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**CONTENTS**

1.	PURPOSE.....	2
2.	BACKGROUND TO THE CONTRACTING AUTHORITY.....	2
3.	BACKGROUND TO REQUIREMENT/OVERVIEW OF REQUIREMENT .....	2
4.	DEFINITIONS.....	3
5.	SCOPE OF REQUIREMENT.....	3
6.	THE REQUIREMENT.....	4
7.	KEY MILESTONES.....	5
8.	THE AUTHORITY’S RESPONSIBILITIES .....	5
9.	REPORTING .....	6
10.	VOLUMES .....	6
11.	CONTINUOUS IMPROVEMENT .....	6
12.	SUSTAINABILITY.....	6
13.	QUALITY .....	6
14.	PRICE.....	6
15.	STAFF AND CUSTOMER SERVICE .....	7
16.	SERVICE LEVELS AND PERFORMANCE .....	7
17.	SECURITY REQUIREMENTS.....	7
18.	INTELLECTUAL PROPERTY PIGHTS (IPR).....	7
19.	PAYMENT.....	7
20.	ADDITIONAL INFORMATION .....	8
21.	LOCATION .....	9



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## 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. BACKGROUND TO THE CONTRACTING AUTHORITY

- 2.1 The Authority is a Companies Act Company with Her Majesty’s Treasury (“HMT”) as its ultimate shareholder. The Authority’s activities are governed by its Board, which is accountable to the Chancellor of the Exchequer and – through the Chancellor – to Parliament.
- 2.2 The Authority 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 Royal Bank of Scotland (RBS). The Authority is also responsible for managing HMG’s 100% shareholding in, and loans to, UKAR. UKAR was formed in October 2010 to integrate the activities of Northern Rock (Asset Management) plc (now “NRAM”) and Bradford & Bingley plc.
- 2.3 The Authority’s overarching objective is to manage these shareholdings commercially to create and protect value for the taxpayer as shareholder and to devise and execute 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/>
- 2.5 It should be noted that the Contracting Authority; UK Financial Investments will cease to operate as an independent entity on 1<sup>st</sup> April 2018 and will merge to become part of UK Government Investment (UKGI). Therefore the awarded contract will novate on 1<sup>st</sup> April 2018 to UKGI.

## 3. BACKGROUND TO REQUIREMENT/OVERVIEW OF REQUIREMENT

- 3.1 The Authority is seeking to procure a Service Provider to provide the role of Seller’s Counsel to the Authority in support of any transactions the Authority may wish to undertake in relation to RBS.
- 3.2 The Authority is procuring one service provider to deliver the service.



#### 4. DEFINITIONS

Expression or Acronym	Definition
ABB	means Accelerated Bookbuild
HMG	means Her Majesty's Government
HMT	means Her Majesty's Treasury
IPR	means Intellectual Property Rights
ITT	means Invitation to Tender
NRAM	means Northern Rock (Asset Management) plc
RBS	means Royal Bank of Scotland
UKAR	means UK Asset Resolution Limited
UKFI	means UK Financial Investments Limited

#### 5. SCOPE OF REQUIREMENT

- 5.1 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 the following areas:
- 5.1.1 Sale of shares via an Accelerated Bookbuild (ABB), Trading Plan, Exchangeable Bond and/or Marketed Offer (without a Direct Offer to retail investors); and
  - 5.1.2 Review of options for the Customer's holdings in RBS and preparation for, and execution of, a sale.
- 5.2 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.
- 5.3 The engagement of Seller's Counsel is required to provide services in line with the Authority's objectives as set out in paragraph 2.3 above and in line with its mandate (available on [www.ukfi.co.uk](http://www.ukfi.co.uk)) and shall include, but not be limited to:-
- 5.3.1 providing legal advice with respect to any review of the Customer's holdings in RBS the findings for which are expected to be made public;
  - 5.3.2 legal advice on the structural alternatives for the Customer's holding in RBS and preparation for, and execution of, a sale;
  - 5.3.3 providing legal advice on a range of potential transaction structures;
  - 5.3.4 leading legal discussions with broker(s) and advisor(s) to the Authority involved in a share sale;
  - 5.3.5 drafting a trading plan between the Authority and its contracting parties;

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- 5.3.6 drafting underwriting agreements and any other documentation required between the Authority and its contracting parties;
  - 5.3.7 assisting with, and at times drafting, all documents related to the Authority's legal disclosure obligations in relation to a trading plan or other executed transaction structure;
  - 5.3.8 assisting with, and at times drafting any communications documents for the Authority in relation to a trading plan or other executed transaction structure;
  - 5.3.9 managing any legal issues around settlement; and
  - 5.3.10 ensuring at all times that the Authority's interests are protected in any share sale.
- 5.4 In addition to the above services the Seller's Counsel may be required to provide ad-hoc legal advice to the Authority as requested.
- 5.5 The work required is detailed, specialist and complex. The term will be for a total of nine (9) months.

## 6. THE REQUIREMENT

- 6.1 The Seller's Counsel will be expected to assist with the detailed preparation and implementation in the following phases:
- 6.1.1 **Preparation phase**
    - 6.1.1.1 Work closely with the Authority to provide legal advice with respect to any review of the Customer's holdings in RBS, the findings for which are expected to be made public and advice on structural alternatives;
    - 6.1.1.2 Work closely with the Authority to provide legal advice on potential disposal strategies and transaction structures, including but not limited to: accelerated bookbuild, marketed offer (without a direct offer to retail investors), exchangeable bond, trading plan/dribble out;
    - 6.1.1.3 Provide advice to the Authority on inside information and inside information trawls;
    - 6.1.1.4 Draft and negotiate a trading plan, underwriting agreements and other documentation between the Authority and the broker(s) / investment bank(s) hired to carry out any sale of shares;
    - 6.1.1.5 Assist in preparing any disclosure or communications documents as required by law or by the Authority;
    - 6.1.1.6 Assist in preparing the settlement process; and

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6.1.1.7 Review and ensure any documentation related to any trading plan is