



Royal College of  
General Practitioners

**Project Title:**

Assessment & Psychometric Testing for Examinations

**Agreement Number:**

TBC

(to be quoted on all correspondence)

**Terms and Conditions for Services**

This Agreement is made on the [Day] of [Month] [Year]

BETWEEN

**THE ROYAL COLLEGE OF GENERAL PRACTITIONERS** a charity registered in England and Wales under number 223106 whose registered office is at 30 Euston Square, London, NW1 2FB (“**RCGP**”)

AND

[Supplier Name] a company registered in England under number [Registration Number] whose registered office is at [Registered Address] (“**the Supplier**”)

each a “party” together the “parties”

## IT IS HEREBY AGREED

### 1. Interpretation

1.1 The following definitions and rules of interpretation apply in this Agreement:

“Business Day”	shall mean a day other than a Saturday, Sunday or public holiday in England when banks in London are open for business.
“Business Hours”	shall mean the period from 9.00 am to 5.00 pm on any Business Day.
“Commencement Date”	shall mean [DD/MM/YYYY] (or earlier by mutual agreement if required).
“Confidential Information”	Confidential Information shall include, without limitation, technical information, marketing and business plans, databases, specifications, formulations, tooling, prototypes, sketches, models, drawings, specifications, procurement requirements, engineering information, samples, computer software (source and object codes), forecasts, identity of or details about actual or potential customers or projects, techniques, inventions, discoveries, know-how, trade secrets, Personal Data and information that is designated as confidential by either party.
“Controller, Processor, Data Subject”	The terms will have the meanings given in the GDPR
“DPA 2018”	Data Protection Act 2018.
“Data Loss Event”	Any event that results, or may result, in unauthorised access to Personal Data held by the Supplier under this Agreement, and/or actual or potential loss and/or destruction of Personal Data in breach of this Agreement, including any Personal Data Breach.
“Data Protection Impact Assessment”	An assessment by RCGP of the impact of the envisaged processing on the protection of Personal Data.
“Data Protection Legislation”	the GDPR, and any applicable national implementing laws as amended from time to time; the DPA 2018 to the extent that it relates to processing of personal data and privacy; all applicable laws about the processing of personal data and privacy.

“Data Protection Officer”	The terms will have the meanings given in the GDPR.
“Data Subject Access Request”	A request made by, or on behalf of, a Data Subject in accordance with rights granted pursuant to the Data Protection Legislation to access their Personal Data.
“Force Majeure Event”	shall have the meaning given in clause 7.1.
“GDPR”	UK General Data Protection Regulation.
“Intellectual Property Rights”	shall mean patents, rights to inventions, copyright and related rights, trade marks, business names and domain names, rights in get-up, goodwill and the right to sue for passing off, rights in designs, database rights, rights to use, and protect the confidentiality of, confidential information (including know-how) and all other intellectual property rights, in each case whether registered or unregistered and including all applications and rights to apply for and be granted, renewals or extensions of, and rights to claim priority from, such rights and all similar or equivalent rights or forms of protection which subsist or will subsist now or in the future in any part of the world.
“Personal Data, Personal Data Breach”	The terms will have the meanings given in the GDPR.
“Protective Measures”	Appropriate technical and organisational measures which may include: pseudonymising and encrypting Personal Data, ensuring confidentiality, integrity, availability and resilience of systems and services, ensuring that availability of and access to Personal Data can be restored in a timely manner after an incident, and regularly assessing and evaluating the effectiveness of the such measures adopted by it.
“Services”	shall mean the services as detailed in Schedule 1 to be supplied by the Supplier to RCGP in accordance with this Agreement.
“Sub-processor”	Any third party appointed to process Personal Data on behalf of the Supplier related to this Agreement.
“VAT”	shall mean value added tax chargeable under the Value Added Tax Act 1994.

