

1. Terms and Conditions

CONTRACT FOR the Delivery Partner for the Children's Social Care Innovation Programme

THIS CONTRACT IS DATED 5 JUNE 2014

Parties

- 1) The Secretary of State for Education whose Head Office is at Sanctuary Buildings, Great Smith Street, London, SW1P 3BT ("the Department"); and
- 2) Deloitte LLP, company number OC303675 whose registered office is at 2 New Street Square, London EC4A 3BZ ("the Contractor")

Recitals

The Contractor has agreed to perform the role of delivery partner for the Children's Social Care Innovation Programme on the terms and conditions set out in this Contract.

The Department's reference number for this Contract is CSCIP/14.

1 Interpretation

1.1 In this Contract the following words shall mean:-

| | |
|------------------------------------|---|
| "the Services" | the services to be performed by the Contractor as described in Schedule 1; |
| "the Contract Manager" | Almudena Lara |
| "the Contractors Contract Manager" | |
| "Confidential Information" | the Department's Confidential Information and/or the Contractor's Confidential Information; |
| "Contracting Department" | any contracting Department as defined in Regulation 5(2) of the Public Contracts (Works, Services and Supply) (Amendment) Regulations 2000 other than the Department; |

RESTRICTED : COMMERCIAL

| | |
|---|---|
| "Contractor Personnel" | all employees, agents, consultants and contractors of the Contractor and/or of any Sub-contractor; |
| "Crown" | means Queen Elizabeth II and any successor |
| "Crown Body" | any department, office or agency of the Crown; |
| " Confidential Information" | all Personal Data and any information, however it is conveyed, which either Party may receive or obtain in connection with the Contract that relates to the business, affairs, developments, trade secrets, know-how, personnel, and suppliers , including all IPRs, together with all information derived from any of the above, and any other information clearly designated as being confidential (whether or not it is marked "confidential") or which ought reasonably be considered to be confidential; |
| "Environmental Information Regulations" | the Environmental Information Regulations 2004 together with any guidance and/or codes of practice issues by the Information Commissioner or relevant Government Department in relation to such regulations; |
| "FOIA" | the Freedom of Information Act 2000 and any subordinate legislation made under this Act from time to time together with any guidance and/or codes of practice issued by the Information Commissioner or relevant Government Department in relation to such legislation; |
| "Her Majesty's Government" | means the duly elected Government for the time being during the reign of Her Majesty and/or any department, committee, office, servant or officer of such Government |
| "Information" | has the meaning given under section 84 of the Freedom of Information Act 2000; |
| "Intellectual Property Rights" | means all patents, rights to inventions, utility models, copyright and related rights, trade marks, service marks, trade, business and domain names, rights in trade dress or get-up, rights in goodwill or to sue for passing off, unfair competition rights, rights in designs, rights in computer software, database, rights, topography |

RESTRICTED : COMMERCIAL

rights, moral rights, rights in confidential information (including know-how and trade secrets) and any other intellectual property rights, in each case whether registered or unregistered and including all applications for and renewals or extensions of such rights, and all similar or equivalent rights or forms of protection in any part of the world;

"Personal Data"

shall have the same meaning as set out in the Data Protection Act 1998;

Pre-Existing Intellectual
Property Rights

means the Intellectual Property Rights existing prior to commencement of the Services, or developed independently of the Services that are proprietary to either the Contractor (and its sub-contractors) or the Department together with any enhancements and/or modifications regardless of whether such enhancements and/or modifications are developed as part of the Services.

"Property"

means the property, other than real property, issued or made available to the Contractor by the Department in connection with the Contract.

"Request for Information"

a request for information or an apparent request under the Code of Practice on Access to Government Information, FOIA or the Environmental Information Regulations;

"SME"

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

"Working Day"

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

- 1.2 References to "Contract" mean this contract (and include the Schedules). References to "Clauses" and "Schedules" mean clauses of and schedules to this Contract. The provisions of the Schedules shall be binding on the parties as if set out in full in this Contract.
- 1.3 Reference to the singular include the plural and vice versa and references to any gender include both genders. References to a person include any individual, firm, unincorporated association or body corporate.

2 Commencement and Continuation

- 2.1 The Contractor shall commence the Services on 19th May 2014 and, subject to Clause 10.1 shall complete the Services on or before 31st March 2016.
- 2.2 This Contract shall be deemed to have been effective from 19th May 2014.
- 2.3 The scope of this contract may be extended following future as yet unknown developments which fall within the scope of the original contract aims, up to a further value of 30% of the original contract price. Any such changes including revised costs would be agreed with the Contractor.
- 2.4 There will be an option to extend this Contract for a further period up to a maximum of two years. Any extension must be agreed between the parties in writing and will be subject to a continuing need to meet departmental/ Government priorities, satisfactory performance and budget availability.

