

Associate Scheme: selection criteria used in 2020

- Understanding of, and commitment to, the protection of the public through professional regulation.
- Energy and enthusiasm to develop the skills and expertise required to become an effective non-Executive Director, curiosity and a willingness to learn.
- Potential ability to think strategically, step back and see the big picture.
- Potential to develop the skills to scrutinise, challenge in a constructive and supportive way and identify when and how to seek assurance.
- An analytical approach, ability to weigh complex issues and reach sound judgements.
- Willingness to develop an understanding of the range of organisational and business issues with which the Council deals together with willingness to develop the knowledge and skills to make a strategic and constructive contribution to discussions.
- Ability to work successfully as part of a team of Non-Executive and Executive colleagues, respecting and listening to others, earning the respect of colleagues, and contributing constructively to collective discussions.
- Personal commitment to good governance, and upholding the recognised principles of public life.
- Willingness and ability to gain an understanding of the responsibilities of charity trustees and how being a charity impacts on the work of the Council.

Role description for members of the Appointments Board

Members of the Appointments Board play a valuable role, providing expertise and experience in making recommendations to the Council on the appointment and reappointment, and training of Panel Members and Legal Assessors who participate in fitness to practise hearings and Registration Appeal Panel Members.

The role of members includes:

- preparing for and actively participating in the scheduled meetings of the Appointments Board.
- contributing your knowledge and expertise to ensure effective oversight, scrutiny and constructive challenge.
- participating in an annual appraisal of your own performance and contributing to an annual evaluation of the effectiveness of the Board as a whole.
- upholding the public interest and carrying out your role in accordance with the NMC Members' code of conduct, our values (fair; kind; collaborative; and ambitious) and the Seven Principles of Public Life.
- following best practice in relation to equality, diversity and inclusion, complying fully with the NMC's responsibilities under anti-discrimination legislation and ensuring the NMC's equality objectives are upheld.

Competencies

Board Members are expected to demonstrate the following competencies:

Competency 1: understanding of the public and stakeholder interests

- ability to command the trust and confidence of the public/patients, registrants and NMC stakeholders, as well as other Board members and key colleagues in the fitness to practice directorate.
- a genuine interest in making a significant contribution to public protection and safeguarding the health and well-being of patients and the public.
- an understanding of the objectives of professional regulation in relation to upholding public interest and safeguarding the health and wellbeing of the public.

Competency 2: ability to influence and communicate effectively

- excellent communication skills, both oral and written, with the ability to present views clearly and succinctly, using well-reasoned arguments.
- ability to operate effectively as a committee/board member, constructively challenge the opinions of others as well as to accept challenge with confidence and maturity.
- shows respect for the views of others, listens, gives serious consideration to other positions and explores options.

Competency 3: strong analytical skills and sound judgement

- ability to assimilate complex information in order to form opinions and reach sound conclusions.
- press for sufficient and relevant information; probe the facts and challenges assumptions.

- critically evaluate information provided and reach sound conclusions.
- open-minded, able to bring their own experience to bear on issues under discussion and exercise sound judgement.
- see the wider issues and implications of a problem or situation.

Competency 4: proven track record of senior level human resources experience, including management of contractors

- understanding and expertise in recruitment, training, appraisal and disciplinary processes within a sizable organization.
- knowledge of equality and diversity issues relating to recruitment and performance management.
- Expertise or a good understanding of procurement, or contract management.

Council Member Role Specification

Responsibilities

Council members must be committed to public protection and to the NMC's statutory purpose. They must have the courage to speak out and challenge, working effectively with fellow members. They do not necessarily have to have specialist knowledge of regulation or (in the case of lay members) of the health service.

The role of Council members is to:

Provide strategic direction for the NMC:

- Taking responsibility for corporate strategy, business plans and budgets and the development of the framework for reviewing policy and operational performance.
- Overseeing the development of policy and taking major policy decisions.

Ensure and review the effectiveness of the NMC in fulfilling its statutory purpose:

- Ensuring that the focus of the organisation is on the core purpose of public protection.
- Evaluating the effectiveness of the Council in fulfilling its statutory purpose.

Provide oversight of NMC operations, ensuring that they are aligned with strategic direction:

- Holding the Executive to account for the management of day-to-day operations, ensuring that resources are used effectively and appropriately.
- Holding the Executive to account for ensuring that NMC operations are organised in ways which facilitate the delivery of core functions to best effect, and that this is kept under review as circumstances change.

Monitor the external relationships of the NMC, to ensure that the confidence of the public and of stakeholders is maintained:

- Ensuring that the NMC has measures in place to engage with stakeholders and with other relevant organisations and government agencies in the four countries of the UK.
- When appropriate, act personally to support and promote the interests of the NMC externally.

Fulfil all responsibilities as charity trustees for the NMC:

- Ensuring that the NMC acts at all times within the framework of charity law, and fulfils its charitable purposes.
- Taking responsibility for all appropriate functions, including property management; the employment of staff; health and safety; and equality and diversity.

Essential competencies:

The competencies which all Council members need in order to be able to fulfil this role are:

- Understanding of, and commitment to, the protection of the public through professional regulation.
- Clear appreciation of the non-executive role, and how executives should be held to account through constructive challenge.
- Ability to contribute to an organisation at a strategic level, demonstrating analytical skills and sound judgement.
- Capacity to understand and contribute to the organisational and business issues with which the Council deals.
- Ability to work successfully as part of a team, respecting and listening to others, earning the respect of colleagues, and contributing constructively to collective decision-making processes.
- Understanding of the role of a charity trustee, and capacity to fulfil this role effectively.
- Personal commitment to good governance, and upholding the recognised principles of public life.

Approved by Council 30 November 2016

Overview Timeline: Council Selection Processes

Month	Council Associates	Appointments Board member	Council members
Oct 22			w/b 3 October PSA Notice ready for Chair sign off; PSA Notice submitted
	Friday 7 or Monday 10 October Applications open		
		W/b 17 October Applications open	
			By end October PSA responds
Nov 22	Friday 4 or Monday 7 November Applications close		
			Tuesday 8 November Applications open
	Monday 14 or Wednesday 16 November Longlisting(one full day)	W/b 14 November Applications close	

Month	Council Associates		Appointments Board member		Council members	
Dec 22	Monday 5 and Tuesday 6 December	Shortlisting & interview prep (one full day or 2 x ½ days)	W/b 5 December	Shortlisting and interview prep (one full day)	Tuesday 6 December	Applications close
	Monday 12 and Tuesday 13 December	Interviews (two full days)				
			W/b Monday 19 December	Interviews (one full day)		
Jan 23	1 January	Appointment effective	1 January	Appointment effective		
					W/b Monday 9 January	Longlisting (one day)
					W/b Monday 30 January	Shortlisting (half day)
Feb 23					W/b Monday 13 February	Interview prep (half day)
					W/b Monday 20 February or w/b 6 March	Interviews (two full days)

Month	Council Associates	Appointments Board member	Council members	
Mar 23			W/b Monday 13 March	Approve PSA Notice
			End Mar/Early April	PSA decision
Apr 23			In April	PCO decision on appointment
May 23			1 May	Effective appointment date

**SERVICES AGREEMENT
TERMS AND CONDITIONS OF AGREEMENT**

DATED **[INSERT]**

BETWEEN
(1) THE NURSING AND MIDWIFERY COUNCIL
and
(2) [INSERT]

AGREEMENT
relating to the provision of
[INSERT]

