NATIONAL INSTITUTE FOR HEALTH

AND CARE EXCELLENCE

NICE Framework for Knowledge Resources **(**NICENHSFA/2528**)**

Call Off Order Form

for knowledge resource(s) supplied by [Enter Supplier Name]

This Call Off Order Form forms Part A of the “Call Off Terms & Conditions” of the NICE Framework for Knowledge Resources (NICENHSFA/2528)

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1. The Agreement

Guidance Notes [highlighted] are provided throughout this “Call Off Order Form for buyers. Please remove before sending this form to the Supplier(s).

**Guidance Note to buyers: please enter the required details in [bracketed and highlighted areas] throughout this form.**

THIS Agreement is made on the [Day] of [Month and year]

**BETWEEN:-**

(1) [**Name of the purchasing organisation**] whose principal office is [Registered or main office address of organisation] (‘**the Purchasing Authority’**); and

(2) [**Name of the supplier organisation**]whose registered office is at [Registered or main office address of organisation] (‘**the Supplier**).

The Supplier is an appointed supplier of the NICE Framework for Knowledge Resources Agreement and agreed to provide the Service(s) and Deliverable(s) under the terms of the Framework Agreement (contract number: NICENHSFA/2528).

|  |  |
| --- | --- |
| **Reference** | NICE Framework for Knowledge Resources: contract number NICENHSFA/2528 |
| **Agreement Title** | Supply of the following knowledge resources:  [Enter the name and description of the resources being purchased here] |
| **Commencement Date** | **[Agreement start date]** |
| **Expiry Date** | **[Agreement expiry date]** |
| **Agreement Price** | **[Enter total value of purchase (excluding VAT)]** |
| **Purchase Order Number** | **[Enter purchase order number if applicable otherwise state NOT USED]** |
| **Contract Number** | **[Enter contract number if applicable otherwise state NOT USED]** |

1. Introduction

This Call Off Order Form and the “Call Off Terms & Conditions” (which together form the “Call Off contract”) is issued under the NICE Framework for Knowledge Resources (NICENHSFA/2528), which will be referred to in this document as “the Framework”.

The “Call Off Terms & Conditions” document is available at: https://www.nice.org.uk/about/nice-communities/library-and-knowledge-services-staff/buy-books-journals-and-databases which will be referred to as the “Framework Website”. The Purchasing Authority must complete this Call Off Order Form and send to the Supplier with reference to the “Call Off Terms & Conditions” (the Call Off Contract).

The Purchasing Authority should use this Call Off Order Form to specify requirements for the Service(s) and Deliverable(s) when placing an Order.

There are terms from the “Call Off Terms & Conditions” document that may be referred to in this Call Off Order Form. Words and expressions in this Call Off Order Form will be interpreted to have the meanings as defined in clause 4: Definitions of the “Call Off Terms & Conditions”.

The Call Off Order Form cannot be used to alter existing terms or add any extra terms that materially change the Service(s) & Deliverable(s) offered by the Supplier and defined in the quote.

1. Principal Contact Details

For the Purchasing Authority:

Job Title: **[Enter title**]

Name: **[Enter name]**

Email: **[Enter email]**

Phone: **[Enter phone number]**

For the Supplier:

Job Title: **[Enter title**]

Name: [**Enter name**]

Email: [**Enter email**]

Phone: [**Enter phone number**]

1. Term

|  |  |
| --- | --- |
| **Commencement Date** | This Call-Off contract Starts on **[enter a date]** and is valid for **[enter number of]** **[days or months]**.  (Guidance Note: The Term is subject to clauses 10: Term of the “Call Off Terms & Conditions”) |
| **Termination** | The notice period for the Purchasing Authority is a maximum of **[30]** days from the date of written notice for Termination without cause.  (Guidance Note: agree a suitable notice period for the purchase, small value contracts 30 days would be suitable, 60 or 90 days for high value or multi-year contracts). |
| **Extension Period/ Renewal** | This Call-off contract can be extended by the Purchasing Authority for **[enter number]** period(s) of [**up to]** [**enter number**] months each, by giving the Provider **[enter number of] [weeks or months]** written notice before its expiry.  (Guidance Note: the extension period after 24 months should not exceed the maximum permitted under the Framework Agreement which is 2 periods of up to 12 months each.) |