3 Contractor's Obligations

- 3.1 The Contractor shall promptly and efficiently complete the Services in accordance with the provisions set out in Schedule.
- 3.2 The Contractor shall comply with the accounting and information provisions of Schedule 2.
- 3.3 The Contractor shall comply with all applicable statutory provisions in relation to the Services including all prior and subsequent enactments, amendments and substitutions relating to that provision and to any regulations made under it.

4 Departments Obligations

The Department will comply with the payment provisions of Schedule 2 provided that the Department has received full and accurate information and documentation as required by Schedule 2 to be submitted by the Contractor for work completed to the satisfaction of the Department.

5 Changes to the Department's Requirements

- 5.1 The Department shall notify the Contractor of any material change to the Department's requirement under this Contract.
- 5.2 The Contractor shall use reasonable endeavours to accommodate any changes to the needs and requirements of the Department provided that it shall be entitled to payment for any additional costs it incurs as a result of any such changes. The amount of such additional costs to be agreed between the parties in writing.

6 Management

RESTRICTED : COMMERCIAL

- 6.1 The Contractor shall promptly comply with all reasonable requests or directions of the Contract Manager in respect of the Services.
- 6.2 The Contractor shall address any enquiries about procedural or contractual matters in writing to the Contract Manager. Any correspondence relating to this Contract shall quote the reference number set out in the Recitals to this Contract.

7 Contractor's Employees and Sub-Contractors

- 7.1 Where the Contractor enters into a contract with a supplier or contractor for the purpose of performing its obligations under the Contract (the "Sub-contractor") it shall ensure prompt payment in accordance with this clause 7.1. Unless otherwise agreed by the Department in writing, the Contractor shall ensure that any contract requiring payment to a Sub-contractor shall provide for undisputed sums due to the Sub-contractor to be made within a specified period from the receipt of a valid invoice not exceeding:

7.1.1 10 days, where the Sub-contractor is an SME; or

7.1.2 30 days either, where the sub-contractor is not an SME, or both the Contractor and the Sub-contractor are SMEs,

The Contractor shall comply with such terms and shall provide, at the Department's request, sufficient evidence to demonstrate compliance.

- 7.2 The Department shall be entitled to withhold payment due under clause 7.1 for so long as the Contractor, in the Department's reasonable opinion, has failed to comply with its obligations to pay any Sub-contractors promptly in accordance with clause 7.1. For the avoidance of doubt the Department shall not be liable to pay any interest or penalty in withholding such payment.
- 7.3 The Contractor shall take all reasonable steps to satisfy itself that its employees or sub-contractors (or their employees) are suitable in all respects to perform the Services.
- 7.4 The Contractor shall immediately notify the Department if they have any concerns regarding the propriety of any of its sub-contractors in respect of work/services rendered in connection with this Contract.
- 7.5 The Contractor, its employees and sub-contractors (or their employees), whilst on departmental premises, shall comply with such rules, regulations and requirements (including those relating to security arrangements) as may be in force from time to time and notified to the Contractor.
- 7.6 The Contractor shall ensure the security of all the Property whilst in its possession, during the supply of the Services, in accordance with the Department's reasonable security requirements as required from time to time.

8 Intellectual Property

- 8.1 Nothing in this Contract shall affect the Pre-Existing Intellectual Property Rights of the Department or the Contractor existing prior to the date of this Contract.
- 8.2 The Contractor hereby assigns with full title guarantee to the Department all Intellectual Property Rights in all newly created documents, drawings, computer software and any other work prepared by or on behalf of the Contractor in the provision of the Services and in their final tangible form (“the Deliverables”), and not previously owned by the Contractor under clause 8.1 above.
- 8.3 To the extent that any Contractor Pre-Existing Intellectual Property Rights are incorporated in, and required to be used as part of, a Deliverable the Contractor hereby grants the Department a non-exclusive, perpetual, non-transferable licence to use, reproduce, distribute and modify the Deliverables for the Department’s internal business purposes only.

9 Warranty and Indemnity

- 9.1 The Contractor warrants to the Department that the obligations of the Contractor under this Contract will be performed by appropriately qualified and trained personnel with reasonable skill, care and diligence and to such good industry standards of quality as it is reasonable for the Department to expect in all the circumstances. The Department will be relying upon the Contractor's skill, expertise and experience in the performance of the Services and also upon the accuracy of all representations or statements made and the advice given by the Contractor in connection with the performance of the Services and the accuracy of any documents conceived, originated, made or developed by the Contractor as part of this Contract.
- 9.2 Without prejudice to any other remedy, if any part of the Services is not performed in accordance with this Contract then the Department shall be entitled, where appropriate to require the Contractor promptly to re-perform or replace the relevant part of the Services without additional charge to the Department.
- 9.3 The Contractor shall be liable for and shall indemnify the Department in full against any expense, liability, loss, claim or proceedings arising under statute or at common law in respect of personal injury to or death of any person whomsoever or loss of or damage to property whether belonging to the Department or otherwise arising out of or in the course of or caused by the negligence of the Contractor.
- 9.4 The Contractor shall be liable for and shall indemnify the Department against any expense, liability, loss, claim or proceedings arising as a result of or in connection with any breach of the terms of this Contract or otherwise through the default of the Contractor. The maximum liability of the contractor under this clause shall be £2m.

