



**nocn**  
GROUP

# Centre Framework Agreement for the Provision of Apprenticeship End Point Assessment Services



This agreement is made between:

**FOR INFORMATION PURPOSES ONLY – ACTUAL AGREEMENT WILL BE ISSUED BY NOCN FOR SIGNATURE DURING CONTRACTING PROCESS**

This framework agreement covers the terms and conditions between the Customer and NOCN in respect of Apprenticeship End Point Assessment (EPA) services delivered by NOCN.

**Where an existing Customer with live EPA contracts signs this framework agreement then these terms and conditions will replace the existing terms and conditions in previous signed live EPA contracts and orders with NOCN.**

Any new orders for assessments for either existing or new customers will be added as additional schedules under this agreement and will note the Framework Contract reference number above that it relates to.

In providing the End Point Assessment service it is recognised that the Employer is governed and regulated by the Employer Agreement they sign with the Education and Skills Funding Agency (ESFA), and the training provider is listed on the Register of Apprenticeship Training Providers (RoATP) and comply with the ESFA's Funding Rules.

The Apprenticeship Standards and Assessment Plans can be found on the IfATE's website <https://www.instituteforapprenticeships.org/apprenticeship-standards/>.

Please note that NOCN will **not source or host** the location for End Point Assessments which require workshops or practical areas. If locations cannot be provided, NOCN will work with the Customer to source a location, but it is the responsibility of the Customer to ensure adequate provision is made and the Customer will bear the costs for this.

## Fees, invoicing & payment terms

1. Fees applicable to orders raised under the agreement will be noted in the Order Form and where relevant below.

### 2. Inflation & funding band changes

Where a booking is made more than 12 months in advance of the date of the signed order then we reserve the right to increase the EPA gateway price charged in line with inflation. In addition, if there is a change to the funding band prior to the assessment taking place we reserve the right to amend the assessment price charged.

### 3. Pre-EPA Fee

NOCN will charge for the agreed End Point Assessment volumes. At the point of signing this Agreement NOCN will produce a Pre-EPA fee invoice for the volume of apprentices stated in Schedule A of the Order Form.

This Pre-EPA fee **is non-refundable** and secures the required volume, provides access to both Gateway material and provides NOCN support in preparation for EPA.

### 4. EPA Gateway Fee

A **minimum of 6 weeks (30 working days) before** the End Point Assessment is to be delivered, NOCN requires the apprentice's EPA pre-requisites checklist and EPA Gateway/Book Form/Online Booking to be completed by the Customer for each apprentice. NOCN will then assess the apprentice's eligibility and schedule the EPA accordingly.

NOCN will not be able to guarantee an EPA booking **with less than 6 weeks (30 working days) notice and may be subject to the Late Booking Fee.**

NOCN will issue an invoice for the remaining EPA Gateway fee when the EPA booking has been processed by NOCN.

**NOCN requires the EPA Gateway fee to be paid within 30 days of the invoice date or received 5 working days prior to the first element of the EPA, whichever is sooner.** In the event that it is not paid within 5 working days of the assessment then NOCN reserves the right to cancel the assessment and charge a Cancellation Fee.

5. **In line with clause 4** – Charges and Payment of the General Terms and Conditions, if the Customer's account becomes in arrears beyond our payment terms of 30 days, NOCN reserves the right to suspend activity on the account until payment has been made. This may include;
  - Suspension of new EPA bookings,
  - Suspension of results issue,
  - Suspension of the Apprenticeship Certificate claim with the ESFA.

### 6. Resit & Rebook Fees

Resits are charged upon the re-booking of an EPA element, charged at the prices referred in the Order Form. These will be invoiced at point of booking the resit element. The apprentice's Unique Learner Number will be used as reference against any resit invoices sent to the Customer. It will be the **responsibility of the Customer** to ensure appropriate internal purchase processes are arranged. All resit invoices are due for payment on NOCN's usual 30-day payment terms.

### 7. Other Fees

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Please see link for details of potential additional fees that may be applicable for withdrawn/late apprentices, cancelled/late bookings or other services. [Click here to view.](#)

## General Terms and Conditions

### 1. Defined terms & Interpretation

The following definitions and rules of interpretation apply in this Agreement.

