NATIONAL INSTITUTE FOR HEALTH

AND CARE EXCELLENCE

NICE Electronic and Print Content Framework Agreement (NICEFAHEE/2125)

**Call Off Order Form**

**for knowledge resource(s) supplied by Wolters Kluwer under Lot 1**

This Call Off Order Form forms Part A of the “Call Off Terms & Conditions” of the NICE Electronic and Print Framework Agreement (NICEFAHEE/2125)

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1. The Agreement

**Guidance note to purchasers: please enter or amend the required details in [bracketed and highlighted areas] throughout this form.**

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

**BETWEEN:-**

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

(2) **Wolters Kluwer Health (Medical Research) Ltd** whose registered office is at Wolters Kluwer, Citi Building, 41st Floor, 25 Canada Square, London, E14 5LQ. (‘**the Provider**’).

The Provider is a supplier of NICE Electronic and Print Framework Agreement and agreed to provide the Service(s) and Deliverable(s) under the terms of the Framework Agreement (contract number: NICEFAHEE/2125).

Agreement Summary

|  |  |
| --- | --- |
| **Reference** | NICE Electronic and Print Content Framework Agreement: contract number NICEFAHEE/2125 |
| **Agreement Title** | [Subscription to / purchase of (delete as appropriate)] [**enter name of products being purchased**]  |
| **Agreement Description** | [**Describe the purchase e.g. subscription to the XYZ database**]  |
| **Commencement Date** | [**Agreement start date**] |
| **Expiry Date** | [**Agreement end date**] |
| **Agreement Value** | [**Enter total value of purchase (excl. VAT**)] |
| **Purchase Order Number** | [**Enter PO 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 Electronic and Print Framework Agreement (NICEFAHEE/2125).

The “Call Off Terms & Conditions” document is available at: [Buy books, journals and databases | Library and knowledge services staff | NICE Communities | About | NICE](https://www.nice.org.uk/about/nice-communities/library-and-knowledge-services-staff/buy-books-journals-and-databases)

The Purchasing Authority must complete this Call Off Order Form and send to the Provider with 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. These are highlighted in this document in (Guidance Notes) (included in round brackets).

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 Provider and defined in the quote.

Words and expressions in this Call Off Order Form will be interpreted to have the meanings as defined in clauses 4: Definitions of the “Call Off Terms & Conditions”.

1. Principal Contact Details

For the Purchasing Authority:

Name: [**Enter name**]

Email: [**Enter email**]

Phone: [**Enter phone number**]

For the Provider:

Name: **Philip Marston**

Email: **Philip.Marston@wolterskluwer.com**

Phone: **+44 (0)7702 864141**

1. Term

|  |  |
| --- | --- |
| Term | This Call-Off contract starts on the Commencement date and is valid until and including the Expiry date.(Guidance Note: Term is subject to clause 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: as per clause 31.6.1 of the “Call Off Terms & Conditions”). |
| Extension Period | This Call-Off contract can be extended by the Purchasing Authority for 1 or 2periods of 12 months each, by giving the Provider 1 month written notice before the Expiry date. (Guidance Note: the extension period 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  |
| Service(s) & Deliverables required | The Service(s) & Deliverable(s) to be provided by the Provider under the above Lot and outlined below:Detail set out in Annex ONE: Specification to this Call-Off Order Form  |
| Additional Services Required | Detail set out in Annex ONE: Specification to this Call Off Order Form if applicable. |
| Location | NOT USED |
| Licence Terms | The following licences form an integral part of this Agreement, please state which contractual document shall be used:The HSCC Licence. |
| Core Standards, Service Level Agreements (SLAs), Key Performance Indicators (KPIs): | The core standards and any associated SLAs and KPIs used are as detailed in the HSCC Licence. (Guidance Note: the core standards are available on the NICE Electronic and Print Framework website at: <https://www.nice.org.uk/about/nice-communities/library-and-knowledge-services-staff/buy-books--journals-and-databases/provider-information/core-standards--non-agents> ) |
| Limit on Parties’ Liability | The annual total liability for all Defaults will not exceed the greater of 125**%** of the Agreement Price by the Purchasing Authority to the Provider during the Term (whichever is the greater).The aggregate liability in circumstances where the Purchasing Authority terminates this Agreement shall not exceed the greater of 125**%** of the Agreement Price payable by the Purchasing Authority to the Provider.(Guidance Note: TAKE ADVICE FROM YOUR PROCUREMENT DEPARTMENT - 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. See clauses 20: Liability and Indemnity and 21: Limitation of Liability of the “Call Off Terms & Conditions”.) |
| Insurance | The insurance(s) required will be:[**Delete 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 Provider 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: TAKE ADVICE FROM YOUR PROCUREMENT DEPARTMENT - 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 Agreement if the other Party is affected by a Force Majeure Event that lasts for more than **14** consecutive days.(Guidance Note: TAKE ADVICE FROM YOUR PROCUREMENT DEPARTMENT - see clause 32: Force Majeure of the “Call Off Order Terms & Conditions”.) |
| Purchasing Authority’s Responsibilities | Not applicable |

1. Additional Purchasing Authority terms

|  |  |
| --- | --- |
| Performance of the Service(s) and Deliverable(s) | Not applicable  |
| Warranties, Representations | Not applicable |
| Additional Terms | (Guidance Note: if not relevant, state **“NOT USED”**).(Guidance Note: ensure any amendments or refinements are subject to clause 1. 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 this is “NOT USED".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.(Guidance Note: Annex SEVEN is worded for use with NHS OpenAthens authentication in England ONLY) |