Contents

1	Definitions and Interpretation	5
2	Duration of the Agreement	10
3	Conflict of Interest	10
4	Supply of Services	10
5	Performance	11
6	Acceptance	11
7	Unsatisfactory Performance	11
8	Audit and the National Audit Office	11
9	Charges, Payment and Recovery of Sums Due	12
10	Premises and Equipment	13
11	Staff and Key Personnel	13
12	Intellectual Property Rights	14
13	Meetings and Reports	15
14	Announcements and Publicity	15
15	Confidentiality	15
16	Data Protection	17
17	Security of Confidential Information	20
18	Freedom of Information	20
19	Liability and Indemnity	21
20	Insurance	22
21	Force Majeure	23
22	Assignment and sub-contracting	23
23	Dispute Resolution	24
24	Transfer of responsibility	24
25	Termination	24
26	Consequences of Termination	25
27	Merger or Change of Control	25
28	Health and Safety	25
29	Equality and Diversity	26
30	Values and Behaviours	26
31	Safeguarding and Protecting People	26
32	Modern Slavery	27
33	Prevention of Fraud and Corruption	27
34	Variation	28
35	Serving of Notices	28
36	General	29
37	Entire Agreement	29
38	Law	29
	SCHEDULE 1 - SPECIFICATION	31
	SCHEDULE 2 – CHARGES	32
	SCHEDULE 3 - MEETINGS AND REPORTS	33
	SCHEDULE 4 – SUB CONTRACTORS	34
	SCHEDULE 5 – EXIT MANAGEMENT	35
	SCHEDULE 6 – KEY PERSONNEL	36

THIS AGREEMENT is made on the **[INSERT]** day of **[INSERT]**

BETWEEN:

- (1) **THE NURSING AND MIDWIFERY COUNCIL** a body corporate established by the Nursing and Midwifery Order 2001 and a registered charity whose charity number is 1091434 and whose registered office is 23 Portland Place, London W1B 1PZ (the “**NMC**”); and
- (2) **[INSERT]** registered in England and Wales under company number **[INSERT]** whose registered office is at **[INSERT]** (the “**Supplier**”).

(each a “**Party**” and together the “**Parties**”).

Recital

Better, safer care for people is at the heart of what we do

Nurses, midwives and nursing associates are highly skilled, compassionate and caring professionals. They strive to deliver the best care possible for people but all too often workforce pressures hold them back.

As the professional regulator of nurses, midwives and nursing associates, we work with these dedicated practitioners to ensure they have the knowledge and skills to deliver consistent, quality care that keep people safe.

Better, safer care today: working with professionals to drive up standards of care

We set the education standards that nurses, midwives and, in England, nursing associates, must achieve to practise. When they have shown both clinical excellence and a commitment to kindness, compassion and respect, we welcome them onto our register of almost 745,000 professionals.

Once registered, professionals must uphold day in, day out the standards and behaviour set out in our code so that people can have confidence that they will consistently receive quality, safe care wherever they're treated.

We operate a revalidation process that encourages nurses, midwives and nursing associates to promote lifelong learning. It's a journey that asks professionals to reflect on their practice and how the code applies to their day-to-day work.

Professional regulation enables better care and keeps people safe. But on the rare occasions when care goes wrong or falls short of people's expectations, we step in to investigate and take action when needed.

We promote a culture that encourages professionals to be open and learn from mistakes, gives the public an equal voice, and where everyone involved is treated with kindness and understanding.

Better, safer care together: working with partners and the public to improve the health and social care system

When demand from the public for health and social care is increasing across the UK, it is vital there are enough professionals to deliver world class care and keep the public safe.

We work with partners to influence policy and decision-making that supports and develops the future health and social care workforce.

We're also delving deeper into the data we hold on our register and from other activities to shine a light on the many different environments nurses, midwives and nursing associates provide care.

Using our influence and data effectively has a positive impact on the recruitment and retention of nurses, midwives and nursing associates across the UK.

When the health and social care system fails we engage with the public and work closely with partners to learn from these mistakes and ensure appropriate action is taken to prevent this happening again.

A better NMC: improving how we operate for everyone's benefit

To enable professionals to deliver better, safer care and improve the system nurses, midwives and nursing associates work in, we are committed to becoming a better regulator.

We are changing our culture to be kinder to each other, and everyone else we engage and interact with. We are adopting new ways of working to become smarter at pinpointing opportunities for and barriers to enabling consistent, quality care that keeps people safe. We are investing in our people to become a great place to work, delivering a high quality, value for money service.

To demonstrate our commitment to change, we are working with people, partners, professionals and employees to co-produce a new long-term strategy. Join us today, and together we'll develop an ambitious new plan for the next five years – one that helps us become the best NMC possible, supporting nurses, midwives and nursing associates to deliver even better, safer care for people.

INSERT BRIEF OVERVIEW OF REQUIREMENT

The NMC commenced a procurement exercise in **INSERT MONTH/YEAR** to appoint a supplier to supply such services, following which process the NMC appointed the Supplier.

The NMC considers it appropriate for the purpose of the discharge of its functions to enter into this Agreement with the Supplier which sets out the terms and conditions upon which the Supplier will provide the Services.

1 Definitions and Interpretation

1.1 Unless the context requires otherwise, the following definitions and rules of interpretation apply in this Agreement:

“Agreement”	means this contract between (i) the NMC and (ii) the Supplier;
“Applicable Laws”	means all applicable laws, statutes, regulations and codes from time to time in force;
“Background Intellectual Property”	means the Intellectual Property in works existing before the Services started or developed, written or prepared other in than order to provide the Services;
“Business Hours”	means the period from 9.00 am to 5.00 pm on any Working Day;
“Change of Control”	shall have the meaning given in Clause 27.1.2;
“Charges”	means the charges for the Services as specified in Schedule 2 (Charges);
“Confidential Information”	means all information, whether written or oral (however recorded or preserved), provided by the disclosing Party to the receiving Party and which (i) is known by the receiving Party to be confidential; (ii) is marked as or stated to be confidential; or (iii) ought reasonably to be considered by the receiving Party to be confidential;
“Contract Date”	means the date of this Agreement as noted on the front page of this Agreement;
“Contract Year”	means a period of twelve (12) months, commencing on the Contract Date and each subsequent twelve (12) month period;
“Controller”	has the meaning given in the General Data Protection Regulation (Regulation (EU) 2016/679);
“Data Protection Legislation”	means (i) the Data Protection Act 2018 to the extent that it relates to processing of personal data and privacy; (ii) the General Data Protection Regulation (Regulation (EU) 2016/679, together with all other Applicable Law about the processing of personal data and privacy;
“Data Subject”	has the meaning given in the General Data Protection Regulation (Regulation (EU) 2016/679);

“Exit Period”	means the period beginning on the earlier of: (a) the date a termination notice is received by a Party in accordance with Clause 25; or (b) one month before the expiry of this Agreement, and ending one month after the termination or expiry of this Agreement;
“Exit Plan”	means any plan produced and updated in accordance with paragraph 2.1 of Schedule 5 of the Agreement;
“Expiry Date”	means the date for expiry of the Agreement as stated in Clause 2.1 or the date for expiry of the Agreement following an extension of the term in accordance with Clause 2.2 or termination in accordance with the terms of this Agreement;
“Extension Period”	means the NMC’s option to extend the Agreement as set out in Clause 2.2;
“FOIA”	means the Freedom of Information Act 2000;
“Force Majeure Event”	means any circumstance not within a Party’s reasonable control, including, without limitation: (c) war, civil war, conflict or terrorist attack arising within and affecting the United Kingdom; (d) nuclear, chemical or biological contamination; (e) riot, flood or earthquake; or (f) any circumstance beyond the reasonable control of either of the Parties which materially impact the Services;
“Foreground Intellectual Property”	means the Intellectual Property Rights in works developed, written or prepared by the Supplier (or its Sub-contractors), whether individually, collectively or jointly with the NMC, in performing the Services;
“Good Industry Practice”	means using standards, practices, methods and procedures conforming to the Applicable Law and exercising that degree of skill, care, diligence, prudence and foresight which would reasonably and ordinarily be expected from a skilled and experienced person engaged in a similar type of undertaking under the same or similar circumstances;
“Information”	has the meaning given under section 84 of the FOIA;
“Intellectual Property Rights”	includes patents, utility models, rights to inventions, copyright and neighbouring and related rights, moral rights, Trademarks and service marks, business names

