

# NATIONAL INSTITUTE FOR HEALTH AND CARE EXCELENCE CONSULTANCY AGREEMENT FOR SPECIFIC PROJECT SERVICES

## 1. BASIC DETAILS

1.	NAME AND ADDRESS OF CONTRACTOR (including Company Registration Number if relevant)	W & J Linney Limited (Company number: 00137552) Registered address: Adamsway, Mansfield, Nottinghamshire, NG18 4FW			
2.	DESCRIPTION OF CONTRACTOR	Multichannel marketing services company			
3.	DESCRIPTION OF PROJECT SERVICES	Provision of storage and distribution of the BNF service			
4.	NICE BUDGET HOLDER	<div style="background-color: black; width: 150px; height: 1.2em; display: inline-block;"></div>			
5.	NICE PROJECT MANAGER	<div style="background-color: black; width: 120px; height: 1.2em; display: inline-block;"></div>			
6.	NOMINATED MANAGER OF CONTRACTOR	<div style="background-color: black; width: 130px; height: 1.2em; display: inline-block;"></div>			
7.	CONTRACTOR AUTHORISED SIGNATORY	<div style="background-color: black; width: 110px; height: 1.2em; display: inline-block;"></div>			
8.	DATE AGREEMENT SIGNED	<table border="1" style="display: inline-table; border-collapse: collapse; text-align: center;"> <tr> <td style="width: 33px;">D</td> <td style="width: 33px;">M</td> <td style="width: 33px;">Y</td> </tr> </table>	D	M	Y
D	M	Y			
9.	DATE AGREEMENT COMES INTO EFFECT (IF DIFFERENT FROM ABOVE)	<table border="1" style="display: inline-table; border-collapse: collapse; text-align: center;"> <tr> <td style="width: 33px;">01</td> <td style="width: 33px;">04</td> <td style="width: 33px;">2023</td> </tr> </table>	01	04	2023
01	04	2023			
10.	DATE AGREEMENT ENDS (IF FIXED DATE)	<table border="1" style="display: inline-table; border-collapse: collapse; text-align: center;"> <tr> <td style="width: 33px;">31</td> <td style="width: 33px;">03</td> <td style="width: 33px;">2026</td> </tr> </table>	31	03	2026
31	03	2026			
1.11.	CONTRACT NUMBER	<div style="background-color: black; width: 100px; height: 1.2em; display: inline-block;"></div>			
1.12	PROJECT NUMBER	<div style="background-color: black; width: 70px; height: 1.2em; display: inline-block;"></div>			

IT IS AGREED AS FOLLOWS

## 2. DEFINITIONS

<b>"Agreement"</b>	this Agreement and any Annexes attached to it.
<b>"Controller"</b>	means the natural or legal person, public authority, agency or other body which, alone or jointly with others, determines the purposes and means of the processing of personal data; where the purposes and means of such processing are determined by Union or Member State law, the controller or the specific criteria for its nomination may be provided for by Union or Member State law
<b>"Data Subject Access Request"</b>	Means a request made by, or on behalf of, a Data Subject in accordance with rights granted pursuant to the Data Protection Legislation to access their Personal Data.
<b>"Data Protection Impact Assessment"</b>	means an assessment by the Controller of the impact of the envisaged processing on the protection of Personal Data.
<b>"Data Protection Legislation"</b>	means (i) the UK GDPR, the LED and any applicable national implementing Laws as amended from time to time (ii) the DPA 2018 to the extent that it relates to processing of personal data and privacy; (iii) all applicable Law about the processing of personal data and privacy;
<b>"Data Subject, Data Protection Officer"</b>	the meaning given in the UK GDPR, DAP 2018
<b>"Data Loss Event"</b>	Means any event that results, or may result, in unauthorised access to Personal Data held by the Contractor under this Agreement, and/or actual or potential loss and/or destruction of Personal Data in breach of this Agreement, including any Personal Data Breach.
<b>"DPA 2018"</b>	means Data Protection Act 2018
<b>"UK GDPR"</b>	means the General Data Protection Regulation (Regulation (EU) 2016/679)
<b>"LED"</b>	means Law Enforcement Directive (Directive (EU) 2016/680)

<b>"NICE"</b>	The National Institute for Health and Care Excellence, Level 1A, City Tower, Piccadilly Plaza, Manchester. M1 4BT
<b>"NICE Distribution Partner"</b>	The Contractor
<b>"NICE Mailing List Partner"</b>	The Supplier which provides the Contractor with the BNF Mailing Database. The NICE Mailing List Partner is in contract with NICE and is the Intellectual Property owner of the BNF Mailing List Database and Controller under UK GDPR of all Personal Data held within the Database
<b>"Personal Data"</b>	means any information relating to an identified or identifiable natural person ('data subject'); an identifiable natural person is one who can be identified, directly or indirectly, in particular by reference to an identifier such as a name, an identification number, location data, an online identifier or to one or more factors specific to the physical, physiological, genetic, mental, economic, cultural or social identity of that natural person
<b>"Personal Data Breach"</b>	means a breach of security leading to the accidental or unlawful destruction, loss, alteration, unauthorised disclosure of, or access to, personal data transmitted, stored or otherwise processed
<b>"Processing"</b>	means any operation or set of operations which is performed on personal data or on sets of personal data, whether or not by automated means, such as collection, recording, organisation, structuring, storage, adaptation or alteration, retrieval, consultation, use, disclosure by transmission, dissemination or otherwise making available, alignment or combination, restriction, erasure or destruction
<b>"Processor"</b>	means a natural or legal person, public authority, agency or other body which processes personal data on behalf of the controller

<b>“Protective Measures”</b>	means appropriate technical and organisational measures which may include: pseudonymising and encrypting Personal Data, ensuring confidentiality, integrity, availability and resilience of systems and services, ensuring that availability of and access to Personal Data can be restored in a timely manner after an incident, and regularly assessing and evaluating the effectiveness of the such measures adopted by it.
<b>“Sub-processor”</b>	means any third Party appointed to process Personal Data on behalf of the Contractor related to this Agreement
<b>"the Contractor"</b>	the person in 1.1 or any partner, employee, agent, sub-contractor or other lawful representative of the person in 1.1.
<b>"the Milestones"</b>	the milestones as set out in Annex 2.
<b>"the Project Services"</b>	the Project Services set out in 1.3 as more fully described in Annex 1.

### **3. AGREEMENT**

- 3.1. In consideration of NICE making certain payments to the Contractor, the Contractor has agreed to provide the Project Services to NICE on the terms and conditions of this Agreement.
- 3.2. The payments for the Project Services are fixed and no further payments shall be made by NICE.

### **4. OBLIGATIONS OF THE CONTRACTOR**

#### **4.1. The Project Services**

- 4.1.1. The Contractor shall carry out the Project Services in accordance with Annex 1 and to a quality acceptable to NICE.
- 4.1.2. No material changes to the Project Services shall be permitted without the written consent of NICE Project Manager.
- 4.1.3. The Contractor shall use its best endeavours to achieve the milestones set out in Annex 2 ("the Milestones").