- 1.2 Clause, Schedule and paragraph headings shall not affect the interpretation of this Agreement.
- 1.3 The Schedules 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 Schedules.
- 1.4 A reference to a company shall include any company, corporation or other body corporate, wherever and however incorporated or established.
- 1.5 A reference to a holding company or a subsidiary means a holding company or a subsidiary (as the case may be) as defined in section 1159 of the Companies Act 2006.
- 1.6 Unless the context otherwise requires, words in the singular shall include the plural and in the plural, shall include the singular.
- 1.7 Unless the context otherwise requires, a reference to one gender shall include a reference to the other genders.
- 1.8 This Agreement shall be binding on the parties to this Agreement and their respective personal representatives, successors and permitted assigns, and references to any party shall include that party's personal representatives, successors and permitted assigns.
- 1.9 A reference to a statute or statutory provision is a reference to it as amended, extended or re-enacted from time to time.
- 1.10 A reference to a statute or statutory provision shall include all subordinate legislation made from time to time under that statute or statutory provision.
- 1.11 A reference to writing or written includes email but not fax.
- 1.12 Any obligation on a party not to do something includes an obligation not to allow that thing to be done.
- 1.13 References to clauses and Schedules are to the clauses and Schedules of this Agreement and references to paragraphs are to paragraphs of the relevant Schedule.
- 1.14 Any words following the terms including, include, in particular, for example or any similar expression shall be construed as illustrative and shall not limit the sense of the words, description, definition, phrase or term preceding those terms.

## **2. Commencement and Duration**

- 2.1 This Agreement shall commence on the Commencement Date and will continue, unless terminated earlier in accordance with clause 6, for a period of **3 years with an option to extend for up to 2 further periods of twelve months each.**

## **3. Scope of Services**

- 3.1 The Supplier shall supply the Services in the manner detailed in the Schedules in accordance with the terms of this Agreement, which shall apply to the exclusion of any purchase order, acknowledgement or other terms and conditions of the Supplier.
- 3.2 The terms set out in the main body of this Agreement will supplement and complement the terms set out within the Schedules and in any Purchase Order made pursuant to this Agreement. However, in the event of any conflict or discrepancy between the provisions set out in the main body of this Agreement and the Schedules and/or any Purchase Order, the conflicting or discrepant terms of the main body of this Agreement will prevail over the conflicting or discrepant terms contained within the Schedules and/or the relevant Purchase Order, in either case solely to the extent necessary to remove such conflict or discrepancy.

#### **4. Duties of the Supplier**

- 4.1 The Supplier shall exercise all reasonable skill, care and diligence in the discharge of all duties to be performed by it and all Services shall be provided to the satisfaction of RCGP. The correct and timely provision of the Services by the Supplier is a condition of this Agreement.
- 4.2 The Supplier acknowledges that the quality and availability of skilled personnel is essential for the proper performance of the Services. The said duties and tasks may only be performed by other personnel with the prior written consent of RCGP, and the Supplier shall ensure that such other personnel are suitably qualified and experienced to undertake the said tasks and duties.
- 4.3 The Supplier shall, and shall procure that its personnel shall, comply at all times with the provisions of the Modern Slavery Act 2015, the Base Code of the Ethical Trading Initiative, the Bribery Act 2010 and the RCGP's policies on Health and Safety, IT, Drug & Alcohol, Equality, Diversity and Inclusion (EDI) and the RCGP Behavioural Framework, copies of which are available upon request.

#### **5. Statutory and Other Regulations**

- 5.1 The Supplier shall comply in all respects with the law and all applicable rules and regulations in all matters arising in the performance of or in connection with this Agreement.
- 5.2 Without prejudice to or limitation of any other rights RCGP may have, if the Supplier does not fulfil its obligations and responsibilities under this Agreement, the Supplier shall indemnify RCGP against all costs for which RCGP becomes liable and for which it would not otherwise be liable.

