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NNAS Provider Terms

Version Date: June 2020

NNAS: National Navigation Award Schemes – a Private Limited Company by guarantee without share capital use of 'limited' exemption registered in Scotland with company number SC320350 and whose registered office is at Office 17 Stirling Enterprise Park, Springbank Road, Stirling, Stirlingshire, Scotland, FK7 7RP.

Provider: the person or legal entity as detailed in the Registration Form.

Agreed terms

1. Interpretation

1.1 Definitions and Interpretation. The definitions and rules of interpretation in this clause apply in these Provider Terms.

Annual Fee: the applicable fee due to commence or renew these Provider Terms, payable in accordance with clause 4.

Authorised Courses. the courses relating to those NNAS Awards which the Provider is authorised by NNAS to promote and deliver to Candidates as set out in the CMS.

Business Day: a day other than a Saturday, Sunday or public holiday in England when banks in London are open for business.

Business Hours: the period from 9.00 am to 5.00 pm on any Business Day.

Candidate: an individual contracting with the Provider.

Commencement Date: means the date the Initial Fee is paid by the Provider.

Confidential Information: any information which is disclosed by one party to the other pursuant to, or in connection with, these Provider Terms (whether orally or in writing and whether or not such information is expressly stated to be confidential), or which otherwise comes into the hands of one of the parties in relation to the Award Schemes, NNAS Business and the Provider's Business other than information which is already in the public domain (otherwise than as a result of a breach of any obligation of confidentiality). The Confidential Information of NNAS includes any part of the Intellectual Property which is not in the public domain (or in the public domain as a result of a breach of confidentiality by the Provider).

Control: the beneficial ownership of more than 50% of the issued share capital of a company or the legal power to direct or cause the direction of the general management of the company, and **controls, controlled** and the expression **change of Control** shall be construed accordingly.

Controller, data controller, processor, data processor, data subject, personal data, processing and appropriate technical and organisational measures: as set out in the Data Protection Legislation in force at the time.

Courses: all courses relating to NNAS Awards.

CMS: a candidate management system as provided by Tahdah Verified Ltd, or any successor management system from time to time being an online database to record the details of Authorised Courses and Candidates.

Current Term: has the meaning given in clause 3.3.

Data Protection Legislation: all legislation and regulatory requirements in force from time to time relating to the use of personal data and the privacy of electronic communications, including, without limitation (i) any data protection legislation from time to time in force in the UK including the Data Protection Act 2018 or any successor legislation, as well as (ii) the General Data Protection Regulation ((EU) 2016/679) and any other directly applicable European Union regulation relating to data protection and privacy (for so long as and to the extent that the law of the European Union has legal effect in the UK).

Initial Term: has the meaning given in clause 3.1.

Intellectual Property: patents, rights to inventions, copyright and related rights, rights in software, trade marks, business names and domain names, rights in get-up, goodwill and the right to sue for passing off, rights in designs, database rights, rights to use, and protect the confidentiality of, confidential information (including know-how), and all other intellectual property rights, in each case whether registered or unregistered and including all applications and rights to apply for and be granted, renewals or extensions of, and rights to claim priority from, such rights and all similar or equivalent rights or forms of protection which subsist or will subsist now or in the future in any part of the world relating to the NNAS Awards, Trade Marks, NNAS Materials, NNAS Website and Courses each as owned by NNAS or acquired by NNAS from time to time.

Mandatory Policies: NNAS's mandatory policies and procedures listed in Schedule 1, as amended by notification to the Provider from time to time.

NNAS Awards: the various award navigation schemes and levels determined by NNAS and supported by NNAS Materials from time to time.

NNAS Materials: the NNAS Website, handbooks, quality standards, assessment criteria and syllabi relating to NNAS Awards and Courses and any other material made available by NNAS from time to time.

NNAS Website: the website found at <http://www.nnas.org.uk> or as amended from time to time.

Provider's Business: the business as carried on by the Provider including but not limited to promotion and delivery of the Authorised Courses.

Registration Form: the form completed by the Provider and supporting documentation as required by the Provider and any update / renewal of the same from time to time during the Term which supports the Provider's ability to provide the Authorised Courses.

Renewed Term: any term of these Provider Terms following a renewal under the provisions of clause 3.3.

Rights: the rights licensed to the Provider during the Term as set out in clause 2.1.

Term: the Initial Term of these Provider Terms and any Renewed Term under clause 3.

Territory: England, Wales and Scotland (or other territory, only as approved by NNAS)

Trade Marks: the service marks and trade names of NNAS from time to time.

VAT: value added tax chargeable under the Value Added Tax Act 1994 and any similar replacement or additional tax.

week: any period of seven consecutive days.

year: any period of 12 consecutive months.

- 1.2 Person.** A **person** includes a natural person, corporate or unincorporated body (whether or not having separate legal personality).
- 1.3 Schedule.** The Schedule forms part of these Provider Terms and shall have effect as if set out in full in the body of these Provider Terms. Any reference to these Provider Terms includes the Schedule.
- 1.4 Company.** A reference to a **company** shall include any company, corporation or other body corporate, wherever and however incorporated or established.
- 1.5 Personal representatives, successors and permitted assigns.** These Provider Terms shall be binding on, and be for the benefit of, the parties to these Provider Terms and their respective personal representatives, successors, and permitted assigns. A reference to any party shall include that party's personal representatives, successors and permitted assigns.
- 1.6 Writing.** A reference to **writing** or **written** includes email but not fax.
- 1.7 These Provider Terms.** A reference to "these Provider Terms" or to any other agreement or a document referred to in these Provider Terms is a reference to these Provider Terms or such other document or agreement as varied or novated (in each case, other than in breach of the provisions of these Provider Terms) from time to time.
- 1.8 Extended obligations.** Any obligation in these Provider Terms not to do something includes an obligation not to allow or permit that thing to be done.