#### **4.2. Sub-Contractors**

- 4.2.1. The Contractor shall agree with NICE the use of any sub-contractor to carry out any part of the Project Services.

- 4.2.2. The Contractor shall ensure that any sub-contractor it uses adheres to the obligations of this Agreement as if the sub-contractor were the Contractor.

#### **4.3. Instructions**

- 4.3.1. The Contractor shall comply fully with the instructions of the Project Manager and, if the Contractor is working in NICE, with the office rules of NICE.

#### **4.4. Financial Control**

- 4.4.1. The Contractor shall keep accurate books and accounts in respect of the Project Services and, if requested in writing by NICE, shall (at its own expense) have them certified by a professional firm of auditors.
- 4.4.2. The Contractor shall permit NICE to inspect and take copies (at NICE's expense) of any financial information or records NICE requires which relate to this Agreement.

#### **4.5. Communication**

- 4.5.1. The Contractor shall ensure that all communications with NICE concerning the Project Services shall only be between the nominated representatives of both Parties, that is, NICE Project Manager who shall be the Manager nominated by NICE from its own staff or such other person as NICE shall nominate in writing, and the nominated manager of the Contractor.

#### **4.6. Laws and Regulation**

- 4.6.1. The Contractor shall adhere to all laws and regulations relating to the provision of the Project Services.
- 4.6.2. The Contractor shall comply in all material respects with applicable environmental laws and regulations in force from time to time in relation to the Services. Where the provisions of any such legislation are implemented by the use of voluntary agreements or codes of practice, the Contractor shall comply with such agreements or codes of practices as if they were incorporated into English law subject to those voluntary agreements being cited in tender documentation.
- 4.6.3. While at NICE's Offices, the Contractor shall comply, and shall ensure that its employees comply with, the requirements of relevant Health and Safety and other relevant legislation, including regulations and codes of practice issued thereunder,

and with NICE's and any Beneficiary's own policies and procedures.

- 4.6.4. The Contractor shall at all times maintain a specific Health and Safety at Work policy relating to the employment of his own staff whilst carrying out their duties in relation to the Contract on the NICE's or any Beneficiary's premises. The Contractor shall ensure the co-operation of its employees in all prevention measures designed against fire, or any other hazards, and shall notify NICE's of any change in the Contractor's working practices or other occurrences likely to increase such risks or to cause new hazards.

#### **4.7. Taxation**

- 4.7.1. Where the Contractor or Key Individuals supplied by the Contractor are liable to be taxed in the UK in respect of consideration received under this contract, the Contractor shall, and ensure that the Key Individuals shall, at all times comply with the Income Tax (Earnings and Pension) Act 2003 (ITEPA) and all other statutes and regulations relating to income tax in respect of that consideration.
- 4.7.2. Where the Contractor or Key Individuals are liable for National Insurance Contributions (NICs) in respect of consideration received under this contract, , the Contractor shall, and ensure that the Key Individuals shall, at all times comply with the Social Security Contributions and Benefits Act 1992 (SSCBA) and all other statutes and regulations relating to NICs in respect of that consideration.
- 4.7.3. NICE may, at any time during the term of this contract, request the Contractor to provide information which demonstrates:
- (a) how the Contractor or the Key Individuals comply with clauses 4.7.1 and 4.7.2 above; or why
  - (b) Clauses 4.7.1 and 4.7.2 are not applicable to the Contractor or the Key Individuals.
- 4.7.4. Where applicable, a request under clause 4.7.3 above may specify the information which the Contractor or the Key Individuals must provide and the period within which that information must be provided.
- 4.7.5. NICE may terminate this Contract if:

- (a) in the case of a request mentioned in clause 4.7.3 above:-
  - (i) The Contractor or the Key Individuals fails to provide information in response to the request within twenty [20] days, or
  - (ii) The Contractor or the Key Individuals provides information which is inadequate to demonstrate either compliance with clauses 4.7.1 and 4.7.2 above or why these clauses do not apply to either the Contractor or the Key Individuals;
- (b) in the case of a request mentioned in clause 4.7.4 above the Contractor fails to provide the specified information within twenty [20] days, or
- (c) it receives information which demonstrates that, at any time when clauses 4.7.1 and 4.7.2 apply to the Contractor, the Contractor is not complying with those clauses.

4.7.6. NICE may supply any information which it receives under Clause 4.7.3 to the Commissioners of Her Majesty's Revenue and Customs for the purpose of the collection and management of revenue for which they are responsible.

## **5. OBLIGATIONS OF NICE**

### **5.1. Monitoring**

5.1.1. NICE shall monitor the provision of the Project Services at its discretion. To assist in this, the Contractor shall provide such written reports as NICE shall reasonably request.

## **6. TERM**

6.1. Except for those clauses 10, 12 and 16 which shall continue after this Agreement terminates, this Agreement shall begin on the date set out in clauses 1.8 or 1.9 and end on the date set out in clause 1.10. If there is no date in clause 1.10 then this Agreement shall continue until the Project Services are completed to the satisfaction of NICE or such other time as shall be notified by NICE to the Contractor.

## **7. PAYMENT**

7.1. Subject to the due performance of the Contractor's obligations, NICE will pay all invoices submitted by the Contractor in accordance with Annex 4 within 30 days of their receipt.

- 7.2. The Contractor shall send all invoices, clearly quoting the contract number, to [REDACTED] alternatively the Contractor can register with [REDACTED] to send invoices electronically and have access to [REDACTED] updates of the progress of invoices.
- 7.3. Invoices sent to NICE shall be accurate and correct in all respects.
- 7.4. NICE reserves the unconditional right to withhold payment of the final invoice or invoices until the Project Services are successfully concluded to the satisfaction of NICE and NICE receives a copy of any relevant work created as a result of the Project Services in a form acceptable to the NICE.

## **8. STAFF AND RESOURCES**

- 8.1. The Contractor shall be fully responsible in every way for all its staff and all consultants (whether part-time or full-time).
- 8.2. The Contractor shall ensure that it complies with all current employment legislation and in particular, does not unlawfully discriminate within the meaning of the Equality Act 2010 (as amended) the Part Time Workers (Prevention of Less Favourable Treatment) Regulations 2000, the Fixed Term Employees (Prevention of Less Favourable Treatment) Regulations 2002, or any other relevant legislation relating to discrimination in the employment of employees for the purpose of providing the Services. The Contractor shall take all reasonable steps (at its own expense) to ensure that any employees employed in the provision of the Services do not unlawfully discriminate within the meaning of this Clause 8.2 and shall impose on any sub-contractor obligations substantially similar to those imposed on the Contractor by this Clause 8.2; and
- 8.3. in the management of its affairs and the development of its equality and diversity policies, the Contractor shall co-operate with NICE in respect of NICE's obligations to comply with statutory equality duties. The Contractor shall take such steps as NICE considers appropriate to promote equality and diversity, including race equality, equality of opportunity for disabled people, gender equality, and equality relating to religion and belief, sexual orientation and age in the provision of the Services.
- 8.4. The Contractor shall notify NICE immediately of any investigation of or proceedings against the Contractor under the Equality Act 2010 and shall cooperate fully and promptly with any requests of the person or body conducting such investigation or proceedings, including allowing access to any documents or data required, attending any meetings and providing any information requested.