1. Purchasing Authority Contractual Details

|  |  |
| --- | --- |
| **Lots** | This Call-Off contract is for the provision of Knowledge Resources under:   * Lot 1: Sole supplier - direct award **[delete as appropriate]** * Lot 2: Print Books **[delete as appropriate]** * Lot 3: eBooks **[delete as appropriate]** * Lot 4: Print and eJournals **[delete as appropriate]** * Lot 5: Databases * Lot 6: Evidence Summaries/ Clinical Decision Support (CDS) resources **[delete as appropriate]** * Lot 7: Continuous Professional Development (CPD) resources **[delete as appropriate]** * Lot 8: Digital Anatomy reference resources **[delete as appropriate]** |
| **Service(s) & Deliverables required** | The Service(s) & Deliverable(s) to be provided by the Supplier under the above Lot are detailed in Annex ONE: Specification to this Call-Off Order Form  (Guidance Note: You MUST complete Annex ONE ). |
| **Licence Terms** | The following licences form an integral part of this Agreement, please state which contractual document shall be used:  [**Delete as appropriate**].   * The HSCC Licence, or * the Publisher’s licence(s) (**ONLY be used in Agent supply instances when the HSCC licence is not used**), or * NONE **(ONLY to be used for the supply of print books)**   (Guidance Note: in the case of Agent supply, where the Purchasing Authority chooses to use the Publisher’s licence(s), it is the responsibility of the Purchasing Authority and the Agent to ensure any such licence does not conflict any terms of the “Call Off Terms & Conditions” as per clauses 2 and 16 of that document.)  (Guidance Note: an Agent is defined on this Framework as: an organisation or intermediary which does not own the Intellectual Property Rights (IPR) to the Goods or Licensed Materials provided. For the avoidance of doubt, Agent includes print and e-booksellers under this Framework who do not own the IPR). |
| **Core Standards, Service Level Agreements (SLAs), Key Performance Indicators (KPIs):** | The core standards and any associated SLAs and KPIs used are as detailed in Annex TWO for Suppliers and Annex THREE (where the Supplier is an Agent) of the Call-Off Terms & Conditions. |
| **Limit on Parties’ Liability** | The annual total liability for all Defaults will not exceed the greater of [**£ enter amount**] or [**% enter percentage**] of the Agreement Price by the Purchasing Authority to the Supplier during the Call-Off contract Term (whichever is the greater).  The aggregate liability in circumstances where the Purchasing Authority terminates this Agreement shall not exceed the greater of [**£ enter amount**] or [**% enter percentage**] of the Agreement Price payable by the Purchasing Authority to the Supplier.  (Guidance Note: consider what figure will represent adequate cover for potential loss for contract breaches. 125% is often used or include a figure that adequately covers your potential loss. The percentage (or a fixed amount) can be negotiated with the Supplier. See clauses 20: Liability and Indemnity and 21: Limitation of Liability of the “Call Off Terms & Conditions”.) |
| **Insurance** | The insurance(s) required will be:  [**Amend as appropriate**]   * a minimum insurance period of[**6 years**] following the expiration or ending of this Call-Off contract; * professional indemnity insurance cover to be held by the Supplier and by any agent, Subcontractor or consultant involved in the supply of the Services. This professional indemnity insurance cover will have a minimum limit of indemnity of [**£1,000,000**] for each individual claim or any higher limit the Purchasing Authority requires (and as required by Law); * employers' liability insurance with a minimum limit of [**£5,000,000**] or any higher minimum limit required by Law.   (Guidance Note**:** consider if the above are appropriate to your purchases and make any necessary changes, provided they comply with clauses 22: Insurance of the “Call Off Terms & Conditions”.) |
| **Force Majeure** | Either Party may terminate this Order Agreement if the other Party is affected by a Force Majeure Event that lasts for more than [**14**] consecutive days.  (Guidance Note: see clauses 34: Force Majeure of the “Call Off Terms & Conditions”.) |
| **Purchasing Authority’s Responsibilities** | The Purchasing Authority is responsible for **[enter text]**.  (Guidance Note: e.g., providing user base numbers to the Supplier; technical implementation responsibilities that might impact access to databases or Supplier’s delivery of the Service). |