#### **6. Termination**

Without prejudice to any other remedies:

- 6.1 RCGP may terminate this Agreement for any reason by giving to the Supplier ninety (90) days' notice in writing; and
- 6.2 The Supplier may terminate this Agreement for any reason by giving RCGP ninety (90) days' notice in writing.
- 6.3 RCGP may at any time before the expiration of the notice period exercise, as soon as may be reasonably practical within that period, such of the following powers as may be considered reasonable:
  - 6.3.1 to direct the Supplier, when the Services have not commenced, to refrain from commencing the Services;
  - 6.3.2 to direct the Supplier to complete in accordance with the Agreement all or any part of the Services in the course of performance at the expiration of the notice and to complete the same at such time or times as may be mutually agreed, or in default of such agreement, at the time or times provided by the Agreement. All Services provided by the Supplier in accordance with such directions and accepted by RCGP shall be paid for in accordance with [Schedule 2];
  - 6.3.3 to direct the Supplier to determine on the best possible terms such sub-contracts or orders as may have not been completed, observing in this connection any direction given under 6.3.1 and 6.3.2 above.
- 6.4 The Supplier shall prepare and submit to RCGP a report on the Services prior to termination making recommendations based on such Services as may have been done prior to termination and handing over any completed Services (as appropriate). All Services provided by the Supplier in accordance with this provision and accepted by RCGP shall be paid in accordance with [Schedule 2].
- 6.5 Without affecting any other right or remedy available to it, either party may terminate this Agreement with immediate effect without notice if:
  - 6.5.1 the other party commits a material breach of any terms of this Agreement which the breach is irremediable or (if such breach is remediable) fails to remedy that breach within a period of thirty (30) days' after being notified in writing to do so;
  - 6.5.2 the other party repeatedly breaches any of the terms of this Agreement in such a manner as to reasonably justify the opinion that its conduct is inconsistent with it having the intention or ability to give effect to the terms of this Agreement;
  - 6.5.3 the other party suspends, or threatens to suspend, payment of its debts or is unable to pay its debts as they fall due or admits inability to pay its debts or is deemed unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986;

- 6.5.4 the other party commences negotiations with all or any class of its creditors with a view to rescheduling any of its debts, or makes a proposal for or enters into any compromise or arrangement with any of its creditors other than for the sole purpose of a scheme for a solvent amalgamation of that other party with one or more other companies or the solvent reconstruction of that other party;
  - 6.5.5 a petition is filed, a notice is given, a resolution is passed, or an order is made, for or in connection with the winding up of that other party other than for the sole purpose of a scheme for a solvent amalgamation of that other party with one or more other companies or the solvent reconstruction of that other party;
  - 6.5.6 an application is made to court, or an order is made, for the appointment of an administrator, or if a notice of intention to appoint an administrator is given or if an administrator is appointed, over the other party;
  - 6.5.7 the holder of a qualifying floating charge over the assets of that other party has become entitled to appoint or has appointed an administrative receiver;
  - 6.5.8 a person becomes entitled to appoint a receiver over all or any of the assets of the other party or a receiver is appointed over all or any of the assets of the other party;
  - 6.5.9 a creditor or encumbrancer of the other party attaches or takes possession of, or a distress, execution, sequestration or other such process is levied or enforced on or sued against, the whole or any part of the other party's assets and such attachment or process is not discharged within 14 days;
  - 6.5.10 any event occurs, or proceeding is taken, with respect to the other party in any jurisdiction to which it is subject that has an effect equivalent or similar to any of the events mentioned in clause 6.5.1 to clause 6.5.10 (inclusive);
  - 6.5.11 the other party suspends or ceases, or threatens to suspend or cease, carrying on all or a substantial part of its business; or
  - 6.5.12 there is a change of control of the other party (within the meaning of section 1124 of the Corporation Tax Act 2010).
- 6.6 For the purposes of clause 6.5.1, material breach means a breach (including an anticipatory breach) that is serious in the widest sense of having a serious effect on the benefit which the terminating party would otherwise derive from a substantial portion of this Agreement. In deciding whether any breach is material no regard shall be had to whether it occurs by some accident, mishap, mistake or misunderstanding.
- 6.7 Any provision of this Agreement that expressly or by implication is intended to come into or continue in force on or after termination or expiry of this Agreement shall remain in full force and effect.