#### 1.1 Definitions:

**Apprentice:** means a person who works under an Apprenticeship Agreement entered into with an Employer which, for the purposes of a particular End Point Assessment, is the person identified in the relevant EPA Application submitted for the purposes of that End Point Assessment;

**Apprenticeship Standard:** means any of the approved apprenticeship standards identified in Schedule A of the Order Form and which, for the purposes of a particular End Point Assessment, is the approved apprenticeship standard(s) identified in the relevant EPA Application submitted for the purposes of that End Point Assessment;

**Charges:** means the amount payable by the Customer to NOCN in respect of an individual End-Point Assessment, as set out in Schedule B of the Order Form, and a reference to Charges shall take account of any additional Charges payable pursuant to clause 4.3;

**Customer:** the counterparty to NOCN as defined at the beginning of the agreement;

**Customer Representative:** means the person identified (whether by name or title) as the Customer Representative in Schedule A of the Order Form but subject to any change to the same from time to time, which the Customer may effect by giving written notice to NOCN;

**Data Controller:** has the meaning set out under the Data Protection Legislation;

**Data Processor:** has the meaning set out under the Data Protection Legislation;

**Data Protection Legislation:** means (a) the Data Protection Act 2018 and, for the periods when they are in force, (b) the General Data Protection Regulation (Regulation (EU) 2016/679) and the Law Enforcement Directive (Directive (EU) 2016/680) and any applicable national implementing laws as amended from time to time;

**Data Subject:** has the meaning set out under the Data Protection Legislation;

**Effective Date:** means the date of this agreement;

**Employer:** means the person, organisation or business that has a contract of employment with an individual Apprentice who is the recipient of Training which concludes with an End Point Assessment pursuant to this agreement which, for the purposes of a particular End Point Assessment, is the employer identified in the relevant EPA Application submitted for the purposes of that End Point Assessment;

**End-Point Assessment:** the independent assessment of an individual Apprentice's knowledge, skills and behaviours carried out by the End-Point Assessment Organisation at the end of that Apprentice's Training to confirm that the Apprentice has met the requirements of the relevant Apprenticeship Standard;

**End-Point Assessment Services:** the provision of an individual End-Point Assessment by NOCN in respect of an individual Apprentice;

**ESFA:** means the Secretary of State for Education, acting through the Education and Skills Funding Agency, an executive agency of the Department for Education, whose principal address is at Cheylesmore House, Quinton Road, Coventry, CV1 2WT;

**Force Majeure:** means an event or sequence of events beyond a party's reasonable control preventing or delaying it from performing its obligations under this agreement.

**Institute for Apprenticeships and Technical Education (IfATE):** means the Institute for Apprenticeships and Technical Education, being an executive non-departmental public body sponsored by the Department for Education responsible for ensuring that high quality approved Apprenticeship Standards are developed, advising government on funding for each approved Apprenticeship Standard and ensuring that all End-Point Assessments are quality assured, or such other statutory or non-statutory body responsible for the same from time to time;

**NOCN Representative:** means the person identified (whether by name or title) as NOCN Representative in Schedule D of the Order Form but subject to any change to the same from time to time, which NOCN may affect by giving written notice to the Customer;

**Ofqual:** means the non-ministerial government department known as the Office of Qualifications and Examinations Regulation (Ofqual) regulates qualifications, examinations and assessments in England. Ofqual is responsible for the external quality assurance of all end point assessments. End point assessments must comply with Ofqual's General Conditions of Recognition.

**OfS:** means the Office for Students or such other statutory or non-statutory body responsible for regulating the higher education sector from time to time and all matters currently assigned to the OfS under the Accountability Statement;

**Ofsted:** means the Office for Standards in Education, Children's Services and Skills Piccadilly Gate, Store Street, Manchester, M1 2WD or such other statutory or non-statutory body responsible for carrying out its functions from time to time (including but not limited to the regulation of the further education sector, teacher training in the higher education sector and all matters assigned to it);

**Order Form:** The details in Schedule A, B, C & D of the signed orders that reference this agreement will be classed as the "Order Form"

**Personal Data:** has the meaning set out under the Data Protection Legislation;

**Personal Data Breach:** has the meaning set out under the Data Protection Legislation;

**Standard:** the apprenticeship standard, as defined by the Institute for Apprenticeships and Technical Education

**Third party:** unless specifically disclosed to the client and the Education Skills Funding Agency, NOCN will not appoint any third parties to deliver the services outlined in this agreement

**Training:** means the delivery of training and on-programme assessment by the Customer or its sub-contractor to an Apprentice;

- 1.2 A person includes a natural person, corporate or unincorporated body (whether or not having separate legal personality).
- 1.3 The Order Form and Schedules form part of this agreement and shall have effect as if set out in full in the body of this agreement. Any reference to this agreement includes the Schedules and Order Form.
- 1.4 A reference to a company shall include any company, corporation or other body corporate, wherever and however incorporated or established.
- 1.5 Unless the context otherwise requires, words in the singular shall include the plural and, in the plural, shall include the singular.
- 1.6 This agreement shall be binding on, and ensure to the benefit of, the parties to this agreement and their respective personal representatives, successors and permitted assigns, and references to any party shall include that party's personal representatives, successors and permitted assigns.
- 1.7 A reference to a statute or statutory provision is a reference to it as amended, extended or re-enacted from time to time. A reference to a statute or statutory provision shall include all subordinate legislation made from time to time under that statute or statutory provision.



