

NATIONAL INSTITUTE FOR HEALTH AND CLINICAL EXCELLENCE CONSULTANCY AGREEMENT FOR SPECIFIC PROJECT SERVICES

1. BASIC DETAILS

1.1.	NAME AND ADDRESS OF CONTRACTOR (including Company Registration Number if relevant)	<input type="text"/>		
1.2.	DESCRIPTION OF CONTRACTOR	<input type="text"/>		
1.3.	DESCRIPTION OF PROJECT SERVICES	<input type="text"/>		
1.4.	NICE BUDGET HOLDER	<input type="text"/>		
1.5.	NICE PROJECT MANAGER	<input type="text"/>		
1.6.	NOMINATED MANAGER OF CONTRACTOR	<input type="text"/>		
1.7.	CONTRACTOR AUTHORISED SIGNATORY	<input type="text"/>		
1.8.	DATE AGREEMENT SIGNED	<input type="text"/>	<input type="text"/>	<input type="text"/>
		D	M	Y
1.9.	DATE AGREEMENT COMES INTO EFFECT (IF DIFFERENT FROM ABOVE)	<input type="text"/>	<input type="text"/>	<input type="text"/>
		D	M	Y
1.10.	DATE AGREEMENT ENDS (IF FIXED DATE)	<input type="text"/>	<input type="text"/>	<input type="text"/>
		D	M	Y
1.11.	CONTRACT NUMBER	<input type="text"/>		
1.12.	PROJECT NUMBER	<input type="text"/>		

IT IS AGREED AS FOLLOWS

2. DEFINITIONS

"Agreement"	this Agreement and any Annexes attached to it.
"the Contractor"	the person in 1.1 or any partner, employee, agent, sub-contractor or other lawful representative of the person in 1.1.
"NICE"	the National Institute for Health and Clinical Excellence of Mid-City Place 71 High Holborn, London WC1V 6NA,
"the Milestones"	the milestones as set out in Annex 2.
"the Project Services"	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.

5. OBLIGATIONS OF NICE

5.1. Monitoring

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 to All invoices must be submitted to NICE, T53 Payables 4545, Phoenix House, Topcliffe Lane, Wakefield WF3 1WE clearly quoting the contract number
- 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 exercise equal opportunity policies in its employment of staff and consultants.
- 8.3. NICE shall have the right to be consulted on what staff will be appointed to provide the Project Services.
- 8.4. 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. COPYRIGHT

- 10.1. All Background Intellectual Property owned by or licensed to either Party prior to the commencement of this Agreement will remain the property of that Party or the licensor to that Party as appropriate.
- 10.2. The Supplier hereby grants to NICE a world-wide, irrevocable, royalty-free, non-exclusive licence to publish the Supplier's own original material containing or relying upon any raw data provided by the Supplier to NICE under this Agreement:
 - 10.2.1. the Supplier complies with any relevant obligations of confidentiality; and

- 10.3. The Supplier shall ensure that any agreement with a third party under which such third party provides information to the Supplier in connection with this Agreement includes the right for the Supplier to provide such information to NICE in accordance with this Agreement and includes all consents necessary to enable NICE to process such information in compliance with the DPA.
- 10.4. The Supplier warrants that, in relation to its own separate contribution to any Foreground Intellectual Property:
 - 10.4.1. such contribution does not violate any existing Intellectual Property Rights anywhere;
 - 10.4.2. it does not contain anything objectionable, obscene or libellous; and
 - 10.4.3. it has taken all reasonable care to ensure that all statements contained in such contribution which purport to be factual are true.
- 10.5. If the Supplier incorporates any work in its performance of the Project Services over which any person could claim to have an entitlement to Intellectual Property Rights then the Supplier shall ensure appropriate permissions are obtained in order to enable NICE to fully utilise the work pursuant to this Agreement. NICE shall have the right to see such permissions.
- 10.6. The Supplier shall ensure that any independent author or part author of any copyrightable material created as part of the Supplier's performance of the Project Services assigns his/her Intellectual Property Rights in such material to the Supplier and waives any moral rights under the Copyright, Designs and Patents Act 1988. The Supplier shall do this as soon as reasonably possible after the creation of any such work.
- 10.7. In publishing any Foreground Intellectual Property arising out of the Project Services other than any Deliverables, the Supplier shall make due acknowledgement to NICE as joint contributor.
 - 10.7.1. The Supplier agrees to indemnify and keep indemnified NICE and any Beneficiary against any Costs, claims, proceedings, expenses and demands arising from the use, application, supply or delivery of any Deliverable, process, article, publication, matter or thing supplied under the Agreement that would constitute or is alleged to constitute any infringement of any person's Intellectual Property Rights.
- 10.8. It is the policy of NICE to associate authors with their works. However, there may be exceptional circumstances where this would be to the detriment of NICE. In an exceptional circumstance NICE, would reserve the right to disassociate the author from the work.

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.