- 8.5. The Contractor shall indemnify NICE against all costs, claims, charges, demands, liabilities, damages, losses and expenses incurred or suffered by NICE arising out of or in connection with any investigation conducted or any proceedings brought under the Equality Act 2010 due directly or indirectly to any act or omission by the Contractor, its agents, employees or sub-contractors.
- 8.6. The Contractor shall impose on any sub-contractor obligations substantially similar to those imposed on the Contractor by this Clause 8.
- 8.7. NICE shall have the right to be consulted on what staff will be appointed to provide the Project Services.
- 8.8. The Contractor undertakes to NICE that any person assigned to NICE to supply the Project Services is a full-time employee of the Contractor and that employee shall not be transferred from this assignment without the prior written consent of NICE.

## **9. INSURANCE**

- 9.1. The Contractor shall maintain an appropriate insurance policy to cover its liabilities to NICE under this Agreement.
- 9.2. The Contractor shall supply a copy of any relevant insurance policy to NICE together with proof of payments of all premiums if required.

## **10. INTELLECTUAL PROPERTY AND COPYRIGHT**

- 10.1. The Contractor recognises that the Intellectual Property and Copyright in the mailing list provided to the Contractor from the NICE Mailing List Partner belongs to the NICE Mailing List Partner.
- 10.2. The Contractor recognises that the Intellectual Property and Copyright in the mailing list provided to the Contractor from NICE belongs to the NICE.
- 10.3. Save for software which shall remain the property of the Contractor, the Contractor recognises that the Intellectual Property and Copyright of any work which is created as a result of the Project Services by the Contractor or its servants, agents, consultants or independent contractors shall belong to NICE.
- 10.4. In consideration of NICE paying for the Project Services the Contractor with full title guarantee assigns or agrees to procure the assignment to NICE of all vested contingent and future Intellectual Property rights and Copyright (save for the Software) in any work created as a result of the Project Services to hold to NICE its successors and assigns absolutely throughout the world for the full period of those rights.

- 10.5. The Contractor warrants to NICE that in relation to any work created by itself, its servants, agents, consultants or independent contractors, as a result of the Project Services, that:-
- 10.5.1. such work is not a violation of any existing copyright anywhere;
  - 10.5.2. such work does not contain anything objectionable, obscene or libellous;
  - 10.5.3. all statements contained in any such work which purport to be facts are true.
- 10.6. If the Contractor incorporates any copyrightable work in any work it produces or has produced on its behalf then it shall ensure that appropriate permissions to use that work are obtained in writing. The NICE Project Manager shall have the right to see such permissions.
- 10.7. Use of any software provided by the Contractor shall be subject to the terms of the standard software licence of the Contractor or any relevant third party (as the case may be).

## **11. PUBLIC REPUTATION OF THE PARTIES**

- 11.1. Both Parties recognise the other Party's public reputation and legal responsibilities. Each Party shall use all reasonable endeavours not to harm or compromise these.
- 11.2. The parties acknowledge that, except for any information which is exempt from disclosure in accordance with the provisions of the FOIA and/or the DPA, the content of this Contract is not Confidential Information. NICE shall be responsible for determining in its absolute discretion whether any of the content of the Contract is exempt from disclosure in accordance with the provisions of the FOIA and/or the DPA.
- 11.3. Notwithstanding any other term of this Contract, the Contractor hereby gives his consent for NICE to publish the Contract in its entirety, including from time to time agreed changes to the Contract, to the general public. And agrees to the public re-use of the documents provided that such reuse cites the source and do not misuse or deliberately mislead.

## **12. CONFIDENTIALITY**

- 12.1. In respect of any Confidential Information it may receive from the other party ("the Discloser") and subject always to the remainder of this clause 12, each party ("the Recipient") undertakes to keep secret and strictly confidential and shall not disclose any such Confidential

Information to any third party, without the Discloser's prior written consent provided that:

- 12.2. the Recipient shall not be prevented from using any general knowledge, experience or skills which were in its possession prior to the commencement of the Contract;
- 12.3. the provisions of this clause 12 shall not apply to any Confidential Information which:
  - (a) is in or enters the public domain other than by breach of the Contract or other act or omissions of the Recipient;
  - (b) is obtained by a third party who is lawfully authorised to disclose such information; or
  - (c) is authorised for release by the prior written consent of the Discloser; or
  - (d) the disclosure of which is required to ensure the compliance of NICE with the Freedom of Information Act 2000 (the FOIA).
- 12.4. Nothing in this clause 12 shall prevent the Recipient from disclosing Confidential Information where it is required to do so by judicial, administrative, governmental or regulatory process in connection with any action, suit, proceedings or claim or otherwise by applicable law or, where the Contractor is the Recipient, to the Contractor's immediate or ultimate holding company provided that the Contractor procures that such holding company complies with this clause 12 as if any reference to the Contractor in this clause 12 were a reference to such holding company.
- 12.5. The Contractor authorises NICE to disclose the Confidential Information to such person(s) as may be notified to the Contractor in writing by NICE from time to time to the extent only as is necessary for the purposes of auditing and collating information so as to ascertain a realistic market price for the goods supplied in accordance with the Contract, such exercise being commonly referred to as "benchmarking". NICE shall use all reasonable endeavours to ensure that such person(s) keeps the Confidential Information confidential and does not make use of the Confidential Information except for the purpose for which the disclosure is made. NICE shall not without good reason claim that the lowest price available in the market is the realistic market price.
- 12.6. The Contractor acknowledges that NICE is or may be subject to the FOIA. The Contractor notes and acknowledges the FOIA and both the respective Codes of Practice on the Discharge of Public Authorities' Functions and on the Management of Records (which are issued under section 45 and 46 of the FOIA respectively) and the Environmental

Information Regulations 2004 as may be amended, updated or replaced from time to time. The Contractor will act in accordance with the FOIA, these Codes of Practice and these Regulations (and any other applicable codes of practice or guidance notified to the Contractor from time to time) to the extent that they apply to the Contractor's performance under the Contract.

12.7. The Contractor agrees that:

- 12.7.1. Without prejudice to the generality of clause 12.2, the provisions of this clause 12 are subject to the respective obligations and commitments of NICE under the FOIA and both the respective Codes of Practice on the Discharge of Public Authorities' Functions and on the Management of Records (which are issued under section 45 and 46 of the FOIA respectively) and the Environmental Information Regulations 2004;
- 12.7.2. subject to clause 12.7.3, the decision on whether any exemption applies to a request for disclosure of recorded information is a decision solely for NICE;
- 12.7.3. where NICE is managing a request as referred to in clause 12.7.2, the Contractor shall co-operate with NICE and shall respond within five (5) working days of any request by it for assistance in determining how to respond to a request for disclosure.

