DATE: **DAY MONTH YEAR**

CONTRACT AGREEMENT

between

**(1) nasen**

and

**(2) Supplier name**

for the supply of services

This Contract Agreement for the supply of services is made on DATE: **DAY MONTH YEAR**

between

**(1) nasen** registered Charity No. 1007023 Registered Company limited by guaranteein England and Wales having its registered office at nasen House 4/5 Amber Business Village, Amber Close, Amington, Tamworth, Staffordshire B77 4RP (The Authority)

And

**(2) Supplier name** a registered charity and/or a company limited [Company number ]by guarantee currently operating/trading as the **NAME FULL ADDRESS** (The Supplier)

# Recitals

Nasen and the Supplier wish to enter into this Contract Agreement to set out the terms and conditions upon which nasen may purchase Services from the Supplier under Task Orders.

NOW IT IS HEREBY AGREED as follows

# Definitions and Interpretation

Unless expressly stated otherwise, the following words and expressions shall have the following meanings for the purpose of this Contract Agreement and any Task Orders formed under it:

## "Applicable Laws" means any and all applicable laws, regulations and industry standards or guidance and any applicable and binding judgment of a relevant court of law;

## “Commencement Date” means **Day month year**

## “Confidential Information” means all information which has been designated as confidential by either party in writing or that ought to be considered as confidential including but not limited to information which relates to the business, affairs, properties, assets, trading practices, services, developments, trade secrets, intellectual property rights, know-how, personnel, customers and suppliers of either party and commercially sensitive information which may be regarded as the confidential information of the disclosing party.

## “Contract Value” means the maximum fee payable to the Supplier by nasen for the provision of the Services, which shall be specified in the Task Order.

## "Data Protection Directive" means Directive 95/46/EC on the protection of individuals with regard to the processing of personal data and on the free movement of such data.

## "Data Protection Legislation" means prior to 25 May 2018, the Data Protection Act 1998 and the Data Protection Directive and from 25 May 2018, the GDPR.

## “Deliverables” means all goods, records, reports, documents, papers and other materials or deliverables (whether in documentary, electronic or any other form of media) developed or produced by or on behalf of the Supplier or its staff as part of or in connection with Services.

## "Contract Agreement" means this agreement for delivery of the Services, as amended in accordance with its terms from time to time.

## “Good Industry Practice” means the exercise of the degree of skill, diligence, prudence, foresight and operating practice which would reasonably and ordinarily be expected of a skilled and experienced supplier engaged in the same type of undertaking as that of the Supplier.

## “Parties” means nasen and the Supplier named above.

## “Relevant Activity” has the meaning given to it in clause 15.3;

## “Services” means the services to be performed by the Supplier as described in the Task Order.

## “Task Order” means the task order to be entered into by the Parties in accordance with clause 4 in the form of the task order at Appendix v.

## "Task Order Effective Date" means such date as is specified as the effective date in a Task Order.

## "Task Order Termination Date" means such date as is specified as the termination date in a Task Order.

## "Term" means the Initial Term and the Extended Term, in each case as defined in clause 3.

## “Working Day” means any day other than a Saturday, Sunday or public holiday in England.

## A reference to a statute or statutory provision is a reference to it as amended, extended or re-enacted from time to time and includes all subordinate legislation made from time to time under it.

## A “person” includes a natural person, corporate or unincorporated body (whether or not having separate legal personality).

## The Schedules and Appendices form part of this agreement and shall have effect as if set out in full in the body of this agreement. Any reference to this agreement includes the Appendices.

# Duration

## This Contract Agreement shall be effective from the Commencement Date and unless otherwise terminated in accordance with its terms or extended in accordance with clause 3.2, it shall expire automatically on the second anniversary of the Commencement Date ("Initial Term").

## If nasen provides written notice to the Supplier at least one month prior to the second anniversary of the Commencement Date that it wishes to extend the term of this Contract Agreement, this Contract Agreement shall extend for a further 12 months and unless otherwise terminated in accordance with its terms shall expire automatically on the third anniversary of the Commencement Date ("Extended Term").

## Each Task Order shall commence on the relevant Task Order Effective Date and subject to earlier termination in accordance with the terms of this Contract Agreement or in accordance with the terms of the Task Order, shall terminate on the relevant Task Order Termination Date.

## No Task Order shall be entered into under this Contract Agreement prior to the date of this Contract Agreement or after the date of expiry or earlier termination of this Contract Agreement.

# Task Orders

## This Contract Agreement sets out the terms and conditions and establishes a contract under which the Supplier has agreed it shall provide, and nasen may from time to time purchase the Services.

## Where nasen wishes to purchase Services from the Supplier and the Supplier wishes to supply such Services pursuant to the terms of this Agreement, the parties shall agree the terms of a Task Order.

## Each Task Order shall:

### be entered into by nasen and the Supplier;

### constitute a separate contract between the Parties for the supply of Services; and

### incorporate the terms of this Contract Agreement, which together with the terms of the Task Order shall apply to the supply of the Services and shall supersede all prior discussions and negotiations between the Parties.

## A Task Order shall not be legally binding, enter into force or have any other effect unless:

### it has been signed by the duly authorised representatives of both nasen and the Supplier; and

### as at the Task Order Effective Date, this Contract Agreement has not been terminated or expired.

## Nothing in this Contract Agreement or any Task Order shall oblige nasen to agree a Task Order or to request any Services from the Supplier or prevent nasen from acquiring services which are similar to the Services from another supplier during the term of this Contract Agreement.

## Unless expressly stated otherwise by nasen in each case, any amendment to this Contract Agreement agreed by nasen and the Supplier shall be deemed to apply to all Task Orders entered into during the term of this Contract Agreement on and from the date on which such amendment is entered into, provided that the terms of such amendment shall have no retrospective effect on any Task Order already in place at the date of the relevant amendment.

# Purpose of this Contract Agreement

## This Contract Agreement is to ensure that the Supplier delivers the Services to an agreed work programme and employs appropriate methodologies to ensure the work is of a satisfactory standard.

## In the provision of the Services, both parties will:

1. share success and agree goals for continuous improvement;
2. share information and maintain good communication links; and
3. ensure regular feedback on strategy, plans, delivery and performance.

# Supplier’s responsibilities

## The Supplier shall promptly and efficiently carry out the Services in accordance with the provisions set out in this Agreement and the provisions of the Task Order.

## The Supplier shall perform the Services with all due care, skill and diligence in accordance with Good Industry Practice.

## The Supplier shall comply with all Applicable Laws in connection with the performance of the Services.

## The Supplier shall comply with all applicable legislation relating to anti-bribery and anti-corruption (including but not limited to the Bribery Act 2010) and shall have and maintain in place throughout the term of this Contract Agreement and of any Task Orders its own policies and procedures (including but not limited to adequate procedures under the Bribery Act 2010) to ensure compliance with the same.

## The Supplier agrees to ensure the delivery of the work programme within the agreed budget and timescale, and to the agreed quality standard, as outlined in any Task Order and to provide updates on progress as and when required.

## In the event that the Supplier is performing the Services at nasen's premises, it shall observe all health and safety rules and regulations and any other security requirements that apply at any of nasen 's premises.

## Reflect clause 27, the Supplier is expected to deliver the work programme themselves or to take lead accountability for any sub-contracted work.

## In the event that the Supplier enters into any sub-contract in connection with this Contract Agreement it shall:

1. remain responsible to nasen for the performance of its obligations under the Contract Agreement and any Task Order notwithstanding the appointment of any sub-Supplier and be responsible for the acts or omissions of its sub-Suppliers;
2. impose obligations on its sub-Supplier in the same terms as those imposed on it pursuant to this Contract Agreement and any Task Order and shall procure that the sub-Supplier complies with such terms;
3. provide a copy, at no charge to nasen, of any such sub-contract on receipt of a request for such by nasen;
4. take all reasonable steps to satisfy itself that its employees and sub-Suppliers (and their employees) are suitable in respect of performing the Services;
5. immediately notify nasen if they have any concerns regarding the propriety of any of its sub-Suppliers in respect of work/services rendered in connection with this Contract Agreement or any Task Order; and
6. ensure the security of all property made available to the Supplier by nasen whilst in its possession during the supply of the Services, in accordance with NASEN’s reasonable security requirements as required from time to time.

## The Supplier agrees that they (and their sub-Suppliers and employees) have no authority (and shall not hold themselves out as having authority) to represent, commit or bind nasen unless nasen has specifically permitted the Supplier to do so in writing.

## The Supplier shall promptly comply with all reasonable requests or directions of nasen in respect of the provision of the Services.

## The Supplier warrants that all information which it has provided to nasen prior to the date of this Agreement in connection with the award of this Contract Agreement is true and accurate.

# Nasen’s responsibilities

## In consideration for the Services, nasen agrees to pay the Supplier in accordance with clause 23.

## nasen agrees to provide reasonable support and information to enable the Supplier to carry out the Services and any programme of work set out in a Task Order.

# Changes to the requirements under the Contract Agreement

## nasen may from time to time request to change the terms of this Contract Agreement or any Task Order. nasen shall submit details of the requested change in writing to the Supplier (a “**Change Statement**”), which shall include:

1. full details of the change and the reasons for the change;
2. the date on which the change should take effect;
3. details of the impact (if any) on the Contract Value; and
4. any other impact of the change on the terms of this Contract Agreement or the relevant Task Order.

## Subject to clause 8.3, the Supplier shall within a reasonable time of its receipt of a Change Statement (but no later than 10 Working Days after receipt) either:

1. notify nasen of its rejection of the terms of the Change Statement and provide details of the reasons behind its decision; or
2. approve the change in writing by signing the Change Statement, which shall signify the Supplier’s acceptance of such change upon the terms of the Change Statement.

## The Supplier shall:

1. use its best endeavors to accommodate any changes requested by nasen pursuant to a Change Statement and shall not unreasonably withhold its approval to a Change Statement; and
2. be required to approve a Change Statement where the requested change does not materially affect the Contract Value or the scope of the Services.

## In the event that the Supplier rejects the terms of the Change Statement, within 10 Working Days of such rejection the Supplier and nasen shall meet to attempt in good faith to agree terms for the requested changes which are mutually acceptable to both parties. If the parties agree such terms then nasen shall provide the Supplier with a revised Change Statement reflecting the agreed terms, for approval in accordance with clause 8.2(b).

## Once the Change Statement has been signed by the Supplier, this Contract Agreement or the relevant Task Order shall be deemed to have been varied to give effect to the terms of the Change Statement.

# Contract management

## The main point of contact at nasen for the Supplier will be Martin Bull.

## Overall responsibility for this Contract Agreement on behalf of nasen lies with **Annamarie Hassell, Chief Executive Officer**, or such other person as nasen nominates from time to time. The Project Manager for specific projects or pieces of work will be named in the Task Order.

## The Supplier acknowledges the fundamental importance of the Contract Agreement and all Task Orders being properly monitored to examine and achieve value for money as well as the quality of provision. The Supplier shall maintain accounts and records for the work carried out and services provided by it pursuant to this Contract Agreement for a period of seven years. This should include expenditure records, reports and any other information relevant to this Contract Agreement or the Services or the relevant Task Order.

## The Supplier shall use paperless reporting wherever possible and ensure that all paper used in the production of materials arising out of the performance by the Supplier of their duties under this Contract Agreement and any Task Order consists of a minimum of 60% recycled content of which 75% is post-consumer waste.

## Input and output VAT shall be included as separate items in the Supplier’s accounts. The Supplier shall permit duly authorised staff or agents of nasen or the National Audit Office to examine the Supplier’s accounts in relation to the Services at any reasonable time and shall furnish oral or written explanations of the accounts if required. nasen reserves the right to have such staff or agents carry out examinations into the economy, efficiency and effectiveness with which the Supplier has used resources in the performance of this Contract Agreement and any Task Order.

## The Supplier shall permit representatives of nasen to monitor the performance of the Supplier’s obligations under the Contract Agreement and any Task Orders (including but not limited to the performance of the Services) and shall provide reasonable access to all accounts, records and documentation relating to the Contract Agreement and any Task Orders as and when required.

## Where the quality of the accounts, reports and/or other information provided to or accessible by nasen is deemed inadequate by nasen, nasen may require the Supplier to supply additional accounts, reports and/or other information in a form considered acceptable by nasen, and the Supplier shall supply the same without delay.

