

# THE EDUCATION FELLOWSHIP PRO-FORMA AGREEMENT

## CONSULTANCY SERVICES AGREEMENT FORM

This contract is between The Education Fellowship Trust and (XXXXXXXXXXXXXX)  
The Consultant will provide services concerning:

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Signed:

Lizzie Rowe (COO)

Date:

Signed:

Date:

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## 1. Terms and definitions

### 1.1 “Central government body”

- Means a body listed in one of the following sub-categories, as published and amended from time to time by the Office for National Statistics:
  - Government department
  - Non-departmental public body or assembly sponsored public body
  - Non-ministerial department
  - Executive agency

### 1.2 “Confidential information”

- Means all information which has been designated as confidential by either party in writing or that ought to be considered as confidential, however it is conveyed on whatever media it is stored.

### 1.3 “Consultant personnel”

- Includes all employees, agents, consultants and contractors of the consultant and/or sub-contractor.

#### **1.4 “Consultancy services”**

- Means all of the activities to be undertaken by or to be performed by the Consultant as described in Schedule 1 and may be amended from time to time.

#### **1.5 “Personal data”**

- Has the same meaning as set out in the Data Protection Act 1998.

#### **1.5 “Subject Access Request”**

- Means a request for information or an apparent request under the Freedom of Information Act or the Environmental Information Regulations.

### **2. Commencement and continuation**

2.1 The consultant shall commence the consultancy services on (insert date) and, subject to the rights of earlier termination set out in this contract, shall complete the consultancy services on or before (insert date).

### **3. Provision of consultancy services**

3.1 The consultant is appointed to undertake the consultancy services specified above. This contract shall not prevent the consultant from undertaking other consultancy or project management services, provided that the undertaking of such services does not cause a breach of contract.

3.2 The consultant shall promptly and efficiently perform the services as and when required, with all due care and skill as may be expected of a person or an organisation with the experience of the consultant and in accordance with this contract.

3.3 The consultant shall keep detailed and accurate records of all activities undertaken in relation to the provision of the services, and shall provide XXXXXXXXXXXXXXXX, with reports at such intervals.

### **4. Charges and terms of payment**

4.1 In consideration of, and subject to, the satisfactory performance by the consultant, the Academy/MAT shall pay the consultant any charges in accordance with the payment provisions, provided that the Academy/MAT receives full and accurate information and documentation, and the work is completed to the satisfaction of the Academy/MAT.

## 5. Changes to requirements

5.1 xxxxxxxx shall notify the consultant of any material change to the requirements under this contract.

5.2 The consultant shall use all reasonable endeavours to accommodate any changes to the needs and requirements of the Academy/MAT provided that it is entitled to payment for any additional costs incurred as a result of any such changes.

## 6. Premises and equipment

6.1 Unless otherwise agreed, any land or premises made available to the consultant by xxxxxxxxxxxxxxxxxxxx, in connection with the provision of the consultancy services, shall be made available to the consultant free of charge and without exclusive possession. Any premise or equipment shall be used by the consultant solely for the purpose of providing the consultancy services. The consultant shall have the use of such land or premises as licensee, and shall immediately vacate the same on the expiry or other termination of this contract.

6.2 For the purposes of this contract, the following areas and facilities at the academy's/MAT premises will be provided free for use by the consultant:

- Toilets
- Cooking facilities
- Heating
- Lighting
- First aid
- Reasonable telephone use

6.3 The academy/MAT shall be under no obligation to provide any premises or equipment to the consultant other than those expressly referred to in this contract.

6.4 The consultant shall provide its own equipment where necessary for the delivery of the services.

6.5 Only IT equipment owned by the academy/MAT may be used to access the academy/MAT's network.

6.6 The consultant shall be responsible for ensuring that its officers, employees, agents and sub-contractors make proper use and take reasonable care of the academy/MAT's facilities and equipment provided.