- 6.8 Termination or expiry of this Agreement shall not affect any rights, remedies, obligations or liabilities of the parties that have accrued up to the date of termination or expiry, including the right to claim damages in respect of any breach of the Agreement which existed at or before the date of termination or expiry.

## **7. Force Majeure**

- 7.1 Neither party shall be liable for any failure to perform or delay in performance of any of its obligations under this Agreement caused by any circumstance beyond the reasonable control of that party including Acts of God (including fire, flood, earthquake, storm, hurricane or other natural disaster), epidemic, pandemic, war, invasion, acts of foreign enemies, hostilities (regardless of whether war is declared), civil war, rebellion, revolution, insurrection, military or usurped power or confiscation, terrorist activities, nationalisation, government sanction, blockage, and embargo (a **“Force Majeure Event”**).
- 7.2 The party claiming the Force Majeure Event shall promptly notify the other party in writing of its reasons for the delay or stoppage and its likely duration and shall take all reasonable steps to overcome the delay or stoppage.
- 7.3 If the party claiming the Force Majeure Event has complied with this clause 7, its performance under this Agreement shall be suspended for the period that the Force Majeure Event continues and the party will have a reasonable extension of time for performance of its obligations given all the circumstances. As regards the delay or stoppage arising from the Force Majeure Event:
- 7.4 Any costs arising from such delay or stoppage shall be borne by the party incurring those costs;
- 7.5 The party claiming the Force Majeure Event shall take all reasonable steps necessary to bring that event to a close or to find a solution by which its obligations under this Agreement may be performed despite the Force Majeure Event; and
- 7.6 if the Force Majeure Event continues for more than thirty (30) consecutive days, RCGP may terminate this Agreement with immediate effect on giving written notice to the other party and RCGP shall not be liable to the other for such termination.

## **8. Confidentiality**

- 8.1 Each party undertakes that it shall not at any time disclose to any person any Confidential Information in any form (including in written, oral, visual or electronic form

or on any magnetic or optical disk or memory or wherever located) concerning the business, technical knowhow, affairs, customers, clients or suppliers of the other party, or of any of the other party's contractors, customers, agents, distributors, shareholders, managers or business contacts, except as permitted by clause 8.2.

8.2 Each party may disclose the other party's Confidential Information:

8.2.1 to its employees, officers, representatives or advisers who need to know such information for the purposes of exercising the party's rights or carrying out its obligations under or in connection with this Agreement. Each party shall ensure that its employees, officers, representatives or advisers to whom it discloses the other party's Confidential Information comply with this clause 8; and

8.2.2 as may be required by law, a court of competent jurisdiction or any governmental or regulatory authority.

8.3 No party shall use any other party's Confidential Information for any purpose other than to exercise its rights and perform its obligations under or in connection with this Agreement.

8.4 The provisions of this clause 8 shall continue to apply after termination or expiry of this Agreement.

8.5 The Supplier will exercise the highest standards in data security ensuring that the UK GDPR and the Data Protection Act 2018 is followed at all times.

## 9. Data Protection

9.1 Unless otherwise agreed in writing, the parties acknowledge that for the purposes of the Data Protection Legislation, the RCGP is the Data Controller and the Supplier is the Data Processor. The only processing that the Supplier is authorised to do is listed in Schedule 3 by the RCGP and may not be determined by the Supplier.

9.2 The Supplier shall notify the RCGP immediately if it considers that any of the RCGP's instructions infringe the Data Protection Legislation.

9.3 The Supplier shall provide all reasonable assistance to the RCGP in the preparation of any Data Protection Impact Assessment prior to commencing any processing. Such assistance may, at the discretion of the RCGP, include:

- (a) a systematic description of the envisaged processing operations and the purpose of the processing;
- (b) an assessment of the necessity and proportionality of the processing operations in relation to the Services;

- (c) an assessment of the risks to the rights and freedoms of Data Subjects; and
- (d) the measures envisaged to address the risks, including safeguards, security measures and mechanisms to ensure the protection of Personal Data.