RESTRICTED : COMMERCIAL

- 9.5 All property of the Contractor whilst on the Department's premises shall be there at the risk of the Contractor and the Department shall accept no liability for any loss or damage howsoever occurring to it.
- 9.6 The Contractor shall ensure that it has adequate insurance cover with an insurer of good repute to cover claims under this Contract or any other claims or demands which may be brought or made against it by any person suffering any injury damage or loss in connection with this Contract. The Contractor shall upon request provide the Department with evidence that such insurance cover is in place.
- 9.7 Nothing in this Contract shall exclude or restrict the liability of either Party:
- 9.7.1 for death or personal injury resulting from its negligence;
 - 9.7.2 for fraud or fraudulent misrepresentation; or
 - 9.7.3 in any other circumstances where liability may not be limited or excluded under any applicable law.
- 9.8 The Contractor's total liability of whatever nature, whether in contract, tort (including, without limitation, negligence), under statute or otherwise for any and all losses arising from or in any way in connection with this Contract shall not exceed in aggregate the greater of £2,000,000 (two million pounds sterling) or an amount equal to 125% of the fees paid by Department to Contractor for the Services at the date of the breach. Contractor shall not be liable, whether in contract, negligence or otherwise, for loss of profit, loss of goodwill, anticipated savings, loss of revenues, loss of or corruption to data, or any special loss.
- 9.10 Except as expressly stated in this Contract, all warranties and conditions, whether express or implied by statute, common law or otherwise (including fitness for purpose) are hereby excluded to the extent permitted by law.

10 Termination

- 10.1 This Contract may be terminated by either party giving to the other party at least 3 months' notice in writing.
- 10.2 In the event of a material breach of this Contract by either party, the other party may serve a notice on the party in breach requiring the breach to be remedied within a period specified in the notice which shall be reasonable in all the circumstances. If the breach has not been remedied by the expiry of the specified period, the party not in breach may terminate this Contract with immediate effect by notice in writing.
- 10.3 In the event of a material breach of this Contract by either party which cannot be remedied, the other party may terminate this Contract with immediate effect by notice in writing.
- 10.4 This Contract may be terminated by the Department with immediate effect by

RESTRICTED : COMMERCIAL

notice in writing if at any time:-

10.4.1 the Contractor passes a resolution that it be wound-up or that an application be made for an administration order or the Contractor applies to enter into a voluntary arrangement with its creditors; or

10.4.2 a receiver, liquidator, administrator, supervisor or administrative receiver be appointed in respect of the Contractor's property, assets or any part thereof; or

10.4.3 the court orders that the Contractor be wound-up or a receiver of all or any part of the Contractor's assets be appointed; or

10.4.4 the Contractor is unable to pay its debts in accordance with Section 123 of the Insolvency Act 1986.

10.4.5 there is a change in the legal or beneficial ownership of 50% or more of the Contractor's share capital issued at the date of this Contract or there is a change in the control of the Contractor, unless the Contractor has previously notified the Department in writing. For the purpose of this Sub-Clause 10.4.5 "control" means the power of a person to secure that the affairs of the Contractor are conducted in accordance with the wishes of that person by means of the holding of shares or the possession of voting power.

10.4.6 the Contractor is convicted (or being a company, any officers or representatives of the Contractor are convicted) of a criminal offence related to the business or professional conduct

10.4.7 the Contractor commits (or being a company, any officers or representatives of the Contractor commit) an act of grave misconduct in the course of the business;

10.4.8 the Contractor fails (or being a company, any officers or representatives of the Contractor fail) to fulfil his/their obligations relating to the payment of Social Security contributions;

10.4.9 the Contractor fails (or being a company, any officers or representatives of the Contractor fail) to fulfil his/their obligations relating to payment of taxes;

10.4.10 the Contractor fails (or being a company, any officers or representatives of the Contractor fail) to disclose any serious misrepresentation in supplying information required by the Department in or pursuant to this Contract.

10.5 Nothing in this Clause 10 shall affect the coming into, or continuance in force of any provision of this Contract which is expressly or by implication intended to come into force or continue in force upon termination of this Contract.

11 Status of Contractor

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

12 Confidentiality

- 12.1 Except to the extent set out in this clause or where disclosure is expressly permitted elsewhere in this Contract, each party shall:

- 12.1.1 treat the other party's Confidential Information as confidential and safeguard it accordingly; and

- 12.1.2 not disclose the other party's Confidential Information to any other person without the owner's prior written consent.

- 12.2 Clause 12 shall not apply to the extent that:

- 12.2.1 such disclosure is a requirement of Law placed upon the party making the disclosure, including any requirements for disclosure under the FOIA, Code of Practice on Access to Government Information or the Environmental Information Regulations pursuant to Clause 13 (Freedom of Information);

- 12.2.2 such information was in the possession of the party making the disclosure without obligation of confidentiality prior to its disclosure by the information owner;

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

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

- 12.2.5 it is independently developed without access to the other party's Confidential Information.