2. Rights granted

- 2.1 A Limited Licence.** In consideration of the payments agreed to be made in clause 4, during the Term NNAS grants the Provider a licence to, so far as each relate to an Authorised Course only, (Rights):
 - (a) Promote and deliver the Courses with accreditation from NNAS for a Candidate via the Provider's Business; and
 - (b) use the Intellectual Property in respect of the Provider's Business;
 - (c) apply a link from the Provider's website to the home page of the NNAS website; and
 - (d) use the benefit of NNAS's knowledge and experience.

The Provider shall carry out the activities listed in this Clause 2.1 in accordance with the mandatory Policies, within the Territory, during the Term and in accordance with the provisions of these Provider Terms.

Nothing in these Provider Terms shall permit or infer the right for the Provider to sub-licence the Rights to any other person.

3. Commencement Date and Term

- 3.1 Registration Form:** The Provider shall be required to complete the Registration Form and provide all supplemental information as referred to therein or as requested by NNAS in order to register as a Provider in respect of the Authorised Courses. NNAS shall review the material provided and, if the registration is successful, confirm the registration and advise the Provider that the Initial Fee must be paid immediately

(payment of this fee triggers the Commencement Date). If the Initial Fee is not paid within 20 Business Days of successful registration the registration will lapse and all information relating to the Provider shall be destroyed by NNAS. The Provider may not start to use the Rights until the Commencement Date.

3.2 Initial Term. The Initial Term is one year from the Commencement Date (subject to earlier termination in accordance with clause 8).

3.3 Renewed Term(s). The Provider may apply to extend the term of these Provider Terms by successive periods each of one year each (from the end of the Initial Term or end of any current Renewed Term) (**Current Term**) if:

- (a) the Provider has paid (in accordance with clause 4) the Annual Fee;
- (b) the details as provided on the Registration Form / CMS remain true and accurate or have otherwise been updated to the satisfaction of NNAS;
- (c) there are no outstanding material breaches by the Provider of these Provider Terms and there are no grounds on which NNAS has a right to terminate these Provider Terms under clause 8; and
- (d) the Provider has at all times performed their obligations under these Provider Terms to the reasonable satisfaction of NNAS and the Provider's Business continues to meet NNAS's requirements.

3.4 Termination on expiration of Term. Unless terminated earlier under clause 8 or the Provider does not comply with clause 3.3, these Provider Terms shall terminate with effect from the end of the Current Term.

4. Annual Fees

4.1 The Initial Term shall commence on the date that the Provider pays the first Annual Fee (which shall also determine the Commencement Date).

4.2 Any other Annual Fee must be paid no later than 30 days from the end of the Current Term in order for a Renewal Term to commence.

4.3 In no circumstances shall the Annual Fee be returned or repaid by NNAS.

4.4 All fees due under these Provider Terms are exclusive of VAT, which shall, where applicable, be paid by the Provider at the prevailing rate on the due date for payment or receipt of the relevant invoice from NNAS (as may be).

5. Obligations of the Parties

The obligations of the parties to the other during the Term (and thereafter where marked with *) are as set out below:

NNAS Obligations	Provider Obligations
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Promote the NNAS Awards and Courses in the Territory in such a manner and at such times as NNAS shall, in its absolute discretion think fit;	Limited to reference to the Authorised Courses, use best endeavours to promote the NNAS Awards and Courses;
Promote the Authorised Courses of the Provider via a link from the CMS to the Provider website;	Permit the NNAS to add a link from the CMS to the Provider's website and ensure that the Provider website includes details of the Authorised Courses;
Provide the Provider with such marketing material as it shall in its absolute discretion think fit;	
Provide the Provider with know-how, advice and guidance relating to the NNAS Awards as it shall in its absolute discretion think fit;	
Update the NNAS Materials from time to time and promptly inform the Provider of such updates;	Use (to the exclusion of prior material) any updated Trademarks and NNAS Materials promptly upon notification from NNAS of such updates;
Organise an AGM for Providers with a session of CPD at least once per year;	Attend the AGM and CPD session at least every three years;
Administer award certificates to Candidates where the Provider has adhered to these Provider Terms;	Undertake all additional CPD as required to provide the Authorised Courses.
	Ensure that all information provided in the Registration Form (and other documents) and as set out in the System is true, accurate and up to date;
	Use the CMS to register Candidates (except for ODA candidates);
	Maintain and not incur any breach of the insurance policies as set out in clause 9 and provide proof of such cover on request to NNAS;

	Comply with the Mandatory Policies;
	*Not do anything that could or might, in the sole opinion of NNAS, bring the NNAS Awards, Course, NNAS Materials or NNAS into disrepute or damage the reputation of NNAS;
	*Not provide any information to the media about NNAS or the NNAS Awards without NNAS's prior written consent;
	*Not participate in or register with any internet group, website or similar medium which has its aim (whether stated or not) or effect the denigration of the NNAS Awards, NNAS or Trade Marks;
	Obtain, maintain and comply with all necessary licences and consents and comply with all relevant legislation in relation to the Authorised Courses, use of Candidate personal data and any other relevant matter. This includes but is not limited to the Provider maintaining an ICO registration on the data controller register;
	<p>Intellectual property obligations of Provider. The Provider shall:</p> <ul style="list-style-type: none"> (a) *Not apply for registration of any of the Intellectual Property (or any intellectual property that is confusingly similar to the Intellectual Property) in its own name, in any part of the world; (b) comply with the Intellectual Property Use Policy and all requests by NNAS as to the use of the Intellectual Property and the ™, © and ® symbols in relation to the Intellectual Property; (c) *give assistance to enable NNAS to register its Trade Marks;

	<ul style="list-style-type: none"> (d) not license (or purport to license) any other person to use any of the Intellectual Property; (e) *not use the Intellectual Property other than as specifically permitted by these Provider Terms, (f) *not use any intellectual property that is confusingly similar to the Intellectual Property; (g) *not do anything that may adversely affect the Intellectual Property or NNAS's right or title to it; and (h) *immediately stop using specific advertising or promotional material or packaging on receipt of a request by NNAS to do so.
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6. Insurance

6.1 Compulsory insurance cover. In order to meet the potential liabilities of a business providing services to a third party (the Candidates) and its potential liabilities to the NNAS under these Provider Terms the Provider shall take out and maintain all-risk insurance policy(ies) with a reputable insurance company (or companies) with, as a minimum, the amount of cover below save that this shall not act as a cap to the liability of the Provider to NNAS for any liability under these Provider Terms:

- (a) liability for employees and third parties; and
- (b) public liability (indemnity cover for at least £5 million per claim or series of claims).