6.7 In regards to intellectual property rights, the consultant warrants:

- That The Academy/MAT's intellectual property rights comprise the original work of and were created by or on behalf of the consultant.
- That The Academy/MAT's intellectual property rights have not and will not

be copied wholly or in part from any other work or material without express permission.

**OR**

The consultant accepts that the intellectual property rights comprise of the original work undertaken as set out in this agreement for which payment has been made.

- The consultant agrees that the intellectual property rights relating to this consultancy, have not and will not be copied wholly or in part from any other work or material without express permission.

## **7. Warranty and indemnity**

7.1 The consultant ensures xxxxxxxxxxxx that the obligations of the consultant, under this contract, will be performed by appropriately qualified and trained personnel to the standard of care and skill as set out by the academy/MAT.

7.2 The consultant warrants and represents that any goods supplied by the consultant forming a part of the services provided will be of satisfactory quality and fit for their purpose, and will be free from defects in design, material and workmanship.

7.3 The consultant 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.

## **8. Termination**

8.1 This contract may be terminated by either party giving to the other party at least 30 days' notice in writing.

8.2 Either party may terminate this contract by notice in writing, or where such breach is capable of remedy, the breach is required to be remedied within 15 days of the notice. If the breach has not been remedied within 15 days, the party not in breach may terminate this contract with immediate effect by notice in writing.

8.3 In the event of a material breach of this contract, which is not capable of remedy by either party, the other party may terminate this contract with immediate effect by notice in writing.

8.4 A breach shall be deemed to be capable of remedy when it is capable of performance in all respects other than time for performance, for instance, where time is of the essence.

8.5 This contract may be terminated by Academy/MAT Trust with immediate effect by notice in writing if at any time:

- The consultant is convicted of a criminal offence related to the business or professional conduct.
- The consultant commits an act of grave misconduct in the course of the business.
- The consultant fails to fulfil its obligations relating to the payment of social security contributions.
- The consultant fails to fulfil its obligations relating to payment of taxes.
- The consultant fails to disclose any serious misrepresentation in supplying information required by the xxxxxxxxxxxx in or pursuant to this contract.

8.6 The consultant shall not at any time after the expiry or other termination of this contract represent itself as being a consultant to/of xxxxxxxxxxxxxxxx or as being in any way connected with the [insert academy/MAT].

## 9. Tax

9.1 Where the consultant 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 and all other statutes and regulations relating to income tax in respect of that consideration.

9.2 Where the consultant 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, including amendments to the Act which were made in 2015, and all other statutes and regulations relating to NICs in respect of that consideration.

9.3 The consultant warrants and represents to xxxxxxxxxxxx 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.

9.4 The consultant 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 consultant under this contract.

## 10. Confidentiality

10.1 The consultant acknowledges that any confidential information obtained from or relating to xxxxxxxxxxxxxxxxxxxx is the property of the Academy/MAT.

10.2 Each party hereby warrants that:

- Any person employed or engaged by this contract shall treat all confidential information belonging to the other party as confidential,

safeguard it accordingly and only use such confidential information for the purposes of this contract.

- Any person employed or engaged by this contract shall not disclose any confidential information to any third party without prior written consent of the other party, except where disclosure is otherwise expressly permitted by the provisions of this contract.

10.3 The consultant shall take all necessary precautions to ensure that all confidential information obtained from **XXXXXXXXXX** is treated as confidential and not disclosed (without prior approval) or used other than for the purposes of this contract.

10.4 **XXXXXXXXXXXXXXXXXXXX** shall ensure that the consultant, and any other parties involved in the provision of the service, is aware of the consultant's obligations under this contract.

10.5 The consultant undertakes to make no reference in any advertising or other promotional material to this contract without the prior written consent of **XXXXXXXXXXXX**.

10.6 Any findings and/or contents of reports produced under this contract shall not be disclosed without the permission of the Academy/MAT which shall not be unreasonably withheld.

10.7 In order to ensure that no unauthorised person gains access to any confidential information or any data obtained in the supply of the services, the consultant shall maintain adequate security arrangements that meet the requirements of professional standards and best practice.