- 1.8 A reference to writing or written includes email.
- 1.9 Any obligation on a party not to do something includes an obligation not to allow that thing to be done.
- 1.10 A reference to this agreement or to any other agreement or document referred to in this agreement is a reference of this agreement or such other agreement or document as varied or novated (in each case, other than in breach of the provisions of this agreement) from time to time and includes any Order Forms which are clearly noted as referring back to this agreement and are signed by both parties.
- 1.11 References to clauses are to the clauses of this agreement and references to paragraphs or conditions are to paragraphs or conditions of the relevant schedule of the Order Form.
- 1.12 Any words following the terms including, include, in particular, for example or any similar expression shall be construed as illustrative and shall not limit the sense of the words, description, definition, phrase or term preceding those terms.

## 2. Purpose

- 2.1 The purpose of this document is to set out the terms and conditions of business relating to the provision of End-Point Assessment (EPA) delivery for Apprenticeship Standards by NOCN for the Customer in England.
- 2.2 The Customer may be the employer of the apprentices, where it is approved by the Education and Skills Funding Agency (ESFA) on the Register of Apprenticeship Training Providers (RoATP) or an approved agent for the employer(s) including a Training Provider recognised by Government on the RoATP, to carry out the training component of the apprenticeship.
- 2.3 Where they are an approved agent for the employer(s) this Agreement allows the Employer(s) to pay NOCN for the End Point Assessment (EPA) from their levy digital account via the Customer, who will then pay NOCN.
- 2.4 It is a condition of this Agreement that where the Apprenticeship Standard will be externally quality assured by the Qualifications Regulator (Ofqual) the Customer must be approved as an NOCN Recognised Centre under Condition C2 of the [General Conditions of Recognition](#) issued by Ofqual. Where this applies it will be stated on the Order and applied only if the Customer is delivering any part of the Assessment Plan, including examination invigilation.
- 2.5 Under the terms of this Agreement between NOCN and the Customer, the parties agree that NOCN are delivering the end point assessment on behalf of the Employer and that the Customer is acting as an agent in passing the payment (either from the Employer's apprenticeship service levy account or funded by ESFA) that NOCN are due through the Customer. This does not make NOCN a delivery subcontractor of the training provider.

## 3. Scope

- 3.1 The full scope of any EPA Services to be provided under this Agreement will be agreed between the parties on a case-by-case basis.
- 3.2 The agreed scope, price and payment details for EPA Services to be delivered by NOCN under this Agreement will be as set out in the individual Assessment Service Order Form. Once an Order is agreed and signed by both parties it will be deemed to be incorporated into and part of this Agreement from the date of its signature by both parties.
- 3.3 The roles and responsibilities of each party in relation to the provision of any EPA Services to be delivered under this Agreement are set out under the 'Roles and Responsibilities of Each Party' section of this agreement.

## 4. Charges and Payment

- 4.1 NOCN's EPA charges payable will include all the applicable services set out in the Agreement.
- 4.2 Any additional charges not set out in an Order Form are subject to prior written agreement between NOCN and the Customer.
- 4.3 It is the Customer's responsibility to ensure that funding for any end point assessment services are through appropriate and eligible funding channels.
- 4.4 The payments are to be paid in accordance with the payment terms noted in the Fees, Invoices and Payment Terms section of this agreement.
- 4.5 The Customer is to make payment of all valid invoices as set out in the Order Form. If the Customer wishes to query an invoice, they must do this within 10 working days of the invoice date.
- 4.6 Without affecting any other right or remedy available to it, NOCN may suspend the supply of EPA Services under this Agreement if:
  - 4.6.1 the Customer fails to pay within the payment terms specified in the Order Form any amount due under this Agreement;
  - 4.6.2 the Customer becomes subject to any of the events listed in clause 5.2; or
  - 4.6.3 if NOCN reasonably believes that the Customer is about to become subject to the events listed in clauses 5.2.2, 5.2.3 or 5.2.4.

