- 12.5.1 Materially amend or vary (or purport or promise to amend or vary) the terms and conditions of employment or engagement) of any of the Relevant Employees other than through the normal salary review process;
 - 12.5.2 terminate or give notice to terminate the employment or engagement of any of the Relevant Employees (other than in circumstances in which the termination is for reasons of misconduct or lack of capability); or
 - 12.5.3 transfer away, remove, reduce or vary the involvement of any of the Relevant Employees from or in the provision of the Services.
- 12.6 If the provision of similar or like services to the Services to NCTL by any person other than the Provider (including NCTL itself) ("New Service Provider") following the termination or expiry of this Contract constitutes a relevant transfer for the purposes of TUPE:
- 12.6.1 the employment of such of the Relevant Employees shall transfer to the New Service Provider in accordance with TUPE with effect from the termination or expiry of this Contract (or the date of any later cessation of the provision of the Services by the Provider, as applicable);
 - 12.6.2 the Parties shall comply with their respective obligations under TUPE in respect of that transfer;
 - 12.6.3 the Parties agree that all Employment Liabilities in respect of all Relevant Employees in respect of the period:
 - a) up to the date of termination or expiry (whether or not due for payment at that date) will be the responsibility of the Provider, and the Provider shall indemnify the New Service Provider in respect of all Employment Liabilities that the New Service Provider incurs or suffers relating to such period;
 - b) from and including the date of termination or expiry will be the responsibility of the New Service Provider, and NCTL shall use its reasonable endeavours to procure that the New Service Provider shall indemnify the Provider in respect of all Employment Liabilities that the Provider incurs or suffers relating to such period, other than where the Department is the New Service Provider in which case the Department shall provide such an indemnity,

and such Employment Liabilities will, if necessary, be apportioned on a time basis between the relevant persons as appropriate;
 - 12.6.4 the Provider will be liable for and indemnify NCTL in respect of all costs, losses, expenses and liability which NCTL incurs or suffers, whenever arising or brought in connection with any failure of the Provider to inform or consult appropriate representatives as required under Regulation 13 of TUPE; and
 - 12.6.5 where NCTL is not the New Service Provider, NCTL will use its reasonable endeavours to procure the cooperation of the New Service Provider with the foregoing process and its compliance with TUPE and to obtain an

indemnity from the same in favour of the Provider in connection with any failure of the New Service Provider to inform or consult appropriate representatives as required under Regulation 13 of TUPE, but NCTL shall have no liability to the Provider in respect of any failure on the part of the New Service Provider to comply with therewith.

13. CHANGE CONTROL

- 13.1** Either Party may at any time request in writing that any provision of this Contract be varied in accordance with the **Change Control Procedure**. No amendment to the provisions of the Contract shall be effective unless made in accordance with the Change Control Procedure set out in **Schedule 6**
- 13.2** Until such time as any variation is formally accepted by NCTL in accordance with this **clause 13** the Provider will, unless otherwise agreed in writing, continue to perform and be paid as if such variation had not been required.
- 13.3** Notwithstanding the provisions of this **clause 13**, nothing in this Contract shall oblige either party to accept any amendment to this Contract unless formally agreed through the Change Control Procedure (**Schedule 6**).

14. PERSONNEL AND SUB-CONTRACTORS

- 14.1** NCTL may refuse admission to NCTL Premises and/or direct the Provider or Provider's sub-contractor to end the involvement in the provision of the Services of any of the Provider Personnel or Provider subcontractor's personnel whom NCTL reasonably believes represent a security risk.
- 14.2** Whenever under the provisions of this Contract, NCTL shall be entitled to require the removal from involvement in the provision of the Services of any Provider Personnel, the cost of doing so, including any Employment Liabilities and any costs connected with any consequent termination of the contract of employment, or any other contract, of such person shall be for the account of the Provider and shall not be chargeable to, or recoverable from, NCTL in any way.
- 14.3** The Provider shall ensure that all Provider Personnel are able to communicate effectively in the English language.
- 14.4** The Provider shall use its reasonable endeavours to ensure continuity of personnel and to ensure that the turnover rate of its staff engaged in the provision or management of the Services is at least as good as the prevailing industry norm for similar services, locations and environments and does not exceed 30% in any Year of this Contract.
- 14.5** The Provider shall ensure that no person who discloses that he has a Relevant Conviction, or who is found by the Provider to have any Relevant Convictions (whether as a result of a police check or through the Criminal Records Bureau procedures which may be carried out by the Provider for certain groups of employees or otherwise), is employed or engaged in the provision of any part of the Services without NCTL's prior and express written consent.
- 14.6** For each of the Provider Personnel who, in providing the Services, has, will have or is likely to have access to children, vulnerable persons or other members of the public to whom NCTL owes a special duty of care the Provider shall (and shall procure that any relevant subcontractor shall):

- 14.6.1 conduct thorough questioning regarding any Relevant Convictions; and
- 14.6.2 ensure a police check is completed and such other checks as may be carried out through the Criminal Records Bureau,

and the Provider shall not (and shall ensure that any subcontractor shall not) engage or continue to employ in the provision of the Services any person who has a Relevant Conviction or what would reasonably be regarded as an inappropriate record.

14.7 The Parties have agreed to the appointment of the Key Personnel listed in Schedule 8 (Key Personnel) as at the Effective Date. The Provider shall use its reasonable endeavours to, and shall procure that any subcontractor shall, obtain the prior written consent of NCTL before removing or replacing any of the Key Personnel during the term of this Contract (and when carrying out termination assistance and on-going service provision following termination or expiry of this Contract) other than where the Provider or subcontractor is, in light of all the circumstances, taking reasonable disciplinary related action in which case no such consent shall be necessary.

14.7.1 Where possible, at least 3 (three) months written notice must be provided by the Provider of its intention to remove or replace any Key Personnel.

14.8 NCTL shall not unreasonably delay or withhold its consent to the appointment of a replacement for any relevant Key Personnel role by the Provider or any subcontractor.

14.9 The Provider acknowledges that the Key Personnel are essential to the proper provision of the Services to NCTL. The Provider shall use all reasonable endeavours to ensure that the role of any Key Personnel is not vacant for any longer than 10 Business Days and shall ensure that any replacement shall be as or more qualified and experienced as the previous incumbent and fully competent to carry out the tasks assigned to the Key Personnel whom he or she has replaced. The Provider shall ensure that appropriate and effective handover arrangements are put in place to ensure that there is no adverse impact on service provision as a result of any change in Key Personnel.

14.10 The Provider shall ensure that each of the Key Personnel shall work for such a period of time in the performance of the Services that is commensurate with and sufficient to perform the obligation of that person's role unless NCTL otherwise gives its prior written consent. To the extent that it can do so without disregarding its statutory obligations, the Provider shall take all reasonable steps to ensure that it retains the services of all the Key Personnel.

14.11 NCTL and the Provider shall agree the Key Personnel (Schedule 8), who will then be included on the list of Key Personnel by the Provider. Any changes to Key Personnel will be agreed in advance by both parties.

14.12 NCTL may also require the Provider to remove from the provision of the Services any Key Personnel that NCTL considers unsatisfactory.

14.13 NCTL shall not be liable for the cost of replacing any Key Personnel and the Provider shall indemnify NCTL against all Employment Liabilities that may arise in this respect.

14.14 For the duration of this Contract and for a period of 12 months thereafter neither NCTL nor the Provider shall employ or offer employment to, or contract or offer to contract with, any of the other Party's staff who have been

associated with the procurement and/or the contract management of the Services without that other Party's prior written consent.

15. TAX and VAT INDEMNITY

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



- 15.3 Where the Provider is liable to National Insurance Contributions (NICs) in respect of consideration received under this contract, it shall at all times comply with the Social Security Contributions and Benefits Act 1992 (SSCBA) and all other statutes and regulations relating to NICs in respect of that consideration.
- 15.4 NCTL may, at any time during the term of this contract, ask the Provider to provide information which demonstrates how the Provider complies with **Clauses 15.1, 15.2 and 15.3** above or why those Clauses do not apply to it.
- 15.5 A request under this **Clause 15.5** above may specify the information which the Provider must provide and the period within which that information must be provided.
- 15.6 NCTL may terminate this contract if-
- (a) in the case of a request mentioned in Clause 15.3 above if the Provider:
 - (i) fails to provide information in response to the request within a reasonable time, or
 - (ii) provides information which is inadequate to demonstrate either how the Provider complies with Clauses 15.1 and 15.2 above or why those Clauses do not apply to it;
 - (b) in the case of a request mentioned in Clause 15.4 above, the Contractor fails to provide the specified information within the specified period, or
 - (c) it receives information which demonstrates that, at any time when Clauses 15.1 and 15.2 apply, the Provider is not complying with those Clauses.