## Unless otherwise agreed between the Parties, whilst a Task Order is subsisting at least one representative of each of the Parties shall meet on a monthly basis in order to monitor and discuss the progress of the programme of work and the delivery of the Services.

## If either party considers it necessary, they have the right to call an emergency meeting by giving as much notice as reasonably practicable in the circumstances to the other Party.

## In the event that all or any part of the Services are not carried out in accordance with the terms of the Contract Agreement or the relevant Task Order, without prejudice to any other rights or remedies which nasen may have, nasen shall be entitled to:

1. require the Supplier promptly to re-perform or replace the relevant part of the Services without additional charge to nasen; or
2. withhold or suspend payment to the Supplier and/or to require any amount of the monies paid to the Supplier by nasen and attributable to the Services in question to be repaid to nasen.

# Conditions

## This Contract Agreement and any Task Order is to be construed for all purposes as a contract for the supply of services and not as a contract of service or contract of employment. The Supplier and any staff of the Supplier will not be employees of nasen or otherwise in nasen’s employment and insurance for injury will be the Supplier’s responsibility. NASEN will have no public or employers’ liability in respect of any matter arising from the supply of the Supplier’s services under the Contract Agreement or any Task Order, or in respect of any person employed by the Supplier.

## The Supplier shall be responsible for and shall fully indemnify and hold nasen harmless for and in respect of:

### any and all income tax, national insurance and social security deductions and contributions and any other liability, deduction, contribution, assessment or claim arising from or made in connection with the performance of the Services, where such recovery is not prohibited by law;

### all reasonable costs and expenses and any penalty, fine or interest incurred or payable by nasen in connection with or in consequence of any such contribution, liability, deduction, other contribution, assessment or claim; and

### any and all liability for any employment-status or worker-status claim (including reasonable costs and expenses) brought by the Supplier or any staff of the Supplier against the Client arising out of or in connection with the provision of the Services.

## The Supplier warrants that they have full authority to enter into this Contract Agreement and are not bound by any agreement which would prevent delivery of the Services and any work programme set out in a Task Order and that the Services and work programme will be delivered fully in compliance with the laws of the United Kingdom and any other jurisdiction where the Services or its product will be used.

# Confidentiality

## Subject to clause 11.2, and except where disclosure is expressly permitted elsewhere in this Contract Agreement or the relevant Task Order, each Party shall:

1. treat the other Party’s Confidential Information as confidential and safeguard it accordingly; and
2. not disclose the other Party’s Confidential Information to any other person without the owner’s prior written consent.

## Clause 11.1 shall not apply to the extent that:

1. such disclosure is a requirement of law placed upon the Party making the disclosure;
2. such information was lawfully in the possession of the Party making the disclosure without obligation of confidentiality prior to its disclosure by the information owner;
3. such information was lawfully obtained from a third party without obligation of confidentiality;
4. such information was already in the public domain at the time of disclosure otherwise than by breach of this Contract Agreement or a Task Order; or
5. such information is independently developed without access to the other Party’s Confidential Information.

## The Supplier may only disclose the Confidential Information to its sub-Suppliers and employees who are directly involved in the provision of the Services and need to know the information, provided that it shall ensure that such sub-Suppliers and employees are aware of and shall comply with these obligations as to confidentiality and the Supplier shall remain responsible for the acts and omissions of those sub-Suppliers and employees as if they were the acts and omissions of the Supplier.

## The Supplier shall not, and shall procure that its sub-Suppliers and employees do not, use any of the Confidential Information received otherwise than for the purposes of this Contract Agreement and the relevant Task Order.

## The Supplier shall ensure that their employees, servants, professional advisors and consultants are aware of the Supplier’s obligations under this Contract Agreement.

## The terms of nasen’s Confidentiality Policy **(Appendix i)** will apply to confidentiality issues in relation to the safety of children and young people with SEND up to age 25.

# Anti-discriminatory practice

nasen is fully committed to the active promotion of equal opportunities and anti-discriminatory practice in the work it undertakes and in the provision of all its services. The Supplier will refer to nasen Equality and Diversity Policy **(Appendix ii)** and ensure they understand the requirements for their own practice.

# Data protection and Freedom of Information

## The Supplier shall comply with its obligations under Schedule 1 (Data Processing and Sharing Requirements Schedule) and any Data Protection obligations in any Task Order.

## The Supplier acknowledges that nasen is subject to the requirements of the Freedom of Information Act 2000 (“**FOIA”**) and the Environmental Information Regulations 2004 and shall assist and co-operate with nasen to enable nasen to comply with these information disclosure requirements.

## The Supplier shall and shall procure that its sub-Suppliers shall:

1. transfer all requests for Information (as defined under the FOIA) to nasen within 72 hours after receipt and in any event of receiving a request for Information;
2. provide nasen with a copy of all Information in its possession or power in the form that nasen requires within five Working Days (or such other period as nasen may specify) of nasen requesting that Information; and
3. provide all necessary assistance as reasonably requested by nasen to enable nasen to respond to a request for Information within the time for compliance set out in section 10 of the FOIA or regulation 5 of the Environmental Information Regulations.

## In no event shall the Supplier respond directly to a request for Information unless expressly authorised to do so by nasen.

## The Supplier acknowledges that nasen may, acting in accordance with the Secretary of State for Constitutional Affairs' Code of Practice on the discharge of public authorities' functions under Part 1 of FOIA (issued under section 45 of the FOIA, November 2004), be obliged under the FOIA or the Environmental Information Regulations to disclose Information:

1. without consulting with the Supplier; or
2. following consultation with the Supplier and having taken its views into account,

provided always that where 13.5(b) applies nasen shall, in accordance with any recommendations of the Code, take reasonable steps, where appropriate, to give the Supplier advance notice, or failing that, to draw the disclosure to the Supplier's attention after any such disclosure.

## The Supplier shall ensure that all Information is retained for disclosure and shall permit nasen to inspect such records as requested from time to time.

## nasen shall not be liable for any loss or damage that the Supplier may suffer as a result of nasen 's disclosure of information under FOIA or the Environmental Information Regulations 2004.

## The obligations in this clause 13 shall remain in force notwithstanding the termination of this Contract Agreement or any Task Order.

# Intellectual Property

## Subject to clause 14.3, copyright and all other intellectual property rights of whatever nature in all Deliverables arising out of the performance of the Services are to be assigned to and shall vest in nasen absolutely. The Supplier waives, and shall procure that any person acting on its behalf waives, absolutely their moral rights arising under the Copyright, Designs and Patents Act 1988 and, so far as is legally possible, any broadly equivalent rights they may have in any territory of the world.

## Clause 14.1 shall not apply to any intellectual property rights generated by or on behalf of the Supplier prior to the commencement of any Services outlined in a Task Order, or to any third party intellectual rights licensed to the Supplier, or to any intellectual property rights which are not used exclusively for the purpose of performing the Services (together, “**Non-assignable IP**”). To the extent that any Non-assignable IP are included in material provided to nasen in connection with the performance of this Contract Agreement, the Supplier hereby grants to nasen a non-exclusive, royalty-free, perpetual licence for their use in the ordinary course of its business.

## In relation to any material, the rights in which are assigned to nasen pursuant to clause 14.1, nasen hereby grants to the Supplier, a non-exclusive licence for the duration of the term of the Contract Agreement and any Task Order if applicable to use such applicable data and material, properly and reasonably, in the ordinary course of the Supplier’s business.

## Any logos or references required by nasen must be included in all communications and on all materials produced in relation to this Contract Agreement or any Task Order. The inclusion of any logos of individual organisations used by the Supplier in any communications or materials are subject to the prior written consent of nasen (which may be granted at nasen’s discretion).

## The Supplier agrees that they will, at the reasonable request and cost of nasen, execute any documents and do all such things as may be reasonably required for the purpose of giving full effect to this clause 14 and assisting in proving the ownership of any rights referred to above.

## The Supplier shall indemnify nasen against all claims, demands, actions, costs, expenses (including legal costs and disbursements on a solicitor and client basis), losses and damages arising from or incurred by reason of any infringement or alleged infringement (including the defence of such alleged infringement) of any third party rights arising out of or in connection with the provision of the Services under this Contract Agreement and any Task Order or any use of the reports and other documents and materials provided to nasen by the Supplier, except to the extent that the same have been caused or contributed to by nasen 's negligence or breach of this Contract Agreement or any Task Order.

## On termination of this Contract Agreement the Supplier shall transfer to nasen any such information and materials relating to this Contract Agreement any Task Order or the Services as may reasonably be requested. nasen is entitled to withhold final payment of any monies due to the Supplier until this transfer has been effected.

# Child Protection and Safeguarding Procedures

## If requested by nasen, the Supplier shall agree appropriate child protection policies and procedures with nasen before the Services begin. Clear procedures and key staff will need to be identified and approved by nasen. NASEN will work to the Supplier’s procedures when working at local level but the Supplier shall ensure that these procedures cover the key issues set out in nasen's Children & Young Person Safeguarding Contract **(appendix iii)**. The lead nasen staff member responsible for the implementation of this policy is **Annamarie Hassall, NASEN Director of Programmes.**

## nasen requires, and the Supplier shall procure, that all individuals working with nasen shall complete a self-declaration form **(appendix iv)** relating to their criminal record status. For the purpose of this Contract Agreement and any Task Order this applies to any individuals involved in carrying out the Services as outlined in the **Task Order** relating to this contract.

## The Supplier shall:

1. ensure that any individual acting for or on behalf of the Supplier and undertaking a Relevant Activity are subject to a valid enhanced disclosure check for regulated activity undertaken through the **Disclosure and Barring Service** (“**DBS**”) in accordance with the Disclosure and Barring Service’s eligibility guidance available at <https://www.gov.uk/government/publications/dbs-check-eligible-positions-guidance> (as updated or superseded from time to time);
2. not employ or use the services of any individual who is barred from, or whose previous conduct or records indicate that he or she would not be suitable to carry out a Relevant Activity or who may otherwise present a risk to children or vulnerable adults.
3. refer information about any person involved in the Services to the DBS where it removes permission for such person to carry out the Services (or would have, if such person had not otherwise ceased to carry out the Services) because, in its opinion, such person has harmed or poses a risk of harm to children or vulnerable adults.

For the purpose of clause 15.3 “**Relevant Activity**” means either (i) regular contact (supervised or unsupervised) with children and young people and/or vulnerable adults (as prescribed by the Disclosure and Barring Service’s criteria from time to time); or (ii) engagement in Regulated Activity as defined Safeguarding Vulnerable Groups Act 2006.

# Termination and dispute resolution of the Contract Agreement and any Task Orders

## Without prejudice to any other rights and remedies to which it may be entitled, nasen may by written notice to the Supplier terminate this Contract Agreement and/or any Task Order(s) with immediate effect following the occurrence of one or more of the following events:

1. if in the reasonable opinion of nasen, any acts or omissions of the Supplier or any of its staff or sub-Suppliers could bring nasen into disrepute;
2. if the Supplier has committed any material breach of the Contract Agreement or any Task Order;
3. if the Supplier is incompetent, guilty of serious misconduct or any serious or persistent negligence in respect of their obligations;
4. if the Supplier suspends, or threatens to suspend, payment of its debts or is unable to pay its debts as they fall due, is unable to pay its debts in accordance with Section 123 of the Insolvency Act 1986, becomes bankrupt or insolvent, or if any step is taken in relation to the administration, bankruptcy or liquidation of the Supplier, or if nasen reasonably believes that any of the foregoing is to occur imminently; or
5. if there is a change in the legal or beneficial ownership of 50% or more of the Supplier’s share capital issued at the date of this Contract Agreement or there is a change in the control of the Supplier, unless the Supplier has previously notified nasen in writing and nasen has given its written approval to the same (such approval not to be unreasonably withheld). For the purposes of this clause 16.2(c) “control” means the beneficial ownership of more than 50% of the issued share capital of the Supplier or the legal power to direct or cause the direction of the general management of the Supplier.

## Without prejudice to any other rights and remedies, the Supplier may by written notice to nasen terminate this Contract Agreement with immediate effect following the occurrence of one or more of following events:

1. if nasen has committed any material breach of the Contract Agreement and (if the breach is capable of remedy) has failed to remedy such breach within 28 days of receipt of written notice specifying the breach and requiring remedy; or
2. if nasen is guilty of serious misconduct or any serious or persistent negligence in respect of their obligations; or
3. is unable to pay its debts in accordance with Section 123 of the Insolvency Act 1986, becomes bankrupt or insolvent, or if any step is taken in relation to the administration, bankruptcy or liquidation of nasen.