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

- 12.4 The Contractor shall not, and shall procure that the Contractor Personnel do not, use any of the Department's Confidential Information received otherwise

RESTRICTED : COMMERCIAL

than for the purposes of this Contract.

- 12.5 The Contractor shall ensure that their employees, servants or such professional advisors or consultants are aware of the Contractor's obligations under this Contract.
- 12.6 Nothing in this Contract shall prevent the Department from disclosing the Contractor's Confidential Information:
- 12.6.1 to any Crown Body or any other Contracting Department. All Crown Bodies or Contracting Departments receiving such Confidential Information shall be entitled to further disclose the Confidential Information to other Crown Bodies or other Contracting Authorities on the basis that the information is confidential and is not to be disclosed to a third party which is not part of any Crown Body or any Contracting Department;
- 12.6.2 to any consultant, contractor or other person engaged by the Department or any person conducting an Office of Government Commerce gateway review;
- 12.6.3 for the purpose of the examination and certification of the Department's accounts; or
- 12.6.4 for any examination pursuant to Section 6(1) of the National Audit Act 1983 of the economy, efficiency and effectiveness with which the Department has used its resources.
- 12.7 The Department shall use all reasonable endeavours to ensure that any government department, Contracting Department, employee, third party or Sub-contractor to whom the Contractor's Confidential Information is disclosed pursuant to clause 12 is made aware of the Department's obligations of confidentiality.
- 12.8 Nothing in this clause 12 shall prevent either party from using any techniques, ideas or know-how gained during the performance of the Contract in the course of its normal business to the extent that this use does not result in a disclosure of the other party's Confidential Information or an infringement of Intellectual Property Rights.
- 12.9 The parties acknowledge that, except for any information which is exempt from disclosure in accordance with the provisions of the FOIA, the content of this Contract is not Confidential Information. The Department shall be responsible for determining in its absolute discretion whether any of the content of the Contract is exempt from disclosure in accordance with the provisions of the FOIA.
- 12.10 Subject to Clause 12.9, the Contractor hereby gives his consent for the Department to publish the Contract in its entirety, including from time to time

RESTRICTED : COMMERCIAL

agreed changes to the Contract, to the general public.

- 12.11 The Department may consult with the Contractor to inform its decision regarding any redactions but the Department shall have the final decision in its absolute discretion.
- 12.12 The Contractor shall assist and cooperate with the Department to enable the Department to publish this Contract.

13 Freedom of Information

- 13.1 The Contractor acknowledges that the Department is subject to the requirements of the FOIA and the Environmental Information Regulations and shall assist and cooperate with the Department to enable the Department to comply with its information disclosure obligations.
- 13.2 The Contractor shall and shall procure that its Sub-contractors shall:
 - 13.2.1 transfer to the Department all Requests for Information that it receives as soon as practicable and in any event within two Working Days of receiving a Request for Information;
 - 13.2.2 provide the Department with a copy of all Information in its possession, or power in the form that the Department requires within five Working Days (or such other period as the Department may specify) of the Department's request; and
 - 13.2.3 provide all necessary assistance as reasonably requested by the Department to enable the Department to respond to the Request for Information within the time for compliance set out in section 10 of the FOIA or regulation 5 of the Environmental Information Regulations.
- 13.3 The Department shall be responsible for determining in its absolute discretion and notwithstanding any other provision in this Contract or any other agreement whether any Information is exempt from disclosure in accordance with the provisions of the FOIA or the Environmental Information Regulations.
- 13.4 In no event shall the Contractor respond directly to a Request for Information unless expressly authorised to do so by the Department.
- 13.5 The Contractor acknowledges that (notwithstanding the provisions of Clause 13) the Department may, acting in accordance with the Ministry of Justice's Code of Practice on the Discharge of the Functions of Public Authorities under Part 1 of the Freedom of Information Act 2000 ("the Code"), be obliged under the FOIA, or the Environmental Information Regulations to disclose information concerning the Contractor or the Project:
 - 13.5.1 in certain circumstances without consulting the Contractor; or

RESTRICTED : COMMERCIAL

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

provided always that where 13.5.1 applies the Department shall, in accordance with any recommendations of the Code, take reasonable steps, where appropriate, to give the Contractor advanced notice, or failing that, to draw the disclosure to the Contractor's attention after any such disclosure.

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

14 Access and Information

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

15 Transfer of Responsibility on Expiry or Termination

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

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

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

16 Tax Indemnity

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

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

16.3 The Department may, at any time during the term of this contract, ask the

RESTRICTED : COMMERCIAL

Contractor to provide information which demonstrates how the Contractor complies with Clauses 16.1 and 16.2 above or why those Clauses do not apply to it.