## 5. Term and Termination

- 5.1 Subject to early termination in accordance with the terms of this Agreement, the "Term" of this Agreement means the period from the Effective Date until termination by either party upon the provision of at least ninety (90) days prior written notice of termination. Where Orders have been agreed, this notice period shall be extended as required to ensure apprentices included within such Orders are fully protected and given the opportunity, at no detriment to themselves, to complete their apprenticeship.
- 5.2 Without affecting any other right or remedy available to it, either party may terminate this Agreement with immediate effect by giving written notice to the other party if:
  - 5.2.1 the other party commits an irremediable material breach of any term of this Agreement or, if such a breach is remediable, fails to remedy that breach within 21 days of that party being notified in writing to do so;
  - 5.2.2 the other party takes any step or action in connection with its entering administration, provisional liquidation or any composition or arrangement with its creditors (other than in relation to a solvent restructuring), being wound up (whether voluntarily or by order of the court, unless for the purpose of a solvent restructuring), having a receiver appointed to any of its assets or ceasing to carry on business or any event of a similar nature;
  - 5.2.3 the other party suspends, or threatens to suspend, or ceases or threatens to cease to carry on all or a substantial part of its business; or the other party's financial position deteriorates to such an extent that in the terminating party's opinion the other party's capability to adequately fulfil its obligations under this Agreement has been placed in jeopardy.
- 5.3 Either party may terminate this Agreement if the Customer commits a major breach of its regulatory or statutory responsibilities in line with the requirements of the various regulators, including but not limited to Ofqual, the Institute for Apprenticeships and Technical Education (IfATE) and the Education and Skills Funding Agency (ESFA).

## 5.4 Consequences of termination

5.4.1 Termination of this agreement shall not affect any rights, remedies, obligations or liabilities of the parties that have accrued up to the date of termination, including the right to claim damages in respect of any breach of the Agreement which existed at or before the date of termination.

5.4.2 Any provision of this Agreement that expressly or by implication is intended to come into or continue in force on or after termination or expiry of this Agreement shall remain in full force and effect.

## 6. Contractual Dispute Resolution

6.1 The parties undertake and agree to pursue a positive approach towards contractual dispute resolution, including if appropriate mediation, which seeks to identify a solution that is appropriate to the subject matter of the dispute and which avoids legal proceedings and maintains a strong working relationship between the parties.

6.2 Any dispute or difference shall in the first instance be discussed by the Representatives, as set out in Schedule D of the Order Form, with a view to it being resolved by them liaising with each other.

6.3 In the event that such matters cannot be resolved within 28 days (4 weeks) of such a discussion first taking place, they shall be referred to the relevant Director/Executive Dean (or equivalent) of the Customer and the Quality Assurance Committee of NOCN or another board committee appointed by the NOCN board of trustees.

6.4 In the event that such matters cannot be resolved within 28 days of them being referred to the relevant Director/Executive Dean (or equivalent) of the Customer and the Quality Assurance Committee of NOCN or another board committee appointed by the NOCN board of trustees, they shall be referred to and finally resolved in accordance with clause 16.

6.5 In respect of any complaint in respect of how NOCN carries out its services, please see clause 23.

## 7. Data Protection and Data Processing

This clause sets out the rights and obligations of the Customer and NOCN under this agreement.

For the purposes of UK Data Protection Law, NOCN and the Customer are independent data controllers of personal data ("Data Controllers") and each Party must comply with its respective obligations under UK data protection law ("Data Protection Law").

### 7.1 The rights and obligations of the Data Controllers

7.1.1. The Data Controllers are responsible for ensuring that their processing of personal data takes place in compliance with the relevant Data Protection Law.



7.1.2. NOCN will process personal data on behalf of the Customer in accordance with:

- (a) The NOCN Group Data Protection Policy ([Click here to view](#))
- (b) The NOCN Privacy Note ([Click here to view](#)); and
- (c) The sub-clauses set out within this Data Protection clause.

7.1.3. The Customer shall defend, indemnify and hold harmless NOCN, its Group Companies and their respective officers, employees, agents and sub-contractors (“NOCN’s Indemnified Parties”) from and against all losses, damages, liabilities, deficiencies, claims, actions, judgements, interest, awards, penalties, fines, costs or expenses of whatever kind, including reasonable legal and professional fees, the cost of enforcing any right to indemnification hereunder and the cost of pursuing any insurance providers, arising out of, or resulting from, any third party claim against such NOCN’s Indemnified Parties arising out of, or resulting from, the Customer’s failure to comply with Data Protection Law.

## 7.2 Confidentiality

NOCN shall only grant access to the personal data being processed to persons under NOCN’s authority who have committed themselves to confidentiality.

## 7.3 Security of processing

NOCN shall implement appropriate technical and organisational measures against unauthorised or unlawful processing of, and against accidental loss or destruction of, or damage to, personal data. The measures shall ensure a level of security appropriate to the risk.

## 7.4 Use of processors by NOCN

Where NOCN engages a processor for carrying out specific processing activities on behalf of the Customer, the same data protection obligations as set out in these Data Protection clauses shall be imposed on that processor by way of a contract or other legal act under UK law, in particular providing sufficient guarantees to implement appropriate technical and organisational measures in such a manner that the processing will meet the requirements of these Data Protection clauses and the Data Protection Law.