12.8. The Contractor shall and shall procure that its sub-contractors shall:

- 12.8.1. transfer any request for information, as defined under section 8 of the FOIA, to NICE as soon as practicable after receipt and in any event within five (5) working days of receiving a request for information;
- 12.8.2. provide NICE with a copy of all information in its possession or power in the form that NICE requires within five (5) working days (or such other period as NICE or a Beneficiary may specify) of NICE or a Beneficiary requesting that Information; and
- 12.8.3. provide all necessary assistance as reasonably requested by NICE to enable NICE to respond to a request for information within the time for compliance set out in section 10 of the FOIA.

- 12.9. NICE may consult the Contractor in relation to any request for disclosure of the Contractor's Confidential Information in accordance with all applicable guidance.
- 12.10. This clause 12 shall remain in force without limit in time in respect of Confidential Information which comprises Personal Data or which relates to a patient, his or her treatment and/or medical records. Save as aforesaid and unless otherwise expressly set out in the Contract, this clause 12 shall remain in force for a period of 3 years after the termination or expiry of this Contract.
- 12.11. In the event that the Contractor fails to comply with this clause 12, NICE reserves the right to terminate the Contract by notice in writing with immediate effect.

### **13. Data Protection**

- 13.1. The Contractor shall comply with the Data Protection Legislation. In particular the Contractor agrees to comply with the obligations placed on NICE as set out in Data Protection Legislation, namely:
- 13.1.1. to maintain technical and organisational security measures sufficient to comply with the obligations imposed on NICE and the Contractor by the Data Protection Legislation.
  - 13.1.2. only to process Personal Data for and on behalf of NICE, in accordance with the instructions of NICE as describe in Annex 5 and for the purpose of performing the Services in accordance with the Contract and to ensure compliance with the Data Protection Legislation.
- 13.2. The Parties acknowledge that for the purposes of the Data Protection Legislation, NICE is the Controller of any mailing list provided to the Contractor by NICE, the NICE Mailing List Partner is the Controller of any mailing list provided to the Contractor by the NICE Mailing List Partner and, the Contractor is the Processor of both mailing lists.
- 13.3. The Contractor shall only process Personal Data as authorised by NICE and described in Annex 5 and shall not process or use the Personal Data for any other purpose. The details in Annex 5 may not be determined by the Contractor.
- 13.4. The Contractor shall notify NICE immediately if it considers that any of NICE instructions infringe the Data Protection Legislation.
- 13.5. The Contractor shall provide all reasonable assistance to NICE in the preparation of any Data Protection Impact Assessment prior to commencing any processing. Such assistance may, at the discretion of NICE, include:

- 13.5.1. a systematic description of the envisaged processing operations and the purpose of the processing;
  - 13.5.2. an assessment of the necessity and proportionality of the processing operations in relation to the Services;
  - 13.5.3. an assessment of the risks to the rights and freedoms of Data Subjects; and
  - 13.5.4. the measures envisaged to address the risks, including safeguards, security measures and mechanisms to ensure the protection of Personal Data.
- 13.6. The Contractor shall, in relation to any Personal Data processed in connection with its obligations under this Agreement:
- 13.6.1. process that Personal Data only in accordance with Annex 5, unless the Contractor is required to do otherwise by Law. If it is so required the Contractor shall promptly notify NICE before processing the Personal Data unless prohibited by Law;
  - 13.6.2. ensure that it has in place Protective Measures, which have been reviewed and approved by NICE as appropriate to protect against a Data Loss Event having taken account of the:
    - a) nature of the data to be protected;
    - b) harm that might result from a Data Loss Event;
    - c) state of technological development; and
    - d) cost of implementing any measures;
  - 13.6.3. ensure that:
    - a) the Contractor Personnel do not process Personal Data except in accordance with this Agreement (and in particular Annex 5);
    - b) it takes all reasonable steps to ensure the reliability and integrity of any Contractor Personnel who have access to the Personal Data and
    - c) ensure that they:
      - i. are aware of and comply with the Contractor's duties under this clause;
      - ii. are subject to appropriate confidentiality undertakings with the Contractor or any Sub-processor;

- iii. are informed of the confidential nature of the Personal Data and do not publish, disclose or divulge any of the Personal Data to any third Party unless directed in writing to do so by NICE or as otherwise permitted by this Agreement; and
  - iv. have undergone adequate training in the use, care, protection and handling of Personal Data; and
- d) not transfer Personal Data outside of the EU unless the prior written consent of NICE has been obtained and the following conditions are fulfilled:
  - i. NICE or the Contractor has provided appropriate safeguards in relation to the transfer (whether in accordance with UK GDPR Article 46 or LED Article 37) as determined by the NICE;
  - ii. the Data Subject has enforceable rights and effective legal remedies;
  - iii. the Contractor complies with its obligations under the Data Protection Legislation by providing an adequate level of protection to any Personal Data that is transferred (or, if it is not so bound, uses its best endeavours to assist NICE in meeting its obligations); and
  - iv. the Contractor complies with any reasonable instructions notified to it in advance by NICE with respect to the processing of the Personal Data;
- e) at the written direction of the NICE, delete or return Personal Data (and any copies of it) to NICE on termination of the Agreement unless the Contractor is required by Law to retain the Personal Data.

13.7. Subject to clause 13.8, the Contractor shall notify NICE immediately if it:

- a) receives a Data Subject Access Request (or purported Data Subject Access Request);
- b) receives a request to rectify, block or erase any Personal Data;
- c) receives any other request, complaint or communication relating to either Party's obligations under the Data Protection Legislation;
- d) receives any communication from the Information Commissioner or any other regulatory authority in connection with Personal Data processed under this Agreement;

- e) receives a request from any third Party for disclosure of Personal Data where compliance with such request is required or purported to be required by Law;
  - or
  - f) becomes aware of a Data Loss Event.
- 13.8. The Contractor's obligation to notify under clause 13.7 shall include the provision of further information to NICE in phases, as details become available.
- 13.9. Taking into account the nature of the processing, the Contractor shall provide NICE with full assistance in relation to either Party's obligations under Data Protection Legislation and any complaint, communication or request made under clause 13.7 (and insofar as possible within the timescales reasonably required by the NICE) including by promptly providing:
- 13.9.1. NICE with full details and copies of the complaint, communication or request;
  - 13.9.2. such assistance as is reasonably requested by NICE to enable NICE to comply with a Data Subject Access Request within the relevant timescales set out in the Data Protection Legislation;
  - 13.9.3. NICE, at its request, with any Personal Data it holds in relation to a Data Subject;
  - 13.9.4. assistance as requested by NICE following any Data Loss Event;
  - 13.9.5. assistance as requested by NICE with respect to any request from the Information Commissioner's Office, or any consultation by NICE with the Information Commissioner's Office.
- 13.10. The Contractor shall maintain complete and accurate records and information to allow NICE to audit the Contractor's compliance with the requirements of this Clause 13 on reasonable notice and/or to provide NICE with evidence of its compliance with the obligations set out in this Clause 16 and to demonstrate its compliance with this clause.
- 13.11. The Contractor shall allow for audits of its Data Processing activity by NICE or NICE's designated auditor.
- 13.12. The Contractor shall designate a data protection officer if required by the Data Protection Legislation.

