

Terms of business

The Agreement Between Us

Our Terms of Business

1. Definitions

1.1 Definitions:

Agreement	the contract between you and us for the supply of the Services in accordance with these Conditions.
Business Day	a day other than a Saturday, Sunday or public holiday in England, when banks in London are open for business.
Candidate	an individual proposed by us to fill a vacancy on the Academy Trust Board.
Commencement Date	has the meaning given in clause 2.2.
Conditions	these terms and conditions set out in clause 1 (Interpretation) to clause 9 (General) (inclusive).
Intellectual Property Rights	patents, utility models, rights to inventions, copyright and neighbouring and related rights, moral rights, trade marks and service marks, business names and domain names, rights in get-up and trade dress, goodwill and the right to sue for passing off or unfair competition, rights in designs, rights in computer software, database rights, rights to use, and protect the confidentiality of, confidential information (including know-how and trade secrets) and all other intellectual property rights, in each case whether registered or unregistered and including all applications and rights to apply for and be granted, renewals or extensions of, and rights to claim priority from, such rights and all similar or equivalent rights or forms of protection which subsist or will subsist now or in the future in any part of the world.

Registration	the application submitted by you for the Services.
Services	the Academy Ambassadors Programme services, to be provided by the Supplier pursuant to the Agreement, as described at https://www.newschoolsnetwork.org/aap/trusts/how-to-recruit-non-executive-directors .
Specification Criteria	has the meaning given in clause 4.1.1.
“us”, “we”, “our”	New Schools Network (company number: 06953650) with registered address at 71-75 Shelton Street, Covent Garden, London, United Kingdom, WC2H 9JQ.
“you”, “your”, “Academy Trust”	the Academy Trust that applies for Services from us.

1.2 Interpretation:

1.2.1 A reference to legislation or a legislative provision:

- (a) is a reference to it as amended, extended or re-enacted from time to time; and
- (b) shall include all subordinate legislation made from time to time under that legislation or legislative provision.

1.2.2 Any words following the terms **including, include, in particular, for example** or any similar expression shall be construed as illustrative and shall not limit the sense of the words, description, definition, phrase or term preceding those terms.

1.2.3 A reference to **writing** or **written** includes email.

2. Basis of agreement

2.1 The Registration constitutes an offer by you to obtain Services in accordance with these Conditions.

2.2 The Registration shall only be deemed to be accepted when we issue a written acceptance of the Registration at which point and on which date the Agreement shall come into existence (**Commencement Date**).

2.3 Any descriptive matter or advertising issued by us, and any descriptions or illustrations contained our websites or in any catalogues or brochures, are issued or published for the sole purpose of giving an approximate idea of the Services described in them. They shall not form part of the Agreement or have any contractual force.

2.4 These Conditions apply to the Agreement to the exclusion of any other terms that you seek to impose or incorporate, or which are implied by law, trade custom, practice or course of dealing.

2.5 The Agreement shall continue, unless terminated earlier in accordance with its terms, until completion of the Services.

3. Supply of services

3.1 The Supplier shall supply the Services to the Customer in accordance with the Agreement.

3.2 The Supplier shall:

3.2.1 perform the Services with reasonable care and skill;

3.2.2 use reasonable endeavours to perform the Services in accordance with the service description;

3.2.3 in the instance where the Academy Trust qualifies for the Match+ service, provide a final version of the Specification Criteria to be published on our website and distributed to third party outlets for your approval.

3.3 We reserve the right to amend the service description if necessary to comply with any applicable law or regulatory requirement, or if the amendment will not materially affect the nature or quality of the Services, and we shall notify you in any such event.

- 3.4 We reserve the right to amend the Specification Criteria to comply with any applicable law or regulatory requirement.
- 3.5 We may propose Candidates from an internal pool where Candidates that meet the Specification Criteria and location requirements are available and/or we may advertise the role externally. We may reject Candidates if they do not meet the Specification Criteria or do not meet the generic criteria by which we judge suitability are published on our website.