- 15.7 NCTL may supply any information which it receives under Clause 15.3 to the Commissioners of Her Majesty's Revenue and Customs for the purpose of the collection and management of revenue for which they are responsible.
- 15.8 The Provider warrants and represents to NCTL that it is an independent provider and, as such, bears sole responsibility for the payment of tax and national insurance contributions which may be found due from it in relation to any payments or arrangements made under this Contract or in relation to any payments made by the Provider to its officers or employees in connection with this Contract.
- 15.9 The Provider will account to the appropriate authorities for any income tax, national insurance, VAT and all other taxes, liabilities, charges and duties relating to any payments made to the Provider under this Contract or in relation to any payments made by the Provider to its officers or employees in connection with this Contract.
- 15.9.1 The Provider shall indemnify Department against any liability, assessment or claim made by the HM Revenue and Customs or any other relevant authority arising out of the performance by the parties of their obligations under this Contract (other than in respect of employer's secondary national insurance contributions) and any costs, expenses, penalty fine or interest incurred or payable by Department in connection with any such assessment or claim.
- 15.10 The Provider authorises NCTL to provide the HM Revenue and Customs and all other departments or agencies of the Government with any information which they may request as to fees and/or expenses paid or due to be paid under this Contract whether or not Department is obliged as a matter of law to comply with such request.

16. EQUALITY AND DIVERSITY

The Provider will, and will procure that all Provider Personnel will, comply with all the provisions of the Equality Act 2010, the Human Rights Act 1998 or any other relevant or equivalent legislation, or any statutory modification or re-enactment thereof and with NCTL's equality and diversity policy (incorporating any comments provided by the Provider to NCTL in advance of the Effective Date) as may be amended from time to time, copies of which will be provided by NCTL to the Provider at the Provider's written request.

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

17. ASSIGNMENT AND SUPPLY CHAIN RIGHTS

Save and to the extent set out in this **clause 17** only, the Provider may not assign the benefit and/or delegate the burden of the whole or any part of this Contract without the prior written consent of NCTL. For the avoidance of doubt, NCTL consents to the Provider entering into agreements with third parties for the purposes of assisting the Provider to recruit candidates to its Programme. If NCTL agrees to the Provider assigning its rights and obligations under this Contract to another third party then the Provider will enter into and will procure that the party to whom it is assigning its contractual rights and obligations enters into an assignment or novation agreement, in such form as reasonably required by NCTL.

17.1 NCTL may not assign its obligations under this Contract in whole or in part without first obtaining the written consent of the Provider which shall not be unreasonably withheld or delayed, provided that NCTL shall be entitled to assign this Contract to any successor body to NCTL (provided that such successor body is not a competitor of the Provider) without the need for consent.

17.2 Subject to clause 17.1, the Provider shall not sub-contract any of its obligations under this Contract without NCTL's prior written consent, which shall not be unreasonably withheld or delayed.

17.3 In making a request pursuant to **clause 17.3** the Provider shall, unless NCTL notifies the Provider in writing that the same is not required in respect of a proposed sub-contract, provide NCTL with such of the following information about the proposed sub-contractor as NCTL shall require:

17.3.1 its name, registered office and company registration number;

17.3.2 a copy of the proposed sub-contract;

17.3.3 the fees and charges to be paid by the Provider to the proposed sub-contractor, including, where not fixed, the manner in which the same are to be calculated and any indexation or other review processes applicable thereto;

17.3.4 the purposes for which the proposed sub-contractor will be employed, including the scope of any services to be provided by the proposed sub-contractor;

17.3.5 where the proposed sub-contractor is also an Associated Company of the Provider, evidence that demonstrates to the reasonable satisfaction of NCTL that the proposed sub-contract has been agreed on "arms-length" terms; and

17.3.6 any further information reasonably requested by NCTL.

Subject to **clause 17.1**, the Provider shall ensure that each sub-contract related to this Contract shall, unless NCTL notifies the Provider in writing that the same is not required in respect of a proposed sub-contract, include:

17.3.7 a right under the Contracts (Rights of Third Parties) Act 1999 for NCTL to enforce the terms of that sub-contract as if it were the Provider;

17.3.8 a provision enabling the Provider to assign, novate or otherwise transfer any of its rights and/or obligations under that sub-contract to NCTL;

- 17.3.9 a provision requiring the sub-contractor to comply with the provisions of the Data Handling Schedule;
- 17.3.10 a provision restricting the ability of the sub-contractor to further sub-contract elements of the service provided to the Provider without first seeking the consent of NCTL; and
- 17.3.11 without prejudice to any of the foregoing, equivalent restrictions and obligations in respect of any part of the Services to be delivered by the sub-contractor as those placed on the Provider under this Contract in respect of such part of the Services.

Where NCTL has consented to any sub-contracting, copies of each sub-contract shall, at the request of NCTL, be sent by the Provider to NCTL as soon as reasonably practicable.

- 17.4 The Provider shall not terminate or materially amend the terms of any sub-contract related to this Contract without NCTL's prior written consent, which shall not be unreasonably withheld or delayed.
- 17.5 NCTL may require the Provider to terminate a sub-contract related to this Contract where the acts or omissions of the relevant sub-contractor have given rise to NCTL's right of termination pursuant to **clause 11.2.1** unless the sub-contractor can remedy the breach to NCTL's satisfaction within 21 (twenty one) days of receipt by the Provider of written notice from NCTL requiring the sub-contract to be terminated.
- 17.6 Despite the Provider's right to sub-contract pursuant to this **clause 17**, the Provider 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. An obligation in this Contract on the Provider to do, or to refrain from doing, any act or thing shall be deemed to include an obligation upon the Provider to procure that the Provider Personnel also do, or refrain from doing, such act or thing.

18. ENTIRE AGREEMENT/RELIANCE ON REPRESENTATION

- 18.1 This Contract, its Schedules and Appendices contain all the terms which the Parties have agreed in relation to the subject matter of this Contract and supersedes any prior written or oral agreements, representations or understandings between the Parties in relation to such subject matter.
- 18.2 Nothing in this **clause 18** shall however exclude any liability which one Party would otherwise have to the other Party in respect of any statements made fraudulently.

19. DISPUTE RESOLUTION

- 19.1 Any Dispute shall be dealt with in accordance with this **clause 19**.
- 19.2 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, it will be referred to a senior representative of each Party, who shall each use their reasonable endeavours to resolve the Dispute.

19.3 If a Dispute cannot be resolved by negotiation as referred to in **clause 19.2** within 30 (thirty) 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 (CEDR), the costs of the mediator being split equally between the Parties, who shall otherwise bear their own costs of the reference.

20. NO PARTNERSHIP

Nothing in this Contract is intended to or shall operate to create a legal partnership between the Parties, or to authorise any Party to act as an agent for any other, and no Party shall have authority to act in the name or on behalf of or otherwise to bind any 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).

21. VARIATION

No variation of this Contract shall be effective unless in writing and signed by a duly authorised officer of the Parties. Variations to this Contract must follow the procedure for change set out in **clause 13**.

22. WAIVER

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

23. FORCE MAJEURE

23.1 If either Party is prevented or delayed in the performance of any of its obligations under this Contract by Force Majeure, that Party shall immediately serve notice in writing on the other Party specifying the nature and extent of the circumstances giving rise to Force Majeure, and shall subject to service of such notice and to **clause 23.3** 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.

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

23.3 The Party claiming to be prevented or delayed in the performance of any of its obligations under this Contract by reason of Force Majeure shall use reasonable endeavours to bring the Force Majeure event to a close or to find solutions by which the Contract may be performed despite the continuance of the Force Majeure event.

24. WARRANTIES AND REPRESENTATIONS

The Provider warrants and represents that:

24.1 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 Contract and that this Contract is executed by a duly authorised representative of the Provider;

- 24.2 in entering this Contract it has not committed any fraud;
- 24.3 as at the Services Commencement date (1 June 2015), all information contained in the Provider's Solution remains true, accurate and not misleading, save as may have been specifically disclosed in writing to NCTL prior to execution of this Contract
- 24.4 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 Contract;
- 24.5 it owns, has obtained or is able to obtain valid licences for all Intellectual Property Rights that are necessary for the performance of its obligations under the Contract;
- 24.6 the IP Materials created by the Provider will be its original work and will not have been copied wholly or substantially from another party's work or materials without their permission;
- 24.6.1 the use by NCTL of any Intellectual Property Rights assigned or licensed to it under this Contract will not infringe or conflict with the rights of any third party. The Provider will correct or remedy any breaches of the warranties set out in **clause 24.1** that are correctable or remediable as soon as reasonably practicable following receipt of notice in writing from NCTL identifying the breach in question.

25. LIABILITY

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

- 25.1 for breach of any obligations arising under section 12 Sale of Goods Act 1979 or section 2 Supply of Goods and Services Act 1982;
- 25.2 for personal injury or death resulting from its negligence;
- 25.3 under section 2(3) Consumer Protection Act 1987;
- 25.4 for any matter which it would be unlawful for it to exclude or to attempt to exclude its liability;
- 25.5 for its own fraud.

Subject to **clauses 25.1, 25.2 and 25.5**, neither Party shall have any liability to the other under or in connection with this Contract, whether in contract, tort (including negligence) or otherwise:

- 25.6 for any losses of an indirect or consequential nature; or
- 25.7 for any claims for loss of profits, revenue, business or opportunity (whether direct, indirect or consequential); or
- 25.7.1 to the extent that it is prevented from meeting any obligation under this Contract as a result of any breach or other default by the other Party.

25.8 Subject to **clauses 25.1 and 25.2**, the maximum liability of either Party to the other under this Contract, whether in contract (including under any indemnity), tort (including negligence) or otherwise:

[REDACTED]

[REDACTED]

Notwithstanding the provisions of **clause 25.3**, the Provider shall not exclude liability for additional operational, administrative costs and/or expenses or wasted expenditure.