	and domain names, rights in get-up, goodwill and the right to sue for passing off or unfair competition, rights in designs, rights in computer software, database rights, rights to use, and protect the confidentiality of, confidential information (including know-how and trade secrets) and all other intellectual property rights, in each case whether registered or unregistered and including all applications and rights to apply for and be granted, renewals or extensions of, and rights to claim priority from, such rights and all similar or equivalent rights or forms of protection which subsist or will subsist now or in the future in any part of the world;
“Key Personnel”	means any persons specified as such in Schedule 6 (Key Personnel) or otherwise in the Agreement or notified as such by the NMC to the Supplier in writing;
“Necessary Consents”	means all approvals, certificates, authorisations, permissions, licences, permits, regulations and consents necessary from time to time for the performance of the Services;
“NMC”	means the Nursing and Midwifery Council, as named as a Party on the first page of the Agreement;
"NMC Data"	means all Personal Data that is processed the Supplier under or in connection with this Agreement relating any candidates or any Personnel in each case in whatever form that data and information may exist and of whatever nature including, without limitation, text, drawings, diagrams, images and sounds;
“Party”	means the Supplier or the NMC (as appropriate) and "Parties" shall mean both of them;
“Personal Data”	has the meaning given in the General Data Protection Regulation (Regulation (EU) 2016/679);
“Process”	shall have the same meaning as set out in the General Data Protection Regulation (Regulation (EU) 2016/679) and Processor , Processing and Processed shall be construed accordingly;
“Purchase Order Number”	means the NMC's unique number relating to the supply of the Services;
“Representatives”	means, in relation to a party, its employees, officers, representatives and advisors;

“Request for Information”	has the meaning set out in the FOIA or the Environmental Information Regulations 2004 as relevant (where the meaning set out for the term "request" shall apply) and includes any apparent request for information with that meaning;
“Services”	means the services to be supplied by the Supplier to the NMC under the Agreement including services which are incidental or ancillary to such services;
Specification”	means the specification for the Services, set out at Schedule 1 (Specification);
“Staff”	means all directors, officers, employees, agents, consultants and suppliers of the Supplier and/or of any sub-contractor of the Supplier engaged in the performance of the Supplier's obligations under the Agreement;
"Sub-contractor"	means a firm or person engaged by the Supplier pursuant to Clause 22 and listed in Schedule 4 (Sub-contractors) to assist the Supplier perform its obligations under this Agreement;
"Supplier Data"	means all Personal Data that is processed by or on behalf of the NMC under or in connection with this Agreement relating any candidates or any Personnel in each case in whatever form that data and information may exist and of whatever nature including, without limitation, text, drawings, diagrams, images and sounds;
“Supplier’s Equipment”	any equipment, including tools, systems, cabling or facilities, provided by the Supplier, its agents, subcontractors or consultants and used directly or indirectly in the supply of the Services, including any such items specified in Schedule 1 (Specification.)
“Supplier”	means the person or company named as a party with the NMC in the Agreement;
“Term”	means the period from the Contract Date to the Expiry Date. Such period may be extended in accordance with Clause 2.2 or terminated in accordance with the terms and conditions of the Agreement;
“Trademarks”	means registered and non-registered trademarks, service marks, or certification marks.

“Working Day”

means a day (other than a Saturday or Sunday) on which banks are open for business in the City of London.

- 1.2 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.
- 1.3 The headings and contents table in this Agreement are for information only and do not affect the interpretation of the Agreement.
- 1.4 References to Clauses and Schedules are references to Clauses of and Schedules to this Agreement.
- 1.5 Unless the context otherwise requires, words in the singular shall include the plural and in the plural shall include the singular.
- 1.6 Unless the context otherwise requires, a reference to one gender shall include a reference to the other genders.
- 1.7 This Agreement shall be binding on, and enure to the benefit of, 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.
- 1.8 Any reference to an enactment includes reference to that enactment as amended or replaced from time to time and to any subordinate legislation or byelaw made under that enactment.
- 1.9 Any obligation on any Party not to do or omit to do anything shall include an obligation not to allow that thing to be done or omitted to be done.
- 1.10 The word “including” shall be understood as meaning “including without limitation”.
- 1.11 In this Agreement a reference to “writing” includes email.
- 1.12 If and to the extent of any inconsistency between any of the Clauses, the Schedules and any document otherwise attached or incorporated into this Agreement, the order of priority for the purposes of construction is listed below in descending order:
 - (a) the Terms and Conditions;
 - (b) the Schedules;
 - (c) any other document incorporated by reference to this Agreement.

2 Duration of the Agreement

- 2.1 This Agreement shall commence on the Contract Date and shall continue until the Expiry Date **[INSERT]** (the "Term") unless terminated earlier in accordance with this Agreement or extended in accordance with Clause 2.2.
- 2.2 The NMC may extend the Term of this Agreement on up to **[INSERT]** occasions for up **[INSERT]** by giving not less than one month's written notice to the Supplier prior to the Expiry Date (or any extension thereof pursuant to this Clause 2.2). The terms and conditions of this Agreement shall apply throughout the Extension Period.

3 Conflict of Interest

- 3.1 It shall be the Supplier's responsibility to ensure that no conflict of interest arises in connection with the Services in this Agreement. The Supplier shall consult the NMC if there is any uncertainty about whether any such conflict of interest may exist or has arisen and how it may be resolved to the satisfaction of the NMC.

4 Supply of Services

- 4.1 In consideration of the NMC's agreement to pay the Charges, the Supplier shall supply the Services detailed in Schedule 1 (Service Specification) to the NMC subject and in accordance with the terms and conditions of this Agreement.
- 4.2 In supplying the Services, the Supplier shall:
- 4.2.1 co-operate with the NMC in all matters relating to the Services and comply with all of the NMC's instructions;
 - 4.2.2 perform the Services with all reasonable care, skill and diligence in accordance with Good Industry Practice in the Supplier's industry, profession or trade and in accordance with any legislative and statutory requirements;
 - 4.2.3 use Staff who are suitably skilled and experienced to perform the tasks assigned to them, and in sufficient number to ensure that the Supplier's obligations are fulfilled in accordance with the Agreement;
 - 4.2.4 ensure that the Services conform with all descriptions and specifications set out in Schedule 1 (Service Specification);
 - 4.2.5 provide all the necessary facilities, materials, equipment and any other items as are required to provide the Services.
- 4.3 The NMC may by written notice to the Supplier at any time request a variation to the scope of the Services. In the event that the Supplier agrees to any variation to the scope of the Services, the Charges shall be subject to fair and reasonable adjustment to be agreed in writing between the NMC and the Supplier.

5 Performance

- 5.1 The Services shall be performed by the Supplier in accordance with Schedule 1 (Service Specification) and at the location specified by the NMC, on the date(s) specified by the NMC. The Services shall be deemed performed by the Supplier only when the Services have, in the reasonable opinion of the NMC, been performed to a satisfactory quality and in accordance with Schedule 1 (Service Specification).
- 5.2 The Supplier shall use reasonable endeavours to meet any deadlines in Schedule 1 (Service Specification). The Supplier shall not be liable for any delay or non-performance caused by the NMC not providing the Supplier with information and assistance reasonably requested by the Supplier, but the Supplier shall promptly notify the NMC if any NMC delay or non-performance may cause the Supplier to breach its obligations under this Agreement.

6 Acceptance

- 6.1 The NMC shall not have accepted, or be deemed to have accepted, the Services until the Services have been performed in accordance with Clause 5.
- 6.2 The NMC shall be entitled to reject any Services which are not in full compliance with Schedule 1 (Service Specification) and this Agreement. Any acceptance of defective, late or incomplete Services or any payment made in respect thereof, shall not constitute a waiver of any of the NMC's rights and remedies, including its right to reject.