10.8 The consultant shall, at its own expense, alter any security systems at any time during the contract period at the **Academy/MAT's** request if **XXXXXXXXXXXXXXXXXXXX** reasonably believes the consultant has failed to comply with clause safeguarding measures.

10.9 The consultant will immediately notify the **Principals**, of any breach of security in relation to confidential information and all data obtained in the supply of the services, and will keep a record of such breaches.

## **11. Data protection**

11.1 The consultant shall:

- Process personal data only in accordance with instructions from **XXXXXXXXXXXX**.
- Process personal data only to the extent, and in such manner, as is necessary for the provision of the services or as is required by law or any regulatory body.

- Implement appropriate technical and organisational measures to protect personal data against unauthorised or unlawful processing and against accidental loss, destruction, damage, alteration or disclosure.
- Take reasonable steps to ensure the reliability of any consultant personnel who have access to personal data.
- Obtain prior written consent from XXXXXXXXXXXXXXXX in order to transfer personal data to any sub-contractors or affiliates for the provision of the services.
- Ensure that no consultant personnel publish, disclose or divulge any of the personal data to any third party unless directed in writing to do so by XXXXXXXX.
- Provide the Academy/MAT with full cooperation and assistance in relation to any complaint or request made

11.2 The consultant shall notify XXXXXXXXXXXXXXXX, within 30 working days, if it receives:

- A Subject Access Request regarding XXXXXXXXXXXXXXXX, data.
- A complaint or request relating to the XXXXXXXXXXXXXXXX, obligations under the data protection legislation.

11.3 The consultant shall comply at all times with data protection legislation and shall not perform its obligations under this agreement in such a way as to cause XXXXXXXXXXXXXXXX, to breach any of its applicable obligations under data protection legislation.

## 12. Freedom of information

12.1 The consultant acknowledges that XXXXXXXXXXXXXXXX, is subject to the requirements of the Freedom of Information Act and shall assist and cooperate with the Academy/MAT to enable XXXXXXXXXXXXXXXX, to comply with its information disclosure obligations.

12.2 In no event shall the consultant respond directly to a request for information, unless expressly authorised to do so by the XXXXXXXXXXXXXXXX.

## 13. Sub-contractors

13.1 The consultant shall take all reasonable steps to satisfy XXXXXXXXXXXXXXXX that sub-contractors are suitable in all respects to perform the services required.

13.2 The consultant shall immediately notify XXXXXXXXXXXXXXXX, if it has any concerns regarding the propriety of any of the sub-contractors in respect of services rendered in connection with this contract.

13.3 The consultant or, where applicable, its lawful assignees shall at all times remain responsible for the proper performance of its obligations and for all the acts and omissions of its sub-contractors in connection with this contract.

## 14. Discrimination

14.1 The consultant 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.

## 15. Safeguarding Declaration

By signing this agreement the consultant declares that they have never been convicted of any offence involving any type of harm to a child or children, nor have they ever been warned or cautioned in relation to such a matter. The consultant also declares that there are no civil or criminal proceedings of any nature pending against them at the date of this declaration relating to any allegation concerning any type of harm to a child or children.

The consultant authorises [insert name of academy or MAT] to seek references or approach previous employers for information to verify information on disciplinary offences relating to children.

The consultant accepts that where any Regulated Activity is carried out in connection with the consultancy/project that they (and any member of staff or individual engaged in connection with the consultancy) will be required to undertake an enhanced Disclosure and Barring Service check through the Disclosure and Barring Service (DBS), including a check against the adults' barred list or the children's barred list, as appropriate.

The consultant understands that if they withhold any relevant information, or present false or inaccurate information, that the contract for services for the above mentioned project will be terminated with immediate effect.

In accordance with the UK's Data Protection Act (1998) and any other relevant privacy law which applies, this declaration is confidential and is extended solely in order to accredit the consultants suitability to work with children whilst providing services to XXXXXXXXXXXXXXXX; this declaration may not be used totally or partially for any other purpose save that for which it is expressly made.