NOCN shall therefore be responsible for requiring that the processor at least complies with the obligations to which the data processor is subject pursuant to these data protection clauses and the Data Protection Law.

## 7.5 Co-operation between parties

If either Party becomes aware of any unauthorised or unlawful processing of, or accidental loss or destruction of, or damage to, personal data arising from, or in connection with, the Agreement, it shall notify the other Party without undue delay of becoming aware of such processing, loss, destruction or damage, and provide the other Party with reasonable co-operation and assistance in relation to: (a) investigating such processing, loss, destruction or damage; (b) mitigating any possible adverse effects to data subjects caused by such processing, loss, destruction or damage; and (c) determining whether the processing, loss, destruction or damage is required to be notified to the United Kingdom’s Information Commissioner (or any other relevant supervisory authority or regulatory authority) and/or communicated to any data subject in accordance with Data Protection Law.

If either Party receives any complaint, notice or communication which relates directly or indirectly to the processing of personal data by the other Party arising from, or in connection with, the Agreement, it shall notify the other Party without undue delay and provide the other Party with reasonable co-operation and assistance in relation to investigating any such complaint, notice or communication.

## 7.6 Notification of personal data breach

7.6.1 In case of any personal data breach, the NOCN shall, without undue delay after having become aware of it, notify the Customer of the personal data breach.

7.6.2 NOCN's notification to the Customer shall, if possible, take place within 48 hours after NOCN has become aware of the personal data breach to enable the Customer to comply with their obligation to notify the personal data breach to the competent supervisory authority.

7.6.3 NOCN and the Customer shall assist each other in notifying the personal data breach to the competent supervisory authorities, including:

- (a) the nature of the personal data including where possible, the categories and approximate number of data subjects concerned and the categories and approximate number of personal data records concerned;
- (b) the likely consequences of the personal data breach;
- (c) the measures taken or proposed to be taken by the controller to address the personal data breach, including, where appropriate, measures to mitigate its possible adverse effects.

## 7.7 Erasure and return of data

On termination of the provision of personal data processing services, NOCN shall retain only that data required to continue to perform its ongoing services and to maintain regulatory and legal compliance in line with NOCN's Data Retention Policy.

## 8. No Partnership or Agency

8.1 Nothing in this agreement is intended to, or shall be deemed to, establish any partnership or joint venture between the parties, constitute either party the agent of the other party, or authorise either party to make or enter into any commitments for or on behalf of the other party.

8.2 Each party confirms it is acting on its own behalf and not for the benefit of any other person.

## 9. Variation of Agreement

9.1 Any variation of this Agreement, including but not limited to any changes to an Order Form, shall not be effective unless it is in writing and signed by the parties (or their authorised representatives).

## 10. Assignment and other Dealings

10.1 This Agreement is personal to the parties and neither party shall assign, transfer, mortgage, charge, subcontract, declare a trust over or deal in any other manner with any of its rights and obligations under this Agreement.

## 11. Waiver

11.1 No failure or delay by a party to exercise any right or remedy provided under this Agreement or by law shall constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict the further exercise of that or any other right or remedy. No single or partial exercise of such right or remedy shall prevent or restrict the further exercise of that or any other right or remedy.

## 12. Severance

12.1 If any provision or part-provision of this Agreement is or becomes invalid, illegal or unenforceable, it shall be deemed modified to the minimum extent necessary to make it valid, legal and enforceable. If such modification is not possible, the relevant provision or part-provision shall be deemed deleted. Any modification to or deletion of a provision or part-provision under this clause shall not affect the validity and enforceability of the rest of this Agreement.

### 13. Notices

13.1 A notice or other communication given to a party under this Agreement:

13.1.1 shall be in writing;

13.1.2 shall be sent to the party for the attention of the person at the address or email address specified in this clause (or to such other person or to such other address, or such email address as that party may notify to the other, in accordance with the provisions of this clause; and

13.1.3 may be:

- (a) delivered personally; or
- (b) sent by commercial courier; or
- (c) sent by pre-paid first-class post or recorded delivery; or
- (d) sent by email.

13.2 The address for delivery of a notice or other communication shall be as set out in Schedule D of the Order Form.

13.3 If a notice or other communication has been properly sent or delivered in accordance with this clause, it shall be deemed to have been received as follows:

13.3.1 if delivered personally, at the time of delivery; or

13.3.2 if sent by commercial courier, at the time of signature of the courier's delivery receipt; or

13.3.3 if sent by pre-paid first-class post or recorded delivery, 9.00 am on the second working day after posting; or

13.3.4 if sent by email, at the time of transmission.