7 Unsatisfactory Performance

- 7.1 Where in the reasonable opinion of the NMC the Supplier has failed to perform the whole or any part of the Services with the standard of skill, care and diligence which a competent and suitably qualified person performing the same Services would reasonably be expected to exercise, or in accordance with the Agreement, or the Services are otherwise unsatisfactory the NMC shall (without prejudice to its other rights and remedies) be entitled at the NMC's sole discretion:
 - 7.1.1 to require the Supplier at its own expense to re-perform the Services (without additional remuneration) within such time as the NMC may reasonably specify, or;
 - 7.1.2 to withhold or reduce the Charges.

8 Audit and the National Audit Office

- 8.1 The Supplier shall keep and maintain until six (6) years after the end of this Agreement, or as long a period as may be agreed between the Parties, full and accurate records of this Agreement including the Services supplied under it and all payments made by the NMC.

- 8.2 The Supplier and/or any Sub-contractor shall at the NMC's request afford the NMC (or its Representatives) and its regulatory bodies, including the National Audit Office such access to the Supplier's and/or Sub-contractor's records in connection with this Agreement as may reasonably be requested at no cost to the NMC or the Sub-contractor. Any such access to the Supplier's records shall be subject to the Supplier imposing reasonable measures to minimise the disruption to its business and premises, for the Supplier to protect its information security systems.
- 8.3 The NMC may request evidence of the Supplier's compliance with Clause 8.1 from time to time as it deems necessary at no cost to the NMC.

9 Charges, Payment and Recovery of Sums Due

- 9.1 In consideration of the satisfactory performance of the Services by the Supplier, the NMC shall pay the Charges to the Supplier as set out in and/or as calculated in accordance with Schedule 2 (Charges).
- 9.2 Unless otherwise expressly agreed between the parties in writing, the Charges shall constitute the NMC's entire liability under this Agreement.
- 9.3 The Charges shall be invoiced and paid in UK pounds Sterling.
- 9.4 The Supplier shall invoice the NMC as specified in this Agreement. Each invoice shall include a valid Purchase Order Number and a breakdown of the Services supplied in the invoice period. The invoice should be submitted to the following postal and/or email address:

Accounts Payable
Nursing and Midwifery Council
23 Portland Place
London W1B 1PZ
Accounts.Payable@nmc-uk.org

- 9.5 The NMC shall pay the Supplier the invoiced amounts within 30 days of the date of receipt of the relevant invoice. The NMC may, without prejudice to any other rights and remedies under the Agreement and in accordance with Clause 7.1.2, withhold or reduce payments in the event of unsatisfactory performance, or in the absence of a valid Purchase Order Number on the Supplier's invoice.
- 9.6 If there is a dispute between the Parties as to the amount invoiced, the NMC shall pay the undisputed amount. The Supplier shall not suspend the supply of the Services unless the Supplier is entitled to terminate the Agreement for a failure to pay undisputed sums in accordance with Clause 25.4. Any disputed amounts shall be resolved through the dispute resolution procedure detailed in Clause 23.
- 9.7 If payment of an undisputed amount is not made by the NMC within 30 days of the date of receipt of the Supplier's invoice, then the NMC shall pay the Supplier interest from the due date until payment of the overdue sum at the bank of England base rate plus 1%.

10 Premises and Equipment

- 10.1 If necessary, the NMC shall provide the Supplier with reasonable access at reasonable times to its premises for the purpose of supplying the Services. All equipment, tools and other items brought onto the NMC's premises by the Supplier or Staff shall be at the Supplier's risk.
- 10.2 If the Supplier supplies all or any of the Services at or from the NMC's premises, on completion of the Services or termination or expiry of the Agreement (whichever is earlier) the Supplier shall vacate the NMC's premises and remove the Supplier's Equipment, tools and other unused items and leave the NMC's premises in a clean, safe and tidy condition. The Supplier shall be solely responsible for making good any damage to the NMC's premises or any objects contained on the NMC's premises which is caused by the Supplier or its Staff, other than fair wear and tear.
- 10.3 If the Supplier supplies all or any of the Services at or from its own premises or the premises of a third party (including a Sub-contractor), the NMC may, during Business Hours and on reasonable notice, inspect and examine the manner in which the relevant Services are supplied at or from the relevant premises to ensure that the Supplier and/or any Sub-contractor has the appropriate facilities, procedures, systems and Staff appropriate to and as may be required for the Supplier to deliver the Services in accordance with the terms of this Agreement and the Modern Slavery Act 2015 as referred to in Clause 30.
- 10.4 Without prejudice to Clause 10.5, any equipment provided by the NMC for the purposes of this Agreement shall remain the property of the NMC and shall be used by the Supplier and its Staff only for the purpose of carrying out this Agreement. Such equipment shall be returned promptly to the NMC on expiry or termination of this Agreement.
- 10.5 The Supplier shall reimburse the NMC for any loss or damage to equipment provided by the NMC (other than deterioration resulting from normal and proper use) caused by the Supplier or any Staff. Equipment provided by the NMC shall be deemed to be in a good condition when received by the Supplier or relevant Staff unless the Supplier notifies the NMC in writing within five (5) working days of receipt of the equipment.

11 Staff and Key Personnel

- 11.1 All Staff shall be properly managed and supervised by the Supplier.
- 11.2 The Supplier shall give the NMC, if so requested, full particulars of all persons who are or may be at any time employed pursuant to this Agreement.
- 11.3 The Supplier shall, and shall ensure all Staff, comply with the obligations of this Agreement and any rules, regulations and requirements reasonably specified by the NMC, including completion of any additional clearance procedures required by the NMC and notified to the Supplier.
- 11.4 The Supplier shall take all reasonable steps to avoid changes to any of the staff designated in the Agreement as the Supplier's Key Personnel. Subject to Clause 11.5, the Supplier shall give at least one (1) month's written notice to the NMC of any proposals to change the Supplier's Key Personnel and this Clause 11 shall apply to the proposed replacement Key Personnel.

- 11.5 Any replacements to the Supplier's Key Personnel shall be subject to the prior written agreement of the NMC (not to be unreasonably withheld). Such replacements shall be of at least equal status or of equivalent experience and skills to the Supplier's Key Personnel being replaced and be suitable for the responsibilities of that person in relation to the Services.

12 Intellectual Property Rights

- 12.1 The NMC's Background Intellectual Property will remain vested in the NMC.
- 12.2 The Supplier's Background Intellectual Property will remain vested in the Supplier. The Supplier shall retain the Intellectual Property to its working papers, working papers being the Supplier's internal workings which show how the Supplier reached its findings.
- 12.3 Where, as part of its Background Intellectual Property, either Party provides third party Intellectual Property to the other Party, the providing Party shall ensure that the receiving Party is authorised to use such third party Intellectual Property Rights as required in order for the receiving Party to provide or receive the Services.
- 12.4 All Foreground Intellectual Property will vest in the NMC. For the avoidance of doubt, this shall mean that all Foreground Intellectual Property generated under the terms of this Agreement will vest in the NMC and may be used by the NMC beyond the Expiry Date and neither the Supplier or its Sub-Contractors shall make or distribute to a third party any copies of this or the documents, records, data or other information produced by it without the written consent of the NMC, save that the Supplier may retain copies of work products including Foreground Intellectual Property for legal, compliance and regulatory purposes, subject to the provisions of Clause 26.1.4 below.
- 12.5 The Supplier shall grant (or shall procure that the relevant third party shall grant) to the NMC a non-exclusive, worldwide, irrevocable, perpetual, assignable, royalty free licence to use the Supplier's or the Sub-contractors (or any relevant third party's) Background Intellectual Property Rights necessary for the NMC to enjoy the Services.
- 12.6 The NMC shall grant (or shall procure that the relevant third party shall grant) to the Supplier for the duration of this Agreement a non-exclusive, non-transferable, royalty free license to use the NMC's Background Intellectual Property Rights as is necessary for the sole purpose of the Supplier providing the Services.
- 12.7 Where either Party becomes aware of any infringement or allegation of infringement of Intellectual Property Rights in connection with the Services, that Party shall:
- 12.7.1 promptly notify the other Party in writing of such infringement or allegation of infringement; and
- 12.7.2 where the other Party is the owner of the infringing or allegedly infringing Intellectual Property Right they shall allow the other Party to conduct all negotiations and proceedings and give the other Party all reasonable assistance and make no admission relating to the infringement or alleged infringement.