- 16.4 A request under Clause 16.3 above may specify the information which the Contractor must provide and the period within which that information must be provided.
- 16.5 The Department may terminate this contract if-
- (a) in the case of a request mentioned in Clause 16.3 above if the Contractor:
 - (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 Contractor complies with Clauses 16.1 and 16.2 above or why those Clauses do not apply to it;
 - (b) in the case of a request mentioned in Clause 16.4 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 16.1 and 16.2 apply, the Contractor is not complying with those Clauses.
- 16.6 The Department may supply any information which it receives under Clause 16.3 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.
- 16.7 The Contractor warrants and represents to the Department that it is an independent contractor and, as such, bears sole responsibility for the payment of tax and national insurance contributions which may be found due from it in relation to any payments or arrangements made under this Contract or in relation to any payments made by the Contractor to its officers or employees in connection with this Contract.
- 16.8 The Contractor will account to the appropriate authorities for any income tax, national insurance, VAT and all other taxes, liabilities, charges and duties relating to any payments made to the Contractor under this Contract or in relation to any payments made by the Contractor to its officers or employees in connection with this Contract.
- 16.9 The Contractor shall indemnify Department against any liability, assessment or claim made by the HM Revenue and Customs or any other relevant authority arising out of the performance by the parties of their obligations under this Contract (other than in respect of employer's secondary national insurance contributions) and any costs, expenses, penalty fine or interest incurred or payable by Department in connection with any such assessment or claim.

RESTRICTED : COMMERCIAL

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

17 Amendment and variation

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

18 Assignment and Sub-contracting

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

19 The Contract (Rights of Third Parties) Act 1999

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

20 Waiver

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

21 Notices

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

21 Dispute resolution

22.1 The Parties shall use all reasonable endeavours to negotiate in good faith and settle amicably any dispute that arises during the continuance of this Contract.

RESTRICTED : COMMERCIAL

22.2 Any dispute not capable of resolution by the parties in accordance with the terms of Clause 22 shall be settled as far as possible by mediation in accordance with the Centre for Dispute Resolution (CEDR) Model Mediation Procedure.

22.3 No party may commence any court proceedings/arbitration in relation to any dispute arising out of this Contract until they have attempted to settle it by mediation, but any such mediation may be terminated by either party at any time of such party wishing to commence court proceedings/arbitration.

23 Discrimination

23.1 The Contractor shall not unlawfully discriminate within the meaning and scope of any law, enactment, order, or regulation relating to discrimination (whether in race, gender, religion, disability, sexual orientation or otherwise) in employment.

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

24 TUPE

24.1 The Parties recognise that the Transfer of Undertakings (Protection of Employment) Regulations 1981 (TUPE) may apply in respect of the award of the Contract, and that for the purposes of those Regulations, the undertaking concerned (or any relevant part of the undertaking) shall transfer to the Contractor on the commencement of the Contract.

24.2 During the period of six months preceding the expiry of the Contract or after the Department has given notice to terminate the Contract or the Contractor stops trading, and within 20 working days of being so requested by the Department, the Contractor shall fully and accurately disclose to the Department for the purposes of TUPE all information relating to its employees engaged in providing Services under the Contract, in particular, but not necessarily restricted to, the following:

24.2.1 The total number of staff whose employment with the Contractor is liable to be terminated at the expiry of this Contract but for any operation of law; and

24.2.2 For each person, age and gender, details of their salary, and pay settlements covering that person which relate to future dates but which have already been agreed and their redundancy entitlements (the names of individual members of employed staff do not have to be given); and

24.2.3 Full information about the other terms and conditions on which the affected staff are employed (including but not limited to their working arrangements), or about where that information can be found; and

RESTRICTED : COMMERCIAL

- 24.2.4 Details of pensions entitlements, if any; and
- 24.2.5 Job titles of the members of staff affected and the qualifications required for each position.
- 24.3 The Contractor shall permit the Department to use the information for the purposes of TUPE and of re-tendering. The Contractor will co-operate with the re-tendering of the Contract by allowing the Transferee to communicate with and meet the affected employees and/or their representatives.
- 24.4 The Contractor agrees to indemnify the Department fully and to hold it harmless at all times from and against all actions, proceedings, claims, expenses, awards, costs and all other liabilities whatsoever in any way connected with or arising from or relating to the provision of information under Clause 24.2.
- 24.5 The Contractor agrees to indemnify the Department from and against all actions, proceedings, claims, expenses, awards, costs and all other liabilities (including legal fees) in connection with or as a result of any claim or demand by any employee or other employee or person claiming to be an employee on any date upon which the Contract is terminated and/or transferred to any third party ("Relevant Transfer Date") arising out of their employment or its termination whether such claim or claims arise before or after the Relevant Transfer Date.
- 24.5 In the event that the information provided by the Contractor in accordance with Clause 24.2 above becomes inaccurate, whether due to changes to the employment and personnel details of the affected employees made subsequent to the original provision of such information or by reason of the Contractor becoming aware that the information originally given was inaccurate, the Contractor shall notify the Department of the inaccuracies and provide the amended information.
- 24.6 The provisions of this Condition shall apply during the continuance of this Contract and indefinitely after its termination.