## Without prejudice to any other rights and remedies, the Supplier may by written notice to nasen terminate a Task Order with immediate effect if nasen has committed any material breach of that Task Order and (if the breach is capable of remedy) has failed to remedy such breach within 28 days of receipt of written notice specifying the breach and requiring remedy.

## Without prejudice to any other rights and remedies, nasen may terminate this Contract Agreement or any Task Order by giving 30 days' written notice.

## Any termination of this Agreement or any Task Order is without prejudice to each party's accrued rights and obligations.

## 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 Agreement and any Task Order. Any dispute not capable of resolution by the Parties shall be settled as far as possible by mediation in accordance with the Centre for Dispute Resolution (CEDR) Model Mediation Procedure.

## No Party may commence any court proceedings/arbitration in relation to any dispute arising out of this Contract Agreement and any Task Order until they have attempted in good faith to settle it by mediation in accordance with clause 16.4 and either the mediation has terminated or the other Party has failed to participate in the mediation, provided that the right to issue proceedings is not prejudiced by a delay.

## Mediation shall take place in England with a mediator appointed by both Parties and the costs of such mediation process shall be shared equally between the Parties.

# Covenants

## The Supplier agrees that they will not, without nasen’s prior consent in writing, either on its own account or in association with any person whether directly or indirectly during the term of this Contract Agreement and any Task Order and for a period of one year after the last Task Order to terminate:

1. procure or provide any service of any kind to any other organisation, based on information gained during the delivery of this Contract Agreement that might reasonably be considered to pose a risk of conflict of interest without first obtaining the written approval of nasen;
2. use the fact that they have been a Supplier of nasen in any advertising or marketing material without the prior written consent of nasen; or
3. solicit or entice away any person employed or engaged by nasen who the Supplier has come into contact with during the provision of the Services, without the prior written consent of nasen, such consent not to be unreasonably withheld.

# Insurance and liabilities

## The Supplier shall ensure that throughout the term of this Contract Agreement and any Task Order it has adequate insurance cover with an insurer of good repute to cover claims which may arise under this Contract Agreement and any Task Order, 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 Agreement and/or any Task Order. In particular, the Supplier shall ensure that throughout the term of this Contract Agreement and any Task Order, it has Public and Products Liability insurance which has a limit of not less than £2million and Professional Liability insurance which has a limit of not less than £1million. The Supplier shall upon request produce to nasen, its policy or policies of insurance, together with the receipt for the payment of the last premium in respect of each policy or produce documentary evidence that the policy or policies are properly maintained.

## The Supplier shall be liable for and shall indemnify nasen in full against any cost, expense, liability, loss, damage, claim or proceedings (whether direct, indirect or consequential and including reasonable legal and other professional fees) arising as a result of or in connection with any breach by the Supplier of its obligations under clause 6.3, clause 6.4, clause 11, clause 13, or clause 15.

## The liability of nasen whether in contract, tort or otherwise, shall not exceed a sum equal to:

### in respect of a payment obligation to the amount of that obligation;

### in respect of any other liability, to an amount equal to 100% of the Contract Value paid or payable by nasen to the Supplier under the relevant Task Order.

## The liability of the Supplier whether in contract, tort or otherwise, shall not exceed a sum which is two times the aggregate Contract Value or such other sum as set out in the relevant Task Order but to the extent that any of the Supplier's liability would be met by any insurance of the Supplier then the Supplier's liability shall be extended to the extent that such liability is actually met by such insurance. The limitation in this clause 18.4 shall not apply to the Supplier’s liability under clauses 6.2, 6.3, 10.2, 11, 13, 14.5, 15, 18.2, 20.4 and 20.8.

## Nothing in this Contract Agreement or any Task Order shall limit or exclude either party’s liability for fraud, fraudulent misrepresentation or death or personal injury caused by negligence, or any other liability to the extent that it cannot be limited or excluded by law.

# Obligations on and after termination

## Upon termination or expiry of this Contract Agreement and any Task Order, any provision of this Contract Agreement and any Task Order that expressly or by implication is intended to come into or continue in force on or after termination or expiry of this Contract Agreement shall remain in full force and effect (including without limitation the provisions of this clause and clauses 10, 11, 13, 14, 17 and 18).

## The Supplier shall, at no cost to nasen, promptly provide such assistance and comply with such timetable as nasen may reasonably require for the purpose of ensuring an orderly transfer of responsibility upon the expiry or other termination of this Contract Agreement. Nasen 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 Agreement.

## Such assistance may include (without limitation) the return of any property in the Supplier’s possession belonging to nasen, and any original or copy documents or any data obtained by them in the delivery of this Contract Agreement and any Task Order at any time upon request and in any event prior to the termination of this Contract Agreement. The Supplier also endeavors to delete any information relating to the business of nasen stored on any means, including without limitation any personal data, derived from any source which is in their possession or under their control outside the premises of nasen.

## The Supplier undertakes that it shall not knowingly do or omit to do anything which may adversely affect the ability of nasen to ensure an orderly transfer of responsibility for the services.

# TUPE

## For the purposes of this clause 20, the following definitions shall apply:-

**Employees**: means those persons who are wholly or mainly employed, assigned or engaged by the Supplier in providing any part of the Services;

**Employee Information**: has the meaning given in clause 20.5(b);

**Outgoing Supplier:** means the third party Supplier previously performing services substantially the same as the Services and whom, upon the commencement of this Contract Agreement, the Supplier shall be replacing;

**Employee List**: has the meaning given in clause 20.5(a);

**Replacement Supplier:** means any third party supplier appointed by nasen from time to time to provide services which are identical or substantially similar to any of the Services and which nasen receives in substitution for any of the Services following the termination or expiry of all or part of this Agreement;

**Service Transfer Date:** the date on which the Services (or any part of the Services), for whatever reason transfer from the Outgoing Supplier to nasen or any Replacement Supplier;

**Subsequent Service Transfer Date:** the date on which the Services (or any part of the Services), for whatever reason transfer from the Supplier to nasen or the Replacement Supplier;

**Transferring Employees**: means those employees whose contract of employment will be transferred from the Supplier to nasen or a Replacement Supplier pursuant to TUPE on expiry or termination of all or part of this Contract Agreement;

**TUPE**: means the Transfer of Undertakings (Protection of Employment) Regulations 2006.

**INITIAL TRANSFER OF EMPLOYEES**

## Nasen and the Supplier acknowledge that the commencement of the Services on the Service Transfer Date may constitute a transfer to which TUPE is applicable and agree as a consequence that the contract of employment made between nasen, or the Outgoing Supplier, and the Transferring Employees may have effect from the Service Transfer Date as if originally made between the Supplier and the Transferring Employees.

## The Supplier shall comply, and shall procure that any Sub-Supplier complies, with its obligations under Regulation 13 of TUPE during the period prior to the Service Transfer Date.

## The Supplier shall indemnify nasen, or any Outgoing Supplier, against all claims arising from the Supplier’s failure to perform or discharge any obligation including but not limited to obligations under TUPE, and against claims in respect of any Transferring Employee arising from or as a result of any act or omission by the Supplier relating to any Transferring Employee occurring on or after the Service Transfer Date and prior to the Subsequent Service Transfer Date.

**SUBSEQUENT TRANSFER OF EMPLOYEES**

## Subject to its compliance with all applicable Data Protection Legislation, the Supplier shall, at any time upon request by nasen, and at least 28 days before termination or expiry of this Agreement, prepare and provide to nasen and/or, at the direction of nasen, to the Replacement Supplier:

1. a list of all of Employees (“**Employee List**”); and
2. in relation to the Employees on the Employee List, the information required in accordance with regulation 11 of TUPE and such further information and employee records as NASEN or a Replacement Supplier may reasonably request (“**Employee Information**”);

## The Supplier warrants that the Employee List and Employee Information will be true and accurate in all material respects.

## Nasen shall be permitted to use and disclose the Employee List and the Employee Information to any prospective Replacement Supplier; and the Supplier will co-operate with any TUPE situation by allowing the Replacement Supplier to communicate with and meet the Employees and/or their representatives.

## The Supplier shall perform and discharge all its obligations in respect of any of its Employees and their representatives up to the date of any Subsequent Service Transfer Date and the Supplier shall indemnify nasen and any Replacement Supplier in full for and against all claims, costs, expenses or liabilities howsoever arising, incurred or suffered by nasen or any Replacement Supplier including without limitation all legal expenses and other professional fees in relation to:

1. the Supplier's failure to perform and discharge any such obligation;
2. any act or omission by the Supplier on or before the Subsequent Service Transfer Date or any other matter, event or circumstance occurring before the Subsequent Service Transfer Date;
3. all and any claims in respect of all emoluments and outgoings in relation to the Transferring Employees (including without limitation all wages, bonuses, PAYE, National Insurance contributions, pension contributions and otherwise) payable in respect of any period on or before the Subsequent Service Transfer Date;
4. any claim arising out of the provision of, or proposal by the Supplier to offer any change to any benefit, term or condition or working condition of any Transferring Employee arising on or before the Subsequent Service Transfer Date;
5. any claim made by or in respect of any person employed or formerly employed by the Supplier other than a Transferring Employee for which it is alleged that nasen or any Replacement Supplier may be liable by virtue of TUPE; and
6. any act or omission of the Supplier in relation to its obligations under TUPE.

## Nasen shall procure that any Replacement Supplier shall, indemnify the Supplier against all claims arising from the Replacement Supplier's failure to perform and discharge any obligation and against any claims in respect of any Transferring Employees arising from or as a result of any act or omission by the Replacement Supplier relating to a Transferring Employee occurring on or after the Subsequent Service Transfer Date.

## For the 6 months immediately preceding the termination or expiry of this Contract Agreement or, if later, from the date upon which either Party gives notice to the other Party to terminate this Contract Agreement, the Supplier shall not, without the prior written consent of nasen:

1. increase the total number of Employees, save for fulfilling assignments and projects previously scheduled and agreed with nasen,
2. terminate or give notice to terminate the employment or contracts of any Employees;
3. make, propose or permit any changes to the terms and conditions of employment of any Employees;
4. increase the proportion of working time spent on the Services by any employees of the Supplier, save for fulfilling assignments and projects previously scheduled and agreed with nasen; and
5. introduce any new contractual or customary practice concerning the making of any lump sum payment on the termination of employment of any Employees.

# Variation and notice

## This Contract Agreement and any Task Order may only be varied by a document signed by both Parties. In varying the Contract Agreement and any Task Order, the Supplier shall comply with any formal procedures which nasen may have in place.

## Any notice required by this Contract Agreement to be given by either Party to the other shall be in writing and shall be served by sending the same by registered post or recorded delivery to the last known address of the other party and any receipt issued by the postal authorities shall be conclusive evidence of the fact and date of posting of any such notice. Notice may also be served by fax or e-mail and such notice shall be deemed to be received on the date of the first Working Day after transmission (provided that no error message indicating failure to deliver has been received by the sender).

# Waiver

The failure of a party to exercise or enforce any right under this Agreement shall not be deemed to be a waiver of that right nor operate to bar the exercise or enforcement of it at any time or times thereafter.

# Terms of payment

Nasen shall pay the costs and charges set out in the Task Order in accordance with the terms of payment outlined in the payment schedule contained in the Task Order.

# Details of programme of work

Details of Services and programme of work will be outlined in the Task Order.

# Entire Agreement

This Contract Agreement, together with any documents referred to in it (including the attached documents (Appendices i to v) and any Task Orders entered into pursuant to this Contract Agreement) represents the entire agreement and understanding of the Parties and supersedes any and all prior negotiations, agreements and understandings relating to its subject matter. Each party agrees that it shall have no remedies in respect of any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in this Contract Agreement, the attached documents (Appendices i to v) and any Task Orders.

# Severance

## If any clause of this Contract Agreement or any Task Order 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 clause shall be deemed deleted. Any modification to or deletion of a clause under this clause shall not affect the validity and enforceability of the rest of this Contract Agreement or any Task Order.

# Assignment and subcontracting

The Supplier may not assign, novate, subcontract, transfer or otherwise dispose of or deal with this Contract Agreement and/or any Task Order (in whole or in part) or any or all of its rights and/or obligations under this Contract Agreement or any Task Order, without the prior written consent of nasen.