12.8 If at any time an allegation of infringement of the Supplier's and/or the Sub-contractors Background Intellectual Property Rights is made, the Supplier may, at its own expense and sole option:

12.8.1 procure such licence as may be necessary to continue the carrying out of the Services without infringement, on terms which are reasonably acceptable to the NMC (but which for the avoidance of doubt, not include any increase in the Charges relating to the procurement of such licences); or

12.8.2 replace or modify the Supplier's or Sub-contractor's Background Intellectual Property Rights to make them non-infringing without substantially affecting the performance of the Supplier's or the Sub-contractor's Background Intellectual Property Rights; or

12.8.3 take such action as the Supplier shall reasonably deem appropriate to avoid or settle any such infringement or alleged infringement.

12.9 Notwithstanding any other provision of this Agreement, the license granted to the NMC under Clause 12.5 will survive any termination of this Agreement.

13 Meetings and Reports

13.1 The Supplier shall attend progress meetings with the NMC at the frequency and times specified by the NMC in Schedule 3 (Meetings and Reports) and ensure that its representatives are suitably qualified to attend such meetings.

13.2 The Supplier shall provide reports to the NMC in the form and at the frequency set out at Schedule 3 (Meetings and Reports) and shall render any additional reports as to the progress of the Services at such time or times, and in such form as the NMC may reasonably require.

14 Announcements and Publicity

14.1 The Supplier shall not, and shall take reasonable steps to ensure that the Staff shall not, make any press announcement or publicise the Agreement or any part of the Agreement in any way, except with the prior written consent of the NMC.

14.2 The Parties shall not use the name, brand or image associated with the other Party (including any use in promotional or other material and documentation) except with the prior written consent of the other Party.

15 Confidentiality

15.1 Each Party:

15.1.1 shall treat all Confidential Information belonging to the other Party as confidential and safeguard it accordingly;

15.1.2 shall not disclose any Confidential Information belonging to the other party to any other person without the prior written consent of the other Party, except to such persons and to such extent as may be necessary for the performance of the Agreement or except where disclosure is otherwise expressly permitted by the provisions of this Agreement;

15.1.3 shall not use or exploit the disclosing Party's Confidential Information in any way except for the purposes anticipated under the Agreement; and

15.1.4 ensure that its Staff or its professional advisers or consultants are aware of the Supplier's confidentiality obligations under this Agreement.

15.2 The provisions of Clause 16 shall not apply to any Confidential Information:

15.2.1 which is or has become public knowledge (otherwise than by breach of this Agreement);

15.2.2 which was in the possession of the receiving Party, without restriction as to its disclosure, before receiving it from the disclosing Party;

15.2.3 which is received from a third Party who lawfully acquired it and who is under no obligation restricting its disclosure;

15.2.4 which is independently developed without access to the Confidential Information.

15.3 Notwithstanding Clause 15.1 a Party may disclose Confidential Information which it receives from the other Party:

15.3.1 where disclosure is required by law or by a court of competent jurisdiction;

15.3.2 to its auditors or for the purposes of regulatory requirements;

15.3.3 on a confidential basis, to its professional advisors and its insurers;

15.3.4 to the Serious Fraud Office where the Party has reasonable grounds to believe that the other Party is involved in activity that may constitute a criminal offence under the Bribery Act 2010;

15.3.5 where the receiving Party is the Supplier, to its Staff on a need to know basis to enable performance of the Supplier's obligations under the Agreement provided that the Supplier shall procure that any Staff to whom it discloses Confidential Information pursuant to this Clause 15.3.5 shall observe the Supplier's confidentiality obligations under this Agreement; and

15.3.6 where the receiving Party is the NMC:

(i) on a confidential basis to the employees, agents, consultants and contractors of the NMC;

(ii) on a confidential basis to any other Central Government Body, any successor body to a Central Government Body or any company to which the NMC transfers or proposes to transfer all or any part of its business;

- (iii) to the extent that the NMC (acting reasonably) deems disclosure necessary or appropriate in the course of carrying out its public functions; or
- (iv) in accordance with Clause 18 (Freedom of Information).

And for the purposes of the foregoing, references to disclosure on a confidential basis shall mean disclosure subject to a confidentiality agreement or arrangements containing terms no less stringent than those under this Clause 15.

- 15.4 The Parties acknowledge that, except for any information which is exempt from disclosure in accordance with Clause 18 (Freedom of Information), the content of the Agreement is not Confidential Information and the Supplier hereby gives its consent for the NMC to publish this Agreement in its entirety to the general public (but with any information that is exempt from disclosure in accordance with the FOIA redacted) including any changes to the Agreement agreed from time to time. The NMC may consult with the Supplier to inform its decision regarding any redactions but shall have the final decision in its absolute discretion whether any of the content of the Agreement is exempt from disclosure in accordance with the provision of the FOIA.
- 15.5 In the event that the Supplier fails to comply with this Clause 15, the NMC reserves the right to terminate the Agreement by notice in writing with immediate effect.
- 15.6 The provisions of this Clause 15 shall survive for a period of two (2) years from the expiry or the termination of this Agreement.

16 Data Protection

- 16.1 For the purposes of this Agreement the Supplier shall act in the capacity of Controller in relation to the Supplier Data and the NMC shall act in the capacity of Controller in relation to the NMC Data.
- 16.2 Each Party shall:
- 16.2.1 comply with Data Protection Legislation and shall not by its act or omission cause the other Party to breach Data Protection Legislation;
 - 16.2.2 (in its respective capacity as Controller) use all its reasonable endeavours to agree with the other Party all matters pertaining to any requirement for instructions to be provided to a Processor who processes the Supplier Data and the NMC Data; and
 - 16.2.3 generally co-operate in good faith and with all appropriate due diligence to resolve any issue or dispute arising in respect of the Supplier Data and the NMC Data, so as to protect the rights of Data Subjects in accordance with Data Protection Legislation.
- 16.3 In the event that either Party (the “first party”) Processes any Personal Data for and on behalf of the other Party (the “second party”), the first party shall in respect of such Processing shall be a Data Processor (for the purposes of Data Protection Legislation) and the Parties shall maintain a record of processing activity in the form set out in paragraph 16.5. The first party shall;

16.3.1 Process such Personal Data only:

16.3.1.1 for the purpose of performing its obligations under this Agreement;

16.3.1.2 for such other purposes as may be instructed by or agreed with the second party as otherwise notified in writing from time to time (and if the first party believes that any instructions given by the second party pursuant to this clause are unlawful, it shall notify the second party immediately);

16.3.1.3 if the first party is otherwise required by law to further process Personal Data, if it has first notified the second party of this before performing the processing required by those laws unless those laws prohibit the first party from so notifying the second party; and

16.3.1.4 in accordance with Data Protection Legislation;

16.3.2 maintain appropriate technical and organisational measures, to protect against unauthorised or unlawful processing of Personal Data and against accidental loss or destruction of, or damage to, Personal Data. These measures shall be appropriate to the harm that might result from the unauthorised or unlawful processing or accidental loss, destruction or damage and the nature of the data to be protected, having regard to the state of technological development and the cost of implementing any measures (those measures may include, where appropriate, pseudonymising and encrypting Personal Data, ensuring confidentiality, integrity, availability and resilience of its 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 technical and organisational measures adopted by it);

16.3.3 restrict access to the data so that it can only be processed for the purposes of this Agreement;

16.3.4 not otherwise modify, amend, remove or alter the contents of the Personal Data or disclose or permit the disclosure of any of the Personal Data to any third party without the prior written authorisation of the second party;

16.3.5 maintain up to date records of its Processing activities performed on behalf of the second party which shall include the categories of Processing activities performed, information on cross border data transfers (if permitted by clause 16.3.7) and a general description of security measures implemented in respect of the relevant Personal Data and allow for audits by the second party or the second party's designated auditor;