13.13. Before allowing any Sub-processor to process any Personal Data related to this Agreement, the Contractor must:

13.13.1. notify NICE in writing of the intended Sub-processor and processing;

13.13.1.1. obtain the written consent of NICE;

13.13.1.2. enter into a written agreement with the Sub-processor which give effect to the terms set out in this clause 13 such that they apply to the Sub-processor; and

13.13.1.3. provide NICE with such information regarding the Sub-processor as NICE may reasonably require.

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

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

13.16. The Parties agree to take account of any guidance issued by the Information Commissioner's Office. NICE may on not less than 30 Working Days' notice to the Contractor amend this agreement to ensure that it complies with any guidance issued by the Information Commissioner's Office.

13.17. The Contractor agrees to indemnify and keep indemnified NICE against all claims and proceedings and all liability, loss, costs and expenses incurred in connection therewith by NICE and any Beneficiary as a result of any claim made or brought by any individual or other legal person in respect of any loss, damage or distress caused to that individual or other legal person as a result of the Contractor's unauthorised processing, unlawful processing, destruction of and/or damage to any Personal Data processed by the Contractor, its employees or agents in the Contractor's performance of the Contract or as otherwise agreed between the Parties.

#### **14. GIFTS AND PAYMENTS OF COMMISSION**

14.1. The Contractor shall not offer or give to any member of staff of NICE or a member of their family any gift or consideration of any kind (including the payment of commission) as an inducement or reward for doing something or not doing something or for having done something or

having not done something in relation to the obtaining of or execution of this Agreement or any Agreement with NICE. This prohibition specifically includes the payment of any fee or other consideration for any work in respect of or in connection with the Project Services carried out by a member of staff of NICE to that member of staff or to a member of their family.

- 14.2. Any breach of this condition by the Contractor or anyone employed by the Contractor (with or without the knowledge of the Contractor) or the commission of any offence under the Bribery Act 2010 shall entitle NICE to terminate this Agreement immediately and/or to recover from the Contractor any payment made to the Contractor.

## **15. INDEMNITY**

- 15.1. If the Contractor shall breach this Agreement in any way then it shall fully indemnify NICE from any losses, costs, damages or expenses of any kind, whether direct or indirect, which arise out of or are connected with that breach.

## **16. LIMITATION OF LIABILITY**

- 16.1. NICE shall not be liable to the Contractor for any indirect or consequent loss, damage, injury or costs whatsoever which arise out of or are connected with NICE's adherence or non-adherence to the terms and conditions of this Agreement. Except in the case of death or personal injury caused by negligence, and fraudulent misrepresentation or in other circumstances where liability may not be so limited under any applicable law.
- 16.2. Save in relation to any breach of clause 10.5.1 or any claim under clause 13 the Contractor's total liability to NICE under this Agreement and any claim arising under or in relation to it (including, for the avoidance of doubt any claim in tort) shall not exceed £2,000,000 (two million pounds).

## **17. TERMINATION**

This Agreement shall terminate in the following circumstances -

### **17.1. Breach**

- 17.1.1. In the event that either Party fails to observe or perform any of its obligations under this Agreement in any way then the other Party may end this Agreement on 30 days written notice; but
- 17.1.2. If the breach complained of by a Party, cannot be remedied to the satisfaction of that Party, then this Agreement shall end immediately on the service of such notice on the other Party;

- 17.1.3. In every other case if the breach complained of is remedied to the satisfaction of a Party within the notice period this Agreement shall not end;

## **17.2. Repeat of Breach**

- 17.2.1. Either Party reserves the right to end this Agreement immediately by written notice if a Party repeats any breach of this Agreement after receiving a written notice from the other Party warning that repetition of the breach shall or may lead to termination (whether or not the repeated breach is remedied within 30 days);

## **17.3. Insolvency**

- 17.3.1. This Agreement shall end immediately if the Contractor goes into liquidation or suffers a receiver or administrator to be appointed to it or to any of its assets or makes a composition with any of its creditors, or is in any other way unable to pay its debts;

## **17.4. Change of Management Control**

- 17.4.1. NICE reserves the right to immediately end this Agreement upon any change of the Contractor's management or control within 28 days of NICE finding out of such change. The Contractor shall promptly notify NICE of any such change of management or control.

## **17.5. Unsatisfactory Evaluation of the Project Services**

- 17.5.1. In the event that the outcome of any evaluation of the Project Services carried out by NICE under this Agreement is unsatisfactory NICE may terminate this Agreement on 30 days' written notice.

## **17.6. Termination without cause**

- 17.6.1. In addition to its rights under any other provision of the contract NICE may terminate the contract at any time by giving the contractor three months' written notice

## **18. MISCELLANEOUS**

It is further agreed between the Parties:

### **18.1. Waiver**

- 18.1.1. No waiver or delay in acting upon or by NICE of any of the requirements of this Agreement shall release the Contractor

from full performance of its remaining obligations in this Agreement.

## **18.2. Whole Agreement**

18.2.1. The Parties acknowledge that this Agreement contains the whole Agreement between the Parties and supersedes all previous agreements whether express or implied.







## **18.3. Variation**

18.3.1. This Agreement cannot be varied except in writing and signed by the lawful representatives of both Parties.



## **18.4. Governing Law**

18.4.1. This Agreement shall be governed in all respects by English Law.

**Signed for and on behalf of NICE**

	<b>Signature</b>	<b>Name and title</b>	<b>Date</b>
<b>Procurement</b>		 Associate Director of Procurement	04 Apr 2023
<b>Contract Manager</b>		 Business Programme Manager	30 Mar 2023
<b>Budget Holder</b>		 Programme Director	04 Apr 2023

**Signed for and on behalf of the Provider**

	<b>Signature</b>	<b>Name and title</b>	<b>Date</b>
<b>Authorised Signatory:</b>		 Managing Director	30 Mar 2023

**This contract is not valid until all Signatures have been completed**

## **ANNEX 1**

### **The Project Services, Business Objectives and Deliverables**

#### **BNF publications distribution**

The contractor shall develop and manage systems and processes for the storage and distribution of the BNF publications to all eligible healthcare professionals (for eligibility, see Annex 6). This shall include the annual BNF campaign distribution, ad-hoc monthly deliveries, returns processing, enquiry handling and joint working with the BNF Mailing Database Provider.

The contract shall start on 1<sup>st</sup> April 2023 and end on 31<sup>st</sup> March 2026 with an option to extend for 2 x 12 month period.

#### **Activities**

##### **1. Storage**

- a) The NICE Business Programme Manager shall be informed immediately upon receipt of the annual campaign distribution of the BNF publications.
- b) Delivery slots shall be agreed between the Contractor and the BNF Publications partner, one month in advance of the start of the annual campaign distribution period. The NICE Business Programme Manager shall be notified of this agreed timeline.
- c) The Contractor shall undertake an audit of deliveries on arrival to ensure that quantities are correct, to test for any damaged stock and inform NICE if any such issues are identified.
- d) All stock that is damaged or non-conforming (e.g. under or over deliveries, poor packaging or product coding) will be digitally photographed and quarantined pending instruction from NICE.
- e) The Contractor shall arrange clean, dry suitable storage space for the palletted stock. The stock shall be located in suitable racking, and loose cartons and books stored on adequate shelving to ensure all stock is maintained in the same condition as when it was received. The Contractor shall have the capacity to accept deliveries on both UK and European standard pallets and to process and appropriately store them.
- f) Any loss of stock because of negligence by the Contractor shall be reported to the NICE Business Programme Manager without delay. NICE shall charge the Contractor for such loss, which includes the cost of the damaged or lost stock, plus all reasonable associated costs including delivery, storage and staff time for NICE and the Mailing Database Provider.