1. Additional Purchasing Authority terms

|  |  |
| --- | --- |
| **Performance of the Service(s) and Deliverable(s)** | This Call-Off contract will include the following key milestones:   * [**enter text**] * [**enter text**]   (Guidance Note: details inserted could include implementation plan, exit and offboarding plans and associated milestones. Consider setting milestones with associated Service(s) and Deliverable(s) and agreeing payments against those Service(s) and Deliverable(s).]  (Guidance Note: state NOT USED if this section is not relevant to your purchase) |
| **Warranties, Representations** | In addition to clauses 39: Warranty in the “Call Off Terms & Conditions”, the Supplier warrants and represents to the Purchasing Authority that [**enter any additional warranties and representations**].  (Guidance Note: delete section if not relevant). |
| **Additional Terms** | Within the scope of the Call-Off contract, the Supplier will meet the Additional Terms as detailed in Annex SIX: Additional Terms.  (Guidance Note: ensure any amendments or refinements are subject to clause 2. Overriding Provisions and clause 16. Licences to this Agreement of the “Call Off Terms & Conditions”). |
| **Alternative Clauses** | If the Purchasing Authority is based in England or Wales, then there are no alternative clauses.  If the Purchasing Authority is based in Northern Ireland, then the Alternative Clauses in Annex TWO: Schedule for Northern Ireland Law apply.  If the Purchasing Authority is based in Scotland, then the Alternative clauses in Annex THREE: Schedule for Scottish Law, apply. |
| **Personal Data and Data Subjects** | See Annex SEVEN: Personal Data Processing Instructions. Annex 9 as well  (Guidance Note: Annex SEVEN is worded for personal data processed for the purposes of NHS OpenAthens authentication and identity management in England ONLY) |

1. Sub-contractors

| **Subcontractors or Partners** | The following is a list of the Supplier’s Subcontractors or Partners:  **[Supplier to enter any subcontractors or partners or enter NONE].** |
| --- | --- |

1. Payment & Invoicing

|  |  |
| --- | --- |
|  | Payment & Invoicing |
| **Fixed Agreement Price** | Subject to clauses 11: Agreement Price of the “Call Off Terms & Conditions”, the price is fixed and shall not be subject to any increase whatsoever by the Supplier during the Term.  The total value of this Call-Off contract is the Agreement Price stated in clause 1.3.  The schedule for payment & invoicing is shown in ANNEX FOUR. |
| **Payment Method** | The payment method for this Call-Off contract is [**enter payment method**].  e.g., BACS, GPC card |
| **Payment Profile** | The payment profile for this Call-Off contract is [**monthly/quarterly** in **arrears / advance**].  (Guidance Note: many Suppliers offer payment options, state here which method of payment and profile has been agreed. The Purchasing Authority does NOT have to agree to payment in advance – check with your procurement team.) |
| **Invoice Frequency** | The Supplier will issue electronic invoices in accordance with the payment profile above. The Purchasing Authority will pay the Supplier within **[30]** days of receipt of a valid invoice. |
| **Invoice Delivery** | Invoices will be sent to [**enter name and contact information**]. |
| **Invoice Details Required** | All invoices must state:   * currency; * contract or purchase order number; * title(s) of knowledge resource(s) purchased; * period of service being invoiced.   (Guidance Note: include other relevant details required by your organisation.) |
| **Agent supply only** | Subject to clauses 11.5 of the “Call Off Order Terms & Conditions,” in the case of Agent supply where the Publisher has not released to the Agent the fixed price for the following year(s) post year 1, the estimated price and the date the final fixed price shall be released by the Publisher is detailed below.  **[Add / delete the below as appropriate]**  **Year 1**  Fixed price – **[£xxx,xxx.xx]** excluding VAT.  **Year 2**  Estimated price – **[£xxx,xxx.xx**] excluding VAT.  Date fixed price release date from Publisher: **[dd/mm/yyyy]**  The Purchasing Authority and the Agent shall ensure that this Call Off Order Form is amended under clauses 32: Agreement or Specification Change or Variation, no later than 10 days after the Publisher has released the fixed price, to agree the final Agreement Price;  Or terminate the agreement on the expiry date.  **OR** state as described in Annex FOUR: Pricing Schedule**.**  (Guidance Note: delete section if not using Agent supply) |
| **Breakdown Call-Off Contract Charges** | The breakdown of the charges is **[enter information on all the resources being purchased here or reference a spreadsheet if simpler]** |
| **Renewals** | Do renewals apply? **[Yes / No].**  (Guidance Note: where Yes – see clauses 11.8 and 11.9 of the “Call Off Terms & Conditions”). |