16.3.6 ensure that all personnel who have access to and/or process Personal Data are reliable, obliged to keep the Personal Data confidential and process it only for the purposes of this agreement, and are regularly and adequately trained in confidentiality and data protection matters (including such further specific training as may be relevant to the particular processing of data under this Agreement);

16.3.7 not transfer any Personal Data outside of the **United Kingdom / European Economic Area**¹ unless the prior written consent of the second party has been obtained and the following conditions are fulfilled:

16.3.7.1 there are appropriate safeguards in relation to the transfer, so as to comply with Chapter V of the GDPR;

16.3.7.2 the data subject has enforceable rights and effective legal remedies;

16.3.7.3 the first party complies with its obligations under the Data Protection Legislation by providing an adequate level of protection to any Personal Data that is transferred; and

16.3.7.4 the first party complies with reasonable instructions notified to it in advance by the second party with respect to the processing of the Personal Data;

16.3.8 provide reasonable assistance to the second party (and at no additional cost to the second party), in responding to any request from a Data Subject;

16.3.9 promptly notify the second party (and within 48 hours) if it receives: (i) a request from a Data Subject in relation to that Data Subject's Personal Data; or (ii) a complaint or request relating to the Data Protection Legislation;

16.3.10 promptly notify the second party in the event it becomes aware (and no later than 24 hours after becoming aware) of any breach of Data Protection Legislation Personal Data Breach (within the meaning of Article 4 GDPR) or any other incident, or exposure to additional risk concerning the Personal Data processed further to this agreement;; and

16.3.11 fully cooperate with and assist the second party in compliance with the exercise of Data Subject rights, and in ensuring compliance with its obligations under the Data Protection Legislation with respect to security breach notifications, impact assessments and consultations with supervisory authorities or regulators.

16.3.12 not appoint any sub-processor of Personal Data under this agreement.

16.4 Unless otherwise required by Data Protection Legislation (and whether acting as a controller or processor), the first party shall return or delete, at the second party's sole discretion, all Personal Data upon the termination of the Processing activities carried out under this Agreement (or sooner, if it is no longer necessary to retain the data), and promptly provide the second party with a confirmation in writing that it has done so;

16.5 Processing, Personal Data and Data Subjects

¹ Select UK/EEA accordingly – the NMC's strong preference is for data to remain within the UK, but where this is not available, then for it to remain within the EEA. Any transfers outside the EEA should be carefully considered on a case by case basis involving the Procurement Team and Data Protection Officer.

Processing by the processor	
Scope	
Nature	
Purpose of processing	
Duration of the processing	
Types of Personal Data	
Categories of Data Subject	

16.6 The provisions of this Clause 16, shall survive termination or expiry of this Agreement.

17 Security of Confidential Information

17.1 The Supplier shall maintain security systems that prevent the unauthorised disclosure of NMC Confidential Information.

17.2 The Supplier shall promptly notify the NMC of any breach of security in relation to Confidential Information and all data obtained in the performance of the Agreement and will keep a record of such breaches. The Supplier will use its best endeavours to recover such Confidential Information or data however it may be recorded. The Supplier will co-operate with the NMC in any investigation that the NMC considers necessary to undertake as a result of any breach of security in relation to Confidential Information or data.

18 Freedom of Information

18.1 The Supplier acknowledges that the NMC is subject to the requirements of the FOIA and the EIR and shall:

18.1.1 provide all necessary assistance and cooperation (at the Supplier's expense) as reasonably requested by the NMC to enable the NMC to comply with its obligations under the FOIA and the EIR;

18.1.2 transfer to the NMC all Requests for Information relating to this Agreement that it receives as soon as practicable and in any event within 2 Working Days of receipt;

18.1.3 provide the NMC with a copy of all Information belonging to the NMC requested in the Request for Information which is in its possession or control in the form that the NMC requires within 5 Working Days (or such other period as the NMC may reasonably specify) of the NMC's request for such Information; and

18.1.4 not respond directly to a Request for Information unless authorised in writing to do so by the NMC.

18.2 The Supplier acknowledges that the NMC may be required under the FOIA and the EIR to disclose Information concerning the Supplier or the Services (including commercially sensitive information) without consulting or obtaining consent from the Supplier. In these circumstances the NMC shall, in accordance with any relevant guidance issued by the Information Commissioner's Office or the NMC, 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.

18.3 Notwithstanding any other provision in the Agreement, the NMC shall be responsible for determining in its absolute discretion whether any Information relating to the Supplier or the Services (including the Supplier's Confidential Information) is exempt from disclosure in accordance with the provisions of FOIA and the EIR.

18.4 In no event shall the Supplier respond directly to a Request for Information unless authorised to do so by the NMC.

18.5 In the event that the Supplier is subject to the requirements of the FOIA and/or the EIR, the obligations in Clause 18.1 shall apply on a reciprocal basis.

19 Liability and Indemnity

19.1 With the exception of the indemnity provided at Clause 19.2 below, all loss, damages, claims, liabilities, costs and expenses suffered or incurred under this Agreement, whether in contract, tort, breach of statutory duty under all indemnities of otherwise, shall not exceed two hundred percent (200%) of the value of this Agreement in any Contract Year.

19.2 The Supplier shall indemnify and keep indemnified the NMC in full from and against all claims, proceedings, actions, damages, costs, fines, expenses and any other liabilities which may arise out of, or in consequence of, any data breach and any breach or purported breach of Data Protection Legislation or the performance or non-performance by its sub-processor(s) and Staff of its obligations under the Agreement in relation to Data Protection Legislation, including loss of or damage to property, financial loss arising from any breach of the Data Protection Legislation or any other loss which is caused directly or indirectly by any act or omission arising from any breach of the Data Protection Legislation. The Supplier's liability under this Clause 19.2 shall be limited to one million pounds (£1,000,000). The NMC shall provide the Supplier with prompt notice of any claim under this indemnity, the NMC shall not make any admission or settlement without the prior written consent of the Supplier and the NMC shall allow the Supplier conduct of the claim. The NMC shall mitigate the losses it suffers under this indemnity.

- 19.3 The Supplier shall indemnify, and keep indemnified, the NMC against costs, expenses, damages and losses (whether direct or indirect), including interest, penalties, and reasonable legal and other professional fees in case awarded against or incurred or paid by the NMC as a result of a claim by a third party arising out of, or in connection with, the supply or use of the Services, to the extent that the claim relates to an infringement or alleged infringement of any third party's Intellectual Property Rights and is attributable to the acts or omission of the Supplier or any Staff. The NMC shall provide the Supplier with prompt notice of any claim under this indemnity, the NMC shall not make any admission or settlement without the prior written consent of the Supplier and the NMC shall allow the Supplier conduct of the claim. The NMC shall mitigate the losses it suffers under this indemnity.
- 19.4 If a claim, demand or action for infringement or alleged infringement of any Intellectual Property Rights is made in connection with the Agreement or in the reasonable opinion of the Supplier is likely to be made, the Supplier may at its own expense and subject to the consent of the NMC (not to be unreasonably withheld or delayed):
- 19.4.1 procure a licence to use and provide the Services, which are the subject of the alleged infringement, on terms which are acceptable to the NMC.
- 19.5 Nothing in this Agreement shall exclude or limit the Supplier's or the NMC's liability for:
- 19.5.1 death or personal injury caused by its negligence, or the negligence of its personnel, agents or sub-contractors;
- 19.5.2 fraud or fraudulent misrepresentation;
- 19.5.3 any other liability which cannot be limited or excluded by Applicable Law.