25.9 The Provider's liability under any indemnity in this Contract is conditional upon NCTL discharging the following obligations. If any third party makes a claim or notifies an intention to make a claim against NCTL, or any other circumstances occur which may reasonably be considered likely to give rise to a liability under any indemnity in this Contract (a **Claim**), NCTL shall:

25.9.1 as soon as reasonably practicable, give written notice of the claim to the Provider, specifying the nature of the Claim in reasonable detail;

25.9.2 not make any admission of liability, agreement or compromise in relation to the Claim without the prior written consent of the Provider; and

25.10 nothing in this clause shall restrict or limit NCTL's general obligation at law to mitigate a loss it may suffer or incur as a result of an event that may give rise to a claim under any indemnity in this Contract

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

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

[REDACTED]

26. NOTICES

- 26.1 Any notice, demand or communication in connection with this Contract shall be in writing and may be delivered by hand, pre-paid first class post or (where being sent to an address in a different country to where posted) airmail, facsimile or e-mail, addressed to the recipient at its registered office or its address (or such other address, facsimile number or e-mail address as may be notified in writing from time to time).
- 26.2 The notice, demand or communication shall be deemed to have been duly served:
- 26.2.1 if delivered by hand, when left at the proper address for service;
 - 26.2.2 if given or made by prepaid first class post 48 (forty-eight) hours after being posted or in the case of airmail 14 (fourteen) days after being posted;
 - 26.2.3 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 24 (twenty-four) hours after transmission and that, in the case of transmission by facsimile or e-mail where the time of transmission is not between 9.00 am and 5.00 pm, service shall be deemed to occur at 9.00 am on the next following Business Day (such times being local time at the address of the recipient).
- 26.3 For the avoidance of doubt, where 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.

27. CONTRACTS (RIGHTS OF THIRD PARTIES) ACT 1999

The Parties do not intend that any term of this Contract will be enforceable by virtue of the Contracts (Rights of Third Parties) Act 1999 by any person not a Party to it.

28. COUNTERPARTS

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

29. PUBLICITY AND PROMOTION OF OTHER ACTIVITIES

- 29.1 The Provider shall not itself without the prior written consent of NCTL, advertise or publicly announce that it or they has or have a contractual relationship with NCTL or announce the subject matter of this Contract. For the avoidance of doubt, this clause 29 does not apply to marketing of the Programme. Where NCTL does give consent to this it will be subject to NCTL's prior written approval of the content and manner of any such advertisement or announcement.
- 29.2 Without prejudice to the generality of **clauses 8.16 and 29.1**, the Provider shall not itself use NCTL's name, brand and / or trade marks (including NCTL Trade

Marks) nor the Personal Data of NCTL to sell, promote, market or publicise the other programmes, course, services or other activities in any way whatsoever.

30. FURTHER ASSURANCE

The Parties agree that they will 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 required including on or subsequent to the termination or expiry of this Contract to vest in NCTL all rights granted hereunder and the legal and beneficial ownership of the New Materials in accordance with this Contract and otherwise to comply with its terms.

31. CONFLICTS OF INTEREST

31.1 The Provider shall:

- 31.1.1 not permit its obligations to its other clients and third parties (including other governmental bodies and organisations providing services to other governmental bodies) to interfere or conflict in any material way with its duty (which the Provider hereby acknowledges) to comply with its obligations under this Contract to the required standards; and
- 31.1.2 take appropriate steps to ensure that neither the Provider nor any of the Provider Personnel is placed in a position where, in the reasonable opinion of NCTL, there is or may be an actual conflict, or a potential conflict, between the pecuniary or personal interests of the Provider or any of the Provider Personnel and the duties owed to NCTL under the provisions of this Contract

in either case, referred to in this **clause 31** as a “Conflict of Interest”. If the Provider becomes aware of any Conflict of Interest (or potential Conflict of Interest) or other situation which has arisen or may arise and which may cause a breach of this **clause 31** the Provider shall forthwith provide full particulars to thereof to NCTL.

For the avoidance of doubt: NCTL has entered into a contract with the Provider's subsidiary Teach First Initial Teacher Development Limited (TFITD) for the provision of ITT services. Obligations related to that contract or to the agreement between Teach First and TFITD shall not be deemed to be a Conflict of Interest.

In performing its duties under this Contract, the Provider shall conduct its business, operations and activities in a politically neutral fashion.

- 31.2 Without prejudice to the foregoing provisions of this **clause 31**, if any Conflict of Interest (or potential Conflict of Interest) arises or is likely to arise, the Provider will take all reasonable steps to remove or avoid the Conflict of Interest or to prevent it occurring in each case, or to manage the conflict to the satisfaction of NCTL (acting reasonably). If NCTL is not reasonably satisfied with the outcome of the Provider having taken such action as aforesaid (the Provider having given NCTL a comprehensive and detailed written statement of the action it had taken), the Provider will on request by NCTL forthwith bring to an end any relationship it may have with any third party, where that relationship has given rise to the conflict of interest (or potential conflict of interest).
- 31.3 Without prejudice to any other right or remedy it may have, NCTL reserves the right to terminate this Contract with immediate effect by notice in writing and/or to take such other steps it deems necessary where, in the reasonable opinion of NCTL, there is any continuing breach by the Provider of the provisions of this **clause 31**

32. PREVENTION OF CORRUPTION

- 32.1 The Provider shall not offer or give, or agree to give, to NCTL or any other public body or any person employed by or on behalf of NCTL or any other public body any gift or consideration of any kind as an inducement or reward for doing, refraining from doing, or for having done or refrained from doing, any act in relation to the obtaining or execution of this Contract or any other contract with NCTL or any other public body, or for showing or refraining from showing favour or disfavour to any person in relation to this Contract or any such contract or in any other way commit an offence under the Bribery Act 2010.
- 32.2 The Provider warrants that it has not paid commission or agreed to pay commission to NCTL or any other public body or any person employed by or on behalf of NCTL or any other public body in connection with this Contract.
- 32.3 If the Provider, any Provider Personnel or anyone acting on the Provider's behalf, engages in conduct prohibited by **clauses 32.1 and 32.2**, NCTL may:
- 32.3.1 terminate this Contract and recover from the Provider the amount of any loss suffered by NCTL resulting from the termination, including the cost reasonably incurred by the Department of making other arrangements for the supply of the Services and any additional expenditure incurred by NCTL throughout the remainder of the Term and (if applicable) the Extended Term; and / or
- 32.3.2 recover in full from the Provider any other loss sustained by NCTL in consequence of any breach of those clauses.

33. GOVERNING LAW AND JURISDICTION

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

The courts of England shall have exclusive jurisdiction to settle any dispute which arises out of or in connection with this Contract and the Parties agree to submit to that jurisdiction.

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

Schedule 3
Financials and Invoicing

1. Financials

1.1 The National College shall pay the Provider the Charges in accordance with the applicable Contract, subject to successful delivery of the programme against Key Performance Indicators or Service Levels pursuant to the provisions of the Requirement and **Schedule 4**.

1.2 The Charges are inclusive of all expenses incurred by the Provider in relation to its provision of the Services and unless agreed otherwise between the Provider and the National College, the Provider shall not be entitled to claim any expenses in addition to the Charges.

1.3 [REDACTED]

[REDACTED]

1.4.1 [REDACTED]

Subject to paragraph 3.2, the National College reserves the right to analyse the detailed costs for the contract, in line with the programme model (as set out in Schedule 1) to ensure that the programme delivery demonstrates value for money.

2. Indexation

2.1 Indexation shall not apply to any Charges.

3. Invoicing Arrangements

3.1 The Provider shall be entitled to invoice the Charges following acceptance by the National College of satisfactory completion of the Services or, where performance of the Services will continue, on satisfactory completion of milestones as specified in the delivery milestones, Outputs or Outcomes (as set out in Table 1 below and within Appendix 2). Each invoice shall detail the Charges for Services provided by the Provider.

	14/15 cohort	15/16 cohort	16/17cohort
[REDACTED]	[REDACTED] [REDACTED] [REDACTED]	[REDACTED] [REDACTED] [REDACTED]	[REDACTED]
[REDACTED]	[REDACTED] [REDACTED] [REDACTED]	[REDACTED] [REDACTED] [REDACTED]	[REDACTED]
[REDACTED]	[REDACTED] [REDACTED] [REDACTED]	[REDACTED] [REDACTED] [REDACTED]	[REDACTED]
[REDACTED]	[REDACTED] [REDACTED] [REDACTED]	[REDACTED] [REDACTED] [REDACTED]	[REDACTED]
[REDACTED]	[REDACTED] [REDACTED] [REDACTED]	[REDACTED] [REDACTED] [REDACTED]	[REDACTED]
[REDACTED]		[REDACTED] [REDACTED] [REDACTED]	[REDACTED] [REDACTED] [REDACTED]
[REDACTED]		[REDACTED] [REDACTED] [REDACTED]	[REDACTED] [REDACTED] [REDACTED]
[REDACTED]		[REDACTED] [REDACTED] [REDACTED]	[REDACTED] [REDACTED] [REDACTED]

- [REDACTED]
- 3.5 Any variations will be in accordance with the process set out within **clause 10 of Schedule 6** (Governance and Reporting).