25 Law and Jurisdiction

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

As witness the hands of the parties

RESTRICTED : COMMERCIAL

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

Authorised to sign for and on
behalf of Deloitte LLP

Signature

Signature

Name in CAPITALS
ALMUDENA LARA

Name in CAPITALS

Position in Organisation
HEAD OF CHILDREN IN CARE
(DEPUTY DIRECTOR)

Position in Organisation

Address in full
Department for Education
Sanctuary Buildings
Great Smith Street
London SW1P 3BT

Address in full
Deloitte
2 New Street Square
London EC4A 3BZ

Date

Date

Schedule 1

Service Description

The engagement will be to perform the role of delivery partner for the Department's Children's Social Care Innovation Programme. The end goal of the engagement is to work with the Department to support local authorities and other organisations make meaningful changes that lead to a step-change in improved outcomes for children and young people. The programme has two key focus areas: rethinking children's social work, and rethinking support for adolescents in or on the edge of care.

Over the life of the programme, the DfE and delivery partner will work together to make progress towards the long-term objectives of the programme:

- Quality of services has increased, so that children who need help from the social care system have better life chances;
- Local authorities achieve better value for money across children's social care; and
- There are stronger incentives and mechanisms for innovation, experimentation and replication of successful new approaches.

The programme includes three key elements: process, portfolio, and programme management and communication.

The key activities which will be undertaken by the Contractor under each element are detailed below.

Process

Phase One. Develop and test new innovations, including generating at least 150 expressions of interest (EOIs) through:

- Promoting and enabling potential applicants to register interest through developing an online platform for EOIs, developing and delivering (with DfE support) a communications strategy and building an evidence base of case studies and examples to inspire new ideas;
- Holding roadshows to promote and inspire innovation which will include:
 - information on the aims and ambitions of the fund and how to apply;
 - compelling external speakers and case studies of ambitious innovation in the sector (UK and international) which have led to better outcomes and financial savings;
 - opportunities to connect with other applicants (and potentially scale ideas or form consortia);
 - opportunities to iterate, test or develop new, ideas, in highly interactive workshops;
 - pitching sessions to get feedback from peers and others;
 - speed coaching sessions to give rapid feedback on iterating ideas from innovation coaches;
- Holding follow up activities including publishing FAQs on the website regularly, holding a small number of surgery sessions to test ideas and virtual conferences to allow (potential) applicants to ask questions;
- Formally inviting EOIs, envisaged to be between mid-June and mid-July 2014, which will be:

RESTRICTED : COMMERCIAL

- in the following categories: social work, adolescents in or on the edge of care, both social work and adolescents, or other (where the focus is innovation); and
- in one of the following streams: i3 – extending, accelerating or replicating of proven innovations (bids of £2m+); i2 – validating an innovation in a new area or sector (bids of £500k+); or, i1 – experimenting to test a brand new idea (bids of £250k+ [with exceptions]).

Phase two. Pre-proposal support

Support and develop high quality proposals to be put forward for funding, including:

- assessing EOI and inviting a number (c.35) of applicants to make a full proposal;
- provision of pre-proposal support to applicants including:
 - advice on accessing seed funding;
 - access to a coach trained in supporting innovation in children's services, with the coach being supported by a challenger from the team;
 - technical support;
 - workshops to encourage innovation and foster ambitious proposals
 - meeting investment board deadlines;
 - a template for the proposal; and
- filtering out of applications which are not of the desired quality levels.

Phase three. Selection, contracting and mobilisation

Support, select, approve and mobilise high quality proposals, through:

- providing independent feedback from the coach in the application to ensure robustness of advice to inform investment decisions;
- monitoring and tracking KPIs for successful applications.

Phase four. Implementation

Seek to ensure every project has the best chance to succeed through:

- supporting the implementation of the project by ensuring KPIs developed are clear and time-bound, running an efficient programme which seeks not to be bureaucratic for participants and supporting each applicant with the planning and preparation required for implementation;
- creating an environment for mutual support as per the activities outlined above;
- gathering and sharing real-time evidence of impact as part of a learning programme, including working effectively with all evaluation partners/contractors; and
- providing tailored technical support to participants during implementation.

Ongoing. Sparking and spreading innovation

Promoting ambitious new ideas and seeking to scale and grow innovations through:

- focusing on scaling and growing innovations from the outset as part of selection criteria for awarding grants;
- establishing a programme to support the sharing or learning across programme participants which can also be accessed across the sector ; and
- collating evidence and insight from the programme to inform and develop options and proposals for new models of working, including, for example, in governance, funding, accountability, professional standards, training and

RESTRICTED : COMMERCIAL

professional development, commissioning, decommissioning, and opportunities for new providers to enter to the system.

Portfolio

- Create, through the delivery of the activities under 'process' above, a balanced portfolio of innovations across the two focus areas; and
- The portfolio is envisaged to have a majority of innovations weighted towards extending, accelerating or replication proven innovations. Remaining innovations will be weighted towards validation of a promising innovation, and developing and testing new innovations.

