

UK Financial Investments

**Invitation to Tender (“ITT”):
Seller’s Counsel**

Contract reference: UKFI 14-01-27

20 January 2014

CONTENTS

Part 1 Tender

- 1 Purpose
- 2 About the Authority
- 3 Requirement
- 4 Pricing
- 5 Contract period
- 6 Communications
- 7 Acceptance of tender responses
- 8 Terms & Conditions
- 9 Costs of tendering
- 10 Mandatory requirements
- 11 Documentation
- 12 Qualifications
- 13 No agreement
- 14 Variant tenders
- 15 Conflict of interest
- 16 Confidentiality
- 17 Freedom of Information Act
- 18 Disclaimers
- 19 Canvassing
- 20 Additional information
- 21 Submission of tender responses
- 22 Notification of award
- 23 Debriefing
- 24 Contract management
- 25 Transparency
- 26 Tender evaluation

Part 2 Specification of Requirement

- 1 Requirement
- 2 Scope

Part 3 Evaluation Criteria

- 1 Tender response
- 2 Mandatory question
- 3 Evaluation criteria
- 4 Appendix 1 - Glossary

Part 4 Schedules

- 1 Non Disclosure Agreement
- 2 Charges schedule
- 3 References schedule
- 4 Contact information and contract manager
- 5 Statement of compliance

Part 5 Terms and Conditions

- 1 Terms and Conditions
- 2 Order Form

Part 1

Tender

1. Purpose

- 1.1. This document sets out the conditions and intent of UK Financial Investments Ltd (“UKFI”) (the Authority) in conducting an Invitation to Tender (“ITT”) for Seller’s Counsel. The purpose of this ITT is to establish a contract with one Supplier that specialises in the provision of legal services in relation to equity capital markets transactions.
- 1.2. Tenderers must ensure that they are familiar with the requirements of the Authority in seeking to respond to this ITT.

2. About the Authority

- 2.1. UK Financial Investments is a Companies Act Company with Her Majesty’s Treasury (“HMT”) as its sole shareholder. The company’s activities are governed by its Board, which is accountable to the Chancellor of the Exchequer and – through the Chancellor – to Parliament.
- 2.2. UK Financial Investments was created in November 2008 as part of the United Kingdom’s response to the financial crisis. It is responsible for managing Her Majesty’s Government’s (“HMG”) shareholdings in Lloyds and Royal Bank of Scotland (RBS). The Authority is also responsible for managing HMG’s 100% shareholding and loans to UK Asset Resolution Ltd (“UKAR”). UKAR was formed in October 2010 to integrate the activities of Northern Rock (Asset Management) plc and Bradford & Bingley plc. The services procured through this tender process will only relate to HMG’s shareholdings in Lloyds and RBS.
- 2.3. The Authority’s overarching objective is to manage these shareholdings commercially to create and protect value for the taxpayer as shareholder. In addition, the Authority is responsible for devising and executing a strategy for realising value for HMG’s shareholdings in an orderly and active way over time within the context of protecting and creating value for the taxpayer as shareholder, paying due regard to the maintenance of financial stability and acting in a way that promotes competition.
- 2.4. Further information on the Authority can be found by visiting <http://www.ukfi.co.uk/>.

3. Requirement

- 3.1. The Authority is seeking to procure a Service Provider to provide the role of Seller’s Counsel to the Authority. The scope covers the services required and is set out in more detail in Part 2 (Specification of Requirement).
- 3.2. The Authority is procuring one service provider to deliver the service.
- 3.3. This ITT has not been subject to a contract notice publication in the Official Journal of the European Union (“OJEU”) as the scope of the services being procured is a Part B service under the Public Contracts Regulations 2006 (the “Regulations”).

3.4. This ITT is open to all Tenderers who meet the minimum criteria for selection (referred to in Part 3).

3.5. Set out below is the proposed procurement timetable. All times referred to throughout this document refer to **Greenwich Mean Time (GMT)** and are presented in a **24 hour format**. The timetable below is intended as a guide and whilst the Authority does not intend to depart from the timetable it reserves the right to do so at any stage.

DATE	STAGE
20 January 2014	ITT to be published on the Authority's official website (www.ukfi.co.uk)
22 January 2014 (09:00)	Tender Registration Deadline procurement@ukfi.co.uk (see paragraph 3.7 below for further details)
22 January 2014 (17:00)	Tender Clarification Deadline (see paragraph 3.9 below for further details)
24 January 2014 (09:00)	Tender Clarification Response Deadline Clarifications issued to Tenderers by the Authority to the extent possible
27 January 2014 (12:00 - noon)	Tender Response Deadline The Authority should receive an electronic copy (in PDF format) and five (5) hard copy responses to the ITT to the e-mail address and postal address provided in paragraph 6.8. <u>Please note</u> the specific requirements regarding hardcopy delivery.

3.6. The Authority will revert to Tenderers with the results of this procurement process as soon as possible.

3.7. Tenderers are required to confirm their participation via email to the Authority at the following address: procurement@ukfi.co.uk by **09:00 on 22 January 2014**. All e-mailed communications should be clearly headed "The Authority Procurement - Invitation to Tender, [Tenderer name]" and include the name, contact details and position of the person making the communication.

3.8. Tenderers who have expressed an interest by the Tender Registration Deadline will receive copies of clarifications requested where the Authority considers clarifying answers appropriate.

- 3.9. Clarification questions must be submitted by **17:00 on 21 January 2014** and will be answered by **09:00 on 24 January 2014**.
- 3.10. Tenderers must submit an electronic copy (in PDF format) of their tender to the Authority's e-mail address in paragraph 3.7, to arrive no later than **12:00 (noon) on 27 January 2014**, the Tender Response Deadline. In addition, you must submit five (5) hard copies of your tender to the Authority's address in paragraph 6.1 to arrive no later than **12:00 (noon) on 27 January 2014**, the Tender Response Deadline. Each hard copy of the tender should be stapled together. Tenders may be submitted at any time before the Tender Response Deadline. Tenders received before the Tender Response Deadline will be retained unopened until the closing date. Please ensure that your e-mail and package are marked "The Authority Procurement – Tender Response, [Tenderer Name]". The contents of the electronic and hard copies of the Tender should be identical. In the event that these differ, only the hard copy will be considered for evaluation.
- 3.11. The information contained in the ITT is designed to ensure that a completed Tender Response is given equal and fair consideration. It is important that Tenderers provide all the information asked for in the format and order specified.
- 3.12. Tenderers must read the ITT carefully before submitting a Tender Response. Failure to comply with the instructions for completion and submission of a Tender Response may result in elimination from the procurement exercise. Tenderers are advised to acquaint themselves fully with the extent and nature of services in Part 2 (Specification of Requirement) and contractual obligations. These instructions constitute the Conditions of Tender. Participation in this procurement exercise constitutes acceptance by the Tenderer of these Conditions.

4. Pricing

- 4.1. Prices and any financial data provided must be submitted in **£ Sterling, exclusive of VAT**. Where official documents include financial data in a foreign currency, a sterling equivalent must be provided.
- 4.2. The Contract will be awarded in accordance with a pricing proposal for the successful Tender Response. Payment will be dependent upon the successful delivery and approval by the Authority according to the commercial criteria stated in Part 2 (Specification of Requirement).
- 4.3. The Authority reserves the right to request detailed breakdown of any pricing offered in the Tender Response.

5. Contract period

- 5.1. The contract period will last for **six (6) months**, with an option, to be exercised at the Authority's sole discretion, for up to an **additional three (3) months**.

6. Communication

6.1. If you have any doubt as to what is required please contact the UKFI Procurement Team by email only:

UKFI Procurement Team

E-mail: **procurement@ukfi.co.uk**

6.2. Unless stated otherwise in this ITT or in writing from the Authority, communications from Tenderers (including Tenderers sub-contractors, consortium members, consultants and advisers) during the period of this procurement exercise must be undertaken using this communication route.

6.3. Clarification requests must be submitted via e-mail only to **procurement@ukfi.co.uk** from **20 January 2014**. Please ensure that the requirements of paragraph 6.2 are fulfilled followed by “- Clarification, [Tenderer Name]” in the e-mail subject line.

6.4. Where a Tenderer believes that a request for clarification is commercially sensitive e.g. where disclosure of such clarification and the response would or would be likely to prejudice its commercial interests, the Tenderer must clearly indicate that the clarification is commercially sensitive. However, if the Authority at its sole discretion does not consider that the clarification is (a) commercially confidential in nature or (b) that all Tenderers would potentially benefit from seeing together with the Authority’s response, the Authority will:

6.4.1. invite the Tenderer submitting the clarification either to declassify the clarification and allow the clarification along with the Authority’s response to be circulated to all Tenderers; or

6.4.2. request the Tenderer, if the Tenderer still considers the query to be commercially sensitive, to withdraw the query.

6.5. The Authority reserves the right not to respond to a request for clarification or to circulate such a request where it considers that the answer to that clarification would or would be likely to prejudice the Authority’s commercial interests. In such circumstances, the Authority will inform the relevant Tenderer.

6.6. The Authority will not consider any request for clarification made or submitted by any other means except via the stated email address. Unless otherwise stated, enquiries by fax, telephone or verbal enquiries will **NOT** be accepted nor responded to.

6.7. The Authority will endeavour to respond to all clarifications as quickly as possible but cannot guarantee a minimum response time.

6.8. **The delivery of the 5 hardcopies of the tender response must be sent by courier only to Procurement Team, UK Financial Investments Ltd, Goods in Entrance – Clive Steps, King Charles Street, 100 Parliament Street, London SW1A 2BQ.** The Authority must receive the documents by **12:00 (noon) on 27**

January 2014. Please note due to heightened security in our building the Tender Response will not be accepted by the reception team and will **only be able to be received Monday - Friday 08:00 to 19:00.**

7. Acceptance of Tender Responses

7.1. By issuing this ITT, communicating with a Tenderer or a Tenderer's representative or agents or any other communication in respect of this procurement exercise, the Authority shall not be bound to accept any Tender Response. The Authority reserves the right not to award a Contract for some or all of the services for which Tender Responses are invited.

8. Terms and Conditions

8.1. The Terms and Conditions for this Contract are contained in part 5 of this ITT.

8.2. In submitting a Tender Response, a Tenderer undertakes that in the event of their Tender Response being accepted by the Authority and the Authority confirming in writing such acceptance to the Tenderer, the Tenderer will, upon being called to do so by the Authority execute the Contract in the form set out here.

9. Costs of Tendering

9.1. Tenderers shall bear all their own costs and expenses incurred in the preparation and submission of their Tender Response and the Authority will in no case be responsible or liable for those costs, regardless of the outcome in relation to individual Tender Responses.

9.2. The Authority reserves the right to cancel the procurement exercise at any point. The Authority will accept no liability for any losses caused by any cancellation of this procurement exercise nor any decision not to award a Contract as a result of the procurement exercise.

10. Mandatory Requirements

10.1. The ITT includes mandatory requirements. The classification of a requirement as mandatory gives an indication of the significance attached to that requirement relative to any other requirement. It is important that Tenderers read these carefully and demonstrate compliance with these requirements. **Failure to comply with any applicable mandatory requirements will result in exclusion from the procurement exercise.**

11. Documentation

11.1. Tenderers are expected to examine all instructions, questions, forms, terms and specification in the ITT and check they are complete in all respects.

11.2.Tenderers should notify the Authority promptly of any perceived ambiguity, inconsistency, or omission in this ITT, any of its associated documents and/or any other documentation issued to them during the procurement exercise.

11.3.Tender Responses must contain sufficient information to enable the Authority to evaluate accurately any proposed solution. Tenderers are requested to answer all the questions raised and provide all information in the order requested.

11.4.Tenderers are responsible for ensuring that they have submitted a complete and accurate Tender Response and that prices quoted are arithmetically correct for the units stated.

11.5.Tenderers must analyse and review information provided. Consequently, Tenderers are solely responsible for obtaining the information which they consider necessary in order to make decisions regarding the content of their Tender Response and to undertake any investigations they consider necessary in order to verify any information provided to them during the procurement exercise.

12. Qualifications

12.1.The Authority reserves the right to discuss, for the purpose of clarification, any aspect of a Tender Response with the relevant Tenderer prior to the award of the Contract.

12.2.At any time prior to the deadline for receipt of Tender Responses, the Authority may amend the ITT. Any such amendment will be notified in writing to all prospective Tenderers. In order to give prospective Tenderers reasonable time in which to take the amendment into account in preparing their Tender Responses, the Authority may, at its discretion, extend the deadline for receipt of Tender Responses.

13. No Agreement

13.1.Tenderers are further advised that nothing herein or in any other communication made between the Authority and any other party, or any part thereof, shall be taken as constituting a Contract, agreement or representation between the Authority and any other party (save for a formal award of Contract made in writing) nor shall they be taken as constituting a Contract, agreement or representation that a Contract shall be offered in accordance herewith or not at all.

14. Variant tenders

14.1.Variant tenders will **not** be accepted by the Authority. Tenders must be submitted in accordance with the ITT requirements as contained within this document.

15. Conflict of Interest

15.1.1 The Tenderer will maintain and operate effective organisational and administrative arrangements to ensure that neither the Tenderer nor any staff are placed in a

position where (in the reasonable opinion of the Authority) there is or may be an actual conflict, or a potential conflict, between the pecuniary or personal interests of the Tenderer or staff and the duties owed to the Authority which will, or could, give rise to a material risk of damage to the interests of the Authority under the provisions of a Contract.

16. Confidentiality

16.1. Owing to the confidential nature of data, knowledge and material that is likely to be encountered by the Tenderer and his staff, the Authority requires a signed Non-disclosure agreement with the Tender Response which can be found in part 4.

16.2. The contents of this ITT and of any other documentation are accessed by the Tenderer in respect of this procurement exercise and are provided on the basis that they remain the property of the Authority. Tenderers shall take all necessary precautions to ensure that all confidential information is treated as such and not disclosed (save as described above) or used other than for the purpose of this procurement exercise by the Tenderer.

16.3. If any Tenderer is unable or unwilling to comply with the requirement set out in the paragraph above, the Tenderer is required to notify the Authority as instructed in this ITT and formally reject the ITT. The received ITT and associated documents are to be destroyed immediately and the Tenderer will not retain any electronic or paper copies.

16.4. No Tenderer will undertake any publicity activities with any part of the media in relation to this ITT without the prior written agreement of the Authority, including agreement on the format and content of any publicity.

17. Freedom of Information

17.1. In accordance with the obligations and duties placed upon public authorities by the Freedom of Information Act 2000 (FOIA), the Authority may, acting in accordance with the Secretary of State's Code of Practice under the FOIA or the Environmental Information Regulations 2004 (EIR), be required to disclose information submitted to the Authority by the Tenderer.