4 [REDACTED]

- 5 The Provider shall maintain full and accurate accounts for the Service against the expenditure headings in the Table. Such accounts shall be retained for at least 6 years after the end of the financial year in which the last payment was made under this Contract. Input and output VAT shall be included as separate items in such accounts.
- 6 The Provider shall permit duly authorised staff or agents of the National College or the National Audit Office to examine the accounts at any reasonable time and shall furnish oral or written explanations of the account if required. The National College reserves the right to have such staff or agents carry out examinations into the economy, efficiency and effectiveness with which the Provider has used the National College's resources in the performance of this Contract.
- 7 Invoices shall be prepared by the Provider on the invoice dates specified in the Table in arrears and shall be detailed against the expenditure headings set out in the Table. The Provider or his or her nominated representative or accountant shall certify on the invoice that the amounts claimed were expended wholly and necessarily by the Provider on the Service in accordance with the Contract and that the invoice does not include any costs being claimed from any other body or individual or from the National College within the terms of another contract.
- 8 Invoices shall be sent, within 30 days of the end of the relevant invoicing date to SSCL Accounts Payable Team Room 6124, Tomlinson House Norcross Blackpool FY5 3TA, quoting the Contract reference number. The National College undertakes to pay correctly submitted invoices within 10 days of receipt. The National College is obliged to pay invoices within 30 days of receipt from the day of physical or electronic arrival at the nominated address of the National College. If any sum properly due and payable under this Contract is not paid when due then the Party entitled to receive such sum shall be entitled to charge interest on that sum from the due date until payment is made in full, both before and after any judgment, at two per cent per annum over Bank of England base rate from time to time. The Parties agree that this **clause 3.7** is a substantial remedy for late payment of any sum payable under this Contract in accordance with section 8(2) Late Payment of Commercial Debts (Interest) Act 1998. A correct invoice is one that: is delivered in timing in accordance with the contract; is for the correct sum; in respect of goods/services supplied or delivered to the required quality (or which are expected to be at the required quality); includes the date, supplier name, contact details and bank details; includes information as set out in point 6.1 and has been delivered to the nominated address. If any

problems arise, contact the National College's Contract Manager. The National College aims to reply to complaints within 10 business days. (See Point 14 below) The National College shall not be responsible for any delay in payment caused by incomplete or illegible invoices.

- 8.1 Invoices shall clearly identify the Contract number for which they are being submitted and the Provider shall provide information with each invoice to enable the National College to assess the accuracy of the invoice. Such information shall include as a minimum:
- Invoice date
 - Contract Number and **CD reference number**
 - PO Number
 - Invoice number
 - The Charging Period covered
 - A detailed breakdown of the appropriate Charges, including deliverables or milestones achieved, days and times worked
 - Sums due, and,
 - VAT due.
- 9 The Provider shall have regard to the need for economy in all expenditure. Where any expenditure in an invoice, in the National College's reasonable opinion, is excessive having due regard to the purpose for which it was incurred, the National College shall only be liable to reimburse so much (if any) of the expenditure disallowed as, in the National College's reasonable opinion after consultation with the Provider, would reasonably have been required for that purpose.
- 10 If this Contract is terminated by the National College due to the Provider's insolvency or default at any time before completion of the Service, the National College shall only be liable under paragraph 1 to reimburse eligible payments made by, or due to, the Provider before the date of termination.
- 11 On completion of the Service or on termination of this Contract, the Provider shall promptly draw-up a final invoice, which shall cover all outstanding expenditure incurred for the Service. The final invoice shall be submitted not later than 30 days after the date of completion of the Service
- 12 The National College shall not be obliged to pay the final invoice until the Provider has carried out all the elements of the Service specified as in **Schedule 1**.
- 13 It shall be the responsibility of the Provider to ensure that the final invoice covers all outstanding expenditure for which reimbursement may be claimed. Provided that all previous invoices have been duly paid, on due payment of the final invoice by the National College all amounts due to be reimbursed under this Contract shall be deemed to have been paid and the National College shall have no further liability to make reimbursement of any kind.
14. Disputes and payments of invoices
- 14.1 As set out in paragraph 8 above, The National College undertakes to pay, subject to paragraphs 14.4 and 14.5, correctly submitted invoices within 10 days of receipt for all sums properly invoiced. The National College shall not be responsible for any delay in payment caused by incomplete and illegible invoices.

- 14.2 The Provider shall ensure that a term is included in any sub-contract permitted under this Contract which requires the Provider to pay any undisputed sums due to the relevant sub-contractor within a specified period that does not exceed thirty (30) days from the date the Provider receives the sub-contractor's invoice.
- 14.3 The Provider shall raise any problems regarding invoices or payments with the National College's contract manager. The National College shall reply to queries or complaints within 10 Business Days.
- 14.4 The National College shall within 10 Business Days of receipt, return to the Provider for correction invoices that it believes are incorrect together with an explanation of the need for correction.
- 14.5 The National College may dispute, in good faith, any amount specified in an invoice. In these circumstances, the National College shall:
 - 14.5.1 Pay in accordance with paragraph 14.1 such amount of the invoice as is not in dispute;
 - 14.5.2 Within 10 Business Days of receipt by it of the disputed invoice notify the Provider of the reasons for disputing the disputed amount; and
 - 14.5.3 Be entitled to withhold the disputed amount pending resolution of the dispute.
- 14.6 The National College and the Provider shall use all reasonable endeavours to resolve any dispute over invoices within 10 Business Days of the dispute being raised, after which period either party may refer the matter for resolution in accordance with the dispute resolution procedure in clause 20 of Schedule 2.
- 14.7 Where a disputed amount is withheld in accordance with paragraph 14.5.3 and the dispute is subsequently resolved:
 - 14.7.1 The Provider shall within 10 Business Days re-submit a corrected invoice; or
 - 14.7.2 In the event that the original invoice is resolved to have been correct, for the purposes of paragraph 14.1, the date of receipt of the invoice shall be taken to be the date on which the dispute is agreed by the parties to have been resolved.

Schedule 4

Key Performance Indicators, Service Levels

PRINCIPAL POINTS

1. The objectives of the Service Levels are to:
 - i) ensure that the Services are of a consistently high quality and meet the requirements of the National College;
 - ii) provide a mechanism whereby the National College can attain meaningful recognition of inconvenience and/or loss resulting from the Provider's failure to deliver the level of Service for which it has contracted to deliver; and
 - iii) incentivise the Provider to meet the Service Levels and to remedy any failure to meet the Service Levels expeditiously.

SERVICE LEVELS

2. Part 1 of this Schedule shall set out the Key Performance Indicators, Service Levels applicable to the provision by the Provider of the Services and the performance of which the Provider has agreed to measure.
3. The Provider shall monitor its performance against of each of the Service Levels in this Schedule and shall send the National College a report detailing the level of service which was achieved in accordance with the provisions of Schedule 6.

Part 1 – Key Performance Indicators, Service Levels

Table 4.1 Key Performance Indicators

Key Performance Indicator		Measure
1	Teach First will recruit up to 2000 suitable participants to start the 2016 Summer Institute for cohort 2016/17 according to the subject breakdown agreed with NCTL, ensuring science numbers are split proportionately according to the allocation breakdown	1.1. Agreed numbers of participants by subject start Summer Institute in June 2016 (2000 maximum or at least 1960)
		1.2. Teach First will aim to recruit 70% of participants from Tier 1 or Russell Group universities
		1.3. Teach First will ensure that 95% of participants have a 2:1 or higher degree classification and above 300 UCAS points
2	Participants are effectively supported through the 1st year of the Leadership Development Programme (LDP) to enable them to have a positive impact on the achievement, access and aspirations of pupils from low-income communities and successfully gain QTS and complete Year 1 of the programme.	2.1. At least 90% of Summer Institute starters gain QTS
		2.2. At least 88% of Summer Institute starters gain QTS grade 2 or higher
		2.3. Participant experience of the year 1 LDP is comparable or better than the previous year, measured by the annual Teach First participant survey
		2.4. Schools' experience of the year 1 LDP is comparable or better than the previous year, measured by the annual Teach First Headteacher survey
3	Participants are effectively supported through the 2 nd year of the Leadership Development Programme (LDP) to enable them to have a positive impact on the achievement, access and aspirations of pupils from low-income communities during their two-year placement.	3.1. At least 96% of those that achieve QTS start year 2 as teachers.
		3.2. At least 94% of those that achieve QTS complete year 2 as teachers.
		3.3. Participant experience of the year 2 LDP is comparable or better than the previous year, measured by the annual Teach First participant survey
		3.4. Schools experience of the year 2 LDP is comparable or better than the previous year, measured by the annual Teach First Headteacher survey
		3.5. Participants achieve their pupil impact measure (full measure to be confirmed and agreed with NCTL). In 2015-16 this is: Pupil progress is greater than expected in the classrooms of 75% of 2nd year respondents,