7. Intellectual property

7.1 The Provider acknowledges that:

- (a) it does not have any right, title or interest in the Intellectual Property or any updates or improvements to it, save as specifically set out in these Provider Terms; and
- (b) any goodwill (and any other rights) in the Trade Marks which result from the use by the Provider of the Trade Marks shall vest in NNAS.

7.2 Provider's obligation to report. If the Provider learns of any threatened or actual infringement of the Intellectual Property, or of any circumstance which suggests that the use of the Intellectual Property may infringe the intellectual property of a third party, it shall immediately inform NNAS, giving all such details as NNAS requests.

7.3 Conduct of IP proceedings. NNAS shall have conduct of any proceedings against the Provider relating to the Intellectual Property and may take whatever action it, in its sole discretion, decides in respect of any

infringement or alleged infringement of it, or arising from its use. Any rights that the Provider has or may have, under section 30 of the Trade Marks Act 1994 are excluded. The Provider shall co-operate with NNAS in taking such action and NNAS shall meet any reasonable expenses of the Provider in doing so.

7.4 Ownership of Intellectual Property. The Provider acknowledges and agrees that all the Intellectual Property is and shall remain the exclusive property of NNAS. The Provider shall hold all physical manifestations of the Intellectual Property in safe custody at its own risk and maintained and kept in good condition by the Provider until returned to NNAS or destroyed at the option of NNAS in accordance with clause 9.3.

8. Termination

8.1 On Notice: Either party may terminate these Provider Terms on giving notice in writing of not less than [1] month to the other party.

8.2 Deemed Termination / Expiry: these Provider Terms shall be deemed to have terminated or expired at the end of the Current Term where clause 3.3 is not satisfied to NNAS' satisfaction.

8.3 Termination for cause. NNAS may terminate these Provider Terms with immediate effect (or following such notice period as it sees fit) without prejudice to any of its rights or remedies, by giving written notice to the Provider and the Individual if:

- (a) the Provider fails to pay any amount due under these Provider Terms on the due date for payment;
- (b) the Provider commits a material breach of any term of these Provider Terms (other than failure to pay any amounts due under these Provider Terms) and (if such breach is remediable) fails to remedy that breach within a period of 5 days after being notified in writing to do so;
- (c) the Provider gives to NNAS any false or misleading information, or makes any misrepresentation in connection with obtaining these Provider Terms or during the Term, in connection with the Provider's Business;
- (d) persistent, valid complaints continue to be made to NNAS about the quality of the service provided by the Provider, and the Provider, having received notice of such complaints, fails to improve such service to the reasonable satisfaction of NNAS;
- (e) the Provider, in the reasonable opinion of NNAS, does, or permits to be done, any act which might jeopardise or invalidate the registration of the Trade Marks or does any act which might assist, or give rise to, an application to remove the Trade Marks, or which might prejudice the right or title of NNAS to the Trade Marks;
- (f) the Provider purports to assign any of the rights or licences granted under these Provider Terms other than in accordance with the terms of these Provider Terms; or
- (g) there is a change of Control of the Provider.

9. Consequences of termination

9.1 Effect of termination. On termination or expiry of these Provider Terms for any reason any provision of these Provider Terms that expressly or by implication is intended to come into or continue in force on or after termination or expiry of these Provider Terms, including clause 9, clause 10, clause 11, clause 14.1, clause 14.2, clause 14.8, clause 14.11, clause 14.12 shall remain in full force and effect. Any termination or

expiry of these Provider Terms shall not affect any rights or liabilities that have accrued prior to such termination.

9.2 NNAS shall not be obliged to provide a Candidate certificate in respect of any Authorised Courses completed after termination or expiry of these Provider Terms.

9.3 On termination or expiry of these Provider Terms for any reason, the Provider shall:

- (a) immediately pay NNAS the full amount of all sums due from the Provider to NNAS together with any interest payable in accordance with late payment legislation.
- (b) cease to use the Intellectual Property and not hold the Provider out as a Provider of NNAS or do anything that may indicate any relationship between them and NNAS;
- (c) cease to use the CMS;
- (d) allow NNAS to remove the link to the Provider's website and remove any link from the Provider's website to the NNAS Website; and
- (e) return or at the option of NNAS, destroy, all copies of any material bearing details of the Trademarks in conjunction with the Provider's Business.

10. Indemnity

10.1 Indemnity. The Provider shall indemnify NNAS against all liabilities, costs, expenses, damages and losses (including any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and legal costs (calculated on a full indemnity basis) and all other reasonable professional costs and expenses) suffered or incurred by NNAS arising out of or in connection with:

- (a) any breach of or enforcement of these Provider Terms by the Provider;
- (b) any breach by the Provider of its obligations as a data controller in respect of Candidate personal data;
- (c) any claim made against NNAS by a data subject (including but not limited to a Candidate) or liability incurred or agreed to be paid by NNAS as a consequence of its actions as a data processor in accordance with clause 11;
- (d) any claim made against NNAS by a third party (including but not limited to a Candidate) arising out of or in connection with the Provider's provision and delivery of the Authorised Courses, to the extent that such claim arises out of the breach, negligent performance or failure or delay in performance of these Provider Terms by the Provider, its employees, agents or subcontractors;
- (e) any claim made against NNAS by a third party (including but not limited to a Candidate) for death, personal injury or damage to property arising out of or in connection with the Provider's provision and delivery of the Authorised Courses, to the extent that such claim is attributable to the acts or omissions of the Provider, its employees, agents or subcontractors.