9.4 The Supplier shall, in relation to any Personal Data processed in connection with its obligations under this Agreement:

- (a) process that Personal Data only in accordance with Schedule 3, unless the Supplier is required to do otherwise by law. If it is so required the Supplier shall promptly notify the RCGP before processing the Personal Data unless prohibited by law;
- (b) ensure that it has in place Protective Measures, which have been reviewed and approved by the RCGP as appropriate to protect against a Data Loss Event having taken account of the:
  - (i) nature of the data to be protected;
  - (ii) harm that might result from a Data Loss Event;
  - (iii) state of technological development; and
  - (iv) cost of implementing any measures;
- (c) ensure that:
  - (i) the Supplier personnel do not process Personal Data except in accordance with this Agreement (and in particular Schedule 3)
  - (ii) it takes all reasonable steps to ensure the reliability and integrity of any Supplier personnel who have access to the Personal Data and ensure that they:
    - (A) are aware of and comply with the Supplier's duties under this clause;
    - (B) are subject to appropriate confidentiality undertakings with the Supplier or any Sub-processor;
    - (C) 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 RCGP or as otherwise permitted by this Agreement; and

- (D) have undergone adequate training in the use, care, protection and handling of Personal Data; and
- (d) Not transfer Personal Data outside of the United Kingdom unless the prior written consent of the RCGP has been obtained and the following conditions are fulfilled:
  - (i) the RCGP or the Supplier has provided appropriate safeguards in relation to the transfer (whether in accordance with GDPR Article 46 ) as determined by the RCGP;
  - (ii) the Data Subject has enforceable rights and effective legal remedies;
  - (iii) the Supplier complies with its obligations under the Data Protection Legislation by providing an adequate level of protection to any Personal Data that is transferred (or, if it is not so bound, uses its best endeavours to assist the RCGP in meeting its obligations); and
  - (iv) the Supplier complies with any reasonable instructions notified to it in advance by the RCGP with respect to the processing of the Personal Data;
- (e) at the written direction of the RCGP, delete or return Personal Data (and any copies of it) to the RCGP on termination of the Agreement unless the Supplier is required by law to retain the Personal Data.

9.5 Subject to clause 9.6, the Supplier shall notify the RCGP immediately if it:

- (a) receives a Data Subject Access Request (or purported Data Subject Access Request);
- (b) receives a request to rectify, block or erase any Personal Data;
- (c) receives any other request, complaint or communication relating to either party's obligations under the Data Protection Legislation;
- (f) receives any communication from the Information Commissioner's Office or any other regulatory authority in connection with Personal Data processed under this Agreement;
- (e) receives a request from any third party for disclosure of Personal Data where compliance with such request is required or purported to be required by law; or
- (g) becomes aware of a Data Loss Event.

- 9.6 The Supplier's obligation to notify under clause 9.5 shall include the provision of further information to the RCGP in phases, as details become available.
- 9.7 Taking into account the nature of the processing, the Supplier shall provide the RCGP with full assistance in relation to either party's obligations under Data Protection Legislation and any complaint, communication or request made under clause 9.5 (and insofar as possible within the timescales reasonably required by the RCGP) including by promptly providing:
- (a) the RCGP with full details and copies of the complaint, communication or request;
  - (b) such assistance as is reasonably requested by the RCGP to enable the RCGP to comply with a Data Subject Access Request within the relevant timescales set out in the Data Protection Legislation;
  - (c) the RCGP, at its request, with any Personal Data it holds in relation to a Data Subject;
  - (d) assistance as requested by the RCGP following any Data Loss Event;
  - (e) assistance as requested by the RCGP with respect to any request from the Information Commissioner's Office, or any consultation by the RCGP with the Information Commissioner's Office.
- 9.8 The Supplier shall maintain complete and accurate records and information to demonstrate its compliance with this clause. This requirement does not apply where the Supplier employs fewer than 250 staff, unless:
- (a) the RCGP determines that the processing is not occasional;
  - (b) the RCGP determines the processing includes special categories of data as referred to in Article 9(1) of the GDPR or Personal Data relating to criminal convictions and offences referred to in Article 10 of the GDPR; and
  - (c) the RCGP determines that the processing is likely to result in a risk to the rights and freedoms of Data Subjects.
- 9.9 The Supplier shall allow for audits of its Data Processing activity by the RCGP or the RCGP's designated auditor.
- 9.10 The Supplier shall designate a data protection officer if required by the Data Protection Legislation.
- 9.11 Before allowing any Sub-processor to process any Personal Data related to this Agreement, the Supplier must:

- (a) notify the RCGP in writing of the intended Sub-processor and processing;
- (b) obtain the written consent of the RCGP;
- (c) enter into a written agreement with the Sub-processor which give effect to the terms set out in this clause 9 such that they apply to the Sub-processor; and
- (d) provide the RCGP with such information regarding the Sub-processor as the RCGP may reasonably require.

9.12 The Supplier shall remain fully liable for all acts or omissions of any Sub-processor.

9.13 The RCGP may, at any time and not less than thirty (30) Business Days' notice, revise this clause by replacing it with any applicable controller to processor standard clauses or similar terms forming part of an applicable certification scheme (which shall apply when incorporated by attachment to this Agreement).

9.14 The Parties agree to take account of any guidance issued by the Information Commissioner's Office. The RCGP may on not less than thirty (30) Business Days' notice to the Supplier amend this agreement to ensure that it complies with any guidance issued by the Information Commissioner's Office.

## **10. Indemnity and Insurance**

10.1 The Supplier shall be liable for and shall indemnify and keep indemnified RCGP against all damages, losses, compensation, expenses and/or costs howsoever incurred or suffered arising directly or indirectly from, out of or in connection with this Agreement (including any damages, losses, compensation, expenses and/or costs arising from the death or injury of any person and any loss of or damage to any physical property) caused by any act, default or negligence of the Supplier, its sub-contractors and/or agents and against all actions, claims, demands or proceedings in respect thereof or in relation thereto, provided that this liability and indemnity shall not apply to the extent that such damage, loss, compensation, expense and/or cost is wholly or partly attributable to any act, default or negligence of RCGP or a third party (other than the Supplier's sub-contractors and/or agents).

10.2 The Supplier will effect and maintain for the period of this Agreement an insurance policy or policies with a reputable insurance company for such sums as RCGP considers to be adequate, but in any event for not less than £1,000,000 (one million pounds sterling) for any one incident and which shall cover the indemnity set out above and the Supplier shall produce to RCGP on demand evidence of the policy and/or a form of a certificate prepared by the insurance providers.

10.3 The provisions of this clause 10 shall continue to apply after termination or expiry of this Agreement.

## **11. Intellectual Property Rights**

- 11.1 Unless otherwise agreed in writing between the parties, all Intellectual Property Rights attaching to any materials which are written or produced on a bespoke or customised basis pursuant to the terms of this Agreement (including any such rights as may arise in the future) shall be owned by RCGP, and the Supplier shall ensure that it executes all documents necessary to effect such ownership.
- 11.2 Intellectual Property Rights subsisting in any plans, drawings, documents, handbooks, codes of practice or any other information (the "Documents") provided by RCGP to the Supplier pursuant to the terms of this Agreement shall at all times remain the property of RCGP and the Supplier shall not use, reproduce, disseminate, adapt, transmit in any form or by any means the Documents or any part thereof or permit the same to be so used, reproduced, disseminated, adapted or transmitted as aforesaid or published other than for the purposes of carrying out the Supplier's obligations under this Agreement.
- 11.3 The Supplier grants to RCGP an irrevocable, non-exclusive, royalty-free licence to use for any purpose in connection with the Service all the Supplier's intellectual property which the Supplier has used or supplied in connection with the Service, provided that the Supplier shall have no liability for any use of such intellectual property other than for the purposes for which it is intended. RCGP may grant sub-licences out of the said licence.
- 11.4 The Supplier warrants that any work or materials provided by the Supplier or any sub-contractor to RCGP and its use by RCGP shall not infringe any Intellectual Property Rights or moral rights of any third party.
- 11.5 The Supplier shall indemnify and keep indemnified RCGP against all loss, damage, costs and expenses for which RCGP is or becomes liable as a result of any infringement or alleged infringement by the Supplier of any third party's Intellectual Property Rights.