Programme management and communication

Deliver the process outlined above through providing robust programme management, based on Deloitte's iPMO approach, including:

- Development and management of a programme plan, including all core workstreams, activities and associated timelines;
- With the DfE, agree the structure, set up and undertake administration of governance meetings and investment boards;
- Management of legal and contractual arrangements for the consortium, with Deloitte being the prime contractor;
- Risk management, managed actively across the whole team including the DfE; and
- Management of performance against KPIs, including co-developing KPIs and reporting.

Building on the above point regarding KPI development and management, it is envisaged (subject to revision if agreed by DfE and all contractors in the quarterly contract review meetings), that KPIs will be in the areas detailed below. In line with the original proposal up to five per cent of fees will be linked to KPIs. Detailed work is required to refine the KPIs, attach an appropriate value to each and to agree the data and evaluation mechanisms by which they will be measured and the contract meetings will be the primary forum in which KPIs will be finalised and reviewed.

A— Achieving the vision for the programme

- The resourcing of the Contractor's programme team structure is agreed with the Department and people are deployed accordingly. Where changes are required this will be agreed and executed within 48 hours of agreement.
This is an ongoing operational KPI and would not be linked to a payment schedule.

B1—Enabling ministers to approve high quality bids

- Proposals presented to the Investment Board/ministers reach the agreed quality standard. This will be assessed using a scoring system ranking quality from poor to excellent.
Our payment would be linked to over 85% being scored good or excellent and would be measured at the end of each investment panel.
- Conversion rate achieved—for example, percentage conversion from EOI to application and success rate for those invited to apply to awards.
This KPI would not be linked with payment in the initial EOI round we could

RESTRICTED : COMMERCIAL

consider whether it be include in a second round is this were to be included in programme design.

B2—Sparkling and spreading innovation

- Within the first 12 months, at least three proposals that have received investment funding will be in the first stage of being implemented in new authorities.

Measured in May 2015 with any payment reduction being achieved though subsequent invoices.

- A spot check of 30-50 DCSs indicates that at least 80% of LAs are aware of the programme and 75% of those have knowledge of at least one initiative that might help improve services in their area.

Measured in January 2015.

- The Contractor will engage a number of new entrants, or ‘unusual suspects’ in the programme. The Contractor and the Department will discuss and agree measurement of this engagement and a realistic but ambitious KPI target.

- *Measured in April 2015*

B3—Ensuring every project has the best chance to succeed

- All proposals have an agreed support plan and 90% of the individuals required to give support will be available as required in the plan.

This is an ongoing KPI and would not be linked to a payment schedule.

- The organisation is allocated a support coach on receipt of the EOI. The coach will access relevant support input dependent on the plan. CVs are provided to the organisation within 48 hours of the support plan being agreed.

This is an ongoing KPI and would not be linked to a payment schedule.

- Each project lead will assess the support on a quarterly basis and the Contractor will achieve an overall score of 90% good/excellent.

Measured at the end of each quarter.

- Feedback from unsuccessful bidders indicates they were communicated with in a supportive way with signposting to opportunities for ongoing support (90% good/excellent ratings).

This is an ongoing KPI and would not be linked to a payment schedule.

C1—Project management

- Within six weeks of contract signing there is a clear and robust approach to project management which includes a PID, risk/issues log, checkpoint reporting, communications strategy and governance; there are quarterly reviews of each throughout.

Measured at six weeks after the contract is signed and fees are attached to achievement of the milestone.

The KPIs identified above are illustrative. The KPIs will be agreed at an initial KPI meeting and reviewed during each of the quarterly contract review meetings. The application of fees at risk and the evaluation of performance against the KPIs will be agreed during in each of the quarterly contract review meetings.

Assumptions

The project scope has been developed on the basis of the following assumptions:

RESTRICTED : COMMERCIAL

- The Contractor is expected to work actively and collaboratively with the Department team throughout the programme;
- This contract operates on the expectation that the Department will provide 5 FTE. If Department resource falls below this level, the Department and the Contractor will review and take appropriate action regarding resource requirements for programme delivery and KPI targets.
- The key Department stakeholders who need to be engaged with and consulted will be available within reasonable timescales;
- The steering group and other governance bodies set up will be closely involved in shaping the direction of this work;
- Project activity will commence week commencing 19 May 2014;
- The Contractor will make the venues of the members of the consortium available for roadshows, workshops and other such events where possible. Where these venues are not reasonably available, the Contractor will source and cover the cost of alternative venues;
- All data received from the Department is assumed to be accurate and reliable and delivered to the Contractor in a timely manner;
- The Contractor will work flexibly and will be co-located with the Department team within the Department's premises in so far as is possible given the space constraints in Sanctuary Buildings, with reasonable allowance to work from the Contractor's respective offices as required;
- Deliverables will be reviewed and comments provided within five working days of receipt. Sign-off will be within five working days of comments being addressed; and
- On a quarterly basis, the Department and the Contractor will conduct contract review meetings at which we will agree for the forthcoming quarter:
 - the scope of deliverables and activities; and
 - performance and resourcing to ensure that the team has the right grades and skills of people in place for the right roles.