12. CONFIDENTIALITY, DATA PROTECTION ACT AND FREEDOM OF INFORMATION

12.1. Both Parties recognise as a result of this Agreement and their relations with one another that they may be informed of information which is confidential. Each Party shall not at any time during or after this Agreement divulge such confidential information to any other third party.

The Institute shall comply with its obligations under the Data Protection Act 1998 (the "DPA") and any successor legislation.

12.2 The Contractor shall:

12.2.1 comply with the DPA and any successor legislation, in particular and without limitation by effecting all measures necessary to comply with the eight Data Protection principles set out in the DPA;

12.2.2 obtain all consents required from any individual under the DPA or any other law in relation to any transfer to the Institute of personal data (as defined in the DPA) such as are adequate and appropriate to enable the Institute to process such data as it considers reasonably appropriate;

12.2.3 co-operate with the Institute as reasonably required to enable the Institute to comply with its obligations under that legislation which arise from this Agreement or in relation to any data collected, held or processed pursuant to this Agreement;

12.2.4 take appropriate technical and organisational measures against unauthorised or unlawful processing of personal data and against accidental loss or destruction of, or damage to, personal data held for the purposes of this Agreement; and

12.2.5 provide all reasonable assistance at all times during the term of this Agreement and during the period of six years

thereafter to allow the Institute to obtain such information as is necessary to fulfil the Institute's obligations to supply information for parliamentary, governmental, judicial or other administrative purposes and/or to carry out an audit of the provision of the Services in compliance with this Agreement.

12.3 The Contractor shall co-operate and assist the Institute, and shall procure that any third parties shall co-operate and aid the Institute, to enable the Institute to meet its obligations under the Freedom of Information Act 2000 or any successor legislation ("FOIA") by;

12.3.1 The provision to the Institute of information which the Contractor or third parties are holding on behalf of the Institute within time-scales that the Institute may reasonably set to enable the Institute to comply with its obligations under the FOIA in respect of any request by a third party for information from the Institute.

12.3.2 engaging fully in any consultation that the Institute may hold with the Contractor, Consortium Members or Development Group in relation to information requested from the Institute by a third party that relates to the Contractor, the Consortium Members, the Development Group or this Agreement.

12.4 During the term of this Agreement, refrain from destroying or deleting any data or documents, including documents comprising the Audit Trail, (other than duplicates of documents) relating to the provision of Services under this Agreement, unless and until the prior written permission of the Institute has been given, provided that on the expiry or termination of this Agreement, the Contractor shall afford the Institute a reasonable opportunity to take possession of such data or documents prior to their destruction or deletion.

13. GIFTS AND PAYMENTS OF COMMISSION

13.1. 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.

- 13.2. 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 Prevention of Corruption Acts (1889-1916) shall entitle NICE to terminate this Agreement immediately and/or to recover from the Contractor any payment made to the Contractor.

14. INDEMNITY

- 14.1. 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.

15. LIMITATION OF LIABILITY

- 15.1. 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. TERMINATION

This Agreement shall terminate in the following circumstances -

16.1. Breach

16.1.1. 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

16.1.2. 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;

16.1.3. 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;

16.2. Repeat of Breach

16.2.1. 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);

16.3. Insolvency

16.3.1. 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;

16.4. Change of Management Control

16.4.1. 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.

16.5. Unsatisfactory Evaluation of the Project Services

16.5.1. 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.

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

17. MISCELLANEOUS

It is further agreed between the Parties:

17.1. Waiver

17.1.1. 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.

17.2. Whole Agreement

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

17.3. Variation

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

17.4. Governing Law

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

**Signed for and on behalf
of NICE**

	Signature	Name and title	Date
Procurement Manager Barney Wilkinson			

Contract Manager			
-------------------------	--	--	--

Budget Holder			
----------------------	--	--	--

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

	Signature	Name and title	Date
Project Supervisor			

Authorised Signatory:			
------------------------------	--	--	--

This contract is not valid until all Signatures have been completed

ANNEX 1

The Project Services

WHAT IS THE NICE BRIEF?

WHAT HAS THE CONTRACTOR PROMISED TO DO TO ACHIEVE THAT BRIEF?

WHEN IS THE CONTRACTOR TO PERFORM ITS TASKS? DETAILS OF THE INTERMEDIATE STAGES AND COMPLETION DATES ARE REQUIRED.

WHAT ARE THE QUALITY STANDARDS FOR THE TASKS AND HOW SHALL THE TASKS BE JUDGED TO BE COMPLETED?

ANY OTHER RELEVANT MATTERS?

ANNEX 2

The Milestones

Task	Date to be Completed

ANNEX 4

Payment

Specify amount of payment for the Services (including or excluding VAT), timing and method of payment.

Amount of Funding		Financial Year	Date(s) for Submission of Invoice(s)
Net	£		
VAT (if applicable)	£		
TOTAL	£		
Net	£		
VAT (if applicable)	£		
TOTAL	£		
Net	£		
VAT (if applicable)	£		
TOTAL	£		
Net	£		
VAT (if applicable)	£		
TOTAL	£		
GRAND TOTAL	£		