## **12. Assignment, Novation and Sub-Contracting**

- 12.1 The Supplier shall not sub-contract, transfer, assign or novate the whole or any part of this Agreement without the prior written consent of the RCGP, whose consent may be subject to such terms and conditions as RCGP may see fit to impose.
- 12.2 The Supplier shall be responsible for the acts and omissions of its sub-contractors as though they were its own.
- 12.3 The RCGP may at any time transfer, assign, novate, sub-contract or otherwise dispose of its rights and obligations under this Agreement or any part of this Agreement and the

Supplier warrants that it will carry out all such reasonable further acts required to effect such transfer, assignment, novation, sub-contracting or disposal.

### **13. Recovery of Property**

13.1 Upon termination or expiry of this Agreement, howsoever caused, each party shall forthwith deliver up to the other party any property of the other party acquired for use for the purposes of this Agreement and which is no longer required for such purposes. In the event of failure to deliver up such property before the expiry of a period of five (5) Business Days immediately following termination or expiry, the party owning the property shall be entitled to withhold payment from the other party for the full amount of replacement of the goods withheld at market value until such time that the said items are fully recovered from the party holding the goods.

### **14. Invoices and Payments**

14.1 Invoices shall be submitted by the Supplier to RCGP, not more often than monthly, and in arrears. Each invoice shall show:

- i. details of the goods or services provided;
- ii. copies of backing information as necessary;
- iii. in instances where expenses are being claimed, copies of all receipts;
- iv. the total units of measure;
- v. the cost per unit of measure;
- vi. the total amount invoiced;
- vii. the Agreement number;
- viii. the PO number; and

14.2 Payment in respect of each properly submitted invoice by the Supplier will be made by RCGP within thirty (30) days after receipt of a valid invoice. If the Supplier's invoice does not comply with the requirements of clause 14.1 RCGP shall be under no obligation to pay the same.

14.3 Payment by RCGP shall be without prejudice to any claims or rights which RCGP may have against the Supplier and shall not constitute any admission by RCGP as to the performance by the Supplier of its obligations hereunder.



- 14.4 Invoices should be sent electronically directly to [RCGP contact name, title/role and email (if applicable)] and a copy to the Finance Accounts Payable Department at [Accounts Payable email address and/or postal address (if applicable)]

## **15. Value Added Tax**

- 15.1 All prices indicated shall be exclusive of VAT. The Supplier shall, if registered for VAT, supply a valid VAT invoice, including a statement of how the supply in question is rated for the purposes of tax and show separately any relevant rates of tax relating to the Services. The Supplier shall provide further information as may reasonably be required in relation to any such invoice.

## **16. Set Off**

- 16.1 Without prejudice to other rights and remedies, RCGP may deduct from any sums due to the Supplier under this Agreement an amount equivalent to any sum due from the Supplier to the RCGP (whether such sums are due to RCGP under this Agreement or under any other agreement between the Supplier and RCGP) and may also deduct any sum of money that is recoverable from or payable by the Supplier under this Agreement from any sum then due or which at any time thereafter may become due under any other agreement between the Supplier and RCGP. RCGP shall give to the Supplier notice of any such deduction or set-off and such notice shall specify:
- 16.2 the amount proposed to be withheld and the ground for withholding payment; or
- 16.3 if there is more than one ground, each ground and the amount attributable to it.
- 16.4 Such notice shall be given not later than five (5) days before the final date for payment of each invoice under clause 14.

## **17. Variation**

- 17.1 No variation of this Agreement shall be effective unless it is in writing and signed by each of the parties (or their authorised representatives).

## **18. Rights of Third Parties**

- 18.1 A person who is not a party to this Agreement shall have no rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this Agreement. This clause does not affect any right or remedy of any person which exists or is available other than pursuant to that act.