4. Your obligations

4.1 You shall:

- 4.1.1 provide all the information regarding the role to be filled (**Specification Criteria**);
- 4.1.2 ensure that the terms of the Registration and the Specification Criteria are complete and accurate;
- 4.1.3 notify us in writing as soon as practicable if any of the Specification Criteria become incomplete or inaccurate, and provide updated Specification Criteria as soon as possible;
- 4.1.4 co-operate with us in all matters relating to the Services;
- 4.1.5 comply with all applicable laws, statutes, regulations and codes from time to time in force, including but not limited to the specific public sector equality duty pursuant to section 149 of the Equality Act 2010;
- 4.1.6 provide us with such information and materials as we may reasonably require in order to supply the Services, and ensure that such information is complete and accurate in all material respects;
- 4.1.7 consider Candidates for Board Non-Executive Director/Trustee level roles only at the Academy Trust, being appointments of full Non-Executive Directors or Trustees to the main board. For the avoidance of doubt, you shall not consider Candidates for committee, or local governing body, appointments;
- 4.1.8 be responsible for:

- (a) ensuring that the recruitment process you undertake complies with the public sector equality duty;
- (b) ensuring that your recruitment and appointment process is compliant with your internal policies and articles of association;
- (c) setting out clear criteria for the non-executive position either in the Specification Criteria or in discussion with us;
- (d) liaising with Candidates following introductions by us;
- (e) all final longlisting, shortlisting and appointment of Candidates;
- (f) satisfying yourself (acting reasonably) as to the suitability of any Candidate we introduce, including as against the Specification Criteria;
- (g) ensuring that the Candidate is aware of any requirements imposed by law to undertake a position as a non-executive director or trustee at the Academy Trust;
- (h) conducting Disclosure and Barring Service (DBS) checks and other checks and taking up any references provided by the Candidate before appointing the Candidate to the trust board;
- (i) checking for any conflicts of interest and satisfying any other requirements, qualifications or permission required by the Department for Education, company or charity law or your articles of association;
- (j) offering appointments to Candidates and the terms of such appointments.

4.2 The Specification Criteria shall include but not be limited to the following:

- 4.2.1 the responsibilities of the Academy Trust Board that the Candidate would be required to fulfil;
- 4.2.2 the location/meeting arrangements and likely time commitment required of the Candidate;

4.2.3 the experience, training, qualifications and any authorisation which you consider necessary or which is required by law or any professional body for the Candidate to possess in order to undertake the non-executive position;

4.2.4 the date the appointment will commence and the duration or likely duration of the appointment.

4.3 You warrant that the Specification Criteria:

4.3.1 are true, accurate, and up-to-date;

4.3.2 are not misleading or likely to mislead or deceive;

4.3.3 are not, and do not contain any information that is, discriminatory, obscene, offensive, defamatory or otherwise illegal or inappropriate, unlawful or in breach of any applicable legislation, regulations, guidelines or codes of practice.

4.4 If our performance of any of our obligations under the Agreement is prevented or delayed by any act or omission by you or failure by you to perform any relevant obligation (Academy Trust Default), we shall not be liable for any costs or losses sustained or incurred by you arising directly or indirectly from our failure or delay to perform any of its obligations as set out in this clause 4.4.

5. Intellectual property rights

5.1 All Intellectual Property Rights in or arising out of or in connection with the Services (other than Intellectual Property Rights in any materials provided by you) shall be owned by us.

5.2 You grant us a fully paid-up, non-exclusive, royalty-free, non-transferable licence to copy and modify any materials provided by you to us for the term of the Agreement for the purpose of providing the Services to you.

5.3 You warrant that the receipt and use of the Specification Criteria in the performance of this Agreement by us, our agents, subcontractors or consultants shall not infringe the rights, including any Intellectual Property Rights, of any third party.

5.4 You shall indemnify us in full against all liabilities, costs, expenses, damages and losses (including any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and legal costs (calculated on a full indemnity basis) and all other professional costs and expenses) suffered or incurred by us arising out of or in connection with any claim brought against us, our agents, subcontractors or consultants for actual or alleged infringement of a third party's Intellectual Property Rights arising out of, or in connection with, the receipt or use in the performance of this agreement of the Specification Criteria.

6. Data sharing

6.1 For the purposes of this clause 6, "Data Protection Legislation" means all applicable privacy and data protection laws including the General Data Protection Regulation ((EU) 2016/679) as it forms part of the law of England and Wales, Scotland and Northern Ireland by virtue of section 3 of the European Union (Withdrawal) Act 2018, as modified by Schedule 1 to the Data Protection, Privacy and Electronic Communications (Amendments etc) (EU Exit) Regulations 2019, and any applicable national implementing laws, regulations and secondary legislation in England and Wales relating to the processing of Personal Data and the privacy of electronic communications, as amended, replaced or updated from time to time, including the UK GDPR, Data Protection Act 2018, the Privacy and Electronic Communications Directive (2002/58/EC) and the Privacy and Electronic Communications (EC Directive) Regulations 2003 (SI 2003/2426) and any laws that replace, extend, re-enact, consolidate or amend any of the foregoing. The terms "personal data" and "data subject" used in this clause 6 have the meanings generally given to them under Data Protection Legislation.