Schedule 2

Overview of costs

This section details the costs associated with delivery of the contract, as per negotiations between the Department and the Contractor. This includes anticipated expenditure on the key activities which will take place as part of the programme and details on invoicing schedules.

1 Table

1.1 The table below indicates the anticipated expenditure on key activities of the programme and sets out an estimated monthly billing schedule. For the purposes of this contract, this is illustrative only and a more detailed breakdown of the costs associated with specific activities and milestones will be agreed in writing for each forthcoming quarter at the quarterly contract review meetings.

1.2 The figures below are exclusive of VAT.

1.3 Where anticipated milestones are stated as 'none planned to date', these will be developed and agreed in writing at quarterly review meetings.

| | |
|---------------------------------------|----------------------|
| TOTAL YEAR ONE (Excluding VAT) | £2,796,533.10 |
| TOTAL YEAR TWO (Excluding VAT) | £1,722,992.90 |
| TOTAL (Excluding VAT) | £4,519,526.00 |

1.4 The Contractor will develop an invoicing schedule with the Department in the first month of the engagement. Invoices shall be prepared by the Contractor monthly in arrears and shall be based on the profile of the core team, and anticipated coaching and technical input. The Contractor, or his or her nominated representative or accountant, shall certify on the invoice that the amounts claimed were expended wholly and necessarily by the Contractor on the Service in accordance with the Contract and that the invoice does not include any costs being claimed from any other body or individual or from the Department within the terms of another contract.

1.5 The Contractor will review delivery engagement inputs on a quarterly basis and agree the optimum team configuration based on emerging demand and programme need. The Contractor will review whether particular roles could be undertaken by less senior (and thus less expensive) team members or whether

RESTRICTED : COMMERCIAL

it would be appropriate to assign a value to milestones rather than operate on a day rate basis for particular strands of work.

- 2** Funds allocated to a particular expenditure heading in the table at paragraph 1 ("the Table") are available for that expenditure heading only. Funds allocated to a particular accounting year are available for that accounting year only. The allocation of funds in the Table may not be altered except with the prior written consent of the Department.
- 3** The Contractor shall maintain full and accurate accounts for the Service against the expenditure headings in the Table. Such accounts shall be retained for at least six 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.
- 4** The Contractor shall permit duly authorised staff or agents of the Department or the National Audit Office to examine the project accounts at any reasonable time and shall furnish oral or written explanations of the account if required. The Department reserves the right to have such staff or agents carry out examinations into the economy, efficiency and effectiveness with which the Contractor has used the Department's resources in the performance of this Contract.
- 5** Invoices shall be sent, within 30 days of the end of the relevant month to Purchase to Pay, Shared Services, 3rd floor Companies House, Crown Way, Cardiff, CF14 3UW, quoting the Contract reference number. The Department undertakes to pay correctly submitted invoices within 10 days of receipt. The Department is obliged to pay invoices within 30 days of receipt from the day of physical or electronic arrival at the nominated address of the Department. Any correctly submitted invoices that are not paid within 30 days may be subject to the provisions of the Late Payment of Commercial Debt (Interest) Act 1998. A correct invoice is one that: is delivered in timing in accordance with the contract; is for the correct sum; in respect of goods/services supplied or delivered to the required quality (or are expected to be at the required quality); includes the date, supplier name, contact details and bank details; quotes the relevant purchase order/contract reference and has been delivered to the nominated address. If any problems arise, contact the Department's Contract Manager. The Department aims to reply to complaints within 10 working days. The Department shall not be responsible for any delay in payment caused by incomplete or illegible invoices.
- 6** The Contractor shall have regard to the need for economy in all expenditure. Where any expenditure in an invoice, in the Department's reasonable opinion, is excessive having due regard to the purpose for which it was incurred, the Department shall only be liable to reimburse so much (if any) of the expenditure disallowed as, in the Department's reasonable opinion after consultation with the Contractor, would reasonably have been required for that purpose.
- 7** If this Contract is terminated by the Department due to the Contractors insolvency or default at any time before completion of the Service, the

RESTRICTED : COMMERCIAL

Department shall only be liable under paragraph 1 to reimburse eligible payments made by, or due to, the Contractor before the date of termination.

- 8** On completion of the Service or on termination of this Contract, the Contractor shall promptly draw-up a final invoice, which shall cover all outstanding expenditure incurred for the Service. The final invoice shall be submitted not later than 30 days after the date of completion of the Service.
- 9** The Department shall not be obliged to pay the final invoice until the Contractor has carried out all the elements of the Service specified as in Schedule 1.
- 10** It shall be the responsibility of the Contractor to ensure that the final invoice covers all outstanding expenditure for which reimbursement may be claimed. Provided that all previous invoices have been duly paid, on due payment of the final invoice by the Department all amounts due to be reimbursed under this Contract shall be deemed to have been paid and the Department shall have no further liability to make reimbursement of any kind.

End of Schedule 2