## **19. Counterparts**

19.1 This Agreement may be executed in any number of counterparts, each of which when executed shall constitute a duplicate original, but all the counterparts shall together constitute the one agreement.

## **20. Governing Law and Jurisdiction**

20.1 This Agreement shall be governed and construed in all respects by English Law and the parties to it irrevocably submit to the exclusive jurisdiction of the Courts of England and Wales.

## **21. Notices**

21.1 All notices to be given hereunder shall be in writing and may be served:

- i. by hand;
- ii. by pre-paid first-class post or other next working day delivery service; or
- iii. by email, provided always that a hard copy of the notice is also served,

21.2 to the relevant party's registered address (or as it may from time-to-time be notified in writing to the other party) or to such email address as shall be notified in writing to the other party (as appropriate).

21.3 Any notice shall be deemed to have been received:

- i. if delivered by hand, on signature of a delivery receipt;
- ii. if sent by pre-paid first-class post or other next working day delivery service, at 9.00 am on the second Business Day after posting; or
- iii. if sent by email, at 9.00 am on the next Business Day after sending.

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

## **22. Announcements**

22.1 No party shall make, or permit any person to make, any public announcement concerning this Agreement without the prior written consent of the other party (such consent not to be unreasonably withheld or delayed), except as required by law, any

governmental or regulatory authority (including, without limitation, any relevant securities exchange), any court or other authority of competent jurisdiction.

## **23. Mediation**

23.1 If any dispute arises in connection with this Agreement, the parties will attempt to settle it by mediation in accordance with the Centre for Effective Dispute Resolution ("CEDR") Model Mediation Procedure. Unless otherwise agreed between the parties within fourteen (14) days of notice of the dispute, the mediator will be nominated by CEDR.

## **24. Entire Agreement Clause**

24.1 This Agreement constitutes the entire agreement between the parties and supersedes and extinguishes all previous agreements, promises, assurances, warranties, representations and understandings between them, whether written or oral, relating to its subject matter.

24.2 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 Agreement. Each party agrees that it shall have no claim for innocent or negligent misrepresentation based on any statement in this Agreement.

## **25. Waiver**

25.1 No failure or delay by a party to exercise any right or remedy provided under this Agreement or by law shall constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict the further exercise of that or any other right or remedy. No single or partial exercise of such right or remedy shall prevent or restrict the further exercise of that or any other right or remedy.

## **26. Severance**

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

**27. No partnership or agency**

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

**Signed on behalf of the Royal College of General Practitioners (RCGP):**

Signature:

Name:

Title:

Date:

**Signed on behalf of [Supplier Name] (Supplier):**

Signature:

Name:

Title:

Date:

## **SCHEDULE 1: SPECIFICATION/SERVICES TO BE PROVIDED**

## **SCHEDULE 2: PRICING SCHEDULE**

### **SCHEDULE 3: SCHEDULE OF PROCESSING, PERSONAL DATA AND DATA SUBJECTS**

1. The Supplier shall comply with any further written instructions with respect to processing by the RCGP.
2. Any such further instructions shall be incorporated into this Schedule.

<b>Description</b>	<b>Details</b>
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	<p>[Please be as specific as possible, but make sure that you cover all intended purposes.</p> <p>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 (whether or not by automated means) etc.</p> <p>The purpose might include: employment processing, statutory obligation, recruitment assessment etc]</p>
Type of Personal Data	[Examples here include: name, address, date of birth, NI number, telephone number, pay, images, biometric data etc]
Categories of Data Subject	[Examples include: Staff (including volunteers, agents, and temporary workers), customers/ clients, suppliers, patients, students / pupils, members of the public, users of a particular website etc]



Plan for return and destruction of the data once the processing is complete <b>UNLESS</b> requirement under union or member state law to preserve that type of data	[Describe how long the data will be retained for, how it be returned or destroyed]
Sub-Processor(s)	[Insert sub-processor(s) details (if applicable)]

**SCHEDULE 4 – ADDITIONAL SCHEDULE [Delete as appropriate]**