11. Data protection

11.1 Both parties will comply with all applicable requirements of the Data Protection Legislation. This clause 11 is in addition to, and does not relieve, remove or replace, a party's obligations or rights under the Data Protection Legislation.

11.2 In respect of direct dealings between the parties for registration and maintenance of these Provider Terms NNAS shall process the data of the Provider in accordance with the NNAS Privacy Notice (see Schedule 1).

- 11.3 In respect of the processing of Candidate personal data in respect of the administration of the NNAS Awards during the Term (and retention period of 40 years) the parties acknowledge that the Provider is the controller and NNAS is the processor. The Provider acknowledges that NNAS uses the CMS (CMS provider as a sub-processor) to manage this.
- 11.4 Without prejudice to the generality of clause 11.1, the Provider will ensure that it has all necessary appropriate consents and notices in place to enable lawful transfer of the personal data to NNAS for the duration and purposes of this agreement and that it maintains its registration with the ICO as a data controller.
- 11.5 Without prejudice to the generality of clause 11.1, NNAS shall, in relation to any Candidate personal data processed (provided by the Provider or collected by NNAS as a processor) in connection with the performance by NNAS of its obligations under these Provider Terms:
- (a) process that personal data only in connection with the performance by NNAS of its obligations under these Provider Terms unless NNAS is required by law to otherwise process that personal data;
 - (b) ensure that it has in place appropriate technical and organisational measures, to protect against unauthorised or unlawful processing of personal data and against accidental loss or destruction of, or damage to, personal data, appropriate to the harm that might result from the unauthorised or unlawful processing or accidental loss, destruction or damage and the nature of the data to be protected, having regard to the state of technological development and the cost of implementing any measures;
 - (c) ensure that all personnel who have access to and/or process personal data are obliged to keep the personal data confidential; and
 - (d) Shall not, save for the business use of Google Drive for administrative purposes (whose servers are globally located), not transfer any personal data outside of the European Economic Area.
 - (e) assist the Provider, at the Provider's cost, in responding to any request from a data subject and in ensuring compliance with its obligations under the Data Protection Legislation with respect to security, breach notifications, impact assessments and consultations with supervisory authorities or regulators; and
 - (f) notify the Provider without undue delay on becoming aware of a personal data breach.

12. Assignment

- 12.1 No assignment by Provider.** These Provider Terms is personal to the Provider who, subject to clause 12.1 may not, without the prior written consent of NNAS assign, transfer, mortgage, charge, declare a trust of, sub-contract, delegate or deal in any other manner with these Provider Terms or any of their rights and obligations under it (or any document referred to in it) or purport to do any of the same.
- 12.2 Freedom of NNAS to assign.** NNAS may, at any time, assign (absolutely or by way of security and in whole or in part), transfer, mortgage, charge or deal in any other manner with the benefit of any or all of any other party's obligations or any benefit arising under these Provider Terms.
- 12.3 Sub-contracting:** The Provider may delegate delivery of the Authorised Courses so far as this is in line with the Mandatory Policy (Code of Conduct). The Provider shall be liable for and responsible for any acts or omissions of any sub-contractor.

13. Limitation of liability

13.1 Unlimited liability. Nothing in these Provider Terms shall limit or exclude the liability of either party for:

- (a) Death or personal injury caused by its negligence, or the negligence of its employees, agents or subcontractors (as applicable).
- (b) Fraud or fraudulent misrepresentation.
- (c) Any matter in respect of which it would be unlawful to exclude or restrict liability.
- (d) Liability under the indemnities set out in clause 10 or other indemnities provided by the Provider in these Provider Terms.

13.2 Limitations of liability. Subject to clause 13.1 above:

- (a) NNAS shall not under any circumstances whatever be liable to the Provider, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, for:
 - (i) Loss of profits;
 - (ii) Loss of sales or business;
 - (iii) Loss of agreements or contacts;
 - (iv) Loss of anticipated savings;
 - (v) Loss of use or corruption of software, data or information;
 - (vi) Loss of or damage to goodwill; or
 - (vii) Indirect or consequential loss.

13.3 Subject to clauses 13.1 and 13.2, the total aggregate liability of NNAS to the Provider is limited to the Annual Fee for the Current Term.

14. General

14.1 Force majeure. NNAS shall not be in breach of these Provider Terms nor liable for delay in performing, or failure to perform, any of its obligations under these Provider Terms if such delay or failure result from events, circumstances or causes beyond its reasonable control.

14.2 Confidentiality.

- (a) Each party undertakes that it shall not at any time disclose to any person any confidential information concerning the business, affairs, customers, clients or suppliers of the other party, except as permitted by clause 14.2(b).
- (b) Each party may disclose the other party's confidential information:
 - (i) to its employees, officers, representatives, subcontractors or advisers who need to know such information for the purposes of exercising the party's right's or carrying out its obligations under these Provider Terms. 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 14.2(b); and
 - (ii) as may be required by law, a court of competent jurisdiction or any governmental or regulatory authority.
- (c) No party shall use any other party's confidential information for any purpose other than to exercise its rights and perform its obligations under or in connection with these Provider Terms.

14.3 Entire agreement.

- (a) These Provider Terms, and any documents referred to in it, constitute the entire agreement between the parties and supersedes and extinguishes all previous agreements, promises, assurances, warranties, representations and understandings between them, whether written or oral, relating to its subject matter.
- (b) If there is an inconsistency between the terms of these Provider Terms and any other documents referred to in it the terms of these Provider Terms shall prevail.

14.4 Change to these Provider Terms (and documents referred to in it). NNAS may amend or update these Provider Terms and any document referred to in it at any time subject to notification to the Provider of the amendment/ update by email. Any amendment or update shall be deemed to have been accepted by the Provider if the Provider has not served notice to terminate these Provider Terms under clause 8.1.