		<p>whose school's approach to data allows them to use Teach First's Pupil Progress Tracker.</p> <p>Note that (1) "expected progress is 1.5 sub-levels for primary and 2 sub-levels for secondary (2) the same caveats apply as for the ITT pupil impact measure (3) in 16/17 a new definition will be needed for year 1 and year 2 participants.</p>
4	Ensure appropriate school partnerships are established with TF eligible schools.	<p>4.1 Deepen the partnership with Teach First eligible schools by expanding reach in communities that are in need of the greatest support. There should be:</p> <p>(a) an annual increase in the number of schools with whom Teach First work; and</p> <p>(b) over 55% of participants being placed outside of London; and</p> <p>(c) an annual increase in the number of schools with which Teach First works outside the main cities by focusing on recruitment to schools that are serving communities facing systematic educational disadvantage, including those in the most deprived rural and coastal communities.</p> <p>Teach First will provide data including a heatmap showing geographical reach and both parties will reach agreement about communities that are in the greatest need of support.</p> <p>4.2. At least 95% of year 1 and 2 Teach First teachers are placed within TF eligible schools and remain working within eligible placement schools for the duration of the programme (bar participants who defer or withdraw). Local Directors can use discretion to place up to 5% of participants in schools that don't meet eligibility if they can give justification¹ to Teach First.</p>

¹ This discretion recognises that public data on schools is incomplete and allows Teach First to take into account the local context and develop strategic partnerships with schools in order to access an increased number of schools and provide additional support. Local Directors

Table 4.2 Additional Key Performance Indicators

1	Teach First will recruit up to 2000 suitable participants to start the 2016 Summer Institute for cohort 2016/17 according to the subject breakdown agreed with NCTL, ensuring science numbers are split proportionately according to the allocation breakdown.	Teach First will ensure that an appropriate number of applicants apply for the Teach First programme
		Teach First will monitor their recruitment of 'Career Changers' and 'Young Professionals'
		Teach First will monitor whether recruits have previously considered teaching as a career
		Teach First will monitor the diversity of applicants and recruits
		A robust recruitment plan for 2016/17 is in place and shared with NCTL
2	Participants are effectively supported through the 1st year of the Leadership Development Programme to enable them to have a positive impact on the achievement, access and aspirations of pupils from low-income communities and successfully gain QTS and complete Year 1 of the programme.	Evidence of how bespoke support needs are identified and ensure the programme allows flexibility in order to extend learning opportunities which align with participant need and which provide alternatives to other support solutions provided by participants' schools
3	Participants are effectively supported through the 2 nd year of the Leadership Development Programme to enable them to have a positive impact on the achievement, access and aspirations of pupils from low-income communities during their two-year placement.	Evidence of how bespoke support needs are identified and ensure the programme allows flexibility in order to extend learning opportunities which align with participant need and which provide alternatives to other support solutions provided by participants' schools
4	Ensure appropriate school partnerships are established with TF eligible schools.	Develop strong school partnerships to support placing participants in schools across all local areas
		Ensure partner schools understand Teach First and are set up to and committed to providing and shaping the necessary

assess schools on a case by case basis and ensure they build a robust data driven reason for taking on any school outside of the eligibility criteria

		support
		Establish contrasting placements appropriate to the trainee requirements
5	Establish a career pathway beyond the life of the LDP which gives the opportunity for participants to progress into leadership roles	Encourage year 2 participants to receive careers coaching and utilise support available (summer projects, careers events etc).
		During the term of this agreement, establish a career pathway which allows tracking of trainees beyond the life of the programme into leadership roles
6	Programme shows financial and non-financial value-added and value for money, bearing in mind that it is not just a recruitment solution, but a long-term initiative to build strong leadership and to decrease educational inequality	<p>Evidence of cost efficiencies over time</p> <p>Evidence of the value-added and value for money of TF programme</p> <p>Establish an environment for cost efficiencies and/or increased impact</p>

Schedule 5

Implementation Plan

1. The Provider shall provide the Services in accordance with the Implementation Plan is set out in **Schedule 12** to this Contract,
2. The Implementation Plan should be sufficiently detailed as is necessary to manage the Services and proposed any changes to the Implementation Plan shall be subject to the Change Control Procedure.
3. The Provider shall be responsible for implementing and managing the Services and for taking all such steps as may be necessary so as to ensure that from the Service Commencement Date the Provider is able to provide the Services:
 - 3.1 in accordance with the provisions of this Contract as at the Service Commencement Date, and any other requirements of this Contract;
and
 - 3.2 in a manner that maintains the continuity of service to the National College.
4. The Provider shall monitor the performance against the Implementation Plan and report to the National College monthly (or more frequently if so required by the National College) on its performance. This will be in accordance with the monthly report format that has been established between the parties

Schedule 6

Governance, Reporting and Change Control

1. INTRODUCTION

- 1.1 This schedule describes the procedures that will be used to manage the relationship between the National College and the Provider under this Contract.

2 ESTABLISHMENT OF THE PROJECT BOARD

- 2.1 A Project Board shall be established by the National College under this Contract on which both the Provider and the National College shall be represented.
- 2.2 The Provider and the National College shall each appoint a Project Manager.
- 2.3 The Project will be managed at the day to day level through the Provider Project Manager and the National College Project Manager, in accordance with the implementation Plan.
- 2.4 The Project Board will:
- 2.1 meet regularly;
 - 2.2 provide senior level guidance, leadership and strategy for the Project;
 - 2.3 be the point of escalation from the Project Board/Managers; and
 - 2.4 carry out the specific obligations attributed to it in this Contract.
- 2.5 Both parties will ensure that appropriate resource is made available on a regular basis such that the aims, objectives and specific provisions of this Contract can be fully realised.

3. PROJECT BOARD STRUCTURE & REPRESENTATION

- 3.1 Agreement will be reached upon contract signature on the appropriate National College and Provider representation on the Project Board;
- 3.2 In the event that either party wishes to replace any Board Member position, that party shall notify the other in writing of the proposed change for agreement by the other party (such agreement not to be unreasonably withheld or delayed). Notwithstanding the foregoing it is intended that each National College Board Member has at all times a counterpart Provider Board Member of equivalent seniority and expertise.
- 3.3 Each party shall ensure that its Board Members shall make all reasonable efforts to attend Board meetings at which that Board Member's attendance is required. If any Board Member is not able to attend a Board meeting, that person shall use all reasonable endeavours to ensure that:

3.3.1 a delegate attends the relevant Board meeting in his/her place who (wherever possible) is properly briefed and prepared; and

3.3.2 that he/she is debriefed by such delegate after the Board meeting.

3.4 A chairperson shall be appointed by the National College. The chairperson shall be responsible for:

3.4.1 scheduling Board meetings;

3.4.2 setting the agenda for Board meetings and circulating to all attendees in advance of such meeting;

3.4.3 chairing the Board meetings;

3.4.4 monitoring the progress of any follow up tasks and activities agreed to be carried out following Board meetings;

3.4.5 ensuring that minutes for Board meetings are recorded and disseminated electronically to (the appropriate persons as agreed by both parties at the time) and to all Board meeting participants within seven (7) Business Days after the Board meeting; and

3.4.6 facilitating the process or procedure by which any decision agreed at any Board meeting is given effect in the appropriate manner.

3.5 Board meetings shall be quorate as long as at least [two] representatives from each party are present.

3.6 The parties shall ensure, as far as reasonably practicable, that the Board shall as soon as reasonably practicable resolve the issues and achieve the objectives placed before it. Each party shall use its best endeavours to ensure that Board Members are empowered to make relevant decisions or have access to empowered individuals for decisions to be made to achieve this.

4 ROLE OF PROJECT BOARD

4.1 The Project Board shall:

4.1.1 ensure that this Contract is operated throughout the term in a manner which optimises the value for money and operational benefit derived by the National College and the commercial benefit derived by the Provider;

4.1.2 receive and review reports from the Project Manager(s) which summarise key aspects of the operation and delivery of the Services, performance against KPIs/Service Levels; progress against the Implementation Plan, possible future developments;

4.1.3 determine business strategy and provide guidance on policy matters which may impact on the implementation of the Services or on any potential future or additional Services authorise the commissioning

and initiation of new business change projects and shall assess opportunities for Future Services and/or Additional Services;

4.1.4 consider and resolve Disputes (including Disputes as to the cause of a delay to the Services or the performance of the Services) escalated to the Project Board;

4.1.5 recognise and promote participation in cross-governmental initiatives; and

4.1.6 develop the National College/Provider relationship so that it supports delivery of the Services in a positive manner.

5 CONTRACT MANAGEMENT MECHANISMS

5.1 Both parties will pro-actively manage risks attributed to them under the terms of this Contract.

5.2 The Provider will develop, operate, maintain and amend, as agreed with the National College, processes for:

5.2.1 the identification and management of risks. The project risk and issues register (Appendix 6) will be completed by the Provider and submitted for review by both parties at the Project Board;

5.2.2 the identification and management of issues

5.2.3 monitoring and controlling progress against the Implementation Plan.

6 ANNUAL REVIEW

6.1 An annual review meeting shall be held, on a date to be agreed between the parties, during the Term.

6.2 The meetings will be attended by the Project/Contract Manager of the Provider and the Project Manager/Contract Manager of the National College and any other persons considered by the National College necessary for the review.

7 CHANGE CONTROL

Minor Changes

7.1 The Parties acknowledge that minor variations to this Contract may be necessary to reflect operational and administrative procedures during the term of the Contract. The Parties further acknowledge that such minor variations shall be agreed in writing between the Parties' respective Project/Contract Managers.

7.2 The Provider shall use reasonable endeavours to incorporate minor variations requested by the National College within the current Charges for the Services and shall not serve a Provider Notice of Change unless the change involves a demonstrable material increase to its costs or requires a material change to the Contract.