# Governing Law and Jurisdiction

This Agreement and any non-contractual obligations arising out of or in connection with it shall be governed by the laws of England and Wales and the parties hereby irrevocably submit to the exclusive jurisdiction of the courts of England and Wales.

**SCHEDULE 1**

**Data Processing and Sharing Requirements Schedule**

**1. Definitions**

1.1 In this Schedule, unless the context otherwise requires, the following words and expressions have the following meanings:

|  |  |
| --- | --- |
| “Agreement” | any agreement for the supply of services entered into by the parties whether forming part of the contract to which this schedule is attached or otherwise. |
| “Controller” | has the meaning given in the GDPR. |
| “Data Loss Event” | any event that results, or may result, in  unauthorised access to Personal Data held by the Contractor under this Agreement, and/or actual or potential loss and/or destruction of Personal Data in breach of this Agreement. |
| “Data Subject” | has the meaning given in the GDPR. |
| “Data Protection Officer” | has the meaning given in the GDPR. |
| “Data Protection Legislation” | the General Data Protection Regulation, the Data Protection Act 2018 and any national implementing laws, regulations, and secondary legislation, as amended or updated from time to time in the UK, and all applicable law about the processing of personal data and privacy, including where applicable the guidance and codes of practice issued by the Information Commissioner. |
| “GDPR” | the General Data Protection Regulation |
| “Personal Data” | has the meaning set out in the GDPR and relates only to personal data, or any part of such personal data, of which the Customer is the Data Controller and in relation to which the Contractor is providing services under the Agreement. |
| “Processor” and “processing” | have the meaning set out in the GDPR. |
| “Contractor Personnel” | means all directors, officers, employees, agents, consultants, and contractors of the Contractor and/or any sub-contractor engaged in the performance of its obligations under this Agreement. |
| “Sub-Processor” | any third Party appointed to process Personal Data on behalf of the Contractor related to this Agreement. |

For the purposes of this Schedule, the Supplier is referred to as “Customer” and nasen will be referred to as the “Contractor”, together the “parties”.

**2. Basis for Processing or Sharing**

2.1 Both parties will comply with all applicable requirements of the Data Protection Legislation. This Schedule is in addition to, and does not relieve, remove, or replace, the parties’ obligations under the Data Protection Legislation.

2.2 The parties acknowledge that for the purposes of this Agreement, the Customer is the Data Controller, and the Contractor is the Data Processor of any Personal Data.

2.3 The basis for processing and sharing Personal Data under this Agreement is in accordance with a lawful basis for processing Personal Data provided for by the Data Protection Legislation. The details of the data processing activities in relation to this Agreement are set out in Annex A.

**3. Obligations of the Contractor**

3.1 The Contractor shall only process any Personal Data on behalf of the Customer in accordance with the written instructions provided and to the extent, and in such a manner as set out in Annex A. If the Contractor is required to do otherwise by law, then it will promptly notify the Customer of that legal requirement before processing the Personal Data.

3.2 The Contractor shall provide all reasonable assistance to Customer in the preparation of any data protection impact assessment required prior to commencing any processing.

3.3 The Contractor will maintain complete and accurate records of any processing of Personal Data it carries out on behalf of the Customer.

3.4 If the Contractor receives any complaint, notice or communication which relates directly or indirectly to the processing or sharing of the Personal Data or to either party's compliance with the Data Protection Legislation, it shall promptly notify the Customer and provide full co-operation and assistance in relation to any such complaint, notice or communication.

3.5 The Contractor shall ensure that it has in place appropriate technical and organisational measures, reviewed, and approved by the Customer, to protect against unauthorised or unlawful processing and to protect against a Data Loss Event. The protective measures should take account of:

3.5.1 the nature of the data to be protected;

3.5.2 the harm that might result from a Data Loss Event;

3.5.3 the state of technological development; and

3.5.3 the cost of implementing any measures.

3.6 The Contractor shall promptly inform the Customer if any Personal Data is lost or destroyed or becomes damaged, corrupted, or unusable. The Contractor will restore such Personal Data at its own expense.

3.7 The Contractor shall notify the Customer immediately if it becomes aware of any unauthorised or unlawful processing of Personal Data and in such circumstances shall comply with all requests of the Customer in dealing with the situation.

3.8 At the Customer’s request, the Contractor shall provide to the Customer a copy of all Personal Data held by it in the format and in the media reasonably specified by the Customer.

3.9 Upon termination of the Agreement for any reason, the Contractor shall cease processing any Personal Data and shall return all Personal Data to the Customer and any copies thereof or shall securely destroy all Personal Data if instructed to do so by the Customer and shall certify that this has been done, unless prevented from doing so by law.

**4. Transfers outside the EEA, if relevant**

4.1 The Contractor shall not transfer any Personal Data outside of the European Economic Area (“EEA”) unless the prior written consent of the Customer has been obtained and the following conditions are fulfilled:

4.1.1 the Contractor has provided appropriate safeguards in relation to the transfer to the satisfaction of the Customer;

4.1.2 the Data Subject has enforceable rights and effective legal remedies;

4.1.3 the Contractor complies with its obligations under the Data Protection Legislation by providing an adequate level of protection for any Personal Data that is transferred; and

4.1.4 the Contractor complies with reasonable instructions notified to it in advance by the Customer with respect to the processing of the Personal Data.

**5. Contractor's Personnel**

5.1 The Contractor shall ensure that access to the Personal Data is limited to those Personnel who need access to the Personal Data to meet the Contractor’s obligations under this Agreement.

5.2 The Contractor shall ensure that all Personnel:

5.2.1 are aware both of the Contractor’s duties and their personal duties and obligations under the Data Protection Legislation and this Agreement;

5.2.2 are informed of the confidential nature of the Personal Data and do not publish, disclose, or divulge any of the Personal Data to any third party unless directed in writing to do so by the Customer or as otherwise permitted by this Agreement;

5.2.3 are subject to appropriate confidentiality undertakings with the Contractor or any Sub-Processor; and

5.2.4 have undertaken adequate training on the Data Protection Legislation relating to the use, care, protection, and handling of Personal Data.

**6. Rights of the Data Subject**

6.1 The Contractor shall notify the Customer immediately if it:

6.1.1 receives a request from a Data Subject for access to that person's

Personal Data;

6.1.2 receives a request to rectify, block or erase any Personal Data;

6.1.3 receives a request from any third party for disclosure of Personal

Data where compliance with such a request is required or purported

to be required by Law; or

6.1.4 becomes aware of a Data Loss Event.

6.2 The Contractor shall provide the Customer with full co-operation and assistance in relation to any request referred to in clause 6.1.

6.3 The Contractor shall promptly comply with any request from the Customer requiring the Contractor to amend, transfer or delete the Personal Data.

6.4 The Contractor shall not disclose the Personal Data to any Data Subject or to a third party other than at the request of the Customer or as provided for in this Schedule.

6.5 The Contractor shall designate a Data Protection Officer if required by the Data Protection Legislation.

**7. Rights of the Customer**

7.1 The Customer is entitled, on giving reasonable notice to the Contractor, to inspect or appoint representatives to inspect all facilities, equipment, documents, and electronic data relating to the processing of Personal Data by the Contractor.

7.2 The requirement under clause 7.1 to give notice will not apply if the Customer believes that the Contractor is in breach of any of its obligations under this Agreement.

7.3 If following an inspection, the Customer believes that any Personnel of the Contractor is causing the Contractor to be in breach of the Data Protection Legislation then the Customer may request that the Contractor no longer uses such Personnel for the purposes of handling Personal Data under this Agreement.

**8. Warranties**

8.1 The Contractor warrants that:

8.1.1 it will process (and share) the Personal Data in compliance with the Data Protection Legislation and all other applicable laws, enactments, regulations, orders, standards, and other similar instruments;

8.1.2 it will take such appropriate technical and organisational measures in order to ensure the safety and security of the Personal Data as may be specified from time to time by the Customer; and

8.1.3 it will take appropriate technical and organisational measures against the unauthorised or unlawful processing of Personal Data and against the accidental loss or destruction of, or damage to, Personal Data.

**9. Indemnity**

9.1 The Contractor agrees to indemnify the Customer and keep indemnified and defend at its own expense against all costs, claims, damages, or expenses incurred by the Customer or for which the Customer may become liable due to any failure by the Contractor or its Personnel to comply with the Data Protection Legislation or any of its other obligations under this Schedule.

9.2 The Contractor shall take out insurance sufficient to cover any payment that may be required under clause 9.1 and produce the policy and receipt for premium paid, to the Customer on request.

**10. Appointment of Sub-Processors**

10.1 The Contractor may only authorise a third party (Sub-Processor) to process the Personal Data:

10.1.1 subject to the Customer’s prior written consent where the Contractor has supplied the Customer with full details of such Sub Processor;

10.1.2 provided that the Sub-Processor’s contract is on terms which are substantially the same as those set out in this Schedule; and

10.1.3 provided that the Sub-Processor’s contract for services provided to the Customer terminates automatically on termination of the Agreement for any reason.

10.2 The Contractor shall remain fully liable for all acts or omissions of any Sub Processor.

**11. Data sharing**

11.1 The parties acknowledge that there may be circumstances in which Personal Data is transferred to the Contractor and the Contractor becomes a Data Controller in respect of that Personal Data. Furthermore, the Contractor acknowledges that in such circumstances the Contractor will comply with all its obligations as a Data Controller under the Data Protection Legislation, will determine the purposes for which the Personal Data is being processed and will be liable directly to the Data Subject and regulatory authorities in relation to its responsibilities as Data Controller.

11.2 The Contractor confirms that where Personal Data is shared in the circumstances envisaged by clause 11.1 above then it shall:

11.2.1 have in place an appropriately worded privacy and data protection policy;

11.2.2 where appropriate, it will directly inform the relevant Data Subjects that it is processing their Personal Data and is the Data Controller in respect of that Personal Data;

11.2.3 ensure that it has in place appropriate procedures for dealing with requests or any other complaints or queries from Data Subjects;

11.2.4 have in place procedures and mechanisms for keeping all Personal Data accurate and up to date in accordance with its obligations as a Data Controller under the Data Protection Legislation; and

11.2.5 the Contractor agrees to promptly supply copies of its policies, procedures, notices, and requests (and such other information as may be reasonably required by the Customer) to the Customer upon request.

11.3 The Customer reserves the right to require the Contractor to inform the Customer in writing of the uses to which the Contractor intends to put the Personal Data and the ways in which it intends to process the Personal Data. Furthermore, the Customer reserves the right to not share any Personal Data if it believes that such uses and purposes described by the Contractor are inappropriate or incompatible with the requirements of the Data Protection Legislation.

11.4 If the Customer believes that the transfer of Personal Data may amount to data sharing as envisaged by this clause then the Customer may require the Contractor to:

11.4.1 complete the Customer’s data protection questionnaire or any other request for information;

11.4.2 enter into a new data sharing agreement which may, where appropriate, also be binding on other third parties with whom data is being shared (and for the avoidance of doubt in the event that a further such agreement is entered into, the terms of this Schedule and Agreement shall continue to apply)

11.5 For the avoidance of doubt the other terms of this Schedule shall continue to apply to the parties and in respect of Personal Data where it is being shared under this clause 11 as necessary, including for the avoidance of doubt clause 8 (Warranties) and clause 9 (Indemnity).

**12. Review**

12.1 The Customer may, at any time, on giving not less than 30 working days’ written notice, revise this Schedule to ensure that it complies with any amendments to the Data Protection Legislation, or any guidance issued by the Information Commissioner’s Office. Any amendments to this Schedule will become effective when agreed in writing between the parties.