- g) Insurance of goods in storage is the responsibility of the Contractor.
- h) All stock will be counted using a perpetual inventory control system. Any discrepancies found will be investigated promptly, traced and reported to the NICE Business Programme Manager. Stock record adjustments will be made by the Contractor after approval from the NICE Business Programme Manager.
- i) Stock records shall be maintained in such a way as to provide online information and secure access to current stock, including year-to-date orders.
- j) Stock which becomes out of date because of a new edition of the BNF Publications shall be delivered annually to the Pharmaid Programme, in association with the Commonwealth Pharmacy. These books shall be delivered to the Pharmaid Programme during the month preceding the receipt of the new, updated BNF Publications. NICE shall arrange collection and delivery of the books to the Pharmaid Programme. The Contractor shall prepare the books for collection. Further information on the Pharmaid programme is available on its website (<https://commonwealthpharmacy.org/what-we-do/pharmaid/>)

## **2. Distribution**

- a) Distribution of BNF Publications shall align with the following timescales:
  - The annual BNF campaign distribution shall be completed between 01 October and 30 November each year, following receipt of the BNF Publications in September and receipt of the annual BNF campaign distribution mailing list from the Mailing Database Provider. The parties shall agree a project plan and any delivery dates are subject to each party meeting its obligations under that timetable.
  - Save for where any delay is due in full or in part to either NICE or the Mailing Database Provider, any deliveries forming part of the annual BNF campaign distribution completed after the 30th of November will be paid for by the Contractor, excluding follow-ups because of returned or rejected deliveries.
- b) The Contractor shall distribute additional monthly mailings of each publication outside of the annual BNF campaign distribution period where required, mailing information will be provided in by NICE's Mailing Database Provider.
- c) All deliveries of quantities of 2 (two) or more units must be signed for by the recipient. Proof of delivery shall be made available to NICE and the Mailing Database Provider upon request. This information shall be provided as part of the quarterly reports submitted to NICE at each quarterly review meeting.

- d) The Contractor shall use the most cost effective method of distribution whilst ensuring quality of service, and shall actively propose more cost efficient methods to NICE where available.
- e) Insurance of goods in transit to the customer is the responsibility of the Contractor.
- f) Where an incorrect delivery is made by the Contractor, because of failure to act on updated, correct address information, which has been provided by the Mailing Database Provider a minimum of 2 Working Days prior to the date of dispatch, the cost of the delivery and collection and other associated costs including storage shall be covered by the Contractor.
- g) The Contractor shall provide all consumable materials required for the fulfilment of all orders.
- h) All delivery material shall be marked 'BNF', so that they can be identified by the recipient as containing a BNF publication.
- i) Where sub-contractors are used for the purposes of distribution, the Contractor shall use their best endeavours to monitor contractual performance.

### **3. Customer services**

The Contractor shall:

- a) provide an industry standard enquiry management service to report, track and manage all enquiries. Staff shall be trained in handling enquiries and be able to respond to telephone and email enquiries from customers and the Mailing Database Provider within the timescales set out in in Annex 2.
- b) provide reports detailing enquiries received and performance as set out in Annex 2
- c) liaise with the Mailing Database Provider to carry out deliveries of the BNF publications, and where necessary ensure mailing information is updated. Enquiries shall be categorised to identify trends.
- d) where appropriate, escalate enquiries to NICE which cannot be managed by the Contractor or the Mailing Database Provider.
- e) maintain close relationships with the NICE BPM to ensure continuous enhancement of services provided. From time to time NICE shall monitor the level and quality of the Contractor's customer care.

### **2. Returns reporting**

- a) Where BNF Publications are returned due to an inaccurate delivery address being applied through the fault of the Contractor, the cost of the delivery and collection, and any other associated costs, including storage, will be covered by the Contractor.
- b) If deliveries are rejected or returned, the Contractor will liaise with NICE and the Mailing Database Provider to establish whether the delivery needs to be redirected or cancelled.
- c) All failed deliveries shall be recorded, including a reason for rejection and/or return, where available. This shall be reported to NICE and the Mailing Database Provider at quarterly review meetings and at the request of NICE.
- d) Records of identified errors shall be maintained, reported to NICE and used by the Contractor to develop corrective procedures to improve the Contractor's operations.

## 5. Mailing data

- a) The Contractor shall ensure that protocols such as Pretty Good Privacy (PGP) encryption or Secure File Transfer Processes are used when mailing data is transferred from NICE's Mailing Database Provider.
- b) The format of the data received from NICE's Mailing Database Provider shall be agreed annually between NICE, the Contractor and the Mailing Database Provider, at least two (2) months prior to the start of the annual BNF campaign.
- c) The Contractor shall verify the postal addresses in the data received from the Mailing Database Provider using an industry standard verification service (for example, Postcode Address File (PAF)).

## Business objectives and deliverables

The objective of the Contractor is to manage the distribution of the BNF Publications to prescribers in the NHS. The key objectives of the Contractor are as follows:

Business Objectives	Deliverables
<b>I. Storage</b> To effectively receive and store bulk, small and single copies of BNF, BNFC and NPF	<ul style="list-style-type: none"> <li>• Provide effective reception and storage of deliveries of all BNF Publications.</li> <li>• Store the BNF Publications in such a way that prevents damage to the books.</li> </ul>

	<ul style="list-style-type: none"> <li>• Report all stock that is damaged or non-conforming to NICE's Business Programme Manager.</li> <li>• Ensure that the books are stored under different codes, and that stock for each eligible group (see Annex 6) can be separately managed and reported on.</li> </ul> <p><b>Make available to NICE and the Mailing Database Provider:</b></p> <ul style="list-style-type: none"> <li>• weekly stock level reports, including new and returned stock, during the annual BNF campaign distribution.</li> <li>• monthly reports on stock levels, broken down by group (see Annex 6).</li> <li>• a full audit trail of data from opening stock, plus/minus movements, closing stock quantity and value.</li> </ul>
<p><b>II. Distribution of BNF publications</b></p> <p>To effectively distribute bulk, small and single copies of BNF, BNFC and NPF publications to individuals and/or providers of NHS care</p>	<ul style="list-style-type: none"> <li>• Distribute all bulk, small and single copy mailings of the BNF Publications to eligible healthcare professionals provided by NICE's Mailing Database Provider (See Annex 6).</li> <li>• Distribute additional monthly mailings of each publication outside of the annual BNF campaign distribution period where required, mailing information will be provided in by NICE's Mailing Database Provider.</li> <li>• Distribute ad-hoc mailings of each publication when requested by NICE and/or the Mailing Database Provider.</li> <li>• All deliveries of quantities of 2 (two) or more units must be signed for by the recipient. Proof of delivery shall be made available to NICE and the Mailing Database Provider upon request.</li> <li>• All failed deliveries are recorded, including a reason for rejection and/or return.</li> <li>• Store, process and delete information shared by NICE and the Mailing</li> </ul>