Other Changes

7.3. In respect of changes to the Contract ("**Change**") proposed by the National College ("National College Notice of Change"):

7.3.1 The National College has the right to propose Changes in accordance with this paragraph. The Provider may not withhold its agreement to any Change required by the National College provided that the National College cannot require a Change that would require the Provider to breach an obligation of this Contract.

7.3.2 The Provider acknowledges and accepts that it may be necessary to make changes to the Services as set out in Schedule 1. In such circumstances the National College will follow the procedure set out in this Schedule.

7.3.3 The Provider shall use its best endeavours to accommodate any changes to the needs and requirements of the National College provided that it shall be entitled to payment for any additional costs it incurs as a result of any such changes on a "no better no worse" basis. The amount of such additional costs shall be agreed between the Parties in writing and depending on the Change may either be a single, one off payment or an adjustment to the Charges.

7.3.4 If the National College requires a Change, it must serve a National College Notice of Change on the Provider.

7.4 The National College Notice of Change shall:

- (a) set out the Change required in sufficient detail to enable the Provider to calculate the Change Estimate and provide the Change Response; and
- (b) require the Provider to provide to the National College a Change Response within twenty one (21) days of receipt of the National College Notice of Change.

7.5 As soon as practicable, and in any event within twenty one (21) days after having received the National College Notice of Change, the Provider shall deliver to the National College the impact of the Change ("Change Response"). The Change Response shall include the opinion of the Provider on:

- (a) any impact on the provision of the Services;
- (b) any impact on the Provider's ability to meet its obligations under this Contract;
- (c) any amendment required to this Contract and/or any sub-contract as a result of the Change; and;
- (d) the Provider's proposed plan and time schedule for implementation of the Change (the "**Change Implementation Plan**").

7.6 Where there is a change to the Charges ("Change Estimate") is in excess of £5,000 the Provider shall provide details of:

- (a) the estimated expenditure, including any capital replacement costs, arising from the Change;
- (b) the estimated increase in operating expenditure relating to the provision of the Services, with an analysis showing the costs of staff, consumables, sub-contracted and bought-in services, after the Change is implemented;
- (c) any interest, expenses or other third party financing costs to be incurred as a result of implementing the Change;
- (d) details of any estimated overhead recoveries and long term cost savings that are anticipated after the Change is implemented; and
- (e) the profit which the Provider seeks to achieve in the provision of the additional parts of the Services delivered as a result of the Change, including any profit element forming any part of the overhead recoveries disclosed by reason of paragraph (d) above.

7.7 Where the Change Estimate is less than £5,000 the Provider shall identify the agreed required services and relevant expenditure and show clearly how the Change Estimate is achieved.

7.8 As soon as practicable after the National College receives the Change Response, the Parties shall discuss and agree the issues set out in the Change Response. In such discussions:

- (a) the National College may modify the National College Notice of Change, in which case the Provider shall, as soon as practicable and in any event within twenty one (21) days, after receipt of such modification, notify the National College of any consequential changes to the Change Response; and
- (b) where the National College reasonably request, the Provider shall provide such additional information as the National College reasonably request in order to evaluate the Change Response fully.

7.9 At the reasonable request of the National College, the Provider shall provide an additional Change Estimate (a "**Further Change Estimate**") to validate the Change Estimate using an alternative estimating approach agreed between the National College and the Provider.

7.10 Where there is a ten per cent (10%) or greater variation in the overall cost to the National College between the Further Change Estimate and the Change Estimate, the National College may request a re-working of the Change Estimate.

7.11 If the Parties cannot agree on the contents of the Change Response then the Dispute will be determined in accordance with Clause 20 (Dispute Resolution) of Schedule 2.

7.12 As soon as practicable after the contents of the Change Response have been agreed or otherwise determined pursuant to Clause 20 (Dispute Resolution), of Schedule 2, the National College shall:

- (a) confirm in writing the Change Response by issuing a Contract Change Control Note ("**CCN**") as below (as modified); or
- (b) withdraw the National College Notice of Change.

7.13 If the National College does not confirm in writing the Change Response (as modified) within thirty (30) days of the contents of the Change Response having been agreed or determined, then the National College Notice of Change shall be deemed to have been withdrawn.

7.14 In the event that the Change has been agreed in accordance with this Paragraph 7.3.1 then:

- (a) the Provider shall implement the Change in accordance with the CCN and Change Implementation Plan; and
- (b) the Charges shall be adjusted in accordance with the agreed CCN once the Change Implementation Plan is complete and accepted by the National College in accordance with the agreed implementation criteria.

7.15 Until a Change is made in accordance with the Change Control Procedure, the Provider shall, unless otherwise agreed in writing, continue to supply the Services as if the request or requirement had not been made.

7.16 Any discussions which may take place between the National College and the Provider concerning a requirement for a Change before the authorisation of a resultant Change to the Services shall be without prejudice to the rights of either Party.

7.17 Any Change to the Services undertaken by the Provider and or any of its sub-contractors which has not been authorised in advance in writing by the National College and which has not been otherwise agreed in writing in accordance with this Change Control Procedure shall be undertaken entirely at the expense and liability of the Provider.

8. In respect of Changes proposed by the Provider ("Provider Notice of Change"):

8.1 If the Provider wishes to introduce a Change to the Contract, it must serve a Provider Notice of Change on the National College.

8.2 The Provider Notice of Change must:

- (a) set out the proposed Change in sufficient detail to enable the National College to evaluate it in full;
- (b) specify the Provider's reasons for proposing the Change;
- (c) request the National College to consult with the Provider with a view to deciding whether to agree to the Change and, if so, what consequential changes the National College requires as a result;

- (d) indicate any implications of the Change;
- (e) indicate, in particular, whether a variation to the Charges is proposed (and, if so, give a detailed cost estimate of such proposed change); and
- (f) indicate if there are any dates by which a decision by the National College is critical.

8.3 The National College shall evaluate the Provider's proposed change in good faith, taking into account all relevant issues, including whether:

- a change in the Charges will occur;
- (g) the Change affects the quality of the Services or the likelihood of successful delivery of the Services more generally;
- (h) the Change will interfere with the relationship of the National College with third parties;
- (i) the Change materially affects the risks or costs to which the National College is exposed; or
- (j) the Change would, if implemented, result in a change in the nature of the Services.

8.4 As soon as practicable (but no later than 15 (fifteen) days) after receiving the Provider Notice of Change, the Parties shall meet and discuss the matter referred to in it. During their discussions the National College may propose modifications, accept, or reject the Provider Notice of Change.

8.5 If the National College accepts the Provider Notice of Change (with or without any modification agreed with the Provider), the relevant Change in the Services shall be implemented within twenty one (21) days of the National College's acceptance or such other period as the Parties consider acceptable in the circumstances, provided that the Provider may withdraw the Provider Notice of Change for any reason at any time until the National College issues a CCN in respect of the Change proposed in such notice. Within this period, the Parties shall consult and agree the remaining details as soon as practicable and shall enter into any documents to amend this Contract or any relevant sub-contract which are necessary to give effect to the Change. The National College will issue a Contract Change Control Note (CCN).

8.6 If the National College rejects the Provider Notice of Change, it shall advise the Provider of the criteria set out in Paragraph 8.3 upon which its decision for such a rejection is based.

8.7 The National College may at its absolute discretion reject any request for a Change proposed by the Provider.

8.8 Unless specified otherwise in the relevant CCN, there shall be no change to the Charges because of a Change proposed by the Provider.

8.9 If the Change proposed by the Provider causes or will cause the Provider's costs to decrease in the short-term or long-term, then there shall be a decrease in the Charges such that the Provider agrees to share on an equal basis actual cost savings realised by the Provider as a result of a Change proposed by the Provider.

[REDACTED]

[REDACTED]	[REDACTED]	[REDACTED] [REDACTED] [REDACTED]
[REDACTED]	[REDACTED]	[REDACTED] [REDACTED] [REDACTED]
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[REDACTED]	
[REDACTED] [REDACTED]	[REDACTED] [REDACTED]
[REDACTED]	

Schedule 7

The National College's Obligations

7. The National College shall:
 - 7.1 Agree the main personnel who will be in contact with the Provider to support the delivery of the work, including relevant escalation points
 - 7.2 Administer and manage all Project Board and other relevant meetings as required between the two parties
 - 7.3 Regularly monitor progress against delivery milestones and identify any areas in which other NCTL programmes may be available to support delivery
 - 7.4 Regularly monitor financial information and ensure that scheduled payments are made to the Provider according to the information in Schedule 3.
 - 7.5 Provide access to appropriate and relevant NCTL staff and officers
 - 7.6 Sharing of market intelligence information through the contract management process
 - 7.7 Responsibility for media relations, in consultation with the Provider in advance of announcements

Schedule 8

Key Personnel and Key Sub Providers

Key Personnel

In accordance with Clause 15 (Personnel) of this Contract the following individuals listed in the table below shall be considered Key Personnel:

[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED] [REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED] [REDACTED]	[REDACTED]

Key Sub-Contractors

In accordance with **Clause 14** (Personnel and Sub-Providers) of this Contract the following individuals listed in the table below shall be considered Key Sub-Providers.