6.2 Each party shall act independently as controller of personal data processed pursuant to the Agreement.

6.3 Both parties will comply with all applicable requirements of the Data Protection Legislation. We will share personal data with you in the performance of the Services and you may equally do so with us. Each party will ensure that it has all necessary appropriate consents and notices in place to enable the lawful transfer of the personal data to the other party for the duration and purposes of the Agreement.

6.4 Our service is supported and funded by the Department for Education (DfE) and we work in partnership with the Inspiring Governance service (IG) run by the Education and Employers

Taskforce. We therefore routinely share data with the DfE, including notifying the DfE where successful appointments have been made. We also routinely share data with IG, including notifying IG where an organisation is not eligible for our service and may want to recruit through IG.

6.5 You confirm that you will, in relation to any personal data processed in connection with your responsibilities under the Agreement:

6.5.1 Process that personal data only for the purposes of performance under the Agreement.

6.5.2 Agree that you will not transfer the personal data to any third parties without our prior permission.

6.5.3 Ensure that you have in place appropriate technical and organisational measures to protect against unauthorised or unlawful processing of personal data and against accidental loss or destruction of, or damage to, personal data, appropriate to the harm that might result from the unauthorised or unlawful processing or accidental loss, destruction or damage and the nature of the personal data to be protected, having regard to the state of technological development and the cost of implementing any measures (for instance, pseudonymising and encrypting).

6.5.4 Assist us in responding to any request from a data subject and in ensuring compliance with our obligations under the Data Protection Legislation with respect to security, breach notifications, impact assessments and consultations with supervisory authorities or regulators.

6.5.5 Maintain complete and accurate records and information to demonstrate your compliance with this clause 6 and provide us access to such records if reasonably requested by us.

6.5.6 Ensure that all personnel who have access to and/or process personal data are obliged to keep it confidential.

6.5.7 Not transfer any personal data outside of the UK unless the transfer is carried out in compliance with the Data Protection Legislation.

6.5.8 Notify us without undue delay on becoming aware of a breach in relation to the use of personal data supplied to you by us.

7. Limitation of liability

7.1 References to liability in this clause 7 include every kind of liability arising under or in connection with the Agreement including liability in contract, tort (including negligence), misrepresentation, restitution or otherwise.

7.2 Nothing in the Agreement limits any liability which cannot legally be limited, including [but not limited to] liability for:

7.2.1 death or personal injury caused by negligence;

7.2.2 fraud or fraudulent misrepresentation; and

7.2.3 breach of the terms implied by section 2 of the Supply of Goods and Services Act 1982 (title and quiet possession).

7.3 Subject to clause 7.2, we exclude liability under the Agreement, including liability for:

7.3.1 loss of profits;

7.3.2 loss of sales or business;

7.3.3 loss of agreements or contracts;

7.3.4 loss of anticipated savings;

7.3.5 loss of use or corruption of software, data or information;

7.3.6 loss of or damage to goodwill; and

7.3.7 indirect or consequential loss.

7.4 We make no warranties or representations to you or any other person with respect to the Services. We specifically disclaim all implied warranties including, without limitation, any

implied warranties of fitness for purpose and non-infringement. The terms implied by sections 3, 4 and 5 of the Supply of Goods and Services Act 1982 are, to the fullest extent permitted by law, excluded from the Agreement.

8. Termination

- 8.1 Without affecting any other right or remedy available to it, either party may terminate the Agreement with immediate effect by giving written notice to the other party if:
- 8.1.1 the other party commits a material breach of any term of the Agreement and (if such a breach is remediable) fails to remedy that breach within 14 days of that party being notified in writing to do so;
 - 8.1.2 the other party takes any step or action in connection with its entering administration, provisional liquidation or any composition or arrangement with its creditors (other than in relation to a solvent restructuring), applying to court for or obtaining a moratorium under Part A1 of the Insolvency Act 1986, being wound up (whether voluntarily or by order of the court, unless for the purpose of a solvent restructuring), having a receiver appointed to any of its assets or ceasing to carry on business; or
 - 8.1.3 the other party suspends, or threatens to suspend, or ceases or threatens to cease to carry on all or a substantial part of its business.
- 8.2 Termination of the Agreement shall not affect any rights, remedies, obligations or liabilities of the parties that have accrued up to the date of termination, including the right to claim damages in respect of any breach of the Agreement which existed at or before the date of termination.
- 8.3 Any provision of the Agreement that expressly or by implication is intended to come into or continue in force on or after termination of the Agreement shall remain in full force and effect.