	Database Provider in line with the Data Controller's instructions.
<b>III. Enquiry handling</b> Provide a service to manage enquiries from customers regarding distribution of the BNF publications	<ul style="list-style-type: none"> <li>• Report and communicate to NICE and the Mailing Database Provider the management of: <ul style="list-style-type: none"> <li>○ Postal returns;</li> <li>○ Misdirected deliveries;</li> <li>○ Updating mailing lists;</li> <li>○ Completion of specific ad-hoc distribution projects as required by NICE;</li> <li>○ Other tasks as required.</li> </ul> </li> </ul>
<b>IV. Relationship with NICE Mail Database provider</b> Maintain an effective and efficient relationship with the Mailing Database Provider	<ul style="list-style-type: none"> <li>• Meet regularly with the Mailing Database Provider.</li> <li>• Respond to queries from the Mailing Database Provider within two (2) Working Days of receipt of query.</li> </ul>
<b>V. Sub-contractors</b> Ensure any work sub-contracted maintains the quality required by NICE	<ul style="list-style-type: none"> <li>• Provide effective monitoring systems to manage sub-contractors.</li> <li>• Report to NICE on quality and effectiveness of work that is subcontracted.</li> </ul>
<b>VI. Returns reporting</b> Report all returns to the Mailing Database Provider	<ul style="list-style-type: none"> <li>• Provide the name and full address of the delivery location, along with the reason, where available, for the return to the Mailing Database Provider.</li> <li>• Ensure that copies of the BNF publications are re-sent to updated addresses.</li> <li>• Ensure that the Mailing Database Provider is updated regarding these changes.</li> </ul>
<b>VII. Data format</b> Work with NICE's Mailing Database Provider to agree a format for the data which can be shared between the two parties, with no manual manipulation.	<ul style="list-style-type: none"> <li>• Use data systems that are aligned to allow for seamless transfer of information between the Contractor and the Mailing Database Provider.</li> <li>• Align reference and tracking numbers between the Contractor and the Mailing Database Provider.</li> <li>• Provide data systems that are able to capture all of the address information required to successfully deliver the BNF publications.</li> </ul>



## **ANNEX 2**

### **Management and Reporting, Key Performance Indicators and Service Level Agreement**

#### **Management and reporting requirements**

- a) The Contractor shall allocate an Account Manager who will act as main point of contact for NICE.
- b) The Contractor shall attend formal, minuted quarterly review meetings (QRMs) (each such meeting being a "Review"), as required by the NICE, to discuss NICE's levels of satisfaction in respect of the Services and Supply, compliance with the Agreement (including for the avoidance of doubt of the Annexes) and to agree any necessary action to address areas of dissatisfaction. Unless NICE indicates to the contrary, these Review meetings shall be chaired by the Budget holder (or their nominee). The Contractor shall not obstruct or withhold its agreement to any such necessary action and shall take all agreed actions or steps within the timescales reasonably specified by NICE or, if no timescales are specified, within a reasonable time. Such Reviews shall take place at least quarterly, typically in April, July, October and January (or more frequently if NICE requires).
- c) Monthly activity and enquiry management reports shall be provided, in a format agreed with NICE.
- d) NICE shall reserve the right to audit all records in relation to this service.
- e) The Contractor shall provide monthly and / or quarterly activity and enquiry management reports to NICE. These may include but are not limited to the following:
  - Financial information (actual and projected spend for the financial year);
  - Staffing information;
  - Contractual risks;
  - Enquiry handling reports;
  - Performance against enquiry handling targets;
  - Stock counts;
  - Details of deliveries made;
  - Performance against delivery targets;
  - Level of returns with reasons for returns;
  - Workforce planning information;
  - Sub-contractor performance;
  - Workforce planning;
  - Performance against business plan objectives and Key Performance Indicators (KPIs);
  - Carbon Reduction plan

- Social Value commitments
- any other information reasonably required by NICE.

- f) The Contractor shall attend QRMs at NICE's offices or via online virtual meetings, as specified by NICE. Any associated costs for attendance shall be covered by the Contractor.
- g) The Contractor shall attend joint meetings with NICE and the Mailing Database Provider where required. Any associated costs for attendance shall be covered by the Contractor.
- h) The Contractor shall deliver QRM reports no later than five (5) Working Days before each scheduled QRM, summarising performance against the business plan objectives and overarching Key Performance Indicators (KPIs), as listed below.
- i) All quarterly monitoring reports shall be supplied by NICE for completion. The QRM may be cancelled or delayed, and invoice payments delayed if accurate and satisfactory reports are not submitted on time.

### Key Performance Indicators (KPIs)

KPI	Measured by
<p><b>KPI 1</b></p> <p>The Contractor shall undertake a full audit of BNF Publications (BNF and BNFC) on arrival to ensure that quantities are correct, to test for any damaged stock and inform NICE within two (2) Working Days of receipt of goods if any discrepancies are identified.</p> <p>The initial audit will check all inbound deliveries and a second check will be performed if inaccurate counts are identified. All stock that is damaged or non-conforming (e.g. under or over deliveries, poor packaging or product coding) shall be digitally photographed and quarantined pending instruction from NICE.</p>	<p>The Contractor shall provide a stock report to NICE within 2 Working Days of receipt of the BNF Publications, this shall include information on damaged or non-conforming stock.</p>
<p><b>KPI 2a</b></p> <p>A minimum of 95% of all non-campaign distribution deliveries shall be shipped at the latest by the next Working Day after receiving the mailing file from the Mailing Database Provider and dispatched within three (3) Working</p>	<p>The Contractor shall provide a report on non-campaign distribution deliveries to NICE as part of the reporting paperwork at each QRM and where required.</p>

<p>Days of dispatch from the storage location.</p> <p><b>KPI 2b</b></p> <p>The remaining 5% or less orders which, for whatever reason require referral to the customer and/or NICE before processing shall be dispatched within ten (10) Working Days, subject to the customer and/or NICE resolving any queries.</p>	
<p><b>KPI 3</b></p> <p>All deliveries forming part of the annual BNF campaign distribution shall be completed no later than 30th November each year, subject to all other parties meeting their obligations stated in the agreed project plan.</p>	<p>The Contractor shall provide weekly reports on deliveries made including dates of deliveries during the campaign period.</p>
<p><b>KPI 4</b></p> <p>The Contractor shall ensure that all orders are fulfilled accurately, with a maximum error rate of 1%, unless incorrect mailing information was provided by the Mailing Database Provider.</p>	<p>The Contractor shall provide reports of any unfulfilled deliveries, including reasons, at each QRM and at the request of NICE. The Contract shall also make the report available for NICE to view online at any point.</p> <p>This KPI shall be measured on an annual basis.</p>
<p><b>KPI 5</b></p> <p>Respond to all customer enquiries by letter, email and/or phone within two (2) Working Days of the initial contact.</p>	<p>The Contractor shall monitor and analyse enquiry responses, providing reports including key information (i.e. resolution times etc.) at QRMs.</p>
<p><b>KPI 6</b></p> <p>Respond to all complaints by letter, email and/or phone within five (5) Working Days of the initial contact.</p>	<p>The Contractor shall monitor and analyse enquiry responses, providing reports including key information (i.e. resolution times etc.) at QRMs.</p>