In accordance with **Clause 17** (Assignment and Supply Chain Rights) of this Contract, the Provider is entitled to Sub-contract its obligations under this Contract to the following Sub-Providers listed in the table below

Key Sub-Provider Name and Address (if not the same as the registered office)	Registered Office and Company Number	Related Product/Service Description	Sub-contract Price expressed as a percentage of total projected Charges over lifetime of the Agreement	Role in delivery of the Services

Schedule 9 Step In Rights and Exit Plan

Step In Rights

"Default"	any event such as would entitle the other party to terminate this Contract in accordance with clause 11 of Schedule 2;
"Regulatory Bodies"	those government National Colleges and regulatory, statutory and other entities, committees and bodies which, whether under statute, rules, regulations, codes of practice or otherwise, are entitled to regulate, investigate, or influence the matters dealt with in this Contract or any other affairs of the National College and " Regulatory Body " shall be construed accordingly;

- 1 The National College may take action under this Schedule in the following circumstances:
 - 1.1 an event occurs entitling NCTL to terminate this Contract in accordance with clause 11.2.1;
 - 1.2 the parties agree, at their discretion, that NCTL should take such action.

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

- 2 Before the National College exercises its right of step-in under this Schedule it shall permit the Provider the opportunity to demonstrate to the National College's reasonable satisfaction within 30 days of receipt of written notice from the National College giving particulars of the situation and (where relevant) requiring it to be remedied [**Note: this is to bring this provision in line with our existing secondary schools contract**] that the Provider is still able to provide the Services or Project in accordance with the terms of this Contract and/or remedy the circumstances giving rise to the right to step-in without the requirement for the National College to take action.
- 3 If the National College is not satisfied with the Provider's demonstration pursuant to clause 2 the National College may:
 - 3.1 where the National College considers it expedient to do so, require the Provider by notice in writing to take those steps that the National College considers necessary or expedient to mitigate or rectify the state of affairs giving rising to the National College's right to step-in;
 - 3.2 appoint any person to work with the Provider in performing all or a part of the Services or Project; or
 - 3.3 take the steps that the National College considers appropriate to ensure the performance of all or part of the Services or Project.
- 4 The Provider shall co-operate fully and in good faith with the National College, or any another person appointed in respect of clause 3.2, and shall adopt any reasonable methodology in providing the Services or Project recommended by the National College or that person.

Exercise of the Right of Step-in

5 If the Provider:

- 5.1 fails to confirm within 10 Business Days of a notice served pursuant to clause 3.1 that it is willing to comply with that notice; or
- 5.2 fails to work with a person appointed in accordance with clause 3.2; or
- 5.3 fails to take the steps notified to it by the National College pursuant to clause 3.3,

then the National College may take action under this clause either through itself or with the assistance of third party contractors, provided that the Provider may require any third parties to comply with any confidentiality undertaking. In undertaking any such action neither NCTL nor any third party contractor shall have any power of agency in relation to the Provider, nor shall they be able to enter the Provider into any legally binding obligations or have any legal standing within the Provider to control or direct any affairs or employees of the Provider. However, the Provider will provide reasonable assistance and agree to co-operate with National College or any third party contractor appointed by National College.

6 If the National College takes action pursuant to clause 5, the National College shall serve notice ("**Step-in Notice**") on the Provider. The Step-in Notice shall set out the following:

- 6.1 the action the National College wishes to take and in particular the Services it wishes to control;
- 6.2 the reason for and the objective of taking the action and whether the National College reasonably believes that the primary cause of the action is due to the Provider's Default;
- 6.3 the date it wishes to commence the action;
- 6.4 the time period which it believes will be necessary for the action;
- 6.5 whether the National College will require access to the Provider's premises;
- 6.6 to the extent practicable, the effect on the Provider and its obligations to provide the Services during the period the action is being taken.

7 Following service of a Step-in Notice, the National College shall:

- 7.1 take the action set out in the Step-in Notice and any consequential additional action as it reasonably believes is necessary to achieve (together, the "**Required Action**");
- 7.2 keep records of the Required Action taken and provide information about the Required Action to the Provider;

- 7.3 co-operate wherever reasonable with the Provider in order to enable the Provider to continue to provide any Services in relation to which the National College is not assuming control; and
- 7.4 act reasonably in mitigating the cost that the Provider will incur as a result of the exercise of the National College's rights under this clause.
- 8 For so long as and to the extent that the Required Action is continuing, then:
- 8.1 the Provider shall not be obliged to provide the Services or Project to the extent that they are the subject of the Required Action;
- 8.2 subject to clause 9 below, the National College shall pay to the Provider the Charges and the National College's reasonable costs of taking the Required Action.
- 9 If the Required Action results in:
- 9.1 the degradation of any Services or Project not subject to the Required Action; or
- 9.2 the non-achievement of a milestone,

beyond that which would have been the case had the National College not taken the Required Action, then the Provider shall be entitled to an agreed adjustment of the Charges, provided that the Provider can demonstrate to the reasonable satisfaction of the National College that the Required Action has led to the degradation or non-achievement.
- 10 Not less than 30 Business Days before ceasing to exercise its step in rights under this clause the National College shall deliver a written notice to the Provider ("**Step-Out Notice**"), specifying:
- 10.1 the Required Action it has actually taken; and
- 10.2 the date on which the National College plans to end the Required Action ("**Step-Out Date**") subject to the National College being satisfied with the Provider's ability to resume the provision of the Services or Project and the Provider's plan developed in accordance with clause 11.
- 11 The Provider shall, following receipt of a Step-Out Notice and not less than 20 Business Days prior to the Step-Out Date, develop for the National College's approval a draft plan ("**Step-Out Plan**") relating to the resumption by the Provider of the Services or Project, including any action the Provider proposes to take to ensure that the affected Services or Project satisfy the requirements of this Contract.
- 12 If the National College does not approve the draft Step-Out Plan, the National College shall inform the Provider of its reasons for not approving it. The Provider shall then revise the draft Step-Out Plan taking those reasons into account and shall re-submit the revised plan to the National College for the National College's approval. The National College shall not withhold or delay its approval of the draft Step-Out Plan unnecessarily.
- 13 The Provider shall bear its own costs in connection with any step-in by the National College under this Schedule, provided that the National College shall

reimburse the Provider's reasonable additional expenses incurred directly as a result of any step-in action taken by the National College under:

- 13.1 clauses 1.4 or 1.5; or
- 13.2 clauses 1.6, 1.7 and 1.8 (insofar as the primary cause of the National College serving the Step-In Notice is identified as not being the result of a Provider's Default).}

Exit Plan

- 14 The Provider will work with the NCTL to develop a detailed Exit plan within the first 6 (six) months of the services commencement of this contract.

Termination and Exit Plan

- 15 In the event of expiry or termination of this Contract (howsoever arising), without prejudice to any other right or obligation of either party under this Contract and subject to the provisions of **clause 8** (Intellectual Property) of Schedule 2:
 - 15.1 The Provider will forthwith supply to the National College copies of all work-in-progress, know how, documentation, records and information (in whatever form) as is necessary in the reasonable opinion of the National College for the efficient transfer of the Services and other obligations of the Provider under this Contract to, and continued provision of the Services and performance of other obligations by, the National College or a third party provider, as the case may be.
 - 15.2 The Provider will forthwith either provide to the National College or, at the National College's option, such third parties as the National College may nominate, such co-operation, information and assistance as is necessary in the reasonable opinion of the National College to:
 - 15.2.1 achieve the efficient transfer of the Services and other obligations of the Provider under this Contract to, and continued provision of the Services and performance of other obligations by, the National College or a third party provider, as the case may be, with the minimum possible disruption to service provision; and
 - 15.2.2 identify and access any data generated, held, utilised or accessed by or on behalf of the National College in connection with this Contract ("**Data**") and to transfer copies of such Data to the National College in a standard format accessible by the National College or any third party nominated by the National College.
- 16 Subject to the Provider retaining copies of any records it is legally obliged to do so for audit purposes and/or to comply with any other law, regulation, order of a court or tribunal of competent jurisdiction, requirement of any regulatory authority or similar obligation, the Provider will forthwith deliver to the National College the original and all copies of any Departmental Data and confidential information belonging to the National College which is held by or on behalf of the Provider relating to the Services or, at the National College's option, shall deliver to the National College the originals of all such Departmental Data and Confidential Information belonging to the National College and destroy all copies and certify to the National College in writing that they have been so destroyed.

- 17 Without prejudice to the provisions of Schedule 10, the Provider shall ensure that the provisions of the Data Protection Act 1998 are complied with and any necessary consents are obtained in connection with the transfer of records to the National College or its nominee, upon expiry or termination of the Contract.
- 18 Unless otherwise stated, the termination assistance referred to in this Schedule shall be provided in the three (3) month period immediately prior to the transfer of the Services and other obligations of the Provider under this Contract to the National College or a third party provider, as applicable.

Schedule 10

Data Handling Schedule

Definitions

"Affiliate" in relation to a body corporate, any other entity which directly or indirectly Controls, is Controlled by, or is under direct or indirect common Control with, that body corporate from time to time.

"Control" means that a person possesses, directly or indirectly, the power to direct or cause the direction of the management and policies of the other person (whether through the ownership of voting shares, by contract or otherwise) and **"Controls"** and **"Controlled"** shall be interpreted accordingly.

"Data Controller" A person who, either alone or jointly or in common with other persons, determines the purposes for which and the manner in which any personal data are, or are to be, processed.

"Data Processor" Any person or organisation (other than an employee of the data controller), processing personal data on behalf of the data controller.

"Data Subject" a living individual to whom personal data relates.