13.4 For the purposes of this clause, if deemed receipt is not within business hours (for the purpose of this clause meaning 9.00 am to 5.00 pm Monday to Thursday, until 4.00 pm on a Friday, on a day that is not a public holiday in the place of receipt), the notice or other communication is deemed to have been received when business hours next start in the place of receipt.

13.4.1 To prove delivery, it is sufficient to prove that:

13.4.1.1 if sent by pre-paid first-class post or commercial courier, the envelope containing the notice or other communication was properly addressed and posted; or

13.4.1.2 if sent by email, the notice or other communication was transmitted by email to the email address of the party.

13.5 The provisions of this clause shall not apply to the service of any proceedings or other documents in any legal action.

### 14. Third Party Rights

14.1 No one other than a party to this Agreement shall have any right to enforce any of its terms.

### 15. Governing Law

This Agreement and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with the law of England and Wales.

### 16. Jurisdiction

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16.1 Each party irrevocably agrees that the courts of England shall have exclusive jurisdiction to settle any dispute or claim arising out of or in connection with this Agreement or its subject matter or formation (including non-contractual disputes or claims).

## 17. Confidentiality

17.1 Each party undertakes that it shall not at any time during this Agreement, and for a period of five years after termination of this Agreement disclose to any person any confidential information concerning the business, affairs, Customers, clients or suppliers of the other party including without limitation its prices or pricing policies, except as permitted by clause 17.2.

17.2 Each party may disclose the other party's confidential information:

- 17.2.1 to its employees, officers, representatives, subcontractors or advisers who need to know such information for the purposes of carrying out the party's obligations under this Agreement. Each party shall ensure that its employees, officers, representatives, subcontractors or advisers to whom it discloses the other party's confidential information comply with this clause 17; or
- 17.2.2 as may be required by law, a court of competent jurisdiction or any government or regulatory authority.

17.3 Except as permitted in this Agreement or agreed in writing between the parties, neither party shall use the other party's confidential information for any purpose other than to perform its obligations under this Agreement.

## 18. Entire Agreement

18.1 This Agreement constitutes the entire agreement between the parties in respect of its subject matter and supersedes and extinguishes all previous agreements, promises, assurances, warranties, representations and understandings between them, whether written or oral, relating to its subject matter.

18.2 Each party acknowledges that in entering into this Agreement it does not rely on, and shall have no remedies in respect of, any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in this Agreement.

18.3 Each party agrees that it shall have no claim for innocent or negligent misrepresentation based on any statement in this Agreement.

18.4 Nothing in this clause shall limit or exclude any liability for fraud.

## 19. Limitations and Exclusions of Liability

19.1 Nothing in this Agreement shall limit or exclude either party's liability for:

- 19.1.1 death or personal injury caused by its negligence, or the negligence of its employees, agents or subcontractors;
- 19.1.2 fraud or fraudulent misrepresentation; or
- 19.1.3 any other liability which cannot be limited or excluded by applicable law.

19.2 Subject to clause 19.1, neither party shall not be liable to the other party, whether in contract, tort (including negligence), for breach of statutory duty, or otherwise, arising under or in connection with this Agreement for:

- 19.2.1 loss of profits;
- 19.2.2 loss of sales or business;
- 19.2.3 loss of agreements or contracts;
- 19.2.4 loss of anticipated savings;
- 19.2.5 loss of use or corruption of software, data or information;
- 19.2.6 loss of or damage to goodwill;
- 19.2.7 claims for compensation which arise out of or are in connection with the withdrawal of recognition of a regulatory authority;
- 19.2.8 loss of End Point Assessment Organisation or Awarding Organisation status; or
- 19.2.9 any indirect or consequential loss.

19.3 Subject to clause 19.1 and 19.2, each party's total liability to the other party, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, arising under or in connection with this Agreement shall be limited to the total amount of charges paid to NOCN under this Agreement.

19.4 This clause 19 shall survive termination of this Agreement.

## 20. Indemnity

20.1 Each party ("the indemnifying party") shall indemnify the other party ("the indemnified party") against all liabilities, costs, expenses, damages and losses and all other professional costs and expenses suffered or incurred by the indemnified party arising out of or in connection with:

- 20.1.1 The indemnifying party's breach or negligent performance or negligent performance or non performance of this Agreement; or
- 20.1.2 The enforcement of this Agreement by the indemnified party.

## 21. Insurance Obligations

21.1 Each party must maintain in force, during this Agreement and for a period of six years afterwards, relevant insurance policies with reputable insurance companies to cover its obligations and liability under this Agreement.

21.2 Neither party's liabilities under this Agreement shall be deemed to be released or limited by the requirement to maintain the insurance policies referred to in this clause 21.