14.5 No waiver. A waiver of any right or remedy is only effective if given in writing and shall not be deemed a waiver of any subsequent breach or default. A delay or failure to exercise, or the single or partial exercise of, any right or remedy shall not:

- (a) Waive that or any other right or remedy; or
- (b) Prevent or restrict the further exercise of that or any other right or remedy.

14.6 Severance. If any provision or part-provision of these Provider Terms 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 these Provider Terms.

14.7 Notices.

- (a) Any notice or other communication given to a party under or in connection with these Provider Terms shall be in writing, addressed to that party at its registered office or such other address as that party may have specified to the other party in writing in accordance with this clause, and shall be delivered personally, or sent by pre-paid first class post or other next working day delivery service, commercial courier, or e-mail.
- (b) A notice or other communication shall be deemed to have been received: if delivered personally, when left at the address referred to in clause 14.7(a); if sent by pre-paid first class post or other next working day delivery service, at 9.00 am on the second Business Day after posting; if delivered by commercial courier, on the date and at the time that the courier's delivery receipt is signed or, if sent by e-mail, one Business Day after transmission.
- (c) This clause shall not apply to the service of any proceedings or other documents in any legal action, arbitration or other method of dispute resolution.

14.8 No third party rights. No one other than a party to these Provider Terms, their successors and permitted assignees, shall have any right to enforce any of its terms. A Candidate is not a party to these Provider Terms.

- 14.9 Rights and remedies.** The rights and remedies provided under these Provider Terms are in addition to, and not exclusive of, any rights or remedies provided by law.
- 14.10 No partnership or joint venture.** Nothing in these Provider Terms is intended to, or shall be deemed to, establish any partnership or joint venture between any of the parties, nor constitute any party the agent of another party, nor authorise any party to make or enter into any commitments for or on behalf of any other party. Each party confirms it is acting on its own behalf and not for the benefit of any other person.
- 14.11 Governing law.** These Provider Terms, 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.
- 14.12 Jurisdiction.** Each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim arising out of or in connection with these Provider Terms or its subject matter or formation (including non-contractual disputes or claims).

Schedule 1 Mandatory Policies

- NNAS Code of Conduct
- Intellectual Property Use Policy
- Candidate Policy
- NNAS Privacy Notice
- NNAS Complaints Policy

CODE OF CONDUCT

COMPETENCE

For up to date details of the qualifications required for Course Directors and Bronze Tutors, please see Course Criteria Overview on our website here

DEALINGS WITH A CANDIDATE

See the NNAS "Candidate Policy", and "Candidate Information Notice" (sent to Provider on commencement of registration. Digital copy for Providers can be requested from the NNAS office.)

DEALINGS WITH THE OUTSIDE COMMUNITY

The Provider, in so far as they are able, are to retain cordial relations with other entities such as mountain centres, professional bodies, landowners, rescue organisations and the public. The Provider shall wherever possible co-operate with MTUK, the BMC, Mountaineering Councils, sports councils and public bodies in general.

GENERAL PROFESSIONAL CONSIDERATIONS

RISK: Outdoor activities by their nature involve an element of risk and such risks must be accepted by the Candidates. The Provider will try to make sure that Candidates are made aware of the risks involved in the activity.

EQUIPMENT: The Provider shall use equipment appropriate to the activity and subject this equipment to a routine maintenance program.

CONDITIONS: The Provider shall be informed with regards to conditions in the area chosen using appropriate weather, snow and avalanche forecasts.

TECHNICAL SKILLS: The NNAS recommends that all Providers keep up to date with current safe practice and techniques relevant to the NNAS and record personal and professional associated experience.

FIRST AID: Providers should ensure all Course Directors have a current first aid certificate.

ADVICE: Providers will respond courteously and helpfully to all requests for advice about navigation matters. They should offer to help aspirant instructors and professionals from other areas recognising any potential possible legal implications.

RESCUE: In the event of an incident the Provider shall endeavour to give assistance. It must be remembered that none should expose themselves to unnecessary risks and that the first responsibility is to their Candidates.

ENVIRONMENT: All shall encourage by example, advice and vigilance cleanliness in the mountains, proper use of access routes and observe voluntary access restrictions. The Provider shall display proper respect for the environment and shall abide by the guidelines of the NNAS and respective national Mountaineering Councils.

NNAS Intellectual Property Use Policy

NNAS Intellectual Property is defined in the Provider Terms as;

- Intellectual property rights in;
 - NNAS Awards (Bronze etc);
 - NNAS Materials (the syllabi, assessment criteria, handbooks etc);
 - NNAS Trademarks; and
 - NNAS Website.

As a Provider you may use Intellectual Property subject to limitations determined by the courses you are authorised to promote and deliver and provided that you comply with this policy.

If you are no longer a Provider, for whatever reason, your rights to use certain aspects of the Intellectual Property (namely NNAS Trademarks and some aspects of the NNAS Website such as a link to your business website and Provider Log in areas) will cease. You will also not be able to upload any further candidates to the candidate management system (CMS) we provide for your use and further, any candidate completing a course run which qualifies for an NNAS Award will not receive an award even if they pass your assessment.

Your continued use of NNAS Trademarks outside of licensed rights is a breach of contract and also, - in respect of any unregistered trademarks- exposes you to a potential claim of passing off (as you are obtaining a commercial advantage by continuing to hold yourself out as associated with us and causing confusion to candidates). In respect of continued use of any registered trademarks your continued use is an infringement of rights under the Trade Mark Act.

A breach of this policy is a breach of the Provider Terms.

This Policy is in addition to the provisions of clause 6 of the Provider Terms.

Your use of NNAS Trade Marks

Where you have the right to use the NNAS Trade Marks (see Schedule 2 for a list of these) you must at all times, in addition to the obligations at clause 7 of the Provider Terms;

- Only use the NNAS Trade Mark as supplied digitally by NNAS and not alter the format, colour, font, size of the mark in any way;
 - This includes the use of [™], [®] as provided by NNAS;
- Ensure that when notified of a change or discontinuance to an NNAS Trade Mark that you update or discontinue use of the mark promptly and in line with any instructions given by NNAS.