1. Formation of Contract

By signing and returning this Call Off Order Form, the Supplier agrees to enter a Call-Off contract with the Purchasing Authority.

The Parties agree that they have read the Call Off Order Form and the “Call Off Terms & Conditions” terms and by signing below agree to be bound by this Call-Off contract.

This Call-Off contract will be formed when the Purchasing Authority acknowledges receipt of the signed copy of the Call Off Order Form from the Supplier.

In cases of any ambiguity or conflict, the terms and conditions of this Call Off Order Form will supersede those of the Supplier terms and conditions as per the order of precedence set out in clauses 2: Overriding Provisions to the “Call Off Terms & Conditions”.

1. Signatures

AS WITNESS the hands of the parties the day and year below first written.

Authorised Signatories (complete tables below)

|  |
| --- |
| **For and on behalf of The Supplier:** |
| Signature |
| Print Name |
| Date |
| Position  (Budget Holder) |

|  |
| --- |
| **For and on behalf of The Purchasing Authority** |
| Signature |
| Print Name |
| Date |
| Position  (Budget Holder) |

# ANNEX ONE: Specification

(Guidance Note: to be defined by the Purchasing Authority and / or Beneficiary as detailed in the Call Off Order Form).

[Enter details of the purchase - example details are provided below (add and delete as appropriate):

* Subscription to the knowledge resources stated in the Agreement Title & Description.
* Unlimited and concurrent access.
* Authorised Users: defined as all eligible users under the [OpenAthens NHS Eligibility criteria](https://www.nice.org.uk/about/what-we-do/evidence-services/journals-and-databases/openathens/openathens-eligibility) within (geographic location / Trust name, org name / ICS name (deleted as appropriate).
* Format: platform name.
* Delivery Address and agreed shipment details: (for print books or journals)
* Content discovery requirements: (link resolvers; RDS; via IP address).
* Reporting and monitoring requirements from the Supplier: [e.g. COUNTER 5 stats Monthly/ annual review meeting]
* The Supplier’s helpdesk and support contact details.
* Technical specification for the provision of a database API, ability to integrate content into national or local Resource Discovery Systems (RDS)

# ANNEX TWO: Schedule for Northern Ireland Law

1. This Annex TWO: “Schedule for Northern Ireland Law” may be included as an annex to the “Call Off Order Form” to adapt the terms set out in the “Call Off Terms & Conditions” document, so that the Agreement is under Northern Ireland Law as follows:
2. Clause 25: **Staff Resources**:
   1. Clause 25.2: substitute “the Equality Act” with “Section 75 of the Northern Ireland Act 1998.”
   2. Clause 25.3: substitute “the Equality Act” with “Section 75 of the Northern Ireland Act 1998.”
3. Changes to Clause 32: **Dispute Resolution Procedure**:
   1. Clause 32.4: substitute the full clause 32.4 with the following wording: “If the Dispute is not resolved at that meeting, the Parties can attempt to settle it by mediation using the Dispute Resolution Service of Northern Ireland (DRS) Code of Practice current time at the time of the Dispute. If the Parties cannot agree on a mediator, the mediator will be nominated by DRS.”
   2. Clause 41: **Law**:
      1. Clause 41.1 the term “English courts” shall be replaced with “N. Ireland courts.”
      2. Clause 41.1 the term “English Law” shall be replaced with “the Law of Northern Ireland.”