**Annex A – Schedule of Processing, Personal Data and Data Subjects**

|  |  |
| --- | --- |
| Description | Details |
| Subject matter of the  processing | [This should be a high level, short description of what the processing is about i.e., its subject  matter] |
| Duration of the processing | [clearly set out the duration of the processing including dates] |
| Nature and purposes of the  processing | [Please be as specific as possible, but make sure that you cover all intended purposes. The nature of the processing means any operation such as collection, recording, organisation, structuring, storage, adaptation, or alteration, retrieval, consultation, use, disclosure by transmission, dissemination or  otherwise making available, alignment or combination, restriction, erasure or  destruction of data] |
| Type of Personal Data | [Examples include name, address, date of birth, telephone number] |
| Categories of Data Subject | [Examples include staff (including  volunteers, agents, and temporary workers), customers, clients, suppliers] |
| Retention period(s) for  Personal Data during the  contract term and process for  destruction of data at end of retention period/s. | [Describe how long the data will be retained during the contract and how it will be destroyed at the end of the retention period/s e.g., the Contractor will provide a destruction certificate to confirm deletion of the data] |
| Plan for return and destruction  of the data once the  processing is complete (unless  legal requirement to preserve  that type of data). | [Describe how the data will be returned or destroyed on termination or expiry of the contract e.g., the Contractor will provide a destruction certificate to confirm deletion of the data] |
| Sub-Processors | [This should be a list of Sub-Processors that you will be using to supply the services and what Personal Data they will be processing and the jurisdiction of the sub-processing including any backup locations] |

Appended Schedules and Appendices to this contract can be accessed online

|  |  |
| --- | --- |
| No. | Description |
| Appendix i | Nasen’s Confidentiality Code of Practice (for information only) |
| Appendix ii | Nasen’s Equality and Diversity Policy (for information only) |
| Appendix iii | Nasen’s Children and Young People Safeguarding Policy (for  information only) |
| Appendix iv | Self-declaration form (to be completed and returned) |
| Appendix v | Sample Task Order |
| Schedule 1 | Data Processing and Sharing Requirements Schedule |

**Appendix IV: Self Declaration Form**

# Strictly Confidential

As nasen is an organisation that works with children and young people, we aspire to the highest standards in issues relating to child protection. We therefore require all our employees, and those associates who will be asked to work with children and young people, to be DBS/Access NI checked. To meet this aspiration and to draw your attention to the fact that we take this aspiration very seriously, we ask relevant staff and others who work for us in whatever capacity to self declare that they have no convictions which would exclude them from working with children and young people. We also do this in order to compensate for any delays in obtaining individual clearance from the DBS/Access NI. For further information please see the policy on checking staff through the DBS/Access NI services.

We therefore would be grateful if you would complete the attached form and return it to us as indicated. Any other matters, which are declared, but are not pertinent to the above purpose, will not be an impediment to your employment by Nasen.

As an organisation we undertake to meet the requirements of the Data Protection Act 1998, the Protection of Children Act 1999/ the protection of Children and Vulnerable Adults (Northern Ireland) Order 2003, the Criminal Justice and Court Services Act 2000 and all other relevant legislation.

**Amrit Singh**

Chief Operating Officer

Nasen

**To: HR Manager,**

**nasen House, 4/5 Amber Business Village, Amber Close, Tamworth, B77 4RP**

# Disclosures

Have you ever been charged with, cautioned or convicted in relation to any criminal offence; or are you at present the subject of a criminal investigations/pending prosecution?

|  |  |  |  |
| --- | --- | --- | --- |
| (Please tick) Yes |  | No |  |

If yes, please give details including the nature of the offences and the dates. Please give details of the court(s) where your convictions(s) were heard, the type of offence and sentence(s) received. Could you also give details of the reasons and circumstances that led to the offence(s). Continue on a separate sheet if necessary.

|  |
| --- |
|  |

# Declaration

To help us ensure that we are complying with child protection laws, please complete the following declaration.

I (full name)

|  |
| --- |
| Of (address) |
|  |

Confirm that the information given above is accurate and correct and I am not subject to any of the disqualifications set out in the Protection of Children Act 1999, and I consent to a criminal records check. I am aware that the details of pending prosecutions, previous convictions, cautions, or bind overs against me may be disclosed along with any other relevant information which may be known to the police, and Lists held in accordance with the Protection of Children Act 1999.

I agree to inform the person in the organisation responsible for processing applications for DBS/Access NI if I am convicted of an offence after being employed/ being a representative of nasen. I understand that failure to do so may lead to the immediate suspension of my work with children and/or the termination of my position.

I agree to inform the person in the organisation responsible for processing applications for DBS/Access NI checks if I become the subject of a police and/or social services/social work department investigation. I understand that the failure to do so may lead to the immediate suspension of my work with children.

|  |  |
| --- | --- |
| Signed | Date |

**Appendix V: Task Order Template** *(example)*

|  |  |
| --- | --- |
| **Task Order Number:** | [REF/YY/NUM] |
| **Task Order Name:** | [TITLE OF WORK] |
| **Date of Task Order:** | [DD/MM/YYYY] |

This task order is made on [DD/MM/YYYY] between the NASEN NAMED PERSON of nasen, nasen House, 4/5 Amber Business Village, Amber Close, Tamworth, B77 4RP and, [SUPPLIER NAME of [registered address of associate/company].

The terms and conditions of the signed Contract Agreement dated [DD MMM YYYY] between both parties are deemed to be incorporated into this Task Order by reference and shall apply to this Task Order as if set out in full.

Details of Key performance Indicators and a project plan agreed between both parties to be inserted here.

|  |  |  |  |
| --- | --- | --- | --- |
| **Monitoring arrangements** | | | |
| Explanation of monitoring will be provided by nasen along with a payment plan to be inserted here. | | | |
| Start Date: | [DD/MM/YYYY] | End Date: | [DD/MM/YYYY] |
| Day rate: | £XXX |  |  |
| Maximum payment inclusive of VAT where applicable: | | | £XXX |
|  | | |  |

**Data Processing**

|  |
| --- |
| **Data Processing** |
| Insert details of:  The subject-matter and duration of the processing *(what type of data will the associate be working with and for how long)*; |
| *Text to go here.* |
| The nature and purpose of the processing *(what will associated be doing with the data and what is the purpose of this)* |
| *Text to go here.* |
| The type of personal data *(what type of data will the associate we working with, email addresses, full contact details, sensitive data etc.)* |
| *Text to go here.* |
| The categories of data subjects *(e.g., will the associate be working with parents and families, young people etc.)* |
| *Text to go here.* |

**TERMS OF PAYMENT**

Electronic invoices only may be sent to [finance@nasen.org.uk](mailto:finance@nasen.org.uk) Invoices will be paid 30 days after receipt of a correct invoice. Payment cycle is monthly in arrears and should include VAT where applicable. Any related travel or subsistence costs must be agreed in advance by the contract manager and receipts must be provided to evidence any claims.

IN WITNESS whereof the parties hereto have caused this Task Order to be executed under hand the day and year first before written

Authorised by:

|  |  |
| --- | --- |
| **Reassurance provided by:** | **Accepted by:** |
| (Signature) | (Signature) |
| Name of signatory: | Name of signatory: |
| Organisation name: | Organisation name: |
| Date: | Date: |

**Signature Page**

I agree to the above terms and conditions and the attached terms of reference in respect of this Contract with nasen.

**On behalf of (Supplier)**

|  |  |
| --- | --- |
| **Signed** |  |
| **Print Name** |  |
| **Position** |  |
| **Date** |  |

**On behalf of (nasen)**

|  |  |
| --- | --- |
| **Signed** |  |
| **Print Name** | **Annamarie Hassall MBE** |
| **Position** | **Chief Executive, Nasen** |
| **Date** |  |

**Appendix i**

**Confidentiality Policy**

**THE DUTY OF CONFIDENTIALITY**

Anyone working for or with nasen is under a general duty of confidentiality as well as a duty to support professional ethical standards of confidentiality.

The duty of confidentiality is conferred by common law, statute, contracts of employment, nasen policies and procedures (of which this is one) and professional regulation. Our ability to comply with it is dependent (amongst other things) on:

* Data owners creating suitable processes for storing confidential information and effectively controlling access to it, e.g. information on children, young people or staff.
* Data owners making themselves familiar with the requirements of the Data Protection Act (and Freedom of information Act as it impacts on our Government clients) and the obligations this imposes on them as employees and citizens.
* All staff being sensitive to the requirements of nasen to treat its internal organisation and business conversations with due care and avoid unnecessarily involving outsiders in what are essentially private, internal matters.

**WHAT IS CONFIDENTIAL INFORMATION?**

Confidential information is information entrusted in confidence, where there is a general obligation not to disclose that information without consent. It includes:

* Any trade secret or confidential information in the nature of a trade secret which comes to your knowledge during the course of, or in connection with, your working relationship with nasen and which concerns nasen or its business and/or any partner, supplier, client, customer, contractor or employee of nasen or any other third party for which nasen is responsible or has an obligation not to disclose.
* Personal information such as a person’s name, age, address, and personal circumstances as well as sensitive personal information regarding, for example, someone’s race, health and sexuality.

Confidential information may be known, or stored, on any medium.

Confidential information is acquired and maintained by nasen in a range of areas including the following and in respect of which due care must always be taken:

* Children and young people
* Nasen stakeholders (including members/trustees)
* Nasen Customers (including Government Departments/Local Authorities/ Conference Delegates/ Library Users)
* Nasen Employees
* Interviewees
* Information collected or received by Electronic media
* Contents /Promises placed in Service Level Agreements and Contracts.

**AWARENESS AND COMPLIANCE**

Anyone working for or with nasen must be aware of the importance of confidentiality.

In order to ensure that the commitment to protect confidentiality is not just a matter of lip service all Staff are responsible for:

* Making themselves sufficiently aware of their responsibilities for safeguarding confidentiality and keeping information secure.
* Familiarising themselves and complying with the requirements of the Data Protection and Freedom of Information Acts (A summary of the DPA is available on the intranet).
* Understanding and following this policy and the nasen’s Participation
* Guidelines, Child Protection Policy and Procedures and Electronic Communication Media Policy.
* Ensuring they seek and follow advice and guidance from the Head of Communications when dealing with enquiries from journalists etc.
* Understanding and following the Research Department’s guidelines on Data Protection and Confidentiality.
* Ensuring that they do not knowingly misuse any information or allow anyone else to do so. Individual staff members are personally responsible for any decision to pass on information that they may make. No information which is given or received in confidence may (without due cause) be passed to anyone else without the consent of the provider of the information. No information which is given or received in confidence for one purpose may (without due cause) be used for a different purpose without the consent of the provider of the information.
* Safeguarding the confidentiality of all personal information and nasen information to which they have access, however it is transmitted or recorded.

Breaches of confidentiality are a serious matter. Non-compliance with this policy and/or any confidentiality breach by any person employed by nasen may result in disciplinary action being taken up to and including summary dismissal for gross misconduct without notice or pay in lieu of notice.

To support this policy, the Manager of each department at nasen is responsible for ensuring that:

* Adequate protocols and processes exist in their departments to control the storage and access to sensitive information (in particular that relating to Children and Young People, Staff and Interviewees), that they are sufficiently known and that they are followed.
* Their department contains one appropriate person with whom an nasen or external auditor can liaise concerning the matters of data protection and confidentiality.
* Staff within their unit or department are aware of any and all files kept relating to them.
* All staff within their unit or department have signed this policy to indicate that they have read and understand the obligations it places upon them.
* All of the following working from time to time for or with their unit or department also sign this policy to confirm that they know and are committed to maintaining nasen’s requirements for confidentiality and protecting information:
* Volunteers
* Temps
* Consultants
* Self-Employed Trainers
* Photographers
* Free Lance Journalists
* Maintenance Contractors

This list is not exhaustive.

To support this policy, the Senior Leadership Team at nasen will ensure that:

* The IT Systems Support Officer in his role of Data Protection Officer and Confidentiality Coordinator, is given full responsibility to be the auditor and arbiter of all matters relating to the interpretation and implementation of this policy and the necessary resources to carry it out.
* Clauses are placed in all employment contracts, to remind all new staff of the importance of confidentiality

**POINTS TO NOTE**

Managers and staff should note that it is not the purpose of this policy to stifle the free interchange of information within the organisation. Legislation recognises that information has to be shared in order for organisations to function properly. Nasen encourages this and it is not the intention that internal communications and meeting exchanges or training will be stifled because staff are worried about what they can and cannot share.

Managers and staff should also note that in some circumstances confidential disclosures have to be made known, and this is particularly pertinent on issues related to health and safety, whistleblowing and/or conduct. The HR lead at nasen is available to provide advice and guidance prior to any such matter going “public”.

In certain instances (but not always), a complainant’s wish to remain anonymous may need to be respected, having balanced that wish alongside the legitimate right of anyone that the complaint impacts on to be provided with full information on it.

**Appendix ii**

**Equality and Diversity Policy**

nasen is committed to providing equal opportunities in employment and to avoiding

unlawful discrimination. Our aim is that our workforce will be truly representative of

all sections of society and each employee feels respected and able to give of their

best.