17.2. In respect of any information submitted by a Tenderer that it considers to be commercially sensitive (meaning it could reasonably cause prejudice to the Tenderer if disclosed to a third party) the Tenderer should indicate the following:

- 17.2.1. clearly identify such information as commercially sensitive;
- 17.2.2. explain the potential implications of disclosure of such information;
and
- 17.2.3. provide an estimate of the period of time during which the Tenderer believes that such information will remain commercially sensitive.

17.3. Where a Tenderer identifies information as commercially sensitive, the Authority will endeavour to maintain confidentiality of that information. Tenderers should note,

however, that even where information is identified as commercially sensitive, the Authority may be required to disclose such information in accordance with the FOIA or the EIR. In particular, the Authority is required to form an independent judgment concerning whether the information is exempt from disclosure under the FOIA or the EIR and whether the public interest favours disclosure or not. Accordingly, the Authority cannot guarantee that any information marked “confidential” or “commercially sensitive” will not be disclosed.

17.4. The Authority will not be held liable for any loss or prejudice caused by the disclosure of information that:

- 17.4.1. has not been clearly marked commercially sensitive; or
- 17.4.2. does not fall into a category of information that is exempt from disclosure under the FOIA or EIR; and;
- 17.4.3. in cases where there is no absolute statutory duty to withhold information, then notwithstanding the previous paragraphs, in circumstances where it is in the public interest to disclose any such information.

17.5. Where a Tenderer receives a request for information relating to this procurement exercise under the FOIA or the EIR during the procurement exercise, this should be immediately passed on to the Authority and the Tenderer should not attempt to answer the request without first consulting with the Authority.

18. Disclaimers

18.1. Whilst the information in this ITT and any due diligence information and supporting documents, have been prepared in good faith, this ITT does not purport to be comprehensive, nor has it been independently verified.

18.2. Neither the Authority nor its respective Advisers, directors, officers, members, partners, employees, other staff or agents:

- 18.2.1. makes any representation or warranty (express or implied) as to the accuracy, reasonableness or completeness of the ITT; or
- 18.2.2. accepts any responsibility for the information contained in the ITT or for the fairness, accuracy or completeness of that information nor shall any of them be liable for any loss or damage (other than in respect of fraudulent misrepresentation) arising as a result of reliance on such information or any subsequent communication.

18.3. Any person considering making a decision to enter into contractual relationships with the Authority following receipt of the ITT should make their own investigations and own independent assessment of the Authority, and its requirements for the goods and/or services and should seek their own professional financial and legal advice. For the avoidance of doubt, the request for clarification or further information in relation to the ITT or any other associated documents is only authorised to be provided following a query made in accordance with paragraph 6 above.

19. Canvassing

19.1. Any Tenderer who directly or indirectly canvasses any officer, member, employee, or agent of the Authority or its members or any other relevant body or any of its officers or members concerning the Contract or who directly or indirectly obtains or attempts to obtain information from any such officer, member, employee or agent concerning any other Tenderer, Tender Response or proposed Tender Response will be disqualified from this procurement exercise.

20. Additional information

20.1. The Tenderer shall ensure that each and every sub-contractor, consortium member and adviser abides by the terms of these instructions and the Conditions of Tender.

20.2. The Authority reserves the right to amend, add to or withdraw all or any part of this ITT at any time during the procurement exercise.

20.3. The Tenderer shall not make contact with any other employee, agent or consultant of the Authority on the subject of this procurement during the period of this procurement exercise.

20.4. For the avoidance of doubt, a Tenderer who is already engaged with the Authority or HM Treasury is not prohibited from submitting a Tender in response to this ITT, nor are they prohibited in supplying other services unrelated to this procurement to the Authority during the period of this procurement exercise.

20.5. All material issued in connection with this ITT shall remain the property of the Authority and/or as applicable any other relevant body and shall be used only for the purpose of this procurement exercise. All background and supporting documentation and Due Diligence Information provided by the Authority for the purpose of better informing Tenderers' responses to this ITT shall be securely destroyed by the Tenderer (at the Authority's option) at the conclusion of the procurement exercise.

20.6. The ITT is issued on the basis that nothing contained in it shall constitute an inducement or incentive nor shall have in any other way persuaded a Tenderer to submit a Tender Response or enter into any other contractual agreement.

20.7. The Authority will disqualify a Tenderer where the Tenderer fails to comply fully with the requirements of this ITT or is guilty of a serious misrepresentation in supplying any information required in this document.

20.8. The Authority reserves the right to:

20.8.1. reject a Tender Response where there is a change of identity, control, financial standing or other factor impacting on the evaluation process affecting the Tenderer; and/or

20.8.2. require a Tenderer to clarify its Tender Response in writing and/or provide additional information; and failure to respond adequately will result in the Tender Response being rejected; and/or

20.8.3. revisit information contained in Tender Responses at any time to take account of subsequent changes to Tenderers' circumstances. At any point during the procurement exercise, the Authority may require Tenderers to certify there has been no material change to information submitted in Tender Response. If Tenderers are unable to certify that there has not been a material change, the Authority reserves the right to eliminate the Tenderer from the procurement exercise.

20.9. Tenderers are deemed to fully understand the processes that the Authority is required to follow under relevant European and UK legislation, particularly in relation to the Regulations. Compliance with all relevant legislation is required during the procurement exercise and the term of any resultant Contract.

21. Submission of Tender Responses

21.1. Tenderers must answer the questions in the ITT without reference to general marketing or promotional information/material. Publicity brochures will not be accepted as answers to questions. Tenderers should not make reference to answers used in previous questions but should repeat the information if necessary.

21.2. Tenderers must be explicit and comprehensive in their Tender Response as this will be the single source of information on which Tender Responses will be scored and ranked. Tenderers are advised neither to make any assumptions about any past or current supplier relationships with the Authority.

21.3. Failure to provide the information required or particulars for the relevant question(s) or supply documentation referred to in the Tender Response within the specified timescale may result in elimination from the procurement exercise.

21.4. The Tender Response and any documents accompanying it must be in the English language and must be submitted in numerical order to match the ITT questions.

21.5. Tender Responses will be checked for completeness and compliance with the Conditions of Tender and only compliant Tender Responses will be evaluated. Non-compliant Tender Responses will be eliminated from the procurement exercise.

21.6. See Part 3 for further detail on Tender Response.

22. Notification of Award

22.1. The Authority will notify the successful Tenderer in writing.

23. Debriefing

23.1. All unsuccessful Tenderers will be provided with a written debrief at the end of the process notifying them of the outcome of the evaluation exercise.

24. Contract Management

24.1. The Authority will appoint a contract manager to manage the contract between the Authority and the winning Tenderer who will also appoint a dedicated contract manager. These will meet on a monthly or otherwise as deemed appropriate and agreed to discuss progress against the Contract requirements as well as any issues or risks.

25. Transparency

25.1. Tenderers should note that the Government has set out the need for greater transparency in public sector procurement.

25.2. Tenderers and those organisations submitting a Tender Response should be aware that if they are awarded a Contract, the tender documents, any resulting Contract between the Tenderer and the Authority and invoice payments may be published on <https://www.gov.uk/contracts-finder>.

25.3. In some circumstances, limited redactions will be made to some contracts before they are published in order to comply with existing law and for the protection of commercially sensitive information and/or national security.

26. Tender Evaluation

26.1. The Authority will use the evaluation criteria set out in Part 3 to determine the most qualified and economically competitive Tender and will award the Contract to that Tenderer. Tender Responses will be evaluated on both qualitative and commercial criteria.

26.2. To ensure the relative importance of both criteria are correctly reflected in the overall score, a weighting system has been applied to the evaluation process. Qualitative criteria will form 70% of the final score and commercial criteria will form 30% of the final score.

26.3. The evaluation panel will agree either a pass/fail or a score from 0 - 50 (where 50 is the highest score) for questions for which these scores are available. The Tender evaluation panel will undertake independent evaluation of Tender Responses. Thereafter, a consensus meeting will be held at which time the Tender evaluation panel will reach a consensus score for questions for which scores are available. Detailed scoring criteria relating to each score is provided with each question in Part 3.

26.4. The evaluation panel will comprise members from the Authority.

Part 2

Specification of Requirement

1. Requirement

- 1.1. The purpose of this ITT is to establish a contract with a Supplier that specialises in the provision of legal services in relation to equity capital markets transactions, with particular experience in equity offers to institutional and retail investors.
- 1.2. The services will include all the necessary preparatory work in addition to acting as Seller's Counsel to the Authority in any share sale transaction undertaken over the life of any Contract resulting from this tender process.
- 1.3. The work required is detailed, specialist and complex. The initial term will be **for six (6) months** and there is an option for the Authority to extend for a **further three (3) month** period so that the successful organisation can be retained for a total of **up to 9 months** if required.
- 1.4. The engagement of Seller's Counsel is required to provide services in line with the Authority's objectives as set out in paragraph 1.1 above and in line with its mandate ([link](#) to the Authority's website) and shall include, but not be limited to:-
 - 1.4.1. providing legal advice on potential transaction structures;
 - 1.4.2. leading legal discussions with Bookrunners and advisors to the Authority involved in a share sale;
 - 1.4.3. drafting underwriting agreements and any other documentation required between the Authority and its contracting parties;
 - 1.4.4. ensuring that the Authority's interests are protected in any share sale; and
 - 1.4.5. managing any legal issues around the post-transaction settlement process.

2. Scope

2.1 The Seller's Counsel will be expected to assist with the detailed preparation and implementation in the following phases:

2.2 Preparation phase

- 2.2.1 Work closely with the Authority to provide legal advice on potential transaction structures;
- 2.2.2 Provide considerations to the Authority on insider information trawls;
- 2.2.3 Draft and negotiate underwriting agreements and other documentation between the Authority and the investment banks hired to carry out any sale of shares;
- 2.2.4 Assist in preparing the settlement process;
- 2.2.5 Review and ensure any documentation related to any retail offering is compliant with all relevant laws.

2.3 Implementation phase

- 2.3.1 Lead legal discussions with the Bookrunners and advisors to the Authority involved in any share sale;
- 2.3.2 Ensure that the Authority's interests are protected in any share sale;
- 2.3.3 Assist the Authority and any related parties through the mechanics of any share sale;
- 2.3.4 Manage any post-transaction settlement process; and
- 2.3.5 Assist with any post-transaction legal assistance or other requirements.

2.4 Milestones and performance targets

- 2.4.1 The Service Provider will be able to commence the implementation stage only once the Authority has approved the work completed in the preparation phase.
- 2.4.2 The Authority will provide timing and deadline guidance within reason at each stage of the project.
- 2.4.3 The Authority will have a designated contract manager to engage with a counterpart from the Service Provider to monitor progress and address any issues throughout the duration of the Contract via regular meetings.
- 2.4.4 The deliverables will be various written reports presenting the Provider's views and opinions as well as process notes as required. The format of the report is at the discretion of the Service Provider. This may also include some engagement with the Authority which reserves the right to challenge conclusions, interpretations and ask for further information to be provided.
- 2.4.5 All reports or presentations produced for the Authority may be subject to public scrutiny.

Part 3

Evaluation Criteria

1. Tender response

- 1.1. The Tenderer will be required to submit the Tender response to the Authority's evaluation team by providing an electronic and hard copy Tender responses as stated in Part 1, paragraph 3.10.
- 1.2. In order for the Authority to assess each Tender, Tenderers are invited to provide a response to all the requirements below in no more than **10 A4 pages in a minimum of Arial 10 font** (excluding Schedules 1, 2, 3, and 4) using Microsoft Word, PDF or Microsoft Powerpoint. Tender Responses must contain clearly marked separate sections for each criterion.
- 1.3. The Tender response should contain the following parts:
 - 1.3.1 the response to the Specification of Requirements;
 - 1.3.2 Schedules 1, 2, 3, and 4.

2. Mandatory Questions

- 2.1. The Tenderer is required to consider any potential conflicts of interest in undertaking this work. Tenderers must either confirm no conflict of interest exists or identify any potential conflicts of interest and include in the Tender Response a detailed mitigation plan and describe the action to be taken to mitigate/ neutralise any such conflicts of interest to zero (be they actual, perceived or potential conflicts of interest).
- 2.2. The conflict of interest question will be judged as a 'pass/fail' criteria.
- 2.3. The successful Tenderer will be asked to sign the Contract, including the Terms and Conditions (see part 5). If any Tenderer is unable to sign up to the Terms and Conditions as presented, this will be judged as a 'pass/fail' criteria.

3. Evaluation Criteria

- 3.1. The qualitative and commercial scoring criteria detailed below will be used for scoring the Tender Response.

Criteria and evaluation weighting

SECTION	PASS/ FAIL criteria		
	Any actual, potential and perceived conflicts of interest and how these will be managed.	Pass/Fail	If this question cannot be addressed satisfactorily the Tenderer cannot meet the requirement.
	Any amendments to the Terms and Conditions as presented in this Contract.	Pass/Fail	If this question cannot be addressed satisfactorily the Tenderer cannot meet the requirement.
		Weighting	Established evaluation mechanism
	Qualitative criteria	70%	
C1	Strength of technical expertise: Demonstrate with credible details of current capabilities and past experience that you have sufficient experience of having acted in large scale, complex and novel equity capital markets transactions preferably in relation to the financial services sector. Also demonstrate that you have relevant experience of advising on past Government privatisations. Refer to paragraph 4 below for detailed guidance in relation to specific questions.	40%	Scoring 0-50.
C2	Strength of resources, quality of dedicated team: Identify the key individuals that will be proposed to work on this project. Provide evidence, including past experience, as to why they are suited to support the delivery of the Authority's requirements; including expertise in equity capital markets law, the financial services industry, and Government privatisations. You are also asked to provide such details for the	20%	Scoring 0-50.

	key individual contract manager and the strength of resources that will be dedicated to the Authority for the duration of this Contract. Refer to paragraph 4 below for further details.		
C3	Evidence of understanding the Authority's objectives: Demonstrate that you have relevant knowledge of the Authority's holdings and mandate through past experience and/or active engagement with the Authority. Refer to paragraph 4 below for further details.	10%	Scoring 0-50.
Commercial criteria		30%	
C4	Provide an outline of costs associated with the provision of the services, bearing in mind the Authority's key mandate of value for money for the taxpayer. Refer to paragraph 4 below for further details.	30%	Scoring 0-50.

Scoring Definitions – Individual evaluations and consensus meeting		
Assessment	Score	Interpretation
Excellent	50	Exceeds the requirement. Exceptional demonstration by the Tenderer of the relevant ability, understanding, experience, skills, and resource & quality measures required to provide the services. Response identifies factors that will offer potential added value with evidence to support the response.
Good	40	Satisfies the requirement with minor additional benefits. Above average demonstration by the Tenderer of the relevant ability, understanding, experience, skills, resource & quality measures required to provide the services. Response identifies factors that will offer potential added value, with evidence to support the response.
Acceptable	30	Satisfies the requirement. Demonstration by the Tenderer of the relevant ability, understanding, experience, skills, resource & quality measures required to provide the services, with evidence to support the response.
Minor Reservations	20	Satisfies the requirement with minor reservations. Some minor reservations of the Tenderer's relevant ability, understanding, experience, skills, and resource & quality measures required to provide the services, with little or no evidence to support the response.