Your use of the NNAS Website

Link Policy: You may add a link to the NNAS Website provided that:

- the link is to our home page only. You may not create links to any other page or file forming part of our website without our prior written permission.
- Our pages must load into the user's entire window and not load into frames on your website.
- Your use of links to our website must not be used in a misleading or defamatory context.
- You use best practice when linking, e.g. avoid using vague terms such as 'click here', which do not inform the user that they are leaving the website and redirecting to our website. Instead, use clear wording alongside any link to our site, e.g. 'For further information visit NNAS's website'.

- We reserve the right to withdraw permission to link to our website at any time and, if we do so, you must remove all links and take such other action as we may reasonably require immediately.

Copyright: The content of the NNAS website is protected by copyright. All rights reserved. Copyright is a law that gives the owner of a work (for example, a book, movie, picture, song or website) the right to say how other people can use it.

Use of Provider Log in areas/ protection of passwords;

Access to and use of password protected areas of the NNAS Website is restricted to authorised users only. You agree that you: (i) will provide current, complete and accurate identification, contact and other information about you as you may be prompted by the registration process; (ii) are responsible to maintain, keep current and update any registration data and other information you provide to NNAS; (iii) are entirely responsible for maintaining the security of your password, identification and account and for any and all activity that occurs under your account; and (iv) will notify NNAS immediately of any unauthorised access or use of your account or password or any other breach of security. You understand that any person with your password will be able to access your account and any registration data, you accept sole risk of unauthorised access to your account. To the full extent permitted by law NNAS will not be liable to you for any loss you may incur as a result of someone else using your password or account with or without your knowledge. You may be held liable for losses incurred by NNAS due to someone else using your password or account because of your non-performance under this policy.

Your use of NNAS Materials.

The content of the NNAS Materials are protected by copyright. Permission is granted to reproduce for personal and educational use only. Commercial copying, hiring, lending is prohibited.

Schedule 2

NNAS logo TM 2020.jpg

NNAS logo TM 2020.png

NNAS logo-20 transparent.png

Candidate Policy

The aim of this policy is to guide a Provider as to how to manage their dealings with a Candidate in respect of the NNAS courses.

Contract and Liability (including insurance)

You are providing the provision of NNAS Courses (as limited by your qualifications / as noted on the CMS) (and other courses) as part of a business and it is your responsibility to provide the services in accordance with best practice.

It is also your responsibility to have written *terms of business* in place and to provide these to a Candidate when a Candidate contracts with you for the delivery of a course. We reserve the right to ask to see a copy of your terms of business.

It is in your interests to have terms of business in place so that you are in control of liability limits, delivery and other expectations of the Candidate.

NNAS is not liable to the Candidate and it is your responsibility to have insurance in place as set out in the Provider Terms.

Data Protection / Mandatory provision of Candidate Information Notice to all Candidates

You will need to collect certain items of personal data from a Candidate to fulfil your contract with them and ensure that you are following any required safeguarding requirements for under 18s and vulnerable adults.

You will collect name, address, date of birth, emergency contact, gender, and email address as a matter of course for contract and safeguarding purposes. You will also need to collect some medical information and for this you will need to manage consent requirements of the data protection legislation. It is your responsibility to provide the candidate with a data protection notice in respect of your own controller / processing activities and also to advise the Candidate that NNAS is a data processor. So that you do not have to amend your privacy notice NNAS require you to provide all Candidates with a copy of the document shown at **Annex 1 – Candidate Information Notice**, a pdf copy of which NNAS will give to all Providers.

Where the Candidate is under 18 years, a parent's email should be collected by the Provider. The Provider must send the parent this Privacy Notice which is applicable to the processing of data and copy them into any further correspondence.

NNAS as data processor: - Candidate Data Where you offer NNAS Navigator or Tutor Award courses you will also wish that the candidate will receive the relevant NNAS award and this is administered by NNAS using an online third party candidate management system (CMS). Accordingly, as part of the services you provide to the Candidate you will enter some of these data fields in to the CMS and instruct NNAS to produce the certification (on completion of assessment) and manage feedback assessment with the Candidate. ODA data shared with NNAS is restricted to gender, age group, and ethnicity.

NNAS as data controller: - Candidate Data We appreciate that we may have some direct dealings with a Candidate as a data controller and we have addressed these in the NNAS Privacy Notice (this is referred to in the Candidate Information Notice).

Safeguarding

You must have in place an appropriate safeguarding policy in place and ensure compliance with this at all times in the delivery of NNAS Courses. This policy must contain the following points as a minimum;

- a) If you undertake work with children and / or vulnerable adults, you must have a written *safeguarding policy* to guard against the risk of abuse, which is reviewed at least annually.
- b) You must comply with all legislation and guidelines relating to the safeguarding of children and vulnerable adults including use of the Criminal Disclosure Service/Independent Safeguarding Authority Scheme (or Scottish equivalent).

Making sure the Candidate gets the award they have worked for

NNAS will only accredit the candidate with the award for the course you have provided whilst you are a Provider. This means that you will have observed the Provider Terms in full and paid any renewal fee on time!

Quality of Assessment

You will ensure that you apply the levels and quality of assessment of a candidate as directed by NNAS in the NNAS Materials.

Dealing with Complaints

You will provide the Candidate with a suitable complaints procedure and manage the issues with the Candidate in the first instance. Where the complaint involves NNAS and you are not able to deal with the complaint you will follow / guide the Candidate to follow the NNAS Complaints Policy.

Making sure you (instructor and course directors) have the qualifications NNAS require to provide the courses

NNAS requires you to comply with all regulations concerning the qualifications of persons in your control delivering an NNAS Course. Please refer to the Code of Conduct.