20 Insurance

- 20.1 The Supplier shall take out and maintain in force (and shall procure that its Sub-contractors also take out and maintain in force) with reputable insurers, throughout the term of this Agreement such insurances as are necessary to cover any liability which may arise out of or in connection with this Agreement.
- 20.2 Without prejudice to the generality of Clause 20.1, the Supplier shall maintain:
- 20.2.1 public liability insurance (including in relation to data protection and cyber risk) with an indemnity limit of not less than five million pounds (£5,000,000) in respect of any one incident;
- 20.2.2 employers' liability insurance as required by Applicable Law, and in any event with an indemnity limit of not less than five million pounds (£5,000,000) in respect of any one incident;
- 20.2.3 professional indemnity insurance with an indemnity limit of not less than one million pounds (£1,000,000) in respect of any one incident.

20.3 The Supplier shall produce to the NMC on request documentary evidence that the necessary insurances are fully maintained and that any premiums on them and/or contributions in respect to them (if any) are fully paid.

20.4 Any deficiencies in the cover or policy limits of a Sub-contractor's insurance shall be the sole responsibility of the Supplier.

21 Force Majeure

21.1 Neither Party shall have any liability under or be deemed to be in breach of this Agreement for any delays or failures in performance of this Agreement which result from a Force Majeure Event. The affected Party shall promptly notify the other Party in writing of the Force Majeure Event, the date on which it started, its likely or potential duration, and the effect of the Force Majeure Event on its ability to perform and of its obligations under the Agreement.

21.2 The corresponding obligations of the other Party will be suspended, and its time for performance of such obligations extended, to the same extent as those of the affected Party.

21.3 If a Force Majeure Event continues for a continuous period of more than two months, either Party may terminate the Agreement by giving written notice to the other Party.

21.4 For the avoidance of doubt, it is hereby expressly agreed that industrial relations difficulties, failure to meet any foreseen regulatory changes and failure to provide adequate premises, equipment, materials, consumables and/or Staff or similar matters, which a prudent and diligent supplier could have avoided with the application of foresight, are not to be considered as Force Majeure Event.

22 Assignment and sub-contracting

22.1 Subject to the provisions of this Clause 22, the Supplier shall not sub-contract, transfer, charge or otherwise dispose of its rights and obligations under this Agreement or any part of this Agreement without the prior written consent of the NMC.

22.2 Subject to Clause 22.3, the Supplier may sub-contract the whole or any part of its obligations under this Agreement.

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

22.3.1 remain responsible to the NMC for the performance of its obligations under this Agreement, notwithstanding the appointment of any Sub-contractor, and be responsible for the acts and omissions of its Sub-contractor.

22.3.2 impose obligations on its Sub-contractor in the same or similar terms as those imposed on the Supplier pursuant to this Agreement and shall procure that the Sub-contractor complies with such terms; and

22.3.3 provide a copy of such sub-contract on receipt of request for such by the NMC.

23 Dispute Resolution

- 23.1 The Parties shall attempt in good faith to negotiate a settlement to any dispute between them arising out of or in connection with the Agreement and such efforts shall involve the escalation of the dispute to an appropriately senior representative of each Party. The Supplier shall notify the NMC of the identity of its senior representative upon entering into this Agreement and within 7 days of any change from time to time. The senior representative of the NMC shall be its Head of Procurement.
- 23.2 If the dispute cannot be resolved by the Parties within one month of being escalated as referred to in Clause 23.1, the Parties will attempt to settle it by mediation in accordance with the CEDR Model Mediation Procedure. Unless otherwise agreed between the Parties, the mediator shall be nominated by CEDR.
- 23.3 If the Parties fail to resolve the dispute or either Party fails to participate or to continue to participate in the mediation, the dispute shall finally be resolved by the courts of England and Wales.

24 Transfer of responsibility

- 24.1 Upon termination or expiry of this Agreement, the Supplier shall return all requested documents, information and data to the NMC as soon as reasonably practicable.

25 Termination

- 25.1 The NMC may terminate this Agreement, in whole or in part, at any time by giving the Supplier not less than one (1) month's written notice, upon expiry of which the Agreement shall be terminated without prejudice to the rights or remedies of the Parties accrued to the date of termination.
- 25.2 Without affecting any other right or remedy available to it, either Party may terminate this Agreement with immediate effect by giving written notice to the other Party if:
- 25.2.1 the other Party commits a material breach of any of the terms of this Agreement and (in the case of a breach capable of remedy) fails to remedy the breach within thirty (30) days of being notified in writing to do so;
- 25.2.2 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; or
- 25.2.3 the other Party ceases or proposes to cease to carry on its business or an event analogous to the insolvency or bankruptcy occurs.
- 25.3 The Supplier may terminate this Agreement immediately if: (i) there is a change of law, rule, regulation or professional standard, or circumstances arise that the Supplier reasonably believes would cause the relationship between the parties to violate such law, rule, regulation or professional standard or would prejudice the Supplier's ability to comply with applicable auditor independence requirements; or (ii) the Supplier believes a conflict of interest cannot be managed, but in that case the Supplier shall consult the NMC before the Supplier does so.

- 25.4 Without affecting any other right or remedy available to it, the Supplier may terminate this Agreement with immediate effect by giving written notice to the NMC if the NMC has not paid any undisputed amounts within ninety (90) days of it falling due.
- 25.5 Without affecting any other right or remedy available to it, the NMC may terminate this Agreement with immediate effect by giving written notice to the Supplier if there is a Change of Control by the Supplier.

26 Consequences of Termination

- 26.1 Where the Agreement is terminated under Clause 25 (Termination), the following provisions shall apply:
- 26.1.1 the rights and obligations which expressly or by their nature are intended to survive the expiry or termination of this Agreement shall so survive and bind the Parties and their successors and assigns;
- 26.1.2 the Supplier shall return all requested documents, information and data to the NMC as soon as reasonably practical, save that the Supplier may retain its working papers and one copy of the work products from the Services for legal, compliance and regulatory purposes.
- 26.2 The NMC may, during any notice period:
- 26.2.1 direct the Supplier, where the Services have not been started, to refrain from starting such Services or where the Services have been started, to cease work immediately; or
- 26.2.2 direct the Supplier to deliver the Services, or any part or component thereof, payment for which shall be made in accordance with the Charges or, where no agreement exists, a fair and reasonable price shall be agreed.

27 Merger or Change of Control

- 27.1 The Supplier shall immediately inform the NMC in writing of any:
- 27.1.1 proposal or negotiations which may or will result in a merger, change of control, change of name or status; or
- 27.1.2 the Supplier (being a company as defined by the Companies Act 2006) undergoes any change of control as defined in section 1124 of the Corporation Tax Act 2010.
- 27.2 The Supplier's failure to obtain the NMC's prior written consent to a Change of Control event shall give rise to a termination event under Clause 25.5.

28 Health and Safety

- 28.1 The Supplier shall promptly notify the NMC of any health and safety hazards which may arise in connection with the performance of its obligations under this Agreement. The NMC shall promptly notify the Supplier of any health and safety hazards which may exist or arise at the NMC's premises and which may affect the Supplier in the performance of its obligations under this Agreement.
- 28.2 The Supplier shall comply with all the NMC's health and safety measures while on the NMC's premises.
- 28.3 The Supplier shall notify the NMC promptly in the event of any incident occurring in the performance of its obligations under this Agreement on the NMC's premises where that incident causes personal injury or damage to property.

29 Equality and Diversity

- 29.1 The Supplier shall, and shall ensure that all Staff, comply with any applicable anti-discrimination legislation and with the NMC's Equality, Diversity and Inclusion" Policy (which may be amended from time to time).
- 29.2 The NMC shall from time to time request data and records from the Supplier to monitor and ensure the Supplier's compliance with equality laws and that they have measures in place to ensure equal opportunities, prevent bullying, victimisation, harassment and discrimination on the basis of protected characteristics and to prevent modern slavery, in line with the Public Sector Equality Duty.