# ANNEX THREE: Schedule for Scottish Law

1. This Annex TWO: “Schedule for Scottish Law” may be included as an annex to the “Call Off Order Form” to adapt the terms set out in the “Call Off Terms & Conditions” document, so that the Agreement is under Scottish Law as follows:
2. Clause 8: **Beneficiaries party to this Agreement**:
   1. Clause 8.2 the words “Contract (Rights of Third Parties) Act 1999” shall be replaced by “Contract (Third Party Rights) (Scotland) Act 2017 (CTPRSA)”.
3. Changes to Clause 32: **Dispute Resolution Procedure**:
   1. Clause 32.4: add the following wording: “The governing law and jurisdiction provisions of CEDR’s Model Mediation Agreement shall be deemed to be amended to refer to the laws of Scotland and the Court of Session.”
   2. Clause 41: **Law**:
      1. Clause 41.1 the term “English courts” shall be replaced with “Scottish courts.”
      2. Clause 41.1 the term “English Law” shall be replaced with ““the Law of Scotland.”

# ANNEX FOUR: Payment and Invoicing Schedule

The Supplier will invoice the Purchasing Authority or Beneficiary according to the schedule below for the Service(s) and Deliverable(s) provided and subject to invoicing terms in section 21: Invoicing and Payment to the “Call Off Terms & Conditions” document. Insert payment table below:

[Guidance Note: it is suggested a payment table is added stating when invoices are sent, their cost and any VAT value and when payment is due for payment, so this is clear for both parties]

# ANNEX FIVE: Beneficiaries Party to this Agreement

The Beneficiaries listed below shall be party to this Agreement and are the Beneficiaries to which the Purchasing Authority has purchased the Service(s) and Deliverable(s) as set out in the Specification (Annex ONE to the “Call Off Order Form”) in partnership, collaboration or consortia:

|  |  |  |
| --- | --- | --- |
| Organisation  (from Beneficiaries List) | Address | Contact Name of Beneficiary |
|  |  |  |
|  |  |  |
|  |  |  |

# ANNEX SIX: Additional Terms

(Guidance Note: The Purchasing Authority shall use this Annex SIX to set out the terms for any additional or amended terms to the” Call Off Terms & Conditions” or Service requirements which are not contained in the “Health & Social Care Content (HSCC) Licence” or the Publisher’s licence.

Example terms / clauses set out in this ANNEX Six might include in the event that the Purchasing Authority and Supplier agree:

* to amend any of the clauses under 29: Data Protection to “Call Off Terms & Conditions”, or replace with the Supplier’s Data Protection schedule, all amendments / additions should be clearly stated in this Annex;
* additional usage clauses which are not contained in the “Health & Social Care Content (HSCC) Licence”;
* continuous improvement service deliverables / timescales such as platform functionality enhancements;
* communications and marketing responsibilities, guidance criteria;
* additional or amended KPIs to those set out for either non-Agent supply or Agent supply core standards on the Framework website (**buyers should note that all essential requirements are non-negotiable**.)

If no additional terms are required, then this Annex is marked NOT USED.)

# ANNEX SEVEN: Personal Data Processing Instructions for Authentication

(Guidance Note – this annex should be completed by the Purchasing Authority in conjunction with clauses 29. Data Protection of the “Call Off Order Terms & Conditions” for the agreed authentication method required to access the Service(s) and Deliverable(s). The guidance provided for each section in the table below is for completion when using NHS Open Athens authentication and may need to be amended as appropriate to authentication method to be used.)