It is the policy of nasen to take all reasonable steps to employ, manage and promote

employees on the basis of their abilities and qualifications. It is unlawful to

discriminate directly or indirectly in recruitment or employment because of age,

disability, sex, gender reassignment, pregnancy, maternity, race (which includes

colour, nationality and ethnic or national origins), sexual orientation, religion or belief,

or because someone is married or in a civil partnership. These are known as

"protected characteristics”.

Employees have a duty to support this policy to ensure it is effective in promoting

equality and to prevent all types of unlawful discrimination. Disciplinary action will be

taken against any employee who is found to be in breach of this policy. Serious

breaches of the equality policy will be treated as gross misconduct.

Employees should draw the attention of their line manager or the Chief Executive to

any suspected discriminatory acts or practices.

This policy should be read in conjunction with nasen’s anti-bullying and harassment

policy.

**Types of Unlawful Discrimination**

**Direct** discrimination is where a person is treated less favorably than another

because of a protected characteristic.

In limited circumstances, employers can directly discriminate against an individual for

a reason related to any of the protected characteristics where there is an

occupational requirement. The occupational requirement must be crucial to the post

and a proportionate means of achieving a legitimate aim.

**Indirect discrimination** is where a provision, criterion or practice is applied that is

discriminatory in relation to individuals who have a relevant protected characteristic

such that it would be to the detriment of people who share that protected

characteristic compared with people who do not, and it cannot be shown to be a

proportionate means of achieving a legitimate aim.

**Harassment** is where there is unwanted conduct, related to one of the protected

characteristics (other than marriage and civil partnership, and pregnancy and

maternity) that has the purpose or effect of violating a person’s dignity; or creating an

intimidating, hostile, degrading, humiliating or offensive environment. It does not

matter whether or not this effect was intended by the person responsible for the

conduct.

**Associative discrimination** is where an individual is directly discriminated against

or harassed for association with another individual who has a protected

characteristic (although it does not cover harassment because of marriage and civil

partnership, and (according to guidance from the Government and ACAS) pregnancy

and maternity).

**Perceptive discrimination** is where an individual is directly discriminated against or

harassed based on a perception that he/she has a particular protected characteristic

when he/she does not, in fact, have that protected characteristic (other than

marriage and civil partnership, and pregnancy and maternity).

**Third-party harassment** occurs where an employee is harassed and the

harassment is related to a protected characteristic (other than marriage and civil

partnership, and pregnancy and maternity), by third parties such as service users.

**Victimisation** occurs where an employee is subjected to a detriment, such as being

denied a training opportunity or a promotion because he/she made or supported a

complaint or raised a grievance under the Equality Act 2010, or because he/she is

suspected of doing so. However, an employee is not protected from victimisation if

he/she acted maliciously or made or supported an untrue complaint.

**Failure to make reasonable adjustments** is where a physical feature or a

provision, criterion or practice puts a disabled person at a substantial disadvantage

compared with someone who does not have that protected characteristic and the

employer has failed to make reasonable adjustments to enable the disabled person

to overcome the disadvantage.

**Recruitment processes and procedures**

The recruitment process must result in the selection of the most suitable person for

the job in respect of experience and qualifications and appropriate sources of

recruitment may well vary with each post advertised.

Recruitment publicity must positively encourage applications from all suitably

qualified and experienced people.

When advertising job vacancies, in order to attract applications from all sections of

the community, nasen will, as far as reasonably practicable and unless there is a

genuine occupational requirement: -

* ensure advertisements are not confined to those areas or publications which would exclude or disproportionately reduce the numbers of applicants with a particular protected characteristic
* avoid prescribing any unnecessary requirements which would exclude a higher proportion of individuals with a particular protected characteristic
* ensure that where vacancies may be filled by promotion, they will be published to all eligible employees in such a way that they do not restrict applications from employees with any particular protected characteristic

The selection process will be carried out consistently for all jobs at all levels. The

Equality Policy is available to all staff.

The selection of new staff will be based on the job requirements and person

specification and the individual's suitability and ability to do, or to train for the job in

question.

Selection tests which are used will be limited to questions relating to the particular

job and/or career requirements. The questions will measure the individual's actual or

inherent ability to do or to train for the work. Thus, questions on matters which may

be unfamiliar to racial minority applicants, applicants of a particular sex or age, or

those who have a disability, will not be included if they are unrelated to the

requirements of the particular job.

The questions that are used will be reviewed from time to time in order to ensure that

they remain relevant and free from any unjustifiable bias, either in content or in

scoring mechanism.

All applications will be processed in the same way using the same application form.

The staff responsible for short-listing, interviewing and selecting candidates will be

clearly informed of the selection criteria, and of the need for their consistent

application.

Wherever possible, all applicants will be interviewed by at least two people.

All questions that are put to the applicants will relate to the requirements of the job.

If it is necessary to assess whether personal circumstances will affect the

performance of the job (for example, if the job involves unsociable hours or extensive

travel) this will be discussed objectively, without detailed questions based on

assumptions about any protected characteristic.

Where general ability and personal quality are the main requirements for promotion

to a post, care will be taken to consider favourable candidates irrespective of any

protected characteristic.

All terms of employment, benefits, facilities and service will be reviewed from time to

time, in order to ensure that there is no unlawful discrimination.

**Responsibilities of management**

Responsibility for ensuring the effective implementation and operation of the

arrangements will rest with the Chief Executive. Trustees / Managers will ensure that

they and their staff operate within this policy and arrangements, and that all

reasonable and practical steps are taken to avoid discrimination. Each manager will

ensure that:

* all their staff are aware of the policy and the arrangements, and the reasons
* for the policy;
* grievances concerning discrimination are dealt with properly, fairly and as
* quickly as possible;
* proper records are maintained in line with our Data Protection policy and

statutory requirements.

Trustees will be responsible for monitoring the operation of the policy in respect of

employees and job applicants, including periodic departmental audits.

**Responsibilities of staff**

Responsibility for ensuring that there is no unlawful discrimination rests with all staff

and the attitudes of staff are crucial to the successful operation of fair employment

practices. All members of staff must comply with this policy and arrangements and

inform their manager if they become aware of any discriminatory practice.

**Third parties**

Third-party harassment occurs where a nasen employee is harassed, and the

harassment is related to a protected characteristic, by third parties such as suppliers,

clients or service users. nasen will not tolerate such actions against its staff, and the

employee concerned should inform their manager at once that this has occurred.

nasen will fully investigate and take all reasonable steps to ensure such harassment

does not happen again.

**Rights of disabled people**

nasen will take particular care in considering the needs of people with a disability.

Under the terms of this policy, managers are required to:

* make reasonable adjustment to maintain the services of an employee who is

or becomes disabled, for example, training, provision of special equipment,

reduced working hours. (NB: managers are expected to seek advice on the

availability of advice and guidance from external agencies to maintain

disabled people in employment);

* ensure those with a disability are able to access training/development

programmes;

* ensure applicants with a disability are provided with appropriate reasonable

adjustments throughout the application process up to and including selection,

appointment and onboarding.

**Data Protection, Processing and Sharing Requirements**

nasen treats personal data collected for reviewing equality and diversity in

accordance with its Data Protection policy. Information about how personal data is

used and the basis for processing is provided in nasen’s privacy notices.

This is a non-contractual policy which will be reviewed and amended from time to

time to reflect changing needs or statutory changes.

**Updated 21 July 2022**

**APPENDIX iii**

**Safeguarding Policy**

**Keeping nasen Safe**

**1. Statement and Scope**

The purpose and scope of this policy statement is to set out nasen’s absolute commitment to protect and ensure the safety of children, young people and vulnerable adults who:

* **receive direct or indirect services and/or support through our extensive operations, programmes and projects;**
* **engage in our broad range of activities and events; and,**
* **work or volunteer for or in association with nasen.**

We bring this to life through the embodiment of our organisational ethos and culture built on respect, trust, integrity and transparency to achieve:

* **Safer Governance**
* **Safer Organisation**
* **Safer Recruitment**
* **Safer Voice**
* **Safer Culture**

**2. Commitment**

It is nasen’s unequivocal belief that no child, young person, vulnerable or other adult should be subject to abuse of any kind and that we all have the same fundamental rights of freedom and expression to live our lives fully and safely. It is therefore paramount at nasen that we promote this message of equality and inclusivity across all areas of our work, externally and internally, through recognition of:

* Our individual and collective responsibility to safeguard the welfare of all engaged with nasen and that this is enshrined in the delivery of our mission, values and strategic objectives;
* The equal rights of all individuals to protection against all types of abuse or harm regardless of age, race, religion or belief, gender, or sexual orientation;
* The additional vulnerability of some individuals owing to the impact of previous experiences, their level of dependency, communication or other needs
* That we are stronger and better together across nasen and in partnerships to champion and promote equality, diversity and inclusion across our communities.

**3. Legal Framework**

This policy has been drawn up on the basis of legislation, policy and guidance that seeks to protect children, young people, vulnerable adults and adults in England and Northern Ireland including:

* Working Together to Safeguard Children 2018
* The Children Acts 1989 & 2004 & The Children (Northern Ireland) Order 1995
* The Care Act 2014
* The Mental Capacity Act 2005 & the Mental Capacity Act (Northern Ireland) 2016
* The Safeguarding Vulnerable Groups Act 2006
* Charity Commission Guidelines for Trustees
* The Data Protection Act 2018 (UK GDPR 2021)
* Keeping Children Safe in Education 2022
* Co-operating to Safeguard Children and Young People in Northern Ireland (Department of Health, 2016)
* The Safeguarding Board (Northern Ireland) Act 2011
* Safeguarding Board for Northern Ireland Strategic Plan 2018-2022
* Children’s Services Cooperation Act (Northern Ireland) 2015
* Children and Young People’s Strategy (Northern Ireland) 2019-2029
* Safeguarding Vulnerable Groups Order (Northern Ireland) 2011

**4. Contacts:**

If you have any questions about Safeguarding at nasen, please contact: Annamarie Hassell, Chief Executive Officer at nasen and Safeguarding Lead: [annamarieh@nasen.org.uk](mailto:annamarieh@nasen.org.uk)

For any confidential concerns regarding Safeguarding at nasen that you don’t feel can be dealt with by one of the above, please contact: Amrit Singh Chief Operating Officer: [amrits@nasen.org.uk](mailto:amrits@nasen.org.uk)

**Safeguarding Children, Young People and Vulnerable Adults Policy**

**1. Purpose**

The purpose of this policy is to set out the overarching principles and framework as to how nasen determines, maintains and communicates its commitment to:

* Safeguard and protect children, young people, vulnerable adults, and families who receive nasen’s services or engage in our activities from harm;
* To provide a comprehensive overview of our overarching principles that guide our approach to deliver upon our commitment to keeping nasen safe;
* This policy applies to the Board of Trustees, all nasen staff (permanent, temporary, full or part-time), our associates and volunteers.
* This policy applies to any working environment, whether working in the nasen offices, at external sites, remotely or any other venue.
* This policy and corresponding, full document suite, enables all parties to **recognise** any form of abuse, or signs of suspected abuse; provides guidance on how to **respond** to and **report** any concerns with confidence and trust; and, how to **record** any incidents.

**2. Definitions**

Abuse is broadly defined as someone being caused harm or distress through many forms ranging from disrespect or micro-aggression to physical, emotional or mental pain. Forms of abuse include:

* **Physical abuse**
* **Domestic violence**
* **Coercive control Sexual harassment, abuse and exploitation**
* **Psychological or emotional abuse**
* **Discriminatory abuse (on any grounds set out in the Equality Act 2010)**
* **Modern day slavery**
* **Human trafficking**
* **Female genital mutilation**
* **Extremism and radicalisation**
* **Financial or material control**
* **Bullying and cyberbullying**
* **Organisational, institutional abuse and commercial exploitation**

**3. Safer Governance**

As the legal entity, nasen (Registered Charity No. 1007023 Registered Company limited by guaranteed) is responsible for ensuring an integrated approach across the nasen to deliver our vision, mission, values and strategic direction in-line with our charitable objects and to do so safely. This is achieved through a robust, governance framework and practices, which are underpinned by the seven principles of the Charity Governance Code (revised 2020):

1. Organisational purpose
2. Leadership
3. Integrity
4. Decision Making and Controls
5. Board Effectiveness
6. Diversity
7. Openness and Accountability

These principles are embedded throughout our core governance structure, which is spearheaded by our Board of Trustees and our Strategic Leadership Team (SLT). In accordance with good governance and delineation of designated responsibilities, the Board is supported by a Finance, Risk and Audit (FRAC). Keeping the nasen safe, in its entirety, threads throughout this structure by means of clearly defined remits and delegated duties with the FRAC having specific remits to monitor and assess risk including around safeguarding.