Not holding yourself out as agent of NNAS or misrepresenting that you have rights to use the NNAS Trademarks

Please make sure that in all your dealings with a Candidate you are clear that you operate the NNAS Awards and can use the NNAS Trademarks under licence from the NNAS.

You should remove all references to NNAS Trademarks as soon as you are no longer a Provider as continued use is a breach of contract and exposes you to a potential claim of passing off (or trademark infringement if we have registered any marks).

If you continue to reference NNAS Awards outside of Provider status you should make it clear that the Candidate will not be able to acquire the certification of NNAS.

ANNEX 1

Candidate Information Notice (EXAMPLE – each Provider will receive a personalised copy)

Dear Candidate,

We understand that you have selected [Name of Provider] (“Provider”) to provide and deliver NNAS accredited courses to you (the “Services”).

These Services will be provided to you in accordance with the terms of business of the Provider and whilst the NNAS sets out the course syllabus and assessment criteria NNAS is not liable to you for any issues concerning the delivery of the Services.

If you have a complaint concerning the Services, you should try to resolve this with the Provider in the first instance. Should you not be able to do so, and the complaint relates to the assessment of the course, please ask the Provider to refer the matter to NNAS and we will deal with this in accordance with our Complaints Policy.

The Provider should also provide you with their Privacy Notice which will set out what data they need to collect from you, why and how they process it. The Provider is registered on the ICO register of data controllers.

NNAS as a data processor:

- **Navigator and Tutor Awards:** In order for the Provider to notify NNAS that you are a Candidate and so that we can, if you complete the course successfully, provide you with the NNAS Award appropriate to the course and manage any feedback from you as to the Services provided to you by the Provider, the Provider will enter some of the personal data you have provided to the Provider (as a data controller) into the candidate management system (“CMS”) we make available to Providers. The CMS will generate an ID reference for your records.

- **ODA courses:** In order to obtain an ODA certificate for you, the Provider will share the following data with NNAS: gender, age group, ethnicity. This data is not held on the CMS. It is stored internally by NNAS for 40 years and is only visible to NNAS employees and Trustees.

In all these functions NNAS acts as a data processor for the Provider. If you wish to access any of your data subject rights in respect of this data, you should direct this request to the Provider.

The CMS system retains data for 40 years so that all parties can have access to accreditations over this period.

Navigator & Tutor Award candidates: Your data is only visible to NNAS and the Provider or any other person to whom you have provided your ID number, or a future provider so that they can find you on the CMS and update your details to add the new/ additional course they will provide to you.

NNAS as a data controller: There are some limited circumstances in which NNAS is a data controller in respect of dealings with you such as (i) if you contact us directly for information etc or (ii) there is complaint in progress. You are referred to the NNAS Privacy Notice for further information as to how NNAS processes this personal data.

We hope that you enjoy the NNAS Course and wish you luck in attaining the NNAS Award.

Yours sincerely,

NNAS Board of Trustees

NNAS PRIVACY NOTICE

Version Date: June 2020

INTRODUCTION

We understand that the privacy of all of our course providers, donors, suppliers, volunteers and course candidates, is important to them and that they care about how their personal data is used. In this Privacy Notice, we refer to them all of those individuals as “you” for convenience.

We respect and value your privacy and will only collect, hold, use, or share your personal data in ways that are described here, and in a way that is consistent with our obligations and your legal rights.

1. Information about us

National Navigation Award Scheme (NNAS) is a registered charity no: SC039201 and is a company limited by guarantee registered in Scotland under no. SC320350 whose registered address is: Office 17 Stirling Enterprise Park, Springbank Road, Stirling, Stirlingshire, Scotland, FK7 7RP.

2. What does this Notice cover?

This Privacy Notice explains the types of your personal data that we collect, how it is collected, how it is held, how we use it, and how it is processed. It also explains your rights under data protection legislation relating to your personal data. Further information about your rights can also be obtained from the Information Commissioner’s Office or your local Citizens Advice Bureau.

3. What is “personal data”?

Personal data is any information relating to an identifiable person who can be directly or indirectly identified in particular by reference to an identifier. Personal data is, in simpler terms, any information about you that enables you to be identified. Personal data covers obvious information such as your name and contact details, but it also covers less obvious information such as identification numbers, electronic location data, and other online identifiers. The personal data that we collect and use as a data controller is set out in paragraph 5 below.

We consider that we are a **data controller** when we deal with course providers, donors, suppliers, volunteers at all times however, we only act as a data controller with respect to the personal data of course candidates where a course candidate or potential course candidate contacts us directly (e.g. by phone or via the website) or we are dealing with a complaint involving the course candidate in accordance with the NNAS complaints policy.

In relation to other matters concerning a course candidate, including where we contact the course candidate for feedback on a course provided to them under the awards (by a course provider) we are a **data processor** and the course candidate is referred to the privacy notice of the course provider you have selected for delivery of the course and also the Candidate Information Notice.

In relation to your use of any candidate management system (CMS) we may use and allow you access to as a course provider, we are a **data processor** (and further the CMS provider, currently Tahdah Verified Limited) is a sub-processor). Please see the Provider Terms for the data processing provisions applicable to this relationship.

4. What are my rights?

Under the data protection legislation, you have the following rights, which we will always work to uphold. You have the right to:

- a) be informed about how we process your personal data;
- b) access and be given a copy of the personal data we hold about you. (See paragraph 10 below about this);
- c) require us to correct any personal data that we hold about you if any of it is inaccurate or incomplete;
- d) be forgotten: in certain circumstances you have a right to have your personal data erased from

our records;

- e) restrict (i.e. prevent) the processing of your personal data;
- f) object to the way we process your personal data (e.g. for direct marketing);
- g) withdraw consent: if we are relying on your consent as the legal basis for using your personal data, you are free to withdraw that consent at any time;
- h) data portability: the right in certain circumstances to have us transfer your personal data to another organisation; and
- i) not be subject to a decision based solely on automated processing (including profiling) which produces legal effects on you. We do not use your personal data in this way.