**Please note: that this annex is worded solely for access and authentication via NHS Open Athens in England ONLY. Please amend or add an additional table for access and authentication via alternative routes e.g. IP, supplier logon / password.**

For Personal Data passed to the Supplier through the OpenAthens Authentication System

|  |  |
| --- | --- |
| **Subject matter of the processing** | Granting and allowing access to the Licensed Materials using attributes passed to the Supplier from the OpenAthens authentication service” |
| **Duration of the processing** | From the Commencement date to one month after the Expiry date  (Guidance Note: One month after the Expiry date allows for an orderly closedown of service and resolution of issues. Can be amended as required). |
| **Purposes of the processing** | Where the Supplier requires any personal identifiable attributes from the OpenAthens authentication service, the Supplier may only use such attributes for the purposes of allowing access to Licensed Materials for that individual and no other. |
| **Nature of the processing** | The Supplier may only use personal identifiable data for the purposes of allowing access to Licensed Materials for that individual and no other. |
| **Type of Personal Data** | The following attributes from the Open Athens authentication service: Persistent user identifier; Organisation ID; Entitlement; Role. |
| **Categories of Data Subject** | Eligible persons as defined on the NICE Framework website.at: https://www.nice.org.uk/about/what-we-do/evidence-services/journals-and-databases/openathens/openathens-eligibility) |
| **Plan for return and destruction of the data once the processing is complete** | Unless there is a statutory obligation to preserve the data the Supplier shall not store personal identifiable attributes. The attributes will be deleted on the closing of each user session. |

# ANNEX EIGHT: Variation to Agreement - Template

Schedule 1 to the Agreement between the Purchasing Authority and the Supplier of                  on the Day of 20 (“the Agreement”).

For the purposes of this Memorandum of Agreement:

| the “Purchasing Authority Commissioning Manager” | means the individual from time to time appointed by the Purchasing Authority and notified to the Supplier in writing responsible for the co-ordination of the development specified below; |
| --- | --- |

This Memorandum of Agreement, pertain to the development of [add details] (the “Services and Deliverables”) to be undertaken by the Supplier and is agreed by the Supplier and the Purchasing Authority as a current addition to Annex ONE to the Call Off Order Form.

The Development Services and Supply will:

be developed by the Supplier in compliance with the Specification or annex(es) contained in this Memorandum, and

be developed and delivered in accordance with the terms and conditions of the Agreement.

This Development Services and Supply consists of:

**[To be completed]**

The Scope and this Memorandum may only be varied with the prior written agreement of the Purchasing Authority, such agreement (if given) not to be unreasonably delayed.

The Milestones for deliverables which are required by the Purchasing Authority are detailed in this Memorandum. The Purchasing Authority requires, and the Supplier will deliver [annually, quarterly, monthly] a Monitoring Report in the form and by the times set out within the Schedule for Reporting & Monitoring.

Milestones

| Due Date | Milestone |
| --- | --- |
|  |  |
|  |  |
|  |  |

The Supplier shall be deemed to have completed a Milestone by the Due Date notwithstanding any delay beyond the Due Date if such delay would not have occurred but for any act or omission of the Purchasing Authority, anything done or omitted to be done on the Purchasing Authority instructions or any other act or omission of a third party which was beyond the reasonable control of the Supplier (for the avoidance of doubt such third parties do not include the Supplier’s sub-Contractors,).

Terms defined in the Agreement shall bear the same meanings in this Memorandum of Agreement, unless otherwise stated, or the context otherwise requires.

| Signature on behalf of the Supplier  Name  Title  Date | Signature on behalf of the Purchasing Authority  Name  Title  Date |
| --- | --- |

# ANNEX NINE: Supplier’s Data Protection Schedule

(Guidance Note – this annex is provided to place the Supplier’s Data Protection Schedule where agreed by the Purchasing Authority. Some knowledge resources are based outside the UK and the Supplier sometimes require separate Data Protection requirements to be signed up to.)