## 22. Complaints process

22.1 In the event that a Customer has a complaint in respect of an assessment, or any other matter in respect of its dealings with NOCN, NOCN will investigate the complaint in line with its Feedback and Complaints Policy and Process. The link to the policy and process can be found if you [click here](#).

## 23. Legislation & Taxation

23.1 The Customer and NOCN must comply with all relevant legislation including taxation.



## Roles and Responsibilities of each Party

### Customer Responsibilities

- C.1 The Customer's responsibilities under this Agreement will be to:
- C1.1 Ensure their staff and/or agents and training providers involved in apprenticeships and the apprentices themselves are fully conversant with the requirements in the Apprenticeship Standard and Assessment Plan as well as with NOCN's guidance and requirements.
  - C1.2 Comply with all regulatory requirements, rules and procedures set out by the Education and Skills Funding Agency (ESFA) and the Institute for Apprenticeships & Technical Education (IfATE).
  - C1.3 Maintain a predicted pipeline of apprentices to share with NOCN on a regular basis so that NOCN can plan for the ongoing delivery of the EPA.
  - C1.4 In the performance of its obligations under this Agreement, co-operate with NOCN to ensure compliance with the requirements of the General Conditions of Recognition issued by Ofqual and any other similar conditions, regulations or guidance issued from time to time by any regulatory authorities in relation to NOCN's activities as an End Point Assessment Organisation.
  - C1.5 Ensure that the apprentices have the right to work in the UK and have clear checks in place to verify the identity of the apprentices.
  - C1.6 Provide to NOCN all necessary data to confirm the identity of the apprentice, including Employer details, for purposes of tracking progress, recording achievement and certifying the apprentice.
  - C1.7 Comply with all the requirements of the Apprenticeship Standard, Assessment Plan and NOCN's requirements and procedures for EPA. This includes the use of appropriate venues, facilities and equipment which have been assessed as appropriate by the customer to ensure compliance with the relevant assessment plan requirements before engaging with NOCN to schedule an end point assessment that any assessment bays conform to the requirements specified in the standard.
  - C1.8 Ensure, prior to booking the EPA, the apprentices have completed the minimum time set for the apprenticeship, have undertaken all the required formal training and learning as well as achieved all the regulated qualifications required in the Assessment Plan.
  - C1.9 Undertake a Gateway assessment in order to check the apprentice is eligible for EPA and ensure that bookings are provided to NOCN for assessment scheduling within the Gateway period for all elements.
  - C1.10 Ensure that all evidence is collated and maintained in accordance with the Assessment Plan and using NOCN's templates for evidence and assessment instruments.
  - C1.11 Where appropriate, provide NOCN with appropriate access to the apprentice's electronic portfolio system for NOCN's assessors to review the required assessment evidence.
  - C1.12 Comply with all NOCN procedures when booking the apprentices for the EPA, as agreed within the delivery pipeline in Schedule B of the Order Form and in line with the Assessment Plan.
  - C1.13 Provide all necessary information, records and assessment evidence for the EPA, including and where appropriate, evidence of required mandatory qualifications achieved during the On-Programme stage.
  - C1.14 Take all reasonable steps to best prepare the apprentice for their EPA.
  - C1.15 Communicate all EPA arrangements directly with the apprentice's Employer.
  - C1.16 Apply for reasonable adjustments for the apprentices for whom they are essential. NOCN requires a completed EPA Reasonable Adjustments Application Form and supporting evidence to be submitted within 3 months of the scheduled EPA.
  - C1.17 Ensure that all the requirements and evidence for Gateway is provided to NOCN using NOCN's EPA Gateway/Booking form. It is the responsibility of the Customer responsibility to ensure gateway evidence is uploaded and correct. Incorrect/missing evidence may impact booking of EPA.

- C1.18 Take all reasonable steps to ensure the apprentices attend the EPA session(s) on the due date(s) and time(s).
- C1.19 Provide the apprentice with NOCN's results and feedback from the EPA.
- C1.20 Comply with NOCN's Appeal Policy and Procedures, as necessary.
- C1.21 Provide all necessary data to enable NOCN to request the certificate from the Education and Skills Funding Agency (ESFA) and, as appropriate, all information required by any professional body to which the apprentices may become entitled to join.
- C1.22 Comply with NOCN's agreed payment policies and procedures in accordance with the agreed payment schedules and terms outlined in Schedule B of the Order Form and in the 'Fees, Invoicing and Payment Term' section of this agreement.
- C1.23 In line with Ofqual's General Conditions of Recognition ("GCoR"), the Customer will take all reasonable steps to ensure compliance with the agreement and NOCN's policies and procedures in order to support NOCN in complying with the requirements of the GCoR, and any other similar conditions, regulations or guidance issued from time to time by Ofqual in relation to end point assessment activity. And where there is non-compliance, the Customer will take all necessary corrective action to ensure the rectification of any non-compliance with the GCoR.
- C1.24 The Customer will notify NOCN immediately of any incidents of malpractice or maladministration in line with the requirements of NOCN's malpractice and maladministration policy to allow NOCN to decide how the incident will be investigated. Take all reasonable steps to investigate as requested by NOCN any suspected incidents of malpractice or maladministration and rectify any negative impact of these incidents.
- C1.25 The Customer will co-operate fully with any investigation by NOCN including providing access to documents, records, data, staff, third parties, sub-contractors, Learners, satellite centres, delivery sites or any other resource required by NOCN during an investigation of malpractice or maladministration.