As to how to contact us for more information about our use of your personal data or exercising your rights as outlined above, see paragraph 11 below.

It is important that your personal data is kept accurate and up-to-date. If any of the personal data we hold about you changes, please keep us informed as long as we have that data.

If you wish to make a complaint about our use of your personal data, you have the right to lodge a complaint with the Information Commissioner's Office but please contact us first (see paragraph 11 below) so that we might try to resolve your concerns ourselves.

5. What personal data do we collect and how?

We may collect and hold some or all of the personal data set out below, using the methods set out there.

When we act as a Provider of workshops and courses, where the Candidate is under 18 years a parent's email will be collected. We will send the parent this Privacy Notice which is applicable to the processing of data and copy them into any further correspondence.

Data collected	How we collect the data
Identity Data.	When you complete a registration form to apply / renew course provider status / contact us directly/ agree to provide services or goods to us / when we manage a complaint/ if you make a donation and provide this information to us.
Contact Data.	When you complete a registration form to apply / renew course provider status / contact us directly/ agree to provide services or goods to us / when we manage a complaint / if you make a donation and provide this information to us.
Payment Data.	When you purchase goods via the provider shop/ payment of annual fees/ if you make donation and provide this information to us. Where a Provider has chosen to use the online booking system provided by Tahdah, you are required to enter in bank details.
Session information and other technical information when you use the NNAS website	Through cookies and other analytical tools. Please view the cookie policy for more information about how we collect and use this data and how you can manage this.
Medical Data (special category data) as relevant to your participation in an activity	By completion of a health form before you attend a course or workshop.

6. How do you use my personal data?

Under UK data protection legislation, we must always have a lawful basis for using personal data. The following table describes how we may use your personal data, and our lawful bases for doing so:

What we do	What data we use	Our lawful basis
Administering our charity	All of the above as appropriate.	Legitimate interests.
Managing our relationship with you, e.g. as a volunteer, course provider, supplier/ managing payments / keeping the CMS up to date with course provider information	All of the above as appropriate.	Contract: for the performance of provision of services to you / by registering as a course provider and payment of annual fees you have entered into a contractual relationship with us.
Communicating with you, including where you enquire about us, providers, the awards, volunteering, events/ as part of a complaint / feedback in respect of a course you have attended.	Identity and Contact Data	Legitimate interests: it is necessary for us to read the communication so we may respond in the way you would expect.
Receiving a donation from you and claiming Gift Aid on your donations.	Identity and Contact Data.	Legitimate interests; this is necessary for us to fulfil your intention of donating money.
Provide you with information about awards, revisions to awards, updates, information about NNAS generally (this is not direct marketing)	Identity and Contact Data.	Legitimate interests / Contractual purpose. We will only send such material to course providers and this is necessary to keep you informed about changes to policies that affect you and also to ensure that you get the most out of being a course provider.
To keep you safe while undertaking an activity or course run by NNAS or ensuring that your medical needs can be met	Medical data	Explicit consent: we will provide you with the opportunity to provide consent and how you can withdraw consent at the point that the data is collected.

We will only use your personal data for the purpose(s) for which it was originally collected unless we reasonably believe that another purpose is compatible with that or those original purpose(s) and need to use your personal data for that purpose. If we do use your personal data in this way and you wish us to explain how the new purpose is compatible with the original, please contact us using the details in paragraph 11 below.

If we need to use your personal data for a purpose that is unrelated to, or incompatible with, the purpose(s) for which it was originally collected, we will inform you and explain the legal basis which allows us to do so.

In some circumstances, where permitted or required by law, we may process your personal data without your knowledge or consent. This will only be done within the bounds of the data protection legislation and your legal rights.

7. **How long will you keep my personal data?**

We will not keep your personal data for any longer than is necessary in light of the reason(s) for which it was first collected and this is usually the later of 7 years from the date we collected it 7 years from the data we no longer have any dealings with you.

Data included in the CMS is deleted after 40 years by the CMS provider – see CMS privacy notice for more information [Tahdah privacy notice].

8. **How and where do you store or transfer my personal data?**

Save for the use of Google Drive which we use for administrative purposes we will only store or transfer your personal data within the European Economic Area (the “EEA”). In respect of Google Drive the limits of our subscription do not allow us to mandate to Google that personal data is not transferred outside of the EEA. However, we have entered into Google’s standard data processing agreements and contract clauses to ensure that ICO recognised adequate protection is in place.

9. **Do you share my personal data?**

We will not share any of your personal data with any third parties for any purposes, subject to the following exceptions.

If we merge any or all of our organisation or assets, your personal data may be transferred to another charity. Any such new owner of our charity may continue to use your personal data in the same way(s) that we have used it as specified in this Privacy Notice.

In some limited circumstances, we may be legally required to share certain personal data, which might include yours, if we are involved in legal proceedings or complying with legal obligations, a court order, or the instructions of a government authority.

We have set out above that we use the CMS to administer parts of the course provider services to you. In doing so we have taken steps to ensure that your personal data is handled safely, securely, and in accordance with your rights, our obligations, and the third party’s obligations under the law.

10. **How can I access my personal data?**

If you want to know what personal data we hold about you, you can ask us for details of that personal data and for a copy of it (where any such personal data is held). This is known as a subject access request (“SAR”).

All SARs should be made in writing and sent to the email or postal address shown in paragraph 11. There is not normally any charge for a SAR. If your request is ‘manifestly unfounded or excessive’ (for example, if you make repetitive requests) a fee may be charged to cover our administrative costs in responding. We will respond to your SAR in accordance with the law.

11. **How do I contact you?**

To contact us about anything to do with your personal data and data protection, including to make a SAR, please contact the Data Protection Representative.

Email address: info@nnas.org.uk

Telephone number: 01786 451307

Postal Address: 17 Stirling Enterprise Park, Stirling, FK7 7RP.

12. **Changes to this Privacy Notice**

We may change this Privacy Notice from time to time.