1. Sub-contractors

|  |  |
| --- | --- |
| Subcontractors or Partners | Not applicable |

1. Payments & Invoicing Schedule

|  |  |
| --- | --- |
|  | Invoicing |
| 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 Providers 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.) |
| Invoice Frequency | The Provider will issue electronic invoices [**monthly / quarterly** in **arrears / advance**]. The Purchasing Authority will pay the Provider within **[30]** days of receipt of a valid invoice.  |
| Invoice Delivery | Invoices will be sent to [**enter name and contact email address**] for Purchasing Authority invoice processing. |
| Invoice Details Required | All invoices must include:CurrencyContract or PO number.  |

|  |  |
| --- | --- |
|  | Agreement Price and Fees |
| Fixed Agreement Price (non-Agent supply) | 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 Provider during the Term. The total value of this Call-Off contract is: [£ enter full agreement price] |
| Agent supply only |  Not applicable |
| Breakdown Call-Off Contract Charges | As described in Annex FOUR: Pricing Schedule. |

1. Formation of Contract

By signing and returning this Call Off Order Form, the Provider 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 Provider.

In cases of any ambiguity or conflict, the terms and conditions of this Call Off Order Form will supersede those of the Provider 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 Provider: |
| 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 purchase - example details are provided below (delete as appropriate)]:

* Subscription to: [Acland's Video Atlas of Human Anatomy / Bates Visual Guide to Physical Examination. / LWW (Lippincott Williams & Wilkins) Total Access Collection / LWW High Impact Collection / LWW Doody's Core Collection / LWW Doody's Essential Collection.] (delete as appropriate)
* 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: OvidSP platform
* Content discovery requirements (link resolvers; RDS; via IP address).
* Reporting and monitoring requirements from Wolters Kluwer e.g. COUNTER 5 stats monthly; annual review meeting.
* Wolters Kluwer Helpdesk and support contact details:

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: Pricing Schedule

The Provider 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 clause 21: Invoicing and Payment of the “Call Off Terms & Conditions” document. (amend table below or insert own payment table)

Amount of Funding - Year 1 (1 April 202X – 31 March 202X)

|  |  |  |  |
| --- | --- | --- | --- |
| Quarter | Funding | Financial Year | Date(s) for Submission of Invoice(s) |
| 1st Quarter ex VAT | £0.00 |  |  |
| VAT (at prevailing rate) | £0.00 |  |  |
| 1st Quarter Total | £0.00 | 2022/23 | 1 July 202X |
| 2nd Quarter ex VAT | £0.00 |  |  |
| VAT (at prevailing rate) | £0.00 |  |  |
| 2nd Quarter Total | £0.00 | 2022/23 | 1 October 202X |
| 3rd Quarter ex VAT | £0.00 |  |  |
| VAT (at prevailing rate) | £0.00 |  |  |
| 3rd Quarter Total | £0.00 | 2022/23 | 1 January 202X |
| 4th Quarter ex VAT | £0.00 |  |  |
| VAT (at prevailing rate) | £0.00 |  |  |
| 4th Quarter Total | £0.00 | 2022/23 | 1 April 202X |
| Total ex VAT | £0.00 |  |  |
| VAT (at prevailing rate) | £0.00 |  |  |
| Year 1 Total incl. VAT | £0.00 | 2022/23 |  |

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 to use this Annex SIX to set out the terms for any additional service requirements which are not contained in the Health & Social Care Content (HSCC) Licence, the Agent Agreement or the Publisher’s licence.)

Examples of such additional service requirements might include a technical specification for the provisions of a database API, ability to integrate content into national or local Resource Discovery Systems (RDS), local usage requirements, communications criteria.)

If there are no additional terms delete text above and state “**NOT USED**”.

Annex SEVEN: Personal Data Processing Instructions

(Guidance Note – this annex should be completed by the Purchasing Authority in conjunction with clause 27. Data Protection of the “Order Terms & Conditions” for the agreed authentication method required to access the Service(s) and Deliverable(s). The information provided for each section in the table below is advised for 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 for access via NHS Open Athens access in England ONLY. Please amend it for access and authentication via alternative routes e.g. IP, supplier logon / password.**

|  |  |
| --- | --- |
| Subject matter of the processing | Granting and allowing access to the Licensed Materials using attributes passed to the Provider from the OpenAthens authentication service.  |
| Duration of the processing | From the Commencement date to one month after the Expiry date.(Guidance Note: This allows for an orderly close down of service and resolution of issues. Can be amended as required). |
| Purposes of the processing | Where the Provider requires any personal identifiable attributes from the OpenAthens authentication service, the Provider 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 Provider 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 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 Provider shall not store personal identifiable attributes. The attributes will be deleted on the closing of each user session. |

Annex EIGHT: Variation to Agreement

Schedule 1 to the Agreement between the Purchasing Authority and the Provider 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 Provider 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 Provider and is agreed by the Provider 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 Provider 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 Provider 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 Provider 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 Provider (for the avoidance of doubt such third parties do not include the Provider’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 ProviderName TitleDate | Signature on behalf of the Purchasing AuthorityName TitleDate |