A summary of the end-to-end process for the customer can be found [click here](#).

### **NOCN Responsibilities**

C2 NOCN's responsibilities under this Agreement is to provide EPA services as follows:

- C2.1 Deliver the agreed EPA services for the standards as set out in Schedule B of the order form. Services may include development and up-dating of assessment instruments, provision of EPA materials and associated support.
- C2.2 Provide, as appropriate, all relevant guidance, policies, procedures and templates for assessment instruments to the Customer and explain their purpose to the Customer's staff, agents and/or training providers.
- C2.3 Set out all the requirements to the Customer for the delivery of the EPA services being provided.
- C2.4 Appoint, train and qualify NOCN Assessors, who match the requirements of the Assessment Plan, to undertake EPA as agreed, following a successful Disclosure Barring Service (DBS) check.
- C2.5 Provide additional support as an outcome from the application of Reasonable Adjustments and Special Considerations. All arrangements will be agreed with the Customer in advance of the EPA, where possible, and in accordance with the requirements of the Assessment Plan.
- C2.6 Design, produce and make available all the necessary guidance, policies, procedures and assessment instruments for EPA.
- C2.7 Provide the Customer the necessary documentation/access to systems to be able to request an EPA booking.
- C2.8 Schedule the requested EPA bookings and provide confirmation so the Customer can inform the apprentice and Employer. Normally within 10 working days of gateway acceptance.

- C2.9 Receive, collate and securely store the apprentices' data and associated evidence.
- C2.10 Make available a portal system for the Customer and/or their apprentice(s) to deposit required assessment evidence.
- C2.11 Check all evidence is in place by the due dates for the scheduled EPA session(s). This will include checking records, provided by the Customer, against the requirements of the Assessment Plan. This may include confirming the achievement of a mandatory regulated qualification.
- C2.12 Issue secure logins to the apprentices for all online tests and examinations.
- C2.13 Manage and deliver the EPA including reviewing all evidence, assessments, marking, scoring and grading.
- C2.14 Moderate EPA results through a rigorous quality assurance process designed to ensure a consistent and fair assessment decisions.
- C2.15 Send the results of the EPA to the Customer normally within 7 working days.
- C2.16 Process appeals received in accordance with the NOCN' Appeal Policy and procedure in respect of EPA results.
- C2.17 Receive and process complaints in accordance with NOCN's Complaints procedure.
- C2.18 Submit accurate data and information as required to the Education and Skills Funding Agency (ESFA), for them to certificate successful apprentices, and to any professional body to which the apprentices may become entitled to join. Normally within 10 working days
- C2.19 Remain committed to ensuring all apprentices have equal access to succeed at EPA. NOCN has a procedure for the application of reasonable adjustments, as well as Special Considerations, for the Customer to use if required.
- C2.20 Own the Intellectual Property Rights (IPR) for all the assessment instruments and supporting materials, including EPA training materials used in the EPA service, including the additional services provided. We will ensure that the assessment instruments match the requirements, including consistency and external quality assurance (EQA), of the Employers Group that is working with the Education and Skills Funding Agency and Institute for Apprenticeships and Technical Education (the Institute), as well as rules and obligations set out by the Institute when it is fully set up.
- C2.21 Inform the Customer of any 3<sup>rd</sup> party agent appointed by NOCN and their responsibilities.
- C2.22 To undertake to provide the EPA Services under and in accordance with the terms and conditions of this Agreement.
- C2.23 In discharging its obligations and performing the EPA Services under this Agreement NOCN shall at all times act properly with reasonable skill, care and diligence in a proper, lawful, efficient and business-like manner and in accordance with good industry practice.
- C2.24 NOCN shall ensure that it maintains its registration on the ESFA Register of End-Point Assessment organisations.

I have read and accept the terms of this agreement and am authorised to accept the Agreement with NOCN on behalf of the **Customer**.

**FOR INFORMATION PURPOSES ONLY – ACTUAL AGREEMENT WILL BE ISSUED BY NOCN FOR SIGNATURE DURING CONTRACTING PROCESS**

FOR INFORMATION PURPOSES ONLY