The Board and the SLT are firmly committed to nasen’s overarching values and principles and lead by example to ensure behaviours based on equality, trust, respect and transparency are enshrined across our organisational culture.

In adherence with the Charity Commission’sguidelines, the Board of Trustees maintains oversight of nasen’s safeguarding statement and standards by seeking assurance and evidence from the SLT that the organisation has robust, appropriate and effective mechanisms, practices and procedures to uphold its commitment through:

* Receipt of quarterly safeguarding reports and an annual report as part of nasen’s compliance reporting to the Board of Trustees;
* Quarterly review of identified and emerging risks to nasen as an organisation and its stakeholders around safeguarding and consideration of how practices may be enhanced to ensure a continued safe culture and to mitigate against such risks (set out in nasen as Risk Register);
* Annual review of nasen’s Safeguarding Policy to ensure it remains current and fit for purpose;
* Relevant and current training and guidance are readily available for staff and other relevant individuals to know how to recognise, respond to, report and record a safeguarding concern, and know they can do so with confidence and trust;
* Periodic review of which posts across nasen can and must have Disclosure and Barring Service (DBS) or Access NI checks;
* Risk assessment processes of other posts that do not qualify for DBS or Access NI checks, but where the post-holders may have contact with children, young people or vulnerable adults;
* Clearly documented and maintained recording and reporting (internal and external) processes and that these are revised not only through statutory or regulatory requirement, but also through nasen’s valuable learning from reportable or non-reportable incidents;
* The above includes identification and documenting of Serious Incidents, including those reportable to the Charity Commission and of Complaints made against nasen as an organisation or members of the nasen Family;
* All nasen Trustees are DBS or Access NI checked upon being appointed to the Board.

**4. Serious Incidents – identification and reporting**

The Charity Commission’s view of a serious incident is ‘*an adverse event, whether actual or alleged, which results in, or risks, significant*:

* **harm to a charity’s beneficiaries, staff, volunteers or others who come into contact with the charity through its work;**
* **loss of a charity’s money or assets;**
* **damage to a charity’s property;**
* **harm to a charity’s work or reputation;**

With particular regard to safeguarding, nasen needs to report incidents to the Charity

Commission that fall under their definitions:

* incidents of abuse or mistreatment (alleged or actual) of beneficiaries of the charity (adults or children) which have resulted in or risk significant harm to them and:
  + this happened while they were under the care of the charity
  + someone connected with the charity, for example a trustee, staff member or volunteer, was responsible for the abuse or mistreatment (alleged or actual);
* other incidents of abuse or mistreatment (alleged or actual) of people who come into contact with the charity through its work, which have resulted in or risk significant harm to them and are connected to the charity’s activities;
* breaches of procedures or policies at the charity which have put people who come into contact with it through its work at significant risk of harm, including failure to carry out relevant vetting checks which would have identified that a person is disqualified in law from holding their position within the charity. This might be, for example, because they are disqualified under safeguarding legislation from working with children and/or adults at risk.

The overall responsibility for reporting serious incidents to the Charity Commission, and that this is done so efficiently, rests with nasen’s Board of Trustees. However, in practice this is delegated to the CEO who in-turn will onward delegate to senior staff to investigate on a case by case basis. Should a serious incident not be reported but the Charity Commission becomes aware of the situation, nasen will need to be able to clearly explain and evidence as to why a decision was taken to not report at the time.

If a member of nasen’s Board of Trustees, staff, contractor, associate or volunteer becomes aware of or has reason to believe that a serious incident has occurred they are to swiftly inform nasen’s DSL Head of Governance or Head of People & Culture who will look further into the issue and determine the appropriate course of action. Any individual who does raise a concern can do so in-line with nasen’s values and principles of operating with respect, trust and confidence with recognition that they are acting with integrity in the best interests of nasen and any individuals involved.

**5. Complaints**

External or internal complaints or concerns regarding safeguarding at nasen will always be brought to the attention of the CEO who will make the recommendation to Trustees about onward referral to regulatory bodies. On receipt of a complaint about any aspect of nasen, the staff or services, this must be notified to the Director of Finance and Corporate Services. If any written correspondence exists, this must accompany the notification. The complaint will be allocated within nasen for an initial response and information gathering. If the nature of the complaint implicates a staff member, Trustee or volunteer, the Designated Safeguarding Lead and Head of People & Culture will be immediately consulted to align the actions required within the complaints procedure with actions to safeguard the welfare of children, adults and staff. All complaints will be recorded and reported as part of the nasen Safeguarding Metrics.

**6. Safer Organisation**

Nasen’s organisational culture promotes equality, trust and openness at all levels and how we operate with everyone having a voice that is respected and heard. This enables confidence for any concerns of any nature to be raised in good faith and with integrity with secure knowledge that there will be no judgement nor repercussions, for staff in particular, should a concern be raised.

Our overarching principles for safeguarding are based on the ability of individuals to recognise any form of abuse, to know how to respond appropriately, to report any incident or suspected issue efficiently and, where appropriate, how to record the matter.

All nasen staff are required to undertake NSPCC on-line safeguarding children and young people training with this to be completed within the first month of taking up employment. This ensures that all staff have a solid, foundation awareness of overarching safeguarding principles to enable them to recognise issues of concerns and how to respond.

Further training and/or more specific guidance will be provided where relevant and applicable for particular roles. This is particularly relevant for, but not limited to, staff members who are engaged in front line delivery services with children, young people, vulnerable adults, families and wider community members.

For these purposes, there are particular processes in place for staff to follow with regard to home (and/or other community settings) visits with clear guidance on measures to be taken before, during and after the visit and risk assessments to be undertaken prior to any event or activity that directly involves children and young people. With these considered areas of potential high risk, such planned visits, activities and assessments are required to be signed off by the relevant member of the Senior Management Team who will, therefore, be fully aware of the nature of the activity, who is involved, when and where and will be the point of contact for staff delivering the activity. The Designated Safeguarding Lead will be consulted by exception where risk assessment identifies any potential welfare issues of those engaging in the visit, activity or event.

With nasen working extensively in partnership with delivery associates and contractors, safeguarding standards and expectations are set out in our Associate Framework Contract and in Task Orders or Contracts with delivery partners. This places a requirement for such partners to report any safeguarding concerns or serious incidents to the relevant nasen grant or contract lead who will be a member of the Senior Management Team.

**7. Safer Recruitment**

Nasen’s most important assets are the individuals who work across our family; Trustees, staff, associates and volunteers and safe, sound, thorough processes are paramount in ensuring we engage those who are most suited to join us in delivering our mission and embracing our ethos and values.

We achieve this through having clearly defined, standard recruitment policy and corresponding procedures in place to ensure that all posts across the organisation are filled appropriately in-line with the role’s particular duties and responsibilities. All posts are recruited under the direction of our People & Culture department to ensure all requirements are met and are undertaken with parity and consistency with standard guidance and conditions from the off-set. Particular tasks throughout recruitment may be delegated to relevant managers, but these are monitored by the People & Culture Team and, where applicable, other senior staff members to ensure standards are met in following safe recruitment processes. All posts are reviewed by the recruiting manager and the department director to determine whether the role requires a DBS or Access NI checks, with this clearly set out in corresponding job descriptions and recruitment and application packs.

The checking process is commenced with ID checks at recruitment stage with the endeavour to then swiftly process and have clearance by the time the successful candidate takes up the position. All staff who require a DBS will be asked to sign a self-declaration form therefore if the check does not arrive in time for their start date, the Head of People & Culture and relevant line-manager will agree a plan to place restrictions on the role until clearance is obtained.

Where a criminal conviction is disclosed by an applicant or through a DBS or Access NI check, HR will consider this objectively and non-judgmentally based on the nature of the crime and potential impact on the role. Where an assessment indicates there is a level of risk too high to allow the individual to start or continue working in the role the consequences for the individual will be dependent upon:

* the check concerned
* the reason for the check (that is, check for a new employee, a recheck for an existing employee in their current post or a check for an existing employee in a new post)
* relevant legislation
* the post concerned
* whether the individual is suitable for other employment opportunities available within the organisation.

Possible outcomes include amended duties, redeployment, withdrawal of an offer of employment or, where the individual started work before the relevant screening check was completed, dismissal.

nasen has a thorough induction processes that goes beyond the responsibilities of the role and brings new starters into our culture of trust, respect and openness from the off-set and how we keep Nasen as an organisation, ourselves, each other and all those engaging with us safe. In addition to the requirement to undertake the NSPCC on-line safeguarding training, all new starters are provided clear guidance and support in familiarising themselves with nasen’s overarching principles and standards as set out in our Employee Standards and key areas of compliance. This includes, but is not limited to Safeguarding, Data Protection including use of photography and film; IT/cyber, on-line safety; Harrassment and Bullying; Equality, Diversity and Inclusion; and, Health and Safety. New starters are closely supported by their line-manager in embracing our principles and standards throughout the duration of their stipulated six-month

probation period and, in furtherance, all staff receive a formal mid and end of year review which includes managing performance and conduct against our organisational values.

**8**. **Safer Voice**

The voice of children and young people, their views and experiences are at the heart of and flow through every aspect of nasen’s work and we ensure their voice is heard and respected. This extends to how we listen to them around concerns they have regarding the safety children and young people, the challenges and risks they face in an ever changing world

To engage with us our wider participation activities, and for the use of photography and film we have four, tiers of consent in place that are standard across the whole organisation:

|  |  |
| --- | --- |
| Under 13 years | parent/guardian consent |
| 13-16 year olds | joint young person and parent/guardian consent |
| 16 years + | young person consent |
| 16 years + | joint young person and parent/guardian consent where there is reasonable belie the young person does not have capacity to give sole consent as defined under the Mental Capacity Act 2005. |

Our consent process ensures that children, young people, vulnerable adults and their families are made aware of the reasons why nasem may need to share information with other agencies. Our information sharing procedures are compatible with child and adult protection agency expectations.

**Planning events involving children, young people and vulnerable adults**

NASEN staff are required to be familiar with these planning tools and to take advice from the Participation team and DSL to ensure delivery of high quality and safe activities.

All events require a **risk assessment** as part of the planning process or project initiation. A risk assessment does not prevent us from doing something, it allows us to consider how to do it safely and with managed and considered risk that has been minimised as much as possible.

**1. Working with other organisations**

Our work is often in partnership with other organisations, in which case the nasen Safeguarding

and Other related policies will still be applicable for our staff, associates, volunteers.

Where nasen is Commissioned to support children, young people or adults to participate in an

event that is **not** for nasen, we ensure that:

* If the event is for an external organisation, ensure the organisers have a consent procedure that outlines what the participants will be doing and how their input will be used. This information needs to be shared in a way that is appropriate for the participants to understand.
* If nasen is planning to also use any of the outputs from the engagement opportunity or event then the participants need to also complete the appropriate nasen consent form.
* If the meeting is externally coordinated and delivered but a member of nasen is attending that member of nasen staff must see a copy of their risk assessment

**2. Safer Culture**

The overarching elements of our core safeguarding principles come together to promote a safer culture and environment for all individuals engaged with nasen across a very broad spectrum. In operating with trust, respect and openness we ensure the visibility of our culture internally and externally and that we act with integrity and transparency in all that we do. Trustees, staff, associates and volunteers know fully they can raise concerns with confidence, in good faith and best interest for nasen as an organisation and any parties involved of affected. Where incidents do occur, we commit to raising them swiftly; respond appropriately and proportionally; report and record in full internally and externally as may be required. We also fully commit to learn from any incidents that occur and to take and share these teachings forward through ongoing review and enhancement of our principles to continue to develop as an organisation that holds the safety and fundamental rights of the communities we serve at our core.