Serious Reservations	10	Satisfies the requirement with major reservations. Considerable reservations of the Tenderer's relevant ability, understanding, experience, skills, resource & quality measures required to provide the services, with little or no evidence to support the response.
Unacceptable	0	Does not meet the requirement. Does not comply and/or insufficient information provided to demonstrate that the Tenderer has the ability, understanding, experience, skills, resource & quality measures required to provide the services, with little or no evidence to support the response.

4. Tenderer's Response to the services

4.1. The Tenderer's Response should address all of the questions below in order to comply with the evaluation criteria set out in the table above.

C1. Strength of technical expertise

Provide a response to the following requirements, in the order that they appear below. Tenderers should outline:

- Past privatisation advisory experience involving equity capital markets transactions;
- Previous experience in institutional offerings;
- Previous experience in retail offerings;
- Previous relevant advisory experience with Her Majesty's Government; and

in addition, provide details of significant relevant individual transactions including role, objectives set and achievements.

C2. Strength of resources, quality of dedicated team

Provide a response to the following requirements, in the order that they appear below. Tenderers should outline:

- details of the core team members who will work on the Authority account including biographies and a description of relevant experience as per the bullet points above; and
- how they intend to work with the Authority, including designated contract manager.

C3. Evidence of understanding the Authority's objectives:

Provide a response to the following requirements, in the order that they appear below.

Tenderers should outline:

- understanding of the Authority's objectives in relation to its two market investments;
- appreciation of the environment in which the Authority operates; and
- any other details that you think might be helpful to the Authority.

C4. Commercial criteria

Provide an outline of charges associated with the provision of the services. Please provide quotations as you best see fit, bearing in mind the Authority's key mandate of value for money for the taxpayer. Please include any potential discounts, proposed pro bono work and/or maximum caps by completing the table set out Schedule 2 - Charges.

Appendix 1 - Glossary

“Unless the context otherwise requires, the following words and expressions used within this Invitation to Tender shall have the following meanings.”

“Authority”	means United Kingdom Financial Investments Ltd (UKFI)
“Companies Act Company”	means a company registered under the Companies Act 2006
“Conditions of Tender” or “Terms and Conditions”	means the Terms and Conditions set out in the attachment to this ITT relating to the submission of a Tender
“Contract”	means the Order Form set out in Part 5 of the ITT to be entered by the Authority and the Provider following any award under this ITT
“FOIA”	means the Freedom of Information Act 2000 and any subordinate legislation made under such Act from time to time together with any guidance and/or codes of practice issued by the Information Commissioner or relevant Government department in relation to such legislation
“Invitation to Tender” or “ITT”	means this Invitation to Tender documentation and all related documents published by the Authority and made available to Tenderers
“Order Form”	means a document setting out details of an order for services served by the Contracting Body on the Provider, contained in Part 5 of this ITT
“Regulations”	means the Public Contracts Regulations 2006
“Seller’s Counsel”	means the organisation awarded a Contract as a result of this ITT
“Service Provider”, “Provider” or “Supplier”	means the organisation awarded a Contract as a result of this ITT
“Tenderer(s)”	means the organisation(s) being invited to respond to this Invitation to Tender
“Tender”, “Response”, “Tender Response”, “Tendered Response” or “ITT Response”	means the Tenderer’s formal offer in response to this Invitation to Tender
“Tender Registration Deadline”	means the Deadline for receipt by the Authority by email of Tenderers’ confirmation of their participation in the ITT process in order to be eligible to receive the Authority’s Tender Clarification Response
“Tender Clarification Deadline”	means the Deadline for receipt by the Authority by email of any clarification questions with respect to the ITT
“Tender Clarification Response Deadline”	means the Deadline by which the Authority shall provide answers, as appropriate, to any clarification questions received within the appropriate Clarification Deadline
“Tender Response Deadline”	means the Deadline for receipt by the Authority of electronic copy (in PDF) and five (5) hard copy responses to the ITT to the e-mail address and postal address provided in paragraphs 6.1 and 6.8 of Part 1

Part 4

Schedules

Non Disclosure Agreement

THIS AGREEMENT is made on [date]

BETWEEN:

- (1) **UK Financial Investments Ltd** of 100 Parliament Street, London, SW1A 2HQ (the “**Authority**”); and
- (2) **[Insert name]** [(registered in England and Wales with company number [insert])] whose [registered office/principal place of business] is at [insert registered/principal address] (the “**Organisation**” and together with the Authority, the “**Parties**”).

WHEREAS:

Each Party wishes to receive Confidential Information from the other Party for the purpose of the ‘[.....]’ (the “**Permitted Purpose**”).

IT IS AGREED as follows:

1 Interpretation

1.1 In this Agreement, unless the context otherwise requires:

- “Confidential Information”** means:
- (a) *Information, including all personal data within the meaning of the Data Protection Act 1998, and however it is conveyed, provided by the Disclosing Party pursuant to [or in anticipation of] this Agreement that relates to:*
 - (i) *the Disclosing Party Group; or*
 - (ii) *the operations, business, affairs, developments, intellectual property rights, trade secrets, know-how and/or personnel of the Disclosing Party Group;*
 - (b) *other Information provided by the Disclosing Party pursuant to [or in anticipation of] this Agreement that is clearly designated as being confidential or equivalent (whether or not it is so marked) or that ought reasonably to be considered to be confidential which comes (or has come) to the Receiving Party’s attention or into the Receiving Party’s possession in connection with the Permitted Purpose;*
 - (c) *discussions, negotiations, and correspondence between the Disclosing Party or any of its directors, officers, employees, consultants or professional advisers and the Receiving Party or any of its directors, officers, employees, consultants and professional advisers in connection with the Permitted Purpose; and*
 - (d) *Information derived from any of the above,*

but not including any Information that:

(i) was in the possession of the Receiving Party without obligation of confidentiality prior to its disclosure by the Disclosing Party;

(ii) the Receiving Party obtained on a non-confidential basis from a third party who is not, to the Receiving Party's knowledge or belief, bound by a confidentiality agreement with the Disclosing Party or otherwise prohibited from disclosing the information to the Receiving Party;

(iii) was already generally available and in the public domain at the time of disclosure otherwise than by a breach of this Agreement or breach of a duty of confidentiality; or

(iv) was independently developed without access to the Confidential Information;

“Crown Body”	means any department, office or agency of the Crown;
“Disclosing Party”	means a Party that directly or indirectly discloses or makes available Confidential Information;
“Disclosing Party Group”	means: <i>(a) where the Disclosing Party is the Organisation, the Organisation and any company that is a holding company or subsidiary or subsidiary undertaking of the Organisation and any subsidiary or subsidiary undertaking of any such holding company; and</i> <i>(b) where the Disclosing Party is the Authority, the Authority and any Crown Body with which the Authority or the Organisation interacts in connection with the Permitted Purpose and any subsidiary of the Authority;</i>
“EIRs”	the Environmental Information Regulations 2004;
“FOIA”	the Freedom of Information Act 2000 and any subordinate legislation made under that Act, together with any guidance and/or codes of practice issued by the Information Commissioner or relevant Crown Body in relation to such legislation;
“Information”	means all information of whatever nature, however conveyed and in whatever form, including in writing, orally, by demonstration, electronically and in a tangible, visual or machine-readable medium (including CD-ROM, magnetic and digital form);
“Information	has the meaning given to that expression in Clause 5.1;

Return Notice”

“Permitted Purpose”	has the meaning given to that expression in the recital to this Agreement;
“Receiving Party”	means the Party which directly or indirectly receives or obtains Confidential Information;
“Receiving Party Authorised Person”	has the meaning given to that expression in Clause 3.1;
“Request for Information”	has the meaning set out in FOIA or any apparent request for information under the FOIA or the EIRs; and
“Specified Scope”	has the meaning given to that expression in Clause 5.1.

1.2 In this Agreement:

- 1.2.1 a reference to any gender includes a reference to other genders;
- 1.2.2 the singular includes the plural and vice versa;
- 1.2.3 the words “include” and cognate expressions shall be construed as if they were immediately followed by the words “without limitation”;
- 1.2.4 references to any statutory provision include a reference to that provision as modified, replaced, amended and/or re-enacted from time to time (before or after the date of this Agreement) and any prior or subsequent subordinate legislation made under it;
- 1.2.5 the expressions "subsidiary", "holding company" and "subsidiary undertaking" shall have the meanings given to them in the Companies Act 2006;
- 1.2.6 headings are included for ease of reference only and shall not affect the interpretation or construction of this Agreement; and
- 1.2.7 references to Clauses are to clauses of this Agreement.

2 Confidentiality Obligations

2.1 In consideration of the Disclosing Party providing Confidential Information, at its discretion, to the Receiving Party, the Receiving Party shall:

- 2.1.1 treat all Confidential Information as secret and confidential;
- 2.1.2 have in place and maintain proper security measures and procedures to protect the confidentiality of the Confidential Information (having regard to its form and nature);
- 2.1.3 not disclose or permit the disclosure of any of the Confidential Information to any other person without obtaining the prior written consent of the Authority or, if relevant, other owner or except as expressly set out in this Agreement;

- 2.1.4 not transfer any of the Confidential Information outside the United Kingdom without prior consent from the Disclosing Party;
 - 2.1.5 not use or exploit any of the Confidential Information for any purpose whatsoever other than the Permitted Purpose; and
 - 2.1.6 immediately notify the Disclosing Party in writing if it suspects or becomes aware of any unauthorised access, copying, use or disclosure in any form of any of the Confidential Information.
- 2.2 The Receiving Party shall be responsible for taking reasonable action to ensure that each Receiving Party Authorised Person to whom it discloses Confidential Information observes the Receiving Party's obligations under this Agreement as if such Receiving Party Authorised Person had undertaken the same obligations as the Receiving Party.

3 Permitted Disclosures

- 3.1 The Receiving Party may disclose Confidential Information to those of its directors, officers, employees, consultants and professional advisers and auditors (each a "**Receiving Party Authorised Person**") who:
- 3.1.1 reasonably need to receive the Confidential Information in connection with the Permitted Purpose; and
 - 3.1.2 have been informed by the Receiving Party:
 - (a) of the confidential nature of the Confidential Information; and
 - (b) that the Disclosing Party provided the Confidential Information to the Receiving Party subject to the provisions of a written confidentiality agreement.
- 3.2 The Receiving Party and each Receiving Party Authorised Person shall be entitled to disclose Confidential Information to the extent that it is required to do so by applicable law or by order of a court or other public body that has jurisdiction over the Receiving Party or Receiving Party Authorised Person, provided that Clause 4 shall apply to disclosures required under the FOIA or the EIRs.
- 3.3 Before making a disclosure pursuant to Clause 3.2, the Receiving Party or relevant Receiving Party Authorised Person shall, if the circumstances permit:
- 3.3.1 notify the Disclosing Party in writing of the proposed disclosure as soon as possible (and if possible before the court or other public body orders the disclosure of the Confidential Information); and
 - 3.3.2 ask the court or other public body to treat the Confidential Information as confidential.

4 Additional Permitted Disclosures by the Authority and other Crown Bodies

- 4.1 Where the Disclosing Party is the Organisation, the Authority and any Crown Body to which Confidential Information has been disclosed in accordance with Clause 4.1.1, may disclose any of the Confidential Information:

- 4.1.1 to another Crown Body provided that the Authority or relevant Crown Body informs the recipient Crown Body of the confidential nature of the Confidential Information;
 - 4.1.2 pursuant to the requirements of the FOIA or the EIRs;
 - 4.1.3 to the extent the need for disclosure arises for the purpose of the examination and certification of the accounts of the Authority or relevant Crown Body or for any examination pursuant to section 6(1) of the National Audit Act 1983 of the economy, efficiency and effectiveness with which the Authority or relevant Crown Body is carrying out its public functions; and/or
 - 4.1.4 if the Authority or Crown Body has reasonable grounds to believe that the Disclosing Party is involved in activity that may constitute a serious criminal offence and the disclosure is being made to a relevant investigating or enforcement authority.
- 4.2 The Organisation acknowledges that public bodies, including the Authority and other Crown Bodies, may be required under the FOIA or the EIRs to disclose Information, including Confidential Information, without consulting or obtaining consent from the Organisation. The Authority shall take reasonable steps to notify the Organisation of a Request for Information (in accordance with the Secretary of State for Constitutional Affairs' Code of Practice on the Discharge of the Functions of Public Authorities under Part 1 of the FOIA) to the extent that it is permissible and reasonably practical for it to do so but (notwithstanding any other provision in this Agreement) the Authority or other relevant Crown Body shall be responsible for determining in its absolute discretion whether any Confidential Information and/or any other information is exempt from disclosure in accordance with the FOIA or the EIRs.
- 4.3 The Organisation shall provide all necessary assistance and cooperation as reasonably requested by the Authority or relevant Crown Body to enable the Authority or relevant Crown Body to comply with its obligations under the FOIA and the EIRs.

5 Return of Information and surviving obligations

- 5.1 The Disclosing Party may serve a notice (an "**Information Return Notice**") on the Receiving Party at any time under this Clause 5.1. An Information Return Notice must specify whether it relates to (i) all Confidential Information provided by the Disclosing Party which is protected by this Agreement or (ii) only specified Information or categories of Confidential Information so protected (in either case, the "**Specified Scope**"). On receipt of an Information Return Notice, the Receiving Party shall:
- 5.1.1 subject to Clause 5.2, at the Receiving Party's option, securely destroy or return and provide to the Disclosing Party documents and other tangible materials that contain any of the Confidential Information within the Specified Scope, including in any case all copies of the relevant documents and other materials made by the Receiving Party and any Receiving Party Authorised Person;
 - 5.1.2 subject to Clause 5.2, ensure, so far as reasonably practicable, that all Confidential Information within the Specified Scope that are held in electronic, digital or other machine-readable form ceases to be readily accessible (other than by the information technology staff of the Receiving Party or Receiving

Party's Authorised Person) from any computer, word processor, voicemail system or any other device containing such Confidential Information; and

- 5.1.3 make no further use of any Confidential Information which falls within the Specified Scope.
- 5.2 The provisions of Clauses 5.1.1 and 5.1.2 shall not apply to the extent that the Receiving Party or Receiving Party Authorised Person is required to retain any such Confidential Information by any applicable law, rule or regulation or requirement of any competent judicial, governmental, supervisory or regulatory body or for the purposes of any audit.
- 5.3 Following any destruction or return of Confidential Information to the Disclosing Party pursuant to Clause 5.1, the Receiving Party's obligations under this Agreement shall otherwise continue in force without limit of time.