"Department's Data" or "NCTL Data" The data, text, drawings, diagrams, images or sounds (together with any database made up of any of these) which are embodied in any electronic, magnetic, optical or tangible media, and:
(i) which are supplied to the Provider by or on behalf of NCTL; or
or
(iii) which are Personal Data for which NCTL is the Data Controller.

"Departmental Assets"

DPA" includes but is not limited to Departmental premises, IT systems and information with a classification up to confidential.

the Data Protection Act 1998.

"ICT"	information and communications technology.
"ICT Environment"	NCTL's ICT system and the Provider's ICT system.
"Malicious Software"	any software program or code intended to destroy, interfere with, corrupt, or cause undesired effects on program files, data or other information, executable code or application software macros, whether or not its operation is immediate or delayed, and whether the malicious software is introduced wilfully, negligently or without knowledge of its existence.
Personal Data/Information"	data/information relating to a living individual who is or can be identified either from the data or from the data in conjunction with other information that is, or is likely to be held.
"Personnel Security Standard"	a government wide requirement including checks on identity, employment history, nationality and immigration status and declaration of unspent criminal records. All employees with direct or indirect access to Departmental Data must be subject to pre-employment checks equivalent to or higher than the Baseline Personnel Security Standard (BPSS):
"Provider"	Teach First
"Provider Personnel"	all employees, agents and contractors of the Provider and/or of any Sub-contractor.
"Regulatory Bodies"	those government departments and regulatory, statutory and other entities, communities and bodies which, whether under statute, rules, regulations, codes of practice or otherwise, are entitled to regulate, investigate or influence the matters dealt with in this Contract or any other affairs of NCTL, and "Regulatory Body" shall be construed accordingly.
Security Plan"	the Provider's security plan which shall be included as Schedule 12.
"Sub-Contractor"	
"Working Day"	any third party with whom the Provider enter into a sub-contract or its servants or agents and any third party with whom that third party enters into a sub-contract or its servants or agents.

any day other than a Saturday, Sunday or public holiday in England and Wales.

1. DPA

- 1.1 With respect to the parties' rights and obligations under this Contract, the parties agree that Teach First and its subsidiaries (including "the Provider") are the Data Controller for the Services.
 - 1.1.1 The parties recognise that they may handle Personal Data. All parties shall comply with their legal obligations under the DPA.
 - 1.1.2 In addition, the Provider shall notify NCTL as soon as it becomes aware of any actual or potential data incident or breach of its obligations under the DPA in relation to any Personal Data processed as a consequence of undertaking this Contract.
 - 1.1.3 The Provider shall demonstrate, to the reasonable satisfaction of NCTL, how it proposes to comply with the DPA in the delivery of the Services, including providing details of steps taken to do so.
 - 1.1.4 The Provider shall permit NCTL or any duly authorised representative of NCTL (subject to reasonable and appropriate confidentiality undertakings), to inspect and audit the Provider's data processing activities (and/or those of its agents, subsidiaries and sub-contractors) to enable NCTL to verify that the Provider is in full compliance with its obligations under this Contract.
- 1.2 Insofar as the Provider processes Personal Data for its own administrative purposes, whilst undertaking this Contract the Provider shall not act in such a way as to cause it to breach any of its applicable obligations under the DPA and shall notify NCTL if it considers this to be likely.

2. Department's Data

- 2.1 The Provider shall keep an audit trail of where NCTL's Data is held, including hardware, laptops, drives and devices.
- 2.2 The Provider shall ensure that NCTL's Data is stored in locked cabinets and is accessed only by the Provider's authorised Personnel.
- 2.3 The Provider shall ensure that NCTL's Data is securely removed from their systems and any printed copies securely destroyed at the end of this work, or on termination of the contract. In complying with this clause, electronic copies of NCTL's Data shall be securely destroyed by either physical destruction of the storage media or secure deletion using appropriate electronic shredding software. Any hard copy shall be destroyed by cross-cut shredding and secure re-cycling of the resulting paper waste.

- 2.4 The Provider shall perform secure back-ups of all NCTL's Data and shall ensure that up-to-date back-ups are stored securely. The Provider shall ensure that such back-ups are available to NCTL at all times upon request.
- 2.5 The Provider shall ensure that any of NCTL's Data to be sent between the Provider's offices/staff, and/or any Sub-contractors, and/or any other third party are either (i) sent by CD or DVD and are fully encrypted and password protected; or (ii) are sent via secure transport mechanisms (including a reputable secure encryption site or software) or by the use of reputable two factor authenticated repositories. The Provider shall ensure that any data sent using the secure mechanisms described in sub-paragraph (ii) above are fully encrypted using strong password protection with the password for files is sent separately from the data to the named recipient of the data.
 - 2.5.1 The Provider shall contractually enforce all these NCTL Security Standards onto any third party suppliers, Sub-contractors or partners who could potentially access Departmental Data in the course of providing or assisting the Provider with the provision of the Services
- 2.6 If NCTL's Data is corrupted, lost or sufficiently degraded as a result of the Provider's Default so as to be unusable, following reasonable discussions with the Provider to seek the Provider's agreement, NCTL may:
 - 2.6.1 require the Provider at the Provider's expense to restore or procure the restoration of NCTL's Data as soon as practicable and/or
 - 2.6.2 itself restore or procure the restoration of NCTL's Data, and shall be repaid by the Provider any reasonable expenses incurred in doing so.
- 2.7 If at any time the Provider suspects or has reason to believe that NCTL's Data has or may become corrupted, lost or sufficiently degraded in any way for any reason, then the Provider shall notify NCTL immediately and inform NCTL of the remedial action the Provider proposes to take.
- 2.8 With regards to the Provider's access to NCTL's Initial Teacher Training Data Management System (ITT DMS), the Provider shall ensure that:
 - 2.8.1 only authorised and authenticated personnel will have access;
 - 2.8.2 accounts will be managed and removed when no longer required;
 - 2.8.3 the connection will be made from secure company computers.
- 2.9 At the end of the contract or in the event of failure or obsolescence, all equipment holding Departmental Data must be securely cleansed or destroyed using a market standard product or method. Where this is not possible e.g. for legal or regulatory reasons, or technical reasons such as where there is storage area network (SAN) or shared backup tapes then the Provider must protect the equipment until the time (which may be long after the end of the contract) when it can be securely cleansed or destroyed
- 2.10 The Provider shall ensure that any IT systems and hosting environments that are used to hold Departmental Data being handled, stored or processed in the course of providing this service are periodically (at least annually) subject to IT Security Health Checks

3.0 Personnel Security Standard

- a. The Provider shall ensure that access by contractor staff to NCTL's Data shall be confined to those individuals who have a "need-to-know" and whose access is essential for the purpose of their duties. All employees with direct or indirect access to NCTL's Data must be subject to pre-employment checks equivalent to or higher than the Baseline Personal Security Standard (BPSS): Details of the standard are available at the HMG website <https://www.gov.uk/government/publications/security-policy-framework>.
 - b. All Provider Personnel who handle Departmental Data must have annual awareness training in protecting information.
- 3.2 A breach of this Clause 3 shall entitle NCTL to terminate the Contract immediately.

3. Malicious Software

- 4.1 The Provider shall, as an enduring obligation throughout the period of the Contract, use the latest versions of anti-virus definitions available to check for and delete Malicious Software from the ICT Environment.
- 4.2 Notwithstanding clause 5.1, if Malicious Software is found, the Parties shall co-operate to reduce the effect of the Malicious Software and, particularly if Malicious Software causes loss of operational efficiency or loss or corruption of Department's Data, assist each other to mitigate any losses and to restore the Services to their desired operating efficiency.
- 4.3 Any cost arising out of the actions of the Parties taken in compliance with the provisions of clause 5.6 shall be borne by the Parties as follows:
 - 4.3.1 by the Provider where the Malicious Software originates from the Provider Software System, any software owned by a third party or NCTL's Data (whilst NCTL's Data was under the control of the Provider); and
 - 4.3.2 by NCTL if the Malicious Software originates from NCTL's Software or NCTL's Data (whilst NCTL's Data was under the control of NCTL).

5 Business Continuity & Audit

- 5.1 The Provider must have appropriate robust, conformant business continuity arrangements and processes including IT disaster recovery plans and procedures to ensure that the delivery of the Contract is not adversely affected in the event of an incident or crisis which are aligned with the relevant British standard or European standard equivalent relevant to the Provider's sector/business.
- 5.2 The Provider shall keep an audit trail of where the National College's Data is held, including hardware, laptops, drives and devices. The National College reserves the right to audit the Provider with a maximum of 5 Business Days' notice in respect to the Provider's compliance with this Schedule

Schedule 11

Transfer of Undertakings (TUPE) Obligations

1. Before the Effective Date the Provider supplied NCTL with a complete list of the names of all Provider employees engaged wholly or mainly in the provision of the Services in accordance with clause 12.3. **This is set out in appendix 6.**
2. The Provider will, in accordance with clause 12 in of Schedule 2 (Terms and Conditions), ensure that information collated in respect of employees engaged in the provision of the Services will be accurate and kept up to date. This information will include but not be limited to:

Region	Role	Number(s) of Staff	Time Allocated to Teach First Role	Indicative Salary and associated costs
East Midlands				
West Midlands				
London				
North East				
North West				
South East				
Yorkshire and Humber				
South Coast				
South West				
East				
Total				
Grand Total				

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