**SCHEDULE 1**

**Data Processing and Sharing Requirements Schedule**

**1. Definitions**

1.1 In this Schedule, unless the context otherwise requires, the following words and expressions have the following meanings:

|  |  |
| --- | --- |
| “Agreement” | any agreement for the supply of services entered into by the parties whether forming part of the contract to which this schedule is attached or otherwise. |
| “Controller” | has the meaning given in the GDPR. |
| “Data Loss Event” | any event that results, or may result, in  unauthorised access to Personal Data held by the Contractor under this Agreement, and/or actual or potential loss and/or destruction of Personal Data in breach of this Agreement. |
| “Data Subject” | has the meaning given in the GDPR. |
| “Data Protection Officer” | has the meaning given in the GDPR. |
| “Data Protection Legislation” | the General Data Protection Regulation, the Data Protection Act 2018 and any national implementing laws, regulations, and secondary legislation, as amended or updated from time to time in the UK, and all applicable law about the processing of personal data and privacy, including where applicable the guidance and codes of practice issued by the Information Commissioner. |
| “GDPR” | the General Data Protection Regulation |
| “Personal Data” | has the meaning set out in the GDPR and relates only to personal data, or any part of such personal data, of which the Customer is the Data Controller and in relation to which the Contractor is providing services under the Agreement. |
| “Processor” and “processing” | have the meaning set out in the GDPR. |
| “Contractor Personnel” | means all directors, officers, employees, agents, consultants, and contractors of the Contractor and/or any sub-contractor engaged in the performance of its obligations under this Agreement. |
| “Sub-Processor” | any third Party appointed to process Personal Data on behalf of the Contractor related to this Agreement. |

For the purposes of this Schedule, the Supplier is referred to as “Customer” and nasen will be referred to as the “Contractor”, together the “parties”.

**2. Basis for Processing or Sharing**

2.1 Both parties will comply with all applicable requirements of the Data Protection Legislation. This Schedule is in addition to, and does not relieve, remove, or replace, the parties’ obligations under the Data Protection Legislation.

2.2 The parties acknowledge that for the purposes of this Agreement, the Customer is the Data Controller, and the Contractor is the Data Processor of any Personal Data.

2.3 The basis for processing and sharing Personal Data under this Agreement is in accordance with a lawful basis for processing Personal Data provided for by the Data Protection Legislation. The details of the data processing activities in relation to this Agreement are set out in Annex A.

**3. Obligations of the Contractor**

3.1 The Contractor shall only process any Personal Data on behalf of the Customer in accordance with the written instructions provided and to the extent, and in such a manner as set out in Annex A. If the Contractor is required to do otherwise by law, then it will promptly notify the Customer of that legal requirement before processing the Personal Data.

3.2 The Contractor shall provide all reasonable assistance to Customer in the preparation of any data protection impact assessment required prior to commencing any processing.

3.3 The Contractor will maintain complete and accurate records of any processing of Personal Data it carries out on behalf of the Customer.

3.4 If the Contractor receives any complaint, notice or communication which relates directly or indirectly to the processing or sharing of the Personal Data or to either party's compliance with the Data Protection Legislation, it shall promptly notify the Customer and provide full co-operation and assistance in relation to any such complaint, notice or communication.

3.5 The Contractor shall ensure that it has in place appropriate technical and organisational measures, reviewed, and approved by the Customer, to protect against unauthorised or unlawful processing and to protect against a Data Loss Event. The protective measures should take account of:

3.5.1 the nature of the data to be protected;

3.5.2 the harm that might result from a Data Loss Event;

3.5.3 the state of technological development; and

3.5.3 the cost of implementing any measures.

3.6 The Contractor shall promptly inform the Customer if any Personal Data is lost or destroyed or becomes damaged, corrupted, or unusable. The Contractor will restore such Personal Data at its own expense.

3.7 The Contractor shall notify the Customer immediately if it becomes aware of any unauthorised or unlawful processing of Personal Data and in such circumstances shall comply with all requests of the Customer in dealing with the situation.

3.8 At the Customer’s request, the Contractor shall provide to the Customer a copy of all Personal Data held by it in the format and in the media reasonably specified by the Customer.

3.9 Upon termination of the Agreement for any reason, the Contractor shall cease processing any Personal Data and shall return all Personal Data to the Customer and any copies thereof or shall securely destroy all Personal Data if instructed to do so by the Customer and shall certify that this has been done, unless prevented from doing so by law.

**4. Transfers outside the EEA**

4.1 The Contractor shall not transfer any Personal Data outside of the European Economic Area (“EEA”) unless the prior written consent of the Customer has been obtained and the following conditions are fulfilled:

4.1.1 the Contractor has provided appropriate safeguards in relation to the transfer to the satisfaction of the Customer;

4.1.2 the Data Subject has enforceable rights and effective legal remedies;

4.1.3 the Contractor complies with its obligations under the Data Protection Legislation by providing an adequate level of protection for any Personal Data that is transferred; and

4.1.4 the Contractor complies with reasonable instructions notified to it in advance by the Customer with respect to the processing of the Personal Data.

**5. Contractor's Personnel**

5.1 The Contractor shall ensure that access to the Personal Data is limited to those Personnel who need access to the Personal Data to meet the Contractor’s obligations under this Agreement.

5.2 The Contractor shall ensure that all Personnel:

5.2.1 are aware both of the Contractor’s duties and their personal duties and obligations under the Data Protection Legislation and this Agreement;

5.2.2 are informed of the confidential nature of the Personal Data and do not publish, disclose, or divulge any of the Personal Data to any third party unless directed in writing to do so by the Customer or as otherwise permitted by this Agreement;

5.2.3 are subject to appropriate confidentiality undertakings with the Contractor or any Sub-Processor; and

5.2.4 have undertaken adequate training on the Data Protection Legislation relating to the use, care, protection, and handling of Personal Data.

**6. Rights of the Data Subject**

6.1 The Contractor shall notify the Customer immediately if it:

6.1.1 receives a request from a Data Subject for access to that person's

Personal Data;

6.1.2 receives a request to rectify, block or erase any Personal Data;

6.1.3 receives a request from any third party for disclosure of Personal

Data where compliance with such a request is required or purported

to be required by Law; or

6.1.4 becomes aware of a Data Loss Event.

6.2 The Contractor shall provide the Customer with full co-operation and assistance in relation to any request referred to in clause 6.1.

6.3 The Contractor shall promptly comply with any request from the Customer requiring the Contractor to amend, transfer or delete the Personal Data.

6.4 The Contractor shall not disclose the Personal Data to any Data Subject or to a third party other than at the request of the Customer or as provided for in this Schedule.

6.5 The Contractor shall designate a Data Protection Officer if required by the Data Protection Legislation.

**7. Rights of the Customer**

7.1 The Customer is entitled, on giving reasonable notice to the Contractor, to inspect or appoint representatives to inspect all facilities, equipment, documents, and electronic data relating to the processing of Personal Data by the Contractor.

7.2 The requirement under clause 7.1 to give notice will not apply if the Customer believes that the Contractor is in breach of any of its obligations under this Agreement.

7.3 If following an inspection, the Customer believes that any Personnel of the Contractor is causing the Contractor to be in breach of the Data Protection Legislation then the Customer may request that the Contractor no longer uses such Personnel for the purposes of handling Personal Data under this Agreement.

**8. Warranties**

8.1 The Contractor warrants that:

8.1.1 it will process (and share) the Personal Data in compliance with the Data Protection Legislation and all other applicable laws, enactments, regulations, orders, standards, and other similar instruments;

8.1.2 it will take such appropriate technical and organisational measures in order to ensure the safety and security of the Personal Data as may be specified from time to time by the Customer; and

8.1.3 it will take appropriate technical and organisational measures against the unauthorised or unlawful processing of Personal Data and against the accidental loss or destruction of, or damage to, Personal Data.

**9. Indemnity**

9.1 The Contractor agrees to indemnify the Customer and keep indemnified and defend at its own expense against all costs, claims, damages, or expenses incurred by the Customer or for which the Customer may become liable due to any failure by the Contractor or its Personnel to comply with the Data Protection Legislation or any of its other obligations under this Schedule.

9.2 The Contractor shall take out insurance sufficient to cover any payment that may be required under clause 9.1 and produce the policy and receipt for premium paid, to the Customer on request.

**10. Appointment of Sub-Processors**

10.1 The Contractor may only authorise a third party (Sub-Processor) to process the Personal Data:

10.1.1 subject to the Customer’s prior written consent where the Contractor has supplied the Customer with full details of such Sub Processor;

10.1.2 provided that the Sub-Processor’s contract is on terms which are substantially the same as those set out in this Schedule; and

10.1.3 provided that the Sub-Processor’s contract for services provided to the Customer terminates automatically on termination of the Agreement for any reason.

10.2 The Contractor shall remain fully liable for all acts or omissions of any Sub Processor.

**11. Data sharing**

11.1 The parties acknowledge that there may be circumstances in which Personal Data is transferred to the Contractor and the Contractor becomes a Data Controller in respect of that Personal Data. Furthermore, the Contractor acknowledges that in such circumstances the Contractor will comply with all its obligations as a Data Controller under the Data Protection Legislation, will determine the purposes for which the Personal Data is being processed and will be liable directly to the Data Subject and regulatory authorities in relation to its responsibilities as Data Controller.

11.2 The Contractor confirms that where Personal Data is shared in the circumstances envisaged by clause 11.1 above then it shall:

11.2.1 have in place an appropriately worded privacy and data protection policy;

11.2.2 where appropriate, it will directly inform the relevant Data Subjects that it is processing their Personal Data and is the Data Controller in respect of that Personal Data;

11.2.3 ensure that it has in place appropriate procedures for dealing with requests or any other complaints or queries from Data Subjects;

11.2.4 have in place procedures and mechanisms for keeping all Personal Data accurate and up to date in accordance with its obligations as a Data Controller under the Data Protection Legislation; and

11.2.5 the Contractor agrees to promptly supply copies of its policies, procedures, notices, and requests (and such other information as may be reasonably required by the Customer) to the Customer upon request.

11.3 The Customer reserves the right to require the Contractor to inform the Customer in writing of the uses to which the Contractor intends to put the Personal Data and the ways in which it intends to process the Personal Data. Furthermore, the Customer reserves the right to not share any Personal Data if it believes that such uses and purposes described by the Contractor are inappropriate or incompatible with the requirements of the Data Protection Legislation.

11.4 If the Customer believes that the transfer of Personal Data may amount to data sharing as envisaged by this clause then the Customer may require the Contractor to:

11.4.1 complete the Customer’s data protection questionnaire or any other request for information;

11.4.2 enter into a new data sharing agreement which may, where appropriate, also be binding on other third parties with whom data is being shared (and for the avoidance of doubt in the event that a further such agreement is entered into, the terms of this Schedule and Agreement shall continue to apply)

11.5 For the avoidance of doubt the other terms of this Schedule shall continue to apply to the parties and in respect of Personal Data where it is being shared under this clause 11 as necessary, including for the avoidance of doubt clause 8 (Warranties) and clause 9 (Indemnity).

**12. Review**

12.1 The Customer may, at any time, on giving not less than 30 working days’ written notice, revise this Schedule to ensure that it complies with any amendments to the Data Protection Legislation, or any guidance issued by the Information Commissioner’s Office. Any amendments to this Schedule will become effective when agreed in writing between the parties.

**Annex A – Schedule of Processing, Personal Data and Data Subjects**

|  |  |
| --- | --- |
| Description | Details |
| Subject matter of the  processing | [This should be a high level, short description of what the processing is about i.e., its subject  matter] |
| Duration of the processing | [clearly set out the duration of the processing including dates] |
| Nature and purposes of the  processing | [Please be as specific as possible, but make sure that you cover all intended purposes. The nature of the processing means any operation such as collection, recording, organisation, structuring, storage, adaptation, or alteration, retrieval, consultation, use, disclosure by transmission, dissemination or  otherwise making available, alignment or combination, restriction, erasure or  destruction of data] |
| Type of Personal Data | [Examples include name, address, date of birth, telephone number] |
| Categories of Data Subject | [Examples include staff (including  volunteers, agents, and temporary workers), customers, clients, suppliers] |
| Retention period(s) for  Personal Data during the  contract term and process for  destruction of data at end of retention period/s. | [Describe how long the data will be retained during the contract and how it will be destroyed at the end of the retention period/s e.g., the Contractor will provide a destruction certificate to confirm deletion of the data] |
| Plan for return and destruction  of the data once the  processing is complete (unless  legal requirement to preserve  that type of data). | [Describe how the data will be returned or destroyed on termination or expiry of the contract e.g., the Contractor will provide a destruction certificate to confirm deletion of the data] |
| Sub-Processors | [This should be a list of Sub-Processors that you will be using to supply the services and what Personal Data they will be processing and the jurisdiction of the sub-processing including any backup locations] |