6 General

- 6.1 The Receiving Party acknowledges and agrees that all property, including intellectual property rights, in Confidential Information disclosed to it by the Disclosing Party shall remain with and be vested in the Disclosing Party or relevant member of the Disclosing Party Group.
- 6.2 This Agreement does not include, expressly or by implication, any representations, warranties or other obligations:
 - 6.2.1 to grant the Receiving Party any licence or rights other than as may be expressly stated in this Agreement;
 - 6.2.2 to require the Disclosing Party to disclose, continue disclosing or update any Confidential Information; or
 - 6.2.3 as to the accuracy, efficacy, completeness, capabilities, safety or any other qualities whatsoever of any Information or materials provided pursuant to or in anticipation of this Agreement.
- 6.3 The rights, powers and remedies provided in this Agreement are cumulative and not exclusive of any rights, powers or remedies provided by law. No failure or delay by either Party to exercise any right, power or remedy will operate as a waiver of it nor will any partial exercise preclude any further exercise of the same, or of some other right, power or remedy.
- 6.4 Without prejudice to any other rights or remedies that either Party may have, each Party acknowledges and agrees that damages alone may not be an adequate remedy for any breach by a Receiving Party or any Receiving Party Authorised Person of the provisions of this Agreement. Accordingly, each Party acknowledges that the Disclosing Party shall be entitled to the remedies of injunction and specific performance as well as any other equitable relief for any threatened or actual breach of this Agreement and/or breach of confidence and that no proof of special damages shall be necessary for the enforcement of such remedies.
- 6.5 For the purposes of the Contracts (Rights of Third Parties) Act 1999 no one other than the Parties has the right to enforce the terms of this Agreement.

- 6.6 Each Party will be responsible for all costs incurred by it or on its behalf in connection with this Agreement.
- 6.7 This Agreement may be executed in any number of counterparts and by the Parties on separate counterparts, but shall not be effective until each Party has executed at least one counterpart. Each counterpart shall constitute an original of this Agreement, but all the counterparts shall together constitute but one and the same instrument.

7 Notices

7.1 Any notice to be given under this Agreement (each a “**Notice**”) shall be given in writing and shall be delivered by hand and shall be deemed to have been duly given at the time of delivery provided that such Notice is sent to the relevant physical address, and expressly marked for the attention of the relevant individual, set out in Clause 7.2.

7.2 Any Notice:

7.2.1 if to be given to the Authority shall be sent to:

UK Financial Investments
100 Parliament Street
London
SW1A 2HQ.

Attention: UKFI Procurement

7.2.2 if to be given to the Organisation shall be sent to:

[*Name of Organisation*]
[*Address*]

Attention: []

8 Governing law

- 8.1 This Agreement shall be governed by, and construed in accordance with, English law and any matter claim or dispute arising out of or in connection with this Agreement whether contractual or non-contractual, shall be governed by and determined in accordance with English law.
- 8.2 Each Party hereby irrevocably submits to the exclusive jurisdiction of the English courts in respect of any claim or dispute arising out of or in connection with this Agreement.

IN WITNESS of the above this Agreement has been signed by the duly authorised representatives of the Parties on the date which appears at the head of page 1.

For and on behalf of the Authority

Signature:

Date:

Name:

Position:

For and on behalf of the Organisation

Signature:

Date:

Name:

Position:

Charges

Description of charge	Fee quote

The prices above should take into account the Authority's key mandate for value for money for the taxpayer and should be inclusive of all Supplier's travel and expenses for work carried out in Greater London and/or in the location for performance of the services specified in the relevant order.

Provide details of any discounts proposed.

Provide an indication of a potential cap for completing the Services and details of any pro bono work proposed.

References

Please provide a minimum of two referees who are content to be contacted by the Authority.

REFERENCE 1	
INFORMATION REQUIRED	RESPONSE
Name and address of company	
Contact name and telephone number	
Details of service provided	
Value of contract	
Duration of contract	
Duration of service provided	

REFERENCE 2	
INFORMATION REQUIRED	RESPONSE
Name and address of company	
Contact name and telephone number	
Details of service provided	
Value of contract	
Duration of contract	
Duration of service provided	

Contact information and contract manager

INFORMATION REQUIRED	RESPONSE
Registered company name	
Registered company address	
Registered number	
Contact name for enquiries related to your Tender	
Contact's company position	
Contact's e-mail address	
Contact's landline telephone number	
Contact's mobile telephone number	
Contract manager's name	
Contract manager's position	

Statement of Compliance
Invitation to Tender for Seller's Counsel

Tenderers to Note:

The following Statement of Compliance provides Tenderers with a list of the key areas within their response that **must** be addressed. Tenderers shall ensure that their overall response includes evidence of providing/addressing **all** of these areas. Tenderers **must ensure** that a yes response is given against each area and the table of Schedules. In the event that a Tenderer is unable to provide a yes response, the Tenderer shall provide a detailed reason as to why a response cannot be given. The Authority may seek to clarify responses given by a Tenderer but reserves the right to reject any Tender response, which fails to meet this initial compliance check.

The Tenderer's response to the ITT should be divided into the following three sections:

Response to the Specification, in no more than 10 A4 pages in a minimum of Arial 10 font excluding Schedules;

The completion of all Schedules below; and

The completion of the Statement of Compliance.

Statement of Compliance	
DOCUMENT REQUIRED	Provided in Response (Yes/No)
TENDERERS RESPONSE TO THE SERVICES	
SCHEDULE ONE: NON DISCLOSURE AGREEMENT	
SCHEDULE TWO:CHARGES	
SCHEDULE THREE: REFERENCES	
SCHEDULE FOUR: CONTACT INFORMATION AND CONTRACT MANAGER	
SCHEDULE FIVE: STATEMENT OF COMPLIANCE	
<p>In compliance with the requirements set out in your Invitation to Tender:</p> <p>I confirm I have read and fully understand the potential;</p> <p>I have completed and enclose the above documents;</p> <p>I warrant that I have all the requisite corporate authority to sign this Tender.</p>	
Signed for and on behalf of the Tenderer:	
Name:	
Signature:	
Position:	
Date	

Part 5
Terms and Conditions

Contract start date: []October 2013

(1) UNITED KINGDOM FINANCIAL INVESTMENTS LIMITED

and

(2)

CONTRACT FOR SELLER'S COUNSEL

CONTRACT REFERENCE NO: []

CONTENTS

1.	DEFINITIONS AND INTERPRETATION	43
2.	SUPPLY OF CONTRACT SERVICES	47
3.	PAYMENT AND CHARGES	49
4.	LIABILITY AND INSURANCE	51
5.	INTELLECTUAL PROPERTY RIGHTS	53
6.	PROTECTION OF INFORMATION	54
7.	WARRANTIES, REPRESENTATIONS AND UNDERTAKINGS	59
8.	TERMINATION	61
9.	CONSEQUENCES OF EXPIRY OR TERMINATION	64
10.	PUBLICITY, MEDIA AND OFFICIAL ENQUIRIES	66
11.	PREVENTION OF BRIBERY AND CORRUPTION	67
12.	NON-DISCRIMINATION	68
13.	PREVENTION OF FRAUD	68
14.	TRANSFER AND SUB-CONTRACTING	69
15.	WAIVER	70
16.	CUMULATIVE REMEDIES	70
17.	FURTHER ASSURANCES	70
18.	SEVERABILITY	70
19.	SOLICITOR'S STATUS	70
20.	ENTIRE AGREEMENT	71
21.	CONTRACTS (RIGHTS OF THIRD PARTIES) ACT	71
22.	NOTICES	71
23.	DISPUTES AND LAW	72
	Annex SERVICE LEVELS Bookmark not defined.	Error!

1 DEFINITIONS AND INTERPRETATION

1.1 Definitions

In the Contract, unless the context otherwise requires, the following provisions shall have the meanings given to them below:

"Client"	means the Contracting Body that issues the Letter of Appointment;
"Client's Confidential Information"	means all Client's Personal Data and any information, however it is conveyed, that relates to the business, affairs, developments, trade secrets, know-how, personnel, and suppliers of the Client, including all IPRs, together with all information derived from any of the above, and any other information clearly designated as being confidential (whether or not it is marked "confidential") or which ought reasonably be considered to be confidential;
"Client's Personal Data"	means the Personal Data supplied by the Client to the Solicitor and, for the purposes of or in connection with the Contract;
"Client's Representative"	means the representative of the Client appointed by the Client from time to time in relation to the Contract and notified to the Solicitor;
"Confidential Information"	means the Client's Confidential Information and/or the Solicitor's Confidential Information;
"Contract"	means the written agreement between the Client and the Solicitor consisting of the Letter of Appointment, these Call-Off Terms (save to the extent varied by the Letter of Appointment) and any other documents referred to in either of them;
"Contract Charges"	means the prices (exclusive of any applicable VAT), payable to the Solicitor by the Client under the Contract

for the full and proper performance by the Solicitor of the Contract Services;

“Contract Mediator”

has the meaning set out in Clause 23.2.5.1;

"Contract Services"

means the Services to be supplied by the Solicitor to the Client as set out in the Letter of Appointment;

"Data Subject"

shall have the same meaning as set out in the Data Protection Act 1998;

“Framework Agreement”

means the framework agreement between the Authority and the Solicitor referred to in the Letter of Appointment;

“Good Industry Practice”

means standards, practices, methods and procedures conforming to the Law and the requirements of the Solicitors Regulation Authority and the degree of skill and care, diligence, prudence and foresight which would reasonably and ordinarily be expected from a skilled and experienced person or body engaged in providing Services similar to the Contract Services;

"Information"

has the meaning given under section 84 of the FOIA;

“Key Personnel”

means any individuals identified as such in the Letter of Appointment and any replacements for such individuals that may be agreed between the Parties from time to time in accordance with Clause 2.3;

"Letter of Appointment”

means the letter from the Client to the Solicitor dated [DD/MM/YYYY] (including its appendices) containing the Order to provide the Contract Services;

"Material Breach"

means a material breach of the Contract;

"Party"

means the Solicitor or the Client and "Parties" shall mean both of them;

“Persistent Failure”	means any two (2) or more failures by the Solicitor in any rolling period of twelve (12) Months to comply with obligations in respect of the Contract Services under with the Contract;
"Service Levels"	means the service levels set out in the Annex;
“Solicitor”	means the Supplier to whom the Letter of Appointment is addressed;
"Solicitor’s Confidential Information"	means any information, however it is conveyed, that relates to the business, affairs, developments, trade secrets, Know-How, personnel and suppliers of the Solicitor, including all IPRs, together with information derived from the foregoing, and that in any case is clearly designated as being confidential;
"Solicitor’s Staff"	means all persons employed by the Solicitor and/or any Sub-Contractor to perform the Solicitor’s obligations under the Contract together with the Solicitor's and/or any Sub-Contractor's servants, consultants, agents, suppliers and Sub-Contractors used in the performance of the Solicitor’s obligations under the Contract;
"Sub-Contract"	means the Solicitor’s contract with a Sub-Contractor whereby the Sub-Contractor agrees to provide to the Solicitor the Contract Services or any part thereof or facilities, services necessary for the provision of the Contract Services or any part thereof necessary for the management, direction or control of the Contract Services or any part thereof; and
"Sub-Contractor"	means any person appointed by the Solicitor to carry out any of the Solicitor’s obligations under the Contract.

1.2 Interpretation

The interpretation and construction of the Contract shall be subject to the following provisions:

- 1.2.1 words importing the singular meaning include where the context so admits the plural meaning and vice versa;
- 1.2.2 words importing the masculine include the feminine and the neuter;
- 1.2.3 the words "include", "includes" and "including" "for example" and "in particular" and words of similar effect are to be construed as if they were immediately followed by the words "without limitation" and shall not limit the general effect of the words which precede them;
- 1.2.4 references to any person shall include natural persons and partnerships, firms and other incorporated bodies and all other legal persons of whatever kind and however constituted and their successors and permitted assigns or transferees;
- 1.2.5 the Annex forms part of these Call-Off Terms and shall have effect as if set out in full in the body of these Call-Off Terms and any reference to these Call-Off Terms includes the Annex;
- 1.2.6 references to any statute, enactment, order, regulation, code, official guidance or other similar instrument shall be construed as a reference to the statute, enactment, order, regulation, code, official guidance or instrument as amended or replaced by any subsequent enactment, modification, order, regulation, code, official guidance or instrument (whether such amendment or replacement occurs before or after the date of the Contract);
- 1.2.7 headings are included in the Contract for ease of reference only and shall not affect the interpretation or construction of the Contract;
- 1.2.8 references to "Clauses" and the "Annex" are, unless otherwise provided, references to the clauses of and the Annex to these Call-Off Terms and references to "paragraphs" are, unless otherwise provided, references to paragraphs of the Annex in which the references are made;
- 1.2.9 terms or expressions contained in the Contract which are capitalised but which do not have an interpretation in Clause 1.1 shall be interpreted in accordance with the Framework Agreement;
- 1.2.10 a reference to a Clause is a reference to the whole of that Clause unless stated otherwise; and
- 1.2.11 in the event of and only to the extent of any conflict between the Letter of Appointment, these Call-Off Terms, any other document referred to in the Contract and the Framework Agreement, the conflict shall be resolved in accordance with the following order of precedence:
 - 1.2.11.1 *the Framework Agreement (excluding Framework Schedule 4 (Letter of Appointment and Call-Off Terms));*

- 1.2.11.2 *the Letter of Appointment;*
- 1.2.11.3 *these Call-Off Terms; and*
- 1.2.11.4 *any other document referred to in the Contract.*

2 SUPPLY OF CONTRACT SERVICES

2.1 Contract Services

- 2.1.1 The Solicitor shall supply the Contract Services to the Client in accordance with the provisions of the Contract.
- 2.1.2 The Solicitor shall:
 - 2.1.2.1 *comply with all reasonable instructions given to the Solicitor and its Staff by the Client in relation to the Contract Services from time to time, including reasonable instructions to reschedule or alter the Contract Services;*
 - 2.1.2.2 *immediately report to the Client's Representative any matters which involve or could potentially involve a conflict of interest as referred to in Clause 2.1.3.1;*
 - 2.1.2.3 *co-operate with the Client and the Client's other professional advisers in relation to the Contract Services as required by the Client;*
 - 2.1.2.4 *comply with the Client's internal policies and procedures and Government codes and practices in force from time to time (including policies, procedures, codes and practices relating to staff vetting, security, equality and diversity, confidentiality undertakings and sustainability) in each case as notified to the Solicitor in writing by the Client; and*
 - 2.1.2.5 *save to the extent expressly set out in the Letter of Appointment, obtain prior written approval from the Client's Representative before advising the Client on:*
 - 2.1.2.5.1 European Union law (including State aid and public procurement); or
 - 2.1.2.5.2 public law (including national security); or
 - 2.1.2.5.3 the Transfer of Undertakings (Protection of Employment) Regulations 1981 (or any subsequent enactment thereof); or
 - 2.1.2.5.4 any other issue as may be notified to the Solicitor from time to time by the Client's Representative,

and where approval is given, copy or, if the advice is given orally, confirm in writing, to the Client's Representative, any advice given to the Client.