In the event of prolonged non-compliance with any one of the SLA criteria, or under performance against the KPI's the Contractor shall:

- Provide a written plan for resolution of the non-compliance;
- Supply at no cost to NICE, all required resources to resolve the specified non-compliance;

- Review the resolution and seek sign-off from NICE, confirming satisfactory resolution of the non-compliant issue(s)

### Annex 3

#### Key dates for BNF Publications

<b>Edition</b>	<b>Publication date</b>
BNF86	September 2023
BNFC2023	September 2023
BNF88	September 2024
BNFC2024	September 2024
BNF90	September 2025
BNFC2025	September 2025

#### Project milestones to be undertaken by the Contractor

<b>Milestone</b>	<b>Date to be Completed</b>
Campaign deliveries in October 2023	30 November 2023
Campaign deliveries in October 2024	29 November 2024
Campaign deliveries in October 2025	28 November 2025
The Contractor shall provide a final annual Business Plan in December of each year, which will be reported on at all QMR's of each financial year.	1) At the commencement of the contract 2) 31 December 2023 3) 31 December 2024 4) 31 December 2025
The contractor shall submit a written report of the progress to Business Plan objectives for each QRM.	Five (5) Working Days prior to the meeting date for each QRM

## ANNEX 4

### Payment

All invoices shall be submitted following the quarterly review meeting (QRM). Invoices will be submitted retrospectively, for the previous quarter, in accordance with the figures set out in the annual business planning letter (see the schedule below) and any requested resubmissions are satisfactorily received. Additional ad-hoc payments may be agreed on a need basis.

Schedule for payment for the Services, timing and method of payment:

Financial Year 1		
Net		
VAT (if applicable)		
<b>TOTAL</b>		2023
Net		
VAT (if applicable)		
<b>TOTAL</b>		-2023
Net		
VAT (if applicable)		
<b>TOTAL</b>		-2023
Net		
VAT (if applicable)		
<b>TOTAL</b>		-2024
<b>YEAR 1 TOTAL</b>	<b>£158,655.77</b> <b>(exc VAT)</b>	

### Financial Year 2

Net		
VAT (if applicable)		
<b>TOTAL</b>		-2024
Net		
VAT (if applicable)		
<b>TOTAL</b>		-2024
Net		
VAT (if applicable)		
<b>TOTAL</b>		-2024
Net		
VAT (if applicable)		
<b>TOTAL</b>		-2025
<b>YEAR 2 TOTAL</b>	<b>£147,506.60</b> <b>(exc VAT)</b>	

### Financial Year 3

Net		
VAT (if applicable)		
<b>TOTAL</b>		-2025
Net		
VAT (if applicable)		
<b>TOTAL</b>		-2025
Net		
VAT (if applicable)		
<b>TOTAL</b>		-2025
Net		
VAT (if applicable)		
<b>TOTAL</b>		-2026
<b>YEAR 3 TOTAL</b>	<b>£136,096.68 (exc VAT)</b>	

## ANNEX 5

### Data Protection Act 2018

The following instructions relate to the Personal Data collected by the NICE Mailing List Partner where the NICE Mailing List Partner is both the Data Controller and the Data Processor, and the NICE Distribution Partner is the also the Data Processor:

<b>Subject matter of the Processing</b>	NHS drug prescribers' Personal Data.
<b>Duration of the Processing</b>	01 April 2023 – 31 March 2026
<b>Purposes of the Processing</b>	To ensure that all eligible NHS prescribers are sent, or given access to, a print BNF and/or BNF for children
<b>Nature of the Processing</b>	Data is collected, updated, stored and shared with to NICE's BNF Distribution Partner, for transfer to physical copies of the BNF publications for distribution.
<b>Type of Personal Data</b>	Names, addresses, phone numbers.
<b>Categories of Data Subject</b>	NHS staff, Department of Health and Social Care.
<b>Plan for return and destruction of the Data once the Processing is complete</b>	Data is continuously updated for the duration of the contract for future distributions of the published books and Wilmington's as the Data Controller shall have full responsibility for destruction of any Data in line with the Wilmington retention policy. For the avoidance of doubt, NICE has no responsibility regarding this Data other than the responsibilities described below.
<b>Responsibilities of NICE regarding NICE's BNF Delivery Partner</b>	NICE is in contract with the BNF Distribution Partner and takes full responsibility as the Data Controller regarding all Data shared from the Contractor to the BNF Distribution Partner. NICE ensures the Contractor that all contractual obligations regarding the Data Protection Act 2018 are fully described in the Contractual Agreement between NICE and the BNF Delivery Partner, including all instructions on the processing and destruction of the Personal Data.

## SCHEDULE B

<b>Subject matter of the processing</b>	NHS drug prescribers' personal data
<b>Duration of the processing</b>	1 April 2023 – 31 March 2026
<b>Purposes of the processing</b>	To ensure that all eligible NHS prescribers are sent, or given access to, a print BNF and or BNF for children.
<b>Nature of the processing</b>	Data is stored, and then transferred by address label to physical copies of BNF publications for distribution by courier or post.
<b>Type of Personal Data</b>	Names, job title, addresses and telephone numbers.
<b>Categories of Data Subject</b>	NHS staff, , Department of Health and Social Care
<b>Plan for return and destruction of the data once the processing is complete</b>	Deletion of data following the completion of each distribution

## ANNEX 6

### Eligibility criteria for BNF Publications

The current eligibility criteria are shown below and currently displayed at <https://www.nice.org.uk/About/What-we-do/Evidence-Services/British-National-Formulary>

The eligibility criteria may change during the contract period.

#### Who is eligible to receive a shared copy

The following people are eligible to receive a shared copy of the BNF and the BNFC:

- Trust doctors or pharmacists who have a paediatric or accident and emergency speciality.
- Doctors who:
  - are employed by a social enterprise, community interest company or private company commissioned to provide NHS services, **and**
  - have a paediatric or accident and emergency speciality.
- Non-medical prescribers (independent and/or supplementary) who hold a V200 or V300 qualification and are employed by either:
  - an acute NHS trust, **or**
  - a social enterprise, community interest company or private company commissioned to provide NHS services.
- General practitioners and prescribing advisors (not including pharmacy technicians).
- Students studying pharmacy or for a non-medical prescribing V300 qualification.

If you are a doctor, pharmacist or non-medical prescriber and you do not have a paediatric or accident and emergency speciality, you can only receive a copy of the adult BNF.

NHS dentists are not eligible to receive printed copies.



National Institute for Health and Care Excellence

**Document generated**

## Document fingerprint

## Parties involved with this document

**Document processed**

## Party + Fingerprint

## Audit history log

Date \_\_\_\_\_

## Action

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