30 Values and Behaviours

- 30.1 The Supplier shall adhere to the NMC values and behaviours framework (namely; being Kind, Fair, Ambitious and Collaborative) and treat people with dignity and respect. Each value is crucial, but their real strength comes from how they work together.
- 30.2 We are responsible for upholding these values in our own and our colleagues' behaviour. Everyone we work with will see these values through the way we behave. This framework is available on the policies section of the NMC's e-sourcing portal, or will be provided on request.
- 30.3 If in the course of delivering the contract, the Supplier is required to interview or investigate NMC employee(s), the Supplier must agree with the NMC the interview techniques to be used. These will not normally be adversarial in nature or use cross examination techniques and must be in compliance with Clause 30.1 and 30.2 above.

31 Safeguarding and Protecting People

- 31.1 As a regulator and a registered charity we recognise the fundamental importance of having an effective policy in place that safeguards and takes reasonable steps to protect from harm all who come into contact with us. Safeguarding responsibilities are also our duty as a registered charity and we have developed the Policy on Safeguarding and Protecting People in line with guidance provided by the Charity Commission (CC) and the Office of the Scottish Charity Regulator (OSCR).

31.2 The Supplier shall adhere to the NMC Policy on Safeguarding and Protecting People. Everyone who works for, or with us, is expected to understand and be familiar with this Policy and know how to recognise, respond to, report and record a safeguarding concern or any concern regarding harm to others. This policy is available on the policies section of the NMC's e-sourcing portal, or will be provided on request.

32 Modern Slavery

32.1 The Supplier undertakes, warrants and represents that:

32.1.1 neither the Supplier nor any of its Staff [or any officers, employees or agents of the Sub-contractors] have:

- (i) committed an offence under the Modern Slavery Act 2015 (a **MSA Offence**);
- (ii) been notified that it is subject to an investigation relating to an alleged MSA Offence or prosecution under the Modern Slavery Act 2015; or
- (iii) awareness of any circumstances within its supply chain that could give rise to an investigation relating to an alleged MSA Offence or prosecution under the Modern Slavery Act 2015.

32.1.2 it shall comply with the Supplier's Modern Slavery Act 2015;

32.1.3 It shall notify the NMC promptly and in writing if it becomes aware or has reason to believe that it, or any of its Staff [or any officers, employees or agents of the Sub-contractor], have breached or potentially breached any of the Supplier's obligations under Clause 32.1.

32.2 Any breach of Clause 32.1 by the Supplier shall be deemed a material breach of the Agreement and shall entitle the NMC to terminate the Agreement with immediate effect.

32.3 Where the Supplier delegates or sub-contracts any of its duties or obligations under this Agreement pursuant to Clause 22, the Supplier shall ensure it has the ability to audit its Sub-contractors to ensure compliance with the Modern Slavery Act 2015.

33 Prevention of Fraud and Corruption

33.1 The Supplier shall comply with, and shall ensure that its Staff or anyone acting on the Supplier's behalf comply with all Applicable Laws, regulations, codes and sanctions relating to anti-bribery and anti-corruption, including but not limited to the Bribery Act 2010.

33.2 The Supplier shall not offer, give, or agree to give anything, to any person an inducement or reward for doing, refraining from doing, or for having done or refrained from doing, any act in relation to the obtaining or execution of this Agreement or for showing or refraining from showing favour or disfavour to any person in relation to this Agreement.

33.3 The Supplier shall take all reasonable steps , in accordance with Good Industry Practice, to prevent fraud by the Staff and the Supplier (including its shareholders, members and directors) in connection with this Agreement and shall notify the NMC promptly if it has reason to suspect that any fraud has occurred or is occurring or is likely to occur.

33.4 If the Supplier or Staff engages in conduct prohibited by Clause 31.2 or commits fraud in relation to this Agreement the NMC may:

33.4.1 terminate this Agreement and recover from the Supplier the amount of any loss suffered by the NMC resulting from the termination, including the cost reasonably incurred by the NMC of making other arrangements for the supply of the Services and any additional expenditure incurred by the NMC throughout the remainder of the Agreement; and

33.4.2 recover in full from the Supplier any other loss sustained by the NMC in consequence of any breach of this Clause.

34 Variation

34.1 Subject to Clause 4.3, no variation of this Agreement shall be effective unless it is in writing and signed by the Parties (or their Representatives).

35 Serving of Notices

35.1 All notice to be given by a Party under this Agreement shall be in writing and marked for the attention of and served [via email] to the named Representatives of the other Party as listed below:

35.1.1 in the case of the NMC, the NMC Representative:

Name: [INSERT]

Role: [INSERT]

Email: [INSERT]

35.1.2 in the case of the Supplier, the Supplier Representative:

Name: [INSERT]

Role: [INSERT]

Email: [INSERT]

35.2 Any notice or communication shall be deemed to have been received:

35.2.1 if sent by pre-paid first-class post or other next working day delivery service, at 9.00 am on the second Working Day after posting or at the time recorded by the delivery service; and

35.2.2 if sent by email, at the time of transmission, or, if this time falls outside Business Hours in the place of receipt, when Business Hours resume.

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

36 General

- 36.1 The Supplier represents and warrants to the NMC that it has full capacity and authority, and all Necessary Consents, licences and permissions to enter into and perform its obligations under this Agreement, and that this Agreement is executed by its duly authorised representative.
- 36.2 A person who is not a Party to this Agreement shall have no right to enforce any of its provisions which, expressly or by implication, confer a benefit on him, without the prior written agreement of the Parties.
- 36.3 This Agreement shall not constitute or imply any partnership, joint venture, agency, fiduciary relationship or other relationship between the Parties other than the contractual relationship expressly provided for in this Agreement. Neither Party shall have, nor represent that it has, any authority to make commitments on the other Party's behalf.
- 36.4 A failure or delay by a Party to exercise any right or remedy provided under this Agreement or by law shall not constitute a waiver of that or any other right or remedy. A waiver of any right or remedy under this Agreement or by law is only effective if given in writing and shall not be deemed a waiver of any subsequent right or remedy.
- 36.5 Except as otherwise expressly provided by this Agreement, all remedies available to either Party for breach of this Agreement (whether under this Agreement, statute or common law) are cumulative and may be exercised concurrently or separately, and the partial or full exercise of one remedy shall not be deemed an election of such remedy to the exclusion of other remedies, Nor shall it prevent or restrict any further exercise of that right or remedy.
- 36.6 If any provision or part provision of this Agreement is held invalid, illegal or unenforceable for any reason by any court of competent jurisdiction, such provision shall be severed and the remainder of the provisions of this Agreement shall continue in full force and effect as if this Agreement had been executed with the invalid, illegal or unenforceable provision eliminated. In the event of a holding of invalidity so fundamental as to prevent the accomplishment of the purpose of this Agreement, the NMC and the Supplier shall immediately commence negotiations in good faith to remedy the invalidity.

37 Entire Agreement

- 37.1 This Agreement (together with all other documents to be entered into pursuant to it) sets out the entire agreement and understanding between the Parties, incorporates all the respective rights and obligations of the Parties relating to the Services herein and supersedes and extinguishes all proposals and prior agreements and understandings between the Parties, whether written or oral, relating to the Services.

38 Law

- 38.1 The Agreement shall be governed by and interpreted in accordance with English Law and shall be subject to the jurisdiction of the Courts of England and Wales.

On behalf of the Nursing and Midwifery Council

Name.....

Role Assistant.....

Signature

Date

On behalf of [INSERT]

Name

Role

Signature

Date

SCHEDULE 1 - SPECIFICATION

[INSERT]

SCHEDULE 2 – CHARGES

[INSERT]

SCHEDULE 3 - MEETINGS AND REPORTS

[INSERT]

SCHEDULE 4 – SUB CONTRACTORS

[INSERT]

SCHEDULE 5 – EXIT MANAGEMENT

[INSERT]

SCHEDULE 6 – KEY PERSONNEL

1. NMC

Job Title	Role and Responsibilities in Relation To The Agreement	Point of Contact

2. SUPPLIER

Job Title	Role and Responsibilities in Relation To The Agreement	Point of Contact

3. SUB-CONTRACTORS

Job Title	Role and Responsibilities in Relation To The Agreement	Point of Contact