9. General

9.1 **Force majeure.** Neither party shall be in breach of the Agreement nor liable for delay in performing, or failure to perform, any of its obligations under the Agreement if such delay or failure result from events, circumstances or causes beyond its reasonable control.

9.2 **Assignment and other dealings.**

9.2.1 We may at any time assign, transfer or deal in any other manner with any or all of its rights and obligations under the Agreement.

9.2.2 The Customer shall not assign, transfer or deal in any other manner with any of its rights and obligations under the Agreement.

9.3 **Confidentiality.**

9.3.1 Each party undertakes that it shall not at any time disclose to any person any confidential information concerning the business, affairs, customers, clients or suppliers of the other party, except as permitted by clause 9.3.1. You acknowledge and agree that introductions of Candidates by us and information about Candidates including but not limited to CVs provided by us to you shall be deemed confidential information.

9.3.2 Each party may disclose the other party's confidential information:

- (a) to its employees, officers, representatives, contractors, subcontractors or advisers who need to know such information for the purposes of carrying out the party's obligations under the Agreement. Each party shall ensure that its employees, officers, representatives, contractors, subcontractors or advisers to whom it discloses the other party's confidential information comply with this clause 9.3; and
- (b) as may be required by law, a court of competent jurisdiction or any governmental or regulatory authority.

9.3.3 Neither party shall use the other party's confidential information for any purpose other than to perform its obligations under the Agreement.

9.4 **Entire agreement.**

9.4.1 The Agreement constitutes the entire agreement between the parties and supersedes and extinguishes all previous agreements, promises, assurances, warranties,

representations and understandings between them, whether written or oral, relating to its subject matter.

9.4.2 You acknowledge that in entering into the Agreement you do not rely on, and shall have no remedies in respect of, any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in the Agreement. You agree that it shall have no claim for innocent or negligent misrepresentation or negligent misstatement based on any statement in the Agreement.

9.5 **Variation.** Except as set out in these Conditions, no variation of the Agreement shall be effective unless it is in writing and signed by us.

9.6 **Waiver.** A waiver of any right or remedy under the Agreement or by law is only effective if given in writing and shall not be deemed a waiver of any subsequent right or remedy. A failure or delay by a party to exercise any right or remedy provided under the Agreement or by law shall not constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict any further exercise of that or any other right or remedy. No single or partial exercise of any right or remedy provided under the Agreement or by law shall prevent or restrict the further exercise of that or any other right or remedy.

9.7 **Severance.** If any provision or part-provision of the Agreement is or becomes invalid, illegal or unenforceable, it shall be deemed modified to the minimum extent necessary to make it valid, legal and enforceable. If such modification is not possible, the relevant provision or part-provision shall be deemed deleted. Any modification to or deletion of a provision or part-provision under this clause shall not affect the validity and enforceability of the rest of this Agreement.

9.8 **No partnership or agency.**

9.8.1 Nothing in this Agreement is intended to, or shall be deemed to, establish any partnership or joint venture between any of the parties, constitute any party the agent of another party, or authorise any party to make or enter into any commitments for or on behalf of any other party.

9.8.2 Each party confirms it is acting on its own behalf and not for the benefit of any other person.

9.9 Notices.

9.9.1 Any notice or other communication given to a party under or in connection with the Agreement shall be in writing and shall be: delivered by hand or by pre-paid first-class post or other next working day delivery service at its registered office (if a company) or its principal place of business (in any other case); or sent by email to the email address notified in writing.

9.9.2 A notice or other communication shall be deemed to have been received: if delivered by hand, on signature of a delivery receipt or at the time the notice is left at the proper address; if sent by pre-paid first class post or other next working day delivery service, at 9.00 am on the second business day after posting or at the time recorded by the delivery service; or, if sent by email, on the next business day after transmission.

9.9.3 This clause 9.8 does not apply to the service of any proceedings or other documents in any legal action or, where applicable, any other method of dispute resolution.

9.10 Conflict. If there is an inconsistency between any of the provisions of this Agreement and any accompanying email, the provisions of this Agreement shall prevail.

9.11 Third party rights. Unless it expressly states otherwise, the Agreement does not give rise to any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of the Agreement.

9.12 Governing law. The Agreement, and any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with it or its subject matter or formation shall be governed by, and construed in accordance with, the law of England and Wales.

9.13 Jurisdiction. Each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with the Agreement or its subject matter or formation.