- 2.1.3 The Solicitor shall not:
- 2.1.3.1 *knowingly act at any time during the term of the Contract in any capacity for any person, firm or company in circumstances where a conflict of interest between such person, firm or company and the Client shall thereby exist in relation to the Contract Services; or*
 - 2.1.3.2 *incur any expenditure which would result in any estimated figure for any element of the Contract Services being exceeded without the Client's written agreement; or*
 - 2.1.3.3 *without the prior written consent of the Client, accept any commission, discount, allowance, direct or indirect payment, or any other consideration from any third party in connection with the provision of the Contract Services; or*
 - 2.1.3.4 *pledge the credit of the Client in any way; or*
 - 2.1.3.5 *engage in any conduct which in the reasonable opinion of the Client is prejudicial to the Client.*
- 2.1.4 Both Parties shall take all necessary measures to ensure the health and safety of the other Party's employees, consultants and agents visiting their premises.
- 2.1.5 The Solicitor accepts that the Client shall have the right after consultation with the Solicitor to require the removal from involvement in the Contract Services of any person engaged in the performance of the Contract Services if in the Client's reasonable opinion the performance or conduct of such person is or has been unsatisfactory or if it shall not be in the public interest for the person to work on the Contract Services.
- 2.1.6 Where the Solicitor is more than one firm acting as a consortium, each firm that is a member of the consortium shall be jointly and severally liable for performance of the Solicitor's obligations under the Contract.
- 2.2 Variation of Contract Services
- 2.2.1 The Client may request a variation to the Contract Services at any time provided that such variation does not amount to a material change to the Order.
 - 2.2.2 Any request by the Client for a variation to the Contract Services shall be by written notice to the Solicitor:
 - 2.2.2.1 *giving sufficient information for the Solicitor to assess the extent of the variation and any additional costs that may be incurred; and*
 - 2.2.2.2 *specifying the timeframe within which the Solicitor must respond to the request, which shall be reasonable,*

and the Solicitor shall respond to such request within such timeframe.

2.2.3 In the event that the Solicitor and the Client are unable to agree any change to the Contract Charges in connection with any requested variation to the Contract Services, the Client may agree that the Solicitor should continue to perform its obligations under the Contract without the variation or may terminate the Contract in accordance with Clause 8.4.1.

2.3 Key Personnel

2.3.1 The Solicitor acknowledges that the Key Personnel are essential to the proper provision of the Contract Services to the Client. The Key Personnel shall be responsible for performing such roles as are ascribed to them in the Letter of Appointment and such other roles as may be necessary or desirable for the purposes of the Contract or as may be agreed between the Parties from time to time.

2.3.2 The Key Personnel shall not be released by the Solicitor from supplying the Contract Services without the agreement of the Client, except by reason of long-term sickness, maternity leave, paternity leave, termination of employment/partnership or other extenuating circumstances.

2.3.3 Any replacements to the Key Personnel shall be subject to the agreement of the Client. Such replacements shall be of at least equal status or of equivalent experience and skills to the Key Personnel being replaced and be suitable for the responsibilities of that person in relation to the Contract.

2.3.4 The Client shall not unreasonably withhold its agreement under Clauses 2.3.2 or 2.3.3. Such agreement shall be conditional on appropriate arrangements being made by the Solicitor to minimise any adverse impact on the Contract which could be caused by a change in Key Personnel.

2.3.5 If requested by the Client, the Solicitor shall procure that Key Personnel attend transaction review meetings at no cost to the Client during the term of the Contract and upon its conclusion.

3 PAYMENT AND CHARGES

3.1 Contract Charges and VAT

3.1.1 In consideration of the Solicitor's performance of its obligations under the Contract, the Client shall pay the Contract Charges in accordance with Clause 3.2 (Payment).

3.1.2 The Client shall, in addition to the Contract Charges and following receipt of a valid VAT invoice, pay the Solicitor a sum equal to the VAT chargeable on the value of the Contract Services supplied.

3.1.3 The provisions of paragraphs 8 and 9 of Framework Schedule 2 (Charging Structure) of the Framework Agreement shall apply in relation to the Contract Services.

3.1.4 If at any time before the Contract Services have been delivered in full the Solicitor reduces its Framework Prices for any Services which are provided under

the Framework Agreement in accordance with the terms of the Framework Agreement with the result that the Framework Prices are lower than the Contract Charges, the Contract Charges for the Contract Services shall automatically be reduced so as to be equal to the Framework Prices.

3.1.5 The Solicitor shall indemnify the Client on demand and on a continuing basis against any liability, including without limitation any interest, penalties or costs, which are suffered or incurred by or levied, demanded or assessed on the Client at any time in respect of the Solicitor's failure to account for or to pay any VAT relating to payments made to the Solicitor under the Contract. Any amounts due under this Clause 3.1.5 shall be paid by the Solicitor to the Client not less than five (5) Working Days before the date upon which the tax or other liability is payable by the Client.

3.2 Payment

3.2.1 The Client shall pay all sums properly due and payable to the Solicitor in respect of the Contract Services in cleared funds by no later than thirty (30) calendar days after the date of a validly issued invoice for such sums.

3.2.2 The Solicitor shall ensure that each invoice (whether submitted electronically or in a paper form) contains all appropriate references and a detailed breakdown of the Contract Services provided and any disbursements and that it is supported by such other documentation as may reasonably be required by the Client to substantiate the invoice.

3.2.3 The Solicitor shall ensure that all invoices submitted to the Client for Contract Services are exclusive of the Management Charge payable to the Authority in respect of the Contract Services. The Solicitor shall not be entitled to increase the Contract Charges by an amount equal to such Management Charge or to recover such Management Charge as a surcharge or disbursement.

3.2.4 The Solicitor shall make any payments due to the Client without any deduction whether by way of set-off, counterclaim, discount, abatement or otherwise unless the Solicitor has a valid court order requiring an amount equal to such deduction to be paid by the Client to the Solicitor.

3.2.5 Subject always to the provisions of Clause 14, if the Solicitor enters into a Sub-Contract in respect of the Contract Services, it shall ensure that a provision is included in such Sub-Contract which requires payment to be made of all sums due by the Solicitor to the Sub-Contractor within a specified period not exceeding thirty (30) calendar days from the receipt of a validly issued invoice, in accordance with the terms of the Sub-Contract.

3.2.6 The Solicitor shall not suspend the supply of the Contract Services unless the Solicitor is entitled to terminate the Contract under Clause 8.2.2 on the grounds of the Client's failure to pay undisputed sums of money. Interest shall be payable by the Client in accordance with the Late Payment of Commercial Debts (Interest) Act 1998 on the late payment of any undisputed sums of money properly invoiced by the Solicitor in respect of the Contract Services.

3.2.7 The Solicitor shall accept the Government Procurement Card as a means of payment for the Contract Services where such card is agreed with the Client to be a suitable means of payment. The Solicitor shall be solely liable to pay any merchant fee levied for using the Government Procurement Card and shall not be entitled to recover this charge from the Client.

3.2.8 All payments due shall be made in cleared funds to such bank or building society account as the recipient Party may from time to time direct in writing.

3.3 Recovery of Sums Due

3.3.1 Wherever under the Contract any sum of money is recoverable from or payable by the Solicitor (including any sum which the Solicitor is liable to pay to the Client in respect of any breach of the Contract), the Client may unilaterally deduct that sum from any sum then due, or which at any later time may become due to the Solicitor under the Contract

3.3.2 Any overpayment by either Party, whether of the Contract Charges or of VAT or otherwise, shall be a sum of money recoverable by the Party who made the overpayment from the Party in receipt of the overpayment.

4 LIABILITY AND INSURANCE

4.1 Liability

4.1.1 Neither Party excludes or limits its liability for:

4.1.1.1 *death or personal injury caused by its negligence, or that of its employees, agents or sub-contractors; or*

4.1.1.2 *fraud or fraudulent misrepresentation by it or its employees.*

4.1.2 No individual nor any service company of the Solicitor employing that individual shall have any personal liability to the Client for the Contract Services supplied by that individual on behalf of the Solicitor and the Client shall not bring any claim under the Contract against that individual or such service company in respect of the Contract Services save in the case of Fraud or any liability for death or personal injury. Nothing in this Clause 4.1.2 shall in any way limit the liability of the Solicitor in respect of the Contract Services, which such liability shall be uncapped unless otherwise specified in the Letter of Appointment.

4.1.3 The Solicitor shall fully indemnify and keep indemnified the Client on demand in full from and against all claims, proceedings, actions, damages, costs, expenses and any other liabilities whatsoever arising out of, in respect of or in connection with, the supply, purported supply or late supply of the Contract Services or the performance or non-performance by the Solicitor of its obligations under the Framework Agreement and the Client's financial loss arising from any advice given or omitted to be given by the Solicitor, or any other loss which is caused by any act or omission of the Solicitor.

4.1.4 Subject to Clauses 4.1.1 and 4.1.5, in no event shall either Party be liable to the other for any:

- 4.1.4.1 *loss of profits;*
 - 4.1.4.2 *loss of business;*
 - 4.1.4.3 *loss of revenue;*
 - 4.1.4.4 *loss of or damage to goodwill;*
 - 4.1.4.5 *loss of savings (whether anticipated or otherwise); and/or*
 - 4.1.4.6 *any indirect, special or consequential loss or damage.*
- 4.1.5 The Solicitor shall be liable for the following types of loss, damage, cost or expense which shall be regarded as direct and shall (without in any way, limiting other categories of loss, damage, cost or expense which may be recoverable by the Authority) be recoverable by the Authority:
- 4.1.5.1 *the additional operational and/or administrative costs and expenses arising from any Material Breach;*
 - 4.1.5.2 *the cost of procuring, implementing and operating any alternative or replacement services to the Contract Services; and*
 - 4.1.5.3 *any regulatory losses, fines, expenses or other losses arising from a breach by the Solicitor of any Laws.*
- 4.1.6 No enquiry, inspection, approval, sanction, comment, consent, decision or instruction at any time made or given by or on behalf of the Client to any document or information provided by the Solicitor in its provision of the Contract Services, and no failure of the Client to discern any defect in or omission from any such document or information shall operate to exclude or limit the obligation of the Solicitor to exercise all the obligations of a professional Solicitor employed in a client/solicitor relationship.
- 4.1.7 Save as otherwise expressly provided, the obligations of the Client under the Contract are obligations of the Client in its capacity as a contracting counterparty and nothing in the Contract shall operate as an obligation upon, or in any other way fetter or constrain the Client in any other capacity, nor shall the exercise by the Client of its duties and powers in any other capacity lead to any liability under the Contract (howsoever arising) on the part of the Client to the Solicitor.
- 4.2 Insurance
- 4.2.1 The Solicitor shall effect and maintain with a reputable insurance company a policy or policies of insurance providing an adequate level of cover in respect of all risks which may be incurred by the Solicitor, arising out of the Solicitor's performance of its obligations under the Contract, including death or personal injury, loss of or damage to property or any other loss. Such policy or policies shall include professional indemnity cover in respect of any financial loss to the Client arising from any advice given or omitted to be given by the Solicitor under the Contract or otherwise in connection with the provision of the Contract

Services. Such insurance shall be maintained for so long as the Solicitor may have any liability to the Client.

4.2.2 It shall be the responsibility of the Solicitor to determine the amount of insurance cover that will be adequate to enable the Solicitor to satisfy any liability arising in respect of the risks referred to in Clause 4.2.1.

4.2.3 If, for whatever reason, the Solicitor fails to give effect to and maintain the insurances required by Clause 4.2.1, the Client may make alternative arrangements to protect its interests and may recover the costs of such arrangements from the Solicitor.

4.2.4 The provisions of any insurance or the amount of cover shall not relieve the Solicitor of any liabilities under the Contract.

5 INTELLECTUAL PROPERTY RIGHTS

5.1 All Intellectual Property Rights in the output from the Contract Services shall vest in the Solicitor who shall grant to the Client a non-exclusive, unlimited, irrevocable licence to use and exploit the same.

5.2 Subject to Clause 5.1 and save as expressly granted elsewhere under the Contract, the Client shall not acquire any right, title or interest in or to the Intellectual Property Rights of the Solicitor or its licensors and the Solicitor shall not acquire any right, title or interest in or to the Intellectual Property Rights of the Client or its licensors.

5.3 The Solicitor shall on demand fully indemnify and keep fully indemnified and hold the Client and the Crown harmless from and against all actions, suits, claims, demands, losses, charges, damages, costs and expenses and other liabilities which the Client and or the Crown may suffer or incur as a result of any claim that the performance by the Solicitor of the Contract Services infringes or allegedly infringes a third party's Intellectual Property Rights (any such claim being a "Claim").

5.4 If a Claim arises, the Client shall notify the Solicitor in writing of the Claim and the Client shall not make any admissions which may be prejudicial to the defence or settlement of the Claim. The Solicitor shall at its own expense conduct all negotiations and any litigation arising in connection with the Claim provided always that the Solicitor:

5.4.1 shall consult the Client on all substantive issues which arise during the conduct of such litigation and negotiations;

5.4.2 shall take due and proper account of the interests of the Client;

5.4.3 shall consider and defend the Claim diligently using competent counsel and in such a way as not to bring the reputation of the Client into disrepute; and

5.4.4 shall not settle or compromise the Claim without the prior written approval of the Client (not to be unreasonably withheld or delayed).

5.5 The Solicitor shall have no rights to use any of the Client's names, logos or trademarks without the prior written approval of the Client.

6 PROTECTION OF INFORMATION

6.1 Protection of Personal Data

6.1.1 With respect to the Parties' rights and obligations under the Contract, the Parties agree that the Client is the Data Controller and that the Solicitor is the Data Processor in relation to the Client's Personal Data.

6.1.2 The Solicitor shall:

6.1.2.1 *Process the Client's Personal Data only in accordance with instructions from the Client (which may be specific instructions or instructions of a general nature as set out in the Contract or as otherwise notified by the Client to the Solicitor during the term of the Contract);*

6.1.2.2 *Process the Client's Personal Data only to the extent, and in such manner, as is necessary for the provision of the Services or as is required by Law or any Regulatory Body;*

6.1.2.3 *implement appropriate technical and organisational measures to protect the Client's Personal Data against unauthorised or unlawful processing and against accidental loss, destruction, damage, alteration or disclosure. These measures shall be appropriate to the harm which might result from any unauthorised or unlawful Processing, accidental loss, destruction or damage to the Client's Personal Data and having regard to the nature of the Client's Personal Data which is to be protected;*

6.1.2.4 *take reasonable steps to ensure the reliability of all members of the Solicitor's Staff who have access to the Client's Personal Data;*

6.1.2.5 *obtain the Client's prior written approval in order to transfer all or any of the Client's Personal Data to any Sub-Contractors for the provision of the Contract Services;*

6.1.2.6 *ensure that all members of the Solicitor's Staff required to access the Personal Data are informed of the confidential nature of the Personal Data and comply with the obligations set out in this Clause 6.1;*

6.1.2.7 *ensure that none of the Solicitor's Staff publish, disclose or divulge any of the Client's Personal Data to any third party unless directed in writing to do so by the Client;*

6.1.2.8 *notify the Client within five (5) Working Days if the Solicitor receives:*

6.1.2.8.1 a request from a Data Subject to have access to the Client's Personal Data relating to that person; or

6.1.2.8.2 a complaint or request relating to the Client's obligations under the Data Protection Legislation;

- 6.1.2.9 *provide the Client with full cooperation and assistance in relation to any complaint or request made relating to the Client's Personal Data, including by:*
 - 6.1.2.9.1 providing the Client with full details of the complaint or request;
 - 6.1.2.9.2 complying with a data access request within the relevant timescales set out in the Data Protection Legislation and in accordance with the Client's instructions;
 - 6.1.2.9.3 providing the Client with any Client's Personal Data it holds in relation to a Data Subject (within the timescales required by the Client); and
 - 6.1.2.9.4 providing the Client with any information requested by the Client;
- 6.1.2.10 *permit or procure permission for the Client or the Client's Representative (subject to reasonable and appropriate confidentiality undertakings), to inspect and audit, the Solicitor's data Processing activities (and/or those of its agents and Sub-Contractors) and comply with all reasonable requests or directions by the Client to enable the Client to verify and/or procure that the Solicitor is in full compliance with its obligations under the Contract;*
- 6.1.2.11 *provide a written description of the technical and organisational methods employed by the Solicitor for Processing the Client's Personal Data (within the timescales required by the Client); and*
- 6.1.2.12 *not Process or otherwise transfer any Client's Personal Data outside the European Economic Area without the prior written consent of the Client which may be given on such terms as the Client in its discretion thinks fit.*
- 6.1.3 The Solicitor shall comply at all times with the Data Protection Legislation and shall not perform its obligations under the Contract in such a way as to cause the Client to breach any of its applicable obligations under the Data Protection Legislation.
- 6.1.4 The Solicitor acknowledges that, in the event that it breaches (or attempts or threatens to breach) its obligations relating to the Client's Personal Data that the Client may be irreparably harmed (including harm to its reputation). In such circumstances, the Client may proceed directly to court and seek injunctive or other equitable relief to remedy or prevent any further breach (or attempted or threatened breach).
- 6.1.5 In the event that through any failure by the Solicitor to comply with its obligations under the Contract, Client's Personal Data is transmitted or Processed in connection with the Contract is either lost or sufficiently degraded so as to be unusable, the Solicitor shall be liable for the cost of reconstitution of that data and shall reimburse the Client in respect of any charge levied for its

transmission and any other costs charged in connection with such failure by the Solicitor.

6.2 Confidentiality

6.2.1 Except to the extent set out in this Clause 6.2 or where disclosure is expressly permitted elsewhere in the Contract, each Party shall:

6.2.1.1 *treat the other Party's Confidential Information as confidential and safeguard it accordingly; and*

6.2.1.2 *not disclose the other Party's Confidential Information to any other person without the owner's prior written consent.*

6.2.2 Clause 6.2.1 shall not apply to the extent that:

6.2.2.1 *such disclosure is a requirement of Law placed upon the Party making the disclosure, including any requirements for disclosure under the FOIA, Code of Practice on Access to Government Information or the Environmental Information Regulations pursuant to Clause 6.4 (Freedom of Information); or*

6.2.2.2 *such information was in the possession of the Party making the disclosure without obligation of confidentiality prior to its disclosure by the information owner; or*

6.2.2.3 *such information was obtained from a third party without obligation of confidentiality; or*

6.2.2.4 *such information was already in the public domain at the time of disclosure otherwise than by a breach of the Contract; or*

6.2.2.5 *it is independently developed without access to the other Party's Confidential Information.*

6.2.3 The Solicitor may only disclose the Client's Confidential Information to those members of the Solicitor's Staff who are directly involved in the provision of the Contract Services and who need to know the information, and shall ensure that such individuals are aware of and shall comply with these obligations as to confidentiality.

6.2.4 The Solicitor shall not, and shall procure that the Solicitor's Staff do not, use any of the Client's Confidential Information received otherwise than for the purposes of the Contract.

6.2.5 At the written request of the Client, the Solicitor shall procure that those members of the Solicitor's Staff identified in the Client's notice sign a confidentiality undertaking prior to commencing any work in accordance with the Contract.

6.2.6 Nothing in the Contract shall prevent the Client from disclosing the Solicitor's Confidential Information (including the Management Information obtained pursuant to clause 13 of the Framework Agreement):

- 6.2.6.1 *to any Crown body or any other Contracting Body on the basis that the information is confidential and is not to be disclosed to a third party which is not part of any Crown body or any Client save as required by Law;*
- 6.2.6.2 *to any consultant, contractor or other person engaged by the Client for any purpose relating to or connected with the Contract or the Framework Agreement (on the basis that the information shall be held by such consultant, contractor or other person in confidence and is not to be disclosed to any third party) or any person conducting an Office of Government Commerce gateway review or any additional assurance programme;*
- 6.2.6.3 *for the purpose of the examination and certification of the Client's accounts; or*
- 6.2.6.4 *for any examination pursuant to section 6(1) of the National Audit Act 1983 of the economy, efficiency and effectiveness with which the Client has used its resources.*
- 6.2.7 The Client shall use all reasonable endeavours to ensure that any government department, Client, employee, third party or Sub-Contractor to whom the Solicitor's Confidential Information is disclosed pursuant to Clause 6.2.6 is made aware of the Client's obligations of confidentiality.
- 6.2.8 Nothing in this Clause 6.2 shall prevent either Party from using any techniques, ideas or Know-How gained during the performance of the Contract in the course of its normal business to the extent that this use does not result in a disclosure of the other Party's Confidential Information or an infringement of IPR.
- 6.2.9 In order to ensure that no unauthorised person gains access to any Confidential Information or any data obtained in performance of the Contract, the Solicitor undertakes to maintain adequate security arrangements that meet the requirements of Good Industry Practice.
- 6.2.10 The Solicitor shall, at all times during and after the performance of the Contract, indemnify the Client and keep the Client fully indemnified against all losses, damages, costs or expenses and other liabilities (including legal fees) incurred by, awarded against or agreed to be paid by the Client arising from any breach of the Solicitor's obligations under this Clause 6.2 except and to the extent that such liabilities have resulted directly from the Client's instructions.
- 6.3 Official Secrets Acts 1911 to 1989; section 182 of the Finance Act 1989
 - 6.3.1 The Solicitor shall comply with and shall ensure that its Staff comply with, the provisions of:
 - 6.3.1.1 *the Official Secrets Acts 1911 to 1989; and*
 - 6.3.1.2 *section 182 of the Finance Act 1989.*

6.4 Freedom of Information

6.4.1 The Solicitor acknowledges that the Client is subject to the requirements of the FOIA and the Environmental Information Regulations and shall assist and cooperate with the Client to enable the Client to comply with its Information disclosure obligations.

6.4.2 The Solicitor shall and shall procure that its Sub-Contractors shall:

6.4.2.1 *transfer to the Client all Requests for Information that it receives as soon as practicable and in any event within two (2) Working Days of receiving a Request for Information;*

6.4.2.2 *provide the Client with a copy of all Information relating to a Request for Information in its possession, or control in the form that the Client requires within five (5) Working Days (or such other period as the Client may specify) of the Client's request; and*

6.4.2.3 *provide all necessary assistance as reasonably requested by the Client to enable the Client to respond to the Request for Information within the time for compliance set out in section 10 of the FOIA or regulation 5 of the Environmental Information Regulations.*

6.4.3 The Client shall be responsible for determining in its absolute discretion and notwithstanding any other provision in the Contract or any other contract whether the Commercially Sensitive Information and/or any other Information including Solicitor's Confidential Information, is exempt from disclosure in accordance with the provisions of the FOIA or the Environmental Information Regulations.

6.4.4 In no event shall the Solicitor respond directly to a Request for Information unless authorised in writing to do so by the Client.

6.4.5 The Solicitor acknowledges that (notwithstanding the provisions of Clause 6.2) the Client may, acting in accordance with the Ministry of Justice Codes, be obliged under the FOIA or the Environmental Information Regulations to disclose information concerning the Solicitor or the Contract Services:

6.4.5.1 *in certain circumstances without consulting the Solicitor; or*

6.4.5.2 *following consultation with the Solicitor and having taken the Solicitor's views into account,*

provided always that where Clause 6.4.6 applies the Client shall, in accordance with any recommendations of the Code, take reasonable steps, where appropriate, to give the Solicitor advanced notice, or failing that, to draw the disclosure to the Solicitor's attention after any such disclosure.

6.4.6 The Solicitor shall ensure that all Information is retained for disclosure in accordance with the provisions of the Contract and in any event in accordance with the requirements of Good Industry Practice and shall permit the Client on reasonable notice to inspect such records as requested from time to time.

6.4.7 The Solicitor acknowledges that the Commercially Sensitive Information is of an indicative nature only and that the Client may be obliged to disclose it in accordance with Clause 6.4.5.

6.5 Transparency

6.5.1 The Parties acknowledge that, except for any information which is exempt from disclosure in accordance with the provisions of the FOIA, the content of the Contract is not Confidential Information. The Client shall be responsible for determining in its absolute discretion whether any of the content of the Contract is exempt from disclosure in accordance with the provisions of the FOIA.

6.5.2 Notwithstanding any other term of the Contract, the Solicitor hereby gives consent to the Client to publish the Contract to the general public in its entirety (subject only to redaction of any information which is exempt from disclosure in accordance with the provisions of the FOIA), including any changes to the Contract agreed from time to time.

6.5.3 The Client may consult with the Solicitor to inform its decision regarding any redactions but the Client shall have the final decision in its absolute discretion.

6.5.4 The Solicitor shall assist and cooperate with the Client to enable the Client to publish the Contract.

7 WARRANTIES, REPRESENTATIONS AND UNDERTAKINGS

7.1 The Solicitor warrants, represents and undertakes to the Client that:

7.1.1 it has full capacity and authority and all necessary consents licences, permissions (statutory, regulatory, contractual or otherwise) to enter into and perform its obligations under the Contract;

7.1.2 the Contract is executed by a duly authorised representative of the Solicitor;

7.1.3 in entering the Contract it has not committed any Fraud;

7.1.4 it has not committed any offence under the Prevention of Corruption Acts 1889 to 1916, or the Bribery Act 2010;

7.1.5 all information, statements and representations contained in the Solicitor's tender or other submission to the Client for the award of the Contract Services are true, accurate and not misleading save as specifically disclosed in writing to the Client prior to execution of the Contract and it will advise the Client of any fact, matter or circumstance of which it may become aware which would render any such information, statement or representation to be false or misleading;

7.1.6 no claim is being asserted and no litigation, arbitration or administrative proceeding is presently in progress or, to the best of its knowledge and belief, pending or threatened against it or its assets which will or might affect its ability to perform its obligations under the Contract;

- 7.1.7 it is not subject to any contractual obligation, compliance with which is likely to have an adverse effect on its ability to perform its obligations under the Contract;
 - 7.1.8 it has not done or omitted to do anything which could have an adverse effect on its assets, financial condition or position as an ongoing business concern or its ability to fulfil its obligations under the Contract;
 - 7.1.9 no proceedings or other steps have been taken and not discharged or dismissed (nor, to the best of its knowledge, are threatened) for the winding up of the Solicitor or for its dissolution or for the appointment of a receiver, administrative receiver, liquidator, manager, administrator or similar officer in relation to any of the Solicitor's assets or revenue;
 - 7.1.10 it has taken and shall continue to take all steps, in accordance with Good Industry Practice, to prevent the unauthorised use of, modification, access, introduction, creation or propagation of any disruptive element, virus, worms and/or Trojans, spyware or other malware into the computing environment (including the hardware, software and/or telecommunications networks or equipment), data, software or Confidential Information (held in electronic form) owned by or under the control of, or used by, the Client; and
 - 7.1.11 it owns, has obtained or is able to obtain valid licences for all Intellectual Property Rights that are necessary for the performance of its obligations under the Contract and shall maintain the same in full force and effect for so long as is necessary for the proper provision of the Contract Services.
- 7.2 The Solicitor warrants, represents and undertakes to the Client that:
- 7.2.1 it has read and fully understood the Letter of Appointment and these Call-Off Terms and is capable of performing the Contract Services in all respects in accordance with the Contract;
 - 7.2.2 the Solicitor and each of its Sub-Contractors has all Staff, equipment and experience necessary for the proper performance of the Contract Services; and
 - 7.2.3 it will at all times:
 - 7.2.3.1 *perform its obligations under the Contract with all reasonable care, skill and diligence and in accordance with Good Industry Practice;*
 - 7.2.3.2 *comply with all the KPIs and meet or exceed the Service Levels;*
 - 7.2.3.3 *carry out the Contract Services within the timeframe agreed with the Client; and*
 - 7.2.3.4 *without prejudice to its obligations under Clause 2.3 (Key Personnel), ensure to the satisfaction of the Client that the Contract Services are provided and carried out by such appropriately qualified, skilled and experienced solicitors and/or other Staff as shall be necessary for the proper performance of the Contract Services.*
- 7.3 The Solicitor shall promptly notify the Client in writing:

- 7.3.1 of any material detrimental change in the financial standing and/or credit rating of the Solicitor;
 - 7.3.2 if the Solicitor undergoes a Change of Control; and
 - 7.3.3 provided this does not contravene any Law, of any circumstances suggesting that a Change of Control is planned or in contemplation.
- 7.4 For the avoidance of doubt, the fact that any provision within the Contract is expressed as a warranty shall not preclude any right of termination the Client would have in respect of breach of that provision by the Solicitor if that provision had not been so expressed.
- 7.5 The Solicitor acknowledges and agrees that:
- 7.5.1 the warranties, representations and undertakings contained in the Contract are material and are designed to induce the Client into entering into the Contract; and
 - 7.5.2 the Client has been induced into entering into the Contract and in doing so has relied upon the warranties, representations and undertakings contained in the Contract.

8 TERMINATION

8.1 Termination on Insolvency

- 8.1.1 The Client may terminate the Contract with immediate effect by giving notice in writing to the Solicitor if:
 - 8.1.1.1 *a proposal is made for a voluntary arrangement within Part I of the Insolvency Act 1986 or of any other composition scheme or arrangement with, or assignment for the benefit of, the Solicitor's creditors; or*
 - 8.1.1.2 *a shareholders', members' or partners' meeting is convened for the purpose of considering a resolution that the Solicitor be wound up or a resolution for the winding-up of the Solicitor is passed (other than as part of, and exclusively for the purpose of, a bona fide reconstruction or amalgamation); or*
 - 8.1.1.3 *a petition is presented for the winding-up of the Solicitor (which is not dismissed within five (5) Working Days of its service) or an application is made for the appointment of a provisional liquidator or a creditors' meeting is convened in respect of the Solicitor pursuant to section 98 of the Insolvency Act 1986; or*
 - 8.1.1.4 *a receiver, administrative receiver or similar officer is appointed over the whole or any part of the Solicitor's business or assets; or*
 - 8.1.1.5 *a creditor or encumbrancer attaches or takes possession of, or a distress, execution, sequestration or other such process is levied or enforced on or sued against, the whole or any part of the Solicitor's*

assets and such attachment or process is not discharged within ten (10) Working Days;

- 8.1.1.6 *an application is made in respect of the Solicitor either for the appointment of an administrator or for an administration order and an administrator is appointed, or notice of intention to appoint an administrator is given; or*
- 8.1.1.7 *if the Solicitor is or becomes insolvent within the meaning of section 123 of the Insolvency Act 1986; or*
- 8.1.1.8 *the Solicitor suspends or ceases, or threatens to suspend or cease, to carry on all or a substantial part of his business; or*
- 8.1.1.9 *in the reasonable opinion of the Client, there is a material detrimental change in the financial standing and/or the credit rating of the Solicitor which:*
 - 8.1.1.9.1 *adversely impacts on the Solicitor's ability to supply the Contract Services in accordance with the Contract; or*
 - 8.1.1.9.2 *could reasonably be expected to have an adverse impact on the Solicitor's ability to supply the Contract Services in accordance with the Contract; or*
- 8.1.1.10 *the Solicitor demerges into two or more firms, merges with another firm, incorporates or otherwise changes its legal form and the new entity has or could reasonably be expected to have a materially less good financial standing or weaker credit rating than the Solicitor; or*
- 8.1.1.11 *being a "small company" within the meaning of section 382(3) of the Companies Act 2006, a moratorium in respect of the Solicitor comes into force pursuant to Schedule A1 of the Insolvency Act 1986; or*
- 8.1.1.12 *the Solicitor being an individual dies or is adjudged incapable of managing his affairs within the meaning of Part VII of the Mental Health Act 1983; or*
- 8.1.1.13 *the Solicitor being an individual or any partner or partners in the Solicitor who together are able to exercise control of the Solicitor where the Solicitor is a firm shall at any time become bankrupt or shall have a receiving order or administration order made against him or them, or shall make any composition or arrangement with or for the benefit for his or their creditors, or shall make any conveyance or assignment for the benefit of his or their creditors, or shall purport to do any of these things, or appears or appear unable to pay or to have no reasonable prospect of being able to pay a debt within the meaning of section 268 of the Insolvency Act 1986, or he or they shall become apparently insolvent within the meaning of the Bankruptcy (Scotland) Act 1985, or any application shall be made under any bankruptcy or insolvency act for the time being in force for sequestration of his or their estate(s) or a trust deed shall be granted by him or them on behalf of his or their creditors; or*

8.1.1.14 *any event similar to those listed in Clauses 8.1.1.1 to 8.1.1.13 occurs under the law of any other jurisdiction.*

8.2 Termination on Material Breach, Persistent Failure or Grave Misconduct etc

8.2.1 The Client may terminate the Contract with immediate effect by giving written notice to the Solicitor if:

8.2.1.1 *the Solicitor commits a Material Breach and if:*

8.2.1.1.1 the Solicitor has not within ten (10) Working Days or such other longer period as may be specified by the Client, after issue of a written notice to the Solicitor specifying the Material Breach and requesting it to be remedied:

8.2.1.1.1.1 *remedied the Material Breach; and*

8.2.1.1.1.2 *put in place measures to ensure that such Material Breach does not recur,*

in each case to the satisfaction of the Client; or

8.2.1.1.2 the Material Breach is not, in the opinion of the Client, capable of remedy; or

8.2.1.2 *if a Persistent Failure has occurred; or*

8.2.1.3 *if Grave Misconduct has occurred; or*

8.2.1.4 *the Solicitor breaches any of Clause 6.1 (Protection of Personal Data), Clause 6.2 (Confidentiality), Clause 6.3 (Official Secrets Acts 1911 to 1989), Clause 7 (Warranties, Representations and Undertakings), Clause 11 (Prevention of Bribery and Corruption), Clause 12 (Non-Discrimination), Clause 13 (Prevention of Fraud) and Clause 14 (Transfer and Sub-Contracting); or*

8.2.1.5 *in the event of a Law Society intervention in the Solicitor's practice; or*

8.2.1.6 *in the event of conviction for dishonesty of the Solicitor (if an individual) or any one or more of the Solicitor's directors, partners or members (if the Solicitor is a firm or firms), which conviction might reasonably be expected to lead to the striking off from the Roll maintained by the Solicitors Regulation Authority of the individual(s) concerned.*

8.2.2 If the Client fails to pay the Solicitor undisputed sums of money when due, the Solicitor shall notify the Client in writing of such failure to pay. If the Client fails to pay such undisputed sums within five (5) calendar days from the receipt of a such notice, the Solicitor may terminate the Contract by ten (10) Working Days' written notice to the Client.

8.3 Termination on Change of Control

8.3.1 The Client may terminate the Contract by notice in writing with immediate effect within six (6) Months of:

8.3.1.1 *being notified in writing that a Change of Control has occurred or is planned or in contemplation; or*

8.3.1.2 *where no notification has been made, the date that the Client becomes aware of the Change of Control,*

but shall not be permitted to terminate where the Client's written consent to the continuation of the Contract was granted prior to the Change of Control.

8.4 Termination on Notice

8.4.1 The Client shall have the right to suspend the Contract with immediate effect at any time by giving written notice to the Solicitor and to terminate the Contract with immediate effect by giving written notice to the Solicitor at any time.

8.5 Termination of Framework Agreement

8.5.1 The Client may terminate the Contract with immediate effect by giving written notice to the Solicitor if the Framework Agreement is terminated for any reason whatsoever.

8.6 Partial Termination

8.6.1 Where the Client is entitled to terminate the Contract pursuant to this Clause 8, the Client shall be entitled to terminate all or part of the Contract provided always that the parts of the Contract not terminated can operate effectively to deliver the intended purpose of the Contract or a part thereof.

9 CONSEQUENCES OF EXPIRY OR TERMINATION

9.1 Subject to Clause 9.2, where the Client terminates the Contract pursuant to Clause 8 (Termination) and then makes other arrangements for the supply of the Contract Services:

9.1.1 the Client may recover from the Solicitor the cost reasonably incurred in making those other arrangements and any additional expenditure incurred by the Client in securing the Contract Services in accordance with the requirements of the Contract;

9.1.2 the Client shall take all reasonable steps to mitigate such additional expenditure; and

9.1.3 no further payments shall be payable by the Client to the Solicitor until the Client has established the final cost of making those other arrangements, whereupon the Client shall be entitled to deduct an amount equal to the final cost of such other arrangements from the further payments then due to the Solicitor.

- 9.2 Clause 9.1 shall not apply where the Client terminates the Contract:
- 9.2.1 solely pursuant to Clause 8.3 or Clause 8.4; or
 - 9.2.2 solely pursuant to Clause 8.5 if termination pursuant to Clause 8.5 occurs as a result of termination of the Framework Agreement pursuant to the provisions of clauses 24.6, 24.11, 24.12 or 24.13 thereof.
- 9.3 On the termination of the Contract for any reason, the Solicitor shall, at the request of the Client and at the Solicitor's cost:
- 9.3.1 immediately return to the Client all Confidential Information and the Client's Personal Data in its possession or in the possession or under the control of any permitted suppliers or Sub-Contractors, which was obtained or produced in the course of providing the Contract Services;
 - 9.3.2 except where the retention of Client's Personal Data is required by Law, promptly destroy all copies of the Client Data and provide written confirmation to the Client that the data has been destroyed.
 - 9.3.3 immediately deliver to the Client in good working order (but subject to allowance for reasonable wear and tear) all the property (including materials, documents, information and access keys but excluding real property and IPR) issued or made available to the Solicitor by the Client in connection with the Contract provided to the Solicitor;
 - 9.3.4 vacate, and procure that the Solicitor's Staff vacate, any premises of the Client occupied for the purposes of providing the Contract Services;
 - 9.3.5 return to the Client any sums prepaid in respect of the Contract Services not provided by the date of expiry or termination (howsoever arising); and
 - 9.3.6 promptly provide all information concerning the provision of the Contract Services which may reasonably be requested by the Client for the purposes of adequately understanding the manner in which the Contract Services have been provided or for the purpose of allowing the Client or any replacement Supplier to conduct due diligence.
- 9.4 Without prejudice to any other right or remedy which the Client may have, if any Contract Services are not supplied in accordance with, or the Solicitor fails to comply with any of the terms of the Contract then the Client may (whether or not any part of the Contract Services have been delivered) do any one or more of the following:
- 9.4.1 at the Client's option, give the Solicitor the opportunity (at the Solicitor's expense) to remedy any failure in the performance of the Services together with any damage resulting from such defect or failure (and where such defect or failure is capable of remedy) and carry out any other necessary work to ensure that the terms of the Contract are fulfilled, in accordance with the Client's instructions;
 - 9.4.2 without terminating the Contract, itself supply or procure the supply of all or part of the Contract Services until such time as the Solicitor shall have demonstrated to the reasonable satisfaction of the Client that the Solicitor will

once more be able to supply all or such part of the Contract Services in accordance with the Contract;

9.4.3 without terminating the whole of the Contract, terminate the Contract in respect of part of the Contracting Services only and thereafter itself supply or procure a third party to supply such part of the Contract Services; and/or

9.4.4 charge the Solicitor for, whereupon the Solicitor shall on demand pay, any costs reasonably incurred by the Client (including any reasonable administration costs) in respect of the supply of any part of the Contract Services by the Client or a third party to the extent that such costs exceed the payment which would otherwise have been payable to the Solicitor for such part of the Contract Services and provided that the Client uses its reasonable endeavours to mitigate any additional expenditure in obtaining replacement Contract Services.

9.5 Save as otherwise expressly provided in the Contract:

9.5.1 termination or expiry of the Contract shall be without prejudice to any rights, remedies or obligations accrued under the Contract prior to termination or expiration and nothing in the Contract shall prejudice the right of either Party to recover any amount outstanding at the time of such termination or expiry; and

9.5.2 termination of the Contract shall not affect the continuing rights, remedies or obligations of the Client or the Solicitor under the following Clauses: Clause 3 (Payment and Charges); Clause 4 (Liability and Insurance); Clause 5 (Intellectual Property Rights); Clause 6.1 (Protection of Personal Data); Clause 6.2 (Confidentiality); Clause 6.3 (Official Secrets Act); Clause 6.4 (Freedom of Information); Clause 11 (Prevention of Bribery and Corruption); Clause 13 (Prevention of Fraud); Clause 21 (Contracts (Rights of Third Parties) Act); Clause 23.1 (Governing Law and Jurisdiction) and, without limitation to the foregoing, any other provision of the Contract which expressly or by implication is to be performed or observed notwithstanding termination or expiry shall survive the termination or expiry of the Contract.

10 PUBLICITY, MEDIA AND OFFICIAL ENQUIRIES

10.1 The Solicitor shall not, and shall procure that its Sub-Contractors shall not, make any press announcements or publicise the Contract in any way without the Client's prior written approval and shall take reasonable steps to ensure that the Solicitor's Staff and professional advisors comply with this Clause 10. Any such press announcements or publicity proposed under this Clause 10 shall remain subject to the rights relating to Confidential Information and Commercially Sensitive Information.

10.2 Subject to the rights in relation to Confidential Information and Commercially Sensitive Information, the Client shall be entitled to publicise the Contract in accordance with any legal obligation upon the Client including any examination of the Contract by the Auditors.

10.3 The Solicitor shall not do anything or permit to cause anything to be done, which may damage the reputation of the Client or bring the Client into disrepute.

11 PREVENTION OF BRIBERY AND CORRUPTION

11.1 The Solicitor shall not:

11.1.1 offer or give, or agree to give, to any employee, agent, servant or representative of the Client, any Contracting Body or any other public body or any person employed by or on behalf of the Client any gift or other consideration of any kind which could act as an inducement or a reward for any act or failure to act in relation to the Contract; or

11.1.2 engage in, and shall procure that all the Solicitor's Staff or any person acting on the Solicitor's behalf shall not commit, in connection with the Contract, a Prohibited Act under the Bribery Act 2010, or any other relevant laws, statutes, regulations or codes in relation to bribery and anti-corruption.

11.2 The Solicitor warrants, represents and undertakes that it has not:

11.2.1 paid commission or agreed to pay commission to the Client, any Contracting Body or any other public body or any person employed by or on behalf of the Client in connection with the Contract; and

11.2.2 entered into the Contract with knowledge, that, in connection with it, any money has been, or will be, paid to any person working for or engaged by the Client or any other public body or any person employed by or on behalf of the Client in connection with the Contract, or that an agreement has been reached to that effect, unless details of any such arrangement have been disclosed in writing to the Client and the Authority before execution of the Contract.

11.3 The Solicitor shall:

11.3.1 in relation to the Contract, act in accordance with the Ministry of Justice Guidance;

11.3.2 immediately notify the Client if it suspects or becomes aware of any breach of this Clause 11;

11.3.3 respond promptly to any of the Client's enquiries regarding any breach, potential breach or suspected breach of this Clause 11 and the Solicitor shall co-operate with any investigation and allow the Client to audit Solicitor's books, records and any other relevant documentation in connection with the breach;

11.3.4 if so required by the Client, within twenty (20) Working Days of the commencement date of the Contract, and annually thereafter, certify to the Client in writing of the compliance with this Clause 11 by the Solicitor and all persons associated with it or its Sub-Contractors or other persons who are supplying the Services in connection with the Contract. The Solicitor shall provide such supporting evidence of compliance as the Client may reasonably request; and

11.3.5 have, maintain and enforce an anti-bribery policy (which shall be disclosed to the Client on request) to prevent the Solicitor and any of the Solicitor's Staff or any person acting on the Solicitor's behalf from committing a Prohibited Act and shall enforce it where appropriate.

11.4 If the Solicitor, any member of the Solicitor's Staff or any person acting on the Solicitor's behalf, in all cases whether or not acting with the Solicitor's knowledge breaches:

11.4.1 this Clause 11; or

11.4.2 the Bribery Act 2010 in relation to the Contract or any other contract with the Client or any other public body or any person employed by or on behalf of the Client or a public body in connection with the Contract,

the Client shall be entitled to terminate the Contract by written notice with immediate effect.

11.5 Without prejudice to its other rights and remedies under this Clause 11, the Client shall be entitled to recover in full from the Solicitor and the Solicitor shall on demand indemnify the Client in full from and against:

11.5.1 the amount of value of any such gift, consideration or commission; and

11.5.2 any other loss sustained by the Client in consequence of any breach of this Clause 11.

12 NON-DISCRIMINATION

12.1 The Solicitor shall not unlawfully discriminate within the meaning and scope of any Law, enactment, order or regulation relating to discrimination (whether in race, gender, religion, disability, sexual orientation, age or otherwise).

12.2 The Solicitor shall take all reasonable steps to secure the observance of Clause 12.1 by all the Solicitor's Staff employed in the execution of the Contract.

13 PREVENTION OF FRAUD

13.1 The Solicitor shall take all reasonable steps, in accordance with Good Industry Practice, to prevent any Fraud by the Solicitor and any member of the Solicitor's Staff.

13.2 The Solicitor shall notify the Client immediately if it has reason to suspect that any Fraud has occurred or is occurring or is likely to occur save where complying with this provision would cause the Solicitor or any member of the Solicitor's Staff to commit an offence under the Proceeds of Crime Act 2002 or the Terrorism Act 2000.

13.3 If:

13.3.1 the Solicitor breaches any of its obligations under Clause 13.1 and Clause 13.2; or

13.3.2 the Solicitor or any member of the Solicitor's Staff commits any Fraud in relation to the Contract or any other contract with the Client or any other person,

the Client may recover in full from the Solicitor and the Solicitor shall on demand indemnify the Client in full against any and all losses sustained by the Client in consequence of the relevant breach or commission of Fraud, including the cost reasonably incurred by the Client of making other arrangements for the supply of the Contract Services and any additional expenditure incurred by the Client in relation thereto.

14 TRANSFER AND SUB-CONTRACTING

14.1 The Solicitor shall not assign, novate, enter into a Sub-Contract in respect of, or in any other way dispose of, the Contract or any part of it without the Client's prior written consent. The Client has consented to the engagement of any Sub-Contractors specifically identified in the Letter of Appointment.

14.2 The Solicitor shall be responsible for all acts and omissions of its Sub-Contractors and those employed or engaged by the Sub-Contractors as though they are its own.

14.3 The Client may assign, novate or otherwise dispose of its rights and obligations under the Contract or any part thereof to:

14.3.1 any other Contracting Body; or

14.3.2 any other body established by the Crown or under statute in order substantially to perform any of the functions that had previously been performed by the Client; or

14.3.3 any private sector body which substantially performs the functions of the Client, provided that any such assignment, novation or other disposal shall not increase the burden of the Solicitor's obligations under the Contract.

14.4 Any change in the legal status of the Client such that it ceases to be a Contracting Body shall not, subject to Clause 14.5, affect the validity of the Contract. In such circumstances, the Contract shall bind and inure to the benefit of any successor body to the Client.

14.5 If the rights and obligations under the Contract are assigned, novated or otherwise disposed of pursuant to Clause 14.3 to a body which is not a Contracting Body or if there is a change in the legal status of the Client such that it ceases to be a Contracting Body (in the remainder of this Clause any such body being referred to as a "Transferee"):

14.5.1 the rights of termination of the Client in Clause 8 shall be available to the Solicitor in the event of, respectively, the bankruptcy or insolvency, or default of the Transferee; and

14.5.2 the Transferee shall only be able to assign, novate or otherwise dispose of its rights and obligations under the Contract or any part thereof with the previous consent in writing of the Solicitor.

14.6 The Client may disclose to any Transferee any Confidential Information of the Solicitor which relates to the performance of the Solicitor's obligations under the Contract. In such circumstances the Client shall authorise the Transferee to use such Confidential Information only for purposes relating to the performance of the Solicitor's obligations under the Contract and for no other purposes and shall take all reasonable steps to ensure that the Transferee gives a confidentiality undertaking in relation to such Confidential Information.

14.7 For the purposes of Clause 14.5 each Party shall at its own cost and expense carry out, or use all reasonable endeavours to ensure the carrying out of, whatever further actions (including the execution of further documents) the other Party reasonably requires from time to time for the purpose of giving that other Party the full benefit of the provisions of the Contract.

15 WAIVER

15.1 The failure of either Party to insist upon strict performance of any provision of the Contract, or the failure of either Party to exercise, or any delay in exercising, any right or remedy shall not constitute a waiver of that right or remedy and shall not cause a diminution of the obligations established by the Contract.

15.2 No waiver shall be effective unless it is expressly stated to be a waiver and communicated to the other Party in writing in accordance with Clause 22.

15.3 A waiver by either Party of any right or remedy arising from a breach of the Contract shall not constitute a waiver of any right or remedy arising from any other or subsequent breach of the Contract.

16 CUMULATIVE REMEDIES

Except as otherwise expressly provided by the Contract, all remedies available to either Party for breach of the Contract are cumulative and may be exercised concurrently or separately, and the exercise of any one remedy shall not be deemed an election of such remedy to the exclusion of other remedies.

17 FURTHER ASSURANCES

Each Party undertakes at the request of the other, and at the cost of the requesting Party to do all acts and execute all documents which may be necessary to give effect to the meaning of the Contract.

18 SEVERABILITY

18.1 If any provision of the Contract is held invalid, illegal or unenforceable for any reason, such provision shall be severed and the remainder of the provisions hereof shall continue in full force and effect as if the Contract had been executed with the invalid, illegal or unenforceable provision eliminated.

18.2 In the event of a holding of invalidity so fundamental as to prevent the accomplishment of the purpose of the Contract, the Client and the Solicitor shall immediately commence good faith negotiations to remedy such invalidity.

19 SOLICITOR'S STATUS

At all times during the term of the Contract the Solicitor shall be an independent contractor and nothing in the Contract shall create a contract of employment, a relationship of agency or partnership or a joint venture between the Parties and, accordingly, neither Party shall be authorised to act in the name of, or on behalf of, or otherwise bind the other Party save as expressly permitted by the terms of the Contract.

20 ENTIRE AGREEMENT

- 20.1 The Contract, together with a completed, signed and dated Framework Agreement and the other documents referred to in them constitute the entire agreement and understanding between the Parties in respect of the matters dealt with in them and supersede, cancel and nullify any previous agreement between the Parties in relation to such matters.
- 20.2 Each of the Parties acknowledges and agrees that in entering into the Contract it does not rely on, and shall have no remedy in respect of, any statement, representation, warranty or undertaking (whether negligently or innocently made) other than as expressly set out in the Contract.
- 20.3 The Solicitor acknowledges that it has:
- 20.3.1 entered into the Contract in reliance on its own due diligence alone; and
 - 20.3.2 received sufficient information required by it in order to determine whether it is able to provide the Contract Services in accordance with the terms of the Contract.
- 20.4 Nothing in Clauses 20.1 and 20.2 shall operate:
- 20.4.1 to exclude Fraud or fraudulent misrepresentation; or
 - 20.4.2 to limit the rights of the Client pursuant to clause 31 of the Framework Agreement (Rights of Third Parties).
- 20.5 The Contract may be executed in counterparts each of which when executed and delivered shall constitute an original but all counterparts together shall constitute one and the same instrument.

21 CONTRACTS (RIGHTS OF THIRD PARTIES) ACT

- 21.1 A person who is not a party to the Contract has no right under the Contracts (Rights of Third Parties) Act 1999 to enforce any of its provisions which, expressly or by implication, confer a benefit on him, without the prior written agreement of the Parties, provided that this Clause 21.1 does not affect any right or remedy of any person which exists or is available otherwise than pursuant to that Act.
- 21.2 No consent of any third party is necessary for any rescission, variation (including any release or compromise in whole or in part of liability) or termination of the Contract or any one or more Clauses of it.
- 21.3 Without prejudice to the Client's rights as a Contracting Body under clause 31 of the Framework Agreement, the Solicitor agrees that the Client may enforce any of the provisions of the Framework Agreement referred to in clause 31.2 (with the exception of clauses 33 and 34 of the Framework Agreement) as if they were terms of the Contract (reading references in those provisions to Contracting Bodies and the Supplier as references to the Client and the Solicitor respectively).

22 NOTICES

22.1 Except as otherwise expressly provided in the Contract, no notice or other communication from one Party to the other shall have any validity under the Contract unless given or made in writing by or on behalf of the Party sending the communication.

22.2 Any notice or other communication given or made by either Party to the other shall:

22.2.1 be given by letter (sent by hand, post or a recorded signed for delivery service), facsimile or electronic mail confirmed by letter; and

22.2.2 unless the other Party acknowledges receipt of such communication at an earlier time, be deemed to have been given:

22.2.2.1 *if delivered personally, at the time of delivery;*

22.2.2.2 *if sent by pre-paid post or a recorded signed for service two (2) Working Days after the day on which the letter was posted provided the relevant communication is not returned as undelivered;*

22.2.2.3 *if sent by electronic mail, two (2) Working Days after posting of a confirmation letter; and*

22.2.2.4 *if sent by facsimile, on the day of transmission if sent before 16:00 hours on any Working Day and otherwise at 9:00 hours on the next Working Day and provided that at time of transmission of the facsimile an error-free transmission report is received by the Party sending the communication.*

22.3 For the purposes of Clause 22.2, the address, email address and fax number of each Party shall be the address, email address and fax number specified in the Letter of Appointment.

22.4 Either Party may change its address for service by serving a notice in accordance with this Clause 22.

22.5 For the avoidance of doubt, any notice given under the Contract shall not be validly served if sent by electronic mail (email) and not confirmed by a letter.

23 DISPUTES AND LAW

23.1 Governing Law and Jurisdiction

The Contract shall be governed by and interpreted in accordance with the Laws of England and Wales and the Parties agree to submit to the exclusive jurisdiction of the English courts any dispute that arises in connection with the Contract.

23.2 Dispute Resolution

23.2.1 The Parties shall attempt in good faith to negotiate a settlement to any dispute between them arising out of or in connection with the Contract within twenty (20) Working Days of either Party notifying the other of the dispute and such efforts shall involve the escalation of the dispute to the level of representative of each Party specified in the Letter of Appointment.

- 23.2.2 Nothing in this dispute resolution procedure shall prevent the Parties from seeking from any court of competent jurisdiction an interim order restraining the other Party from doing any act or compelling the other Party to do any act.
- 23.2.3 If the dispute cannot be resolved by the Parties pursuant to Clause 23.2.1, the Parties shall refer it to mediation pursuant to the procedure set out in Clause 23.2.5 unless:
- 23.2.3.1 *the Client considers that the dispute is not suitable for resolution by mediation; or*
- 23.2.3.2 *the Solicitor does not agree to mediation.*
- 23.2.4 The obligations of the Parties under the Contract shall not be suspended, cease or be delayed by the reference of a dispute to mediation and the Solicitor and the Solicitor's Staff shall comply fully with the requirements of the Contract at all times.
- 23.2.5 The procedure for mediation is as follows:
- 23.2.5.1 *a neutral adviser or mediator (the "Contract Mediator") shall be chosen by agreement between the Parties or, if they are unable to agree upon a Contract Mediator within ten (10) Working Days after a request by one Party to the other or if the Contract Mediator agreed upon is unable or unwilling to act, either Party shall within ten (10) Working Days from the date of the proposal to appoint a Contract Mediator or within ten (10) Working Days of notice to either Party that he is unable or unwilling to act, apply to the CEDR to appoint a Contract Mediator;*
- 23.2.5.2 *the Parties shall within ten (10) Working Days of the appointment of the Contract Mediator meet with him in order to agree a programme for the exchange of all relevant information and the structure to be adopted for negotiations to be held. If considered appropriate, the Parties may at any stage seek assistance from the CEDR to provide guidance on a suitable procedure;*
- 23.2.5.3 *unless otherwise agreed, all negotiations connected with the dispute and any settlement agreement relating to it shall be conducted in confidence and without prejudice to the rights of the Parties in any future proceedings;*
- 23.2.5.4 *if the Parties reach agreement on the resolution of the dispute, the agreement shall be reduced to writing and shall be binding on the Parties once it is signed by their duly authorised representatives;*
- 23.2.5.5 *failing agreement, either of the Parties may invite the Contract Mediator to provide a non-binding but informative opinion in writing. Such an opinion shall be provided on a without prejudice basis and shall not be used in evidence in any proceedings relating to the Contract without the prior written consent of both Parties; and*

23.2.5.6 *if the Parties fail to reach agreement in the structured negotiations within sixty (60) Working Days of the Contract Mediator being appointed, or such longer period as may be agreed by the Parties, then any dispute or difference between them may be referred to the courts.*

ORDER FORM

FROM

Customer	United Kingdom Financial Investments Limited
Service Address	
For the attention of	
Email	
Invoice Address	
For the attention of	
Contact Ref:	Ref: Phone: e-mail:
Order Number	<i>To be quoted on all correspondence relating to this Order:</i>
Order Date	

TO

Provider:	
For the attention of:	
E-mail	
Telephone number	
Address	

1. SERVICES REQUIREMENTS

(1.1) Services [and Deliverables] Required:

(1.2) Commencement Date:

(1.3) Price Payable by Customer

(1.4) Completion Date:

2 ADDITIONAL REQUIREMENTS

(2.1) Supplemental Requirements in addition to Terms and Conditions:

3. PERFORMANCE OF THE SERVICES AND DELIVERABLES

(3.1) Key Personnel of the Provider to be involved in the Services and Deliverables:

(3.2) Performance Standards:

(3.3) Location(s) at which the Services are to be provided:

(3.4) Quality Standards:

(3.5) Contract Monitoring Arrangements:

4. CONFIDENTIAL INFORMATION

(4.1) The following information shall be deemed Commercially Sensitive Information or Confidential Information:

(4.2) Duration that the information shall be deemed Commercially Sensitive Information or Confidential Information:

BY SIGNING AND RETURNING THIS ORDER FORM THE PROVIDER HEREBY AGREES to provide to the Customer the Services specified in this Order Form. This Order Form incorporates the contract Terms and Conditions (as amended, in respect of this Order Form only, pursuant to section 2.2 above) set out in the Contract entered into by the Provider and United Kingdom Investments Limited (UKFI) dated [insert date of signing]

For and on behalf of the Provider:

Name and Title	
Signature	
Date	

For and on behalf of the Customer:-

Name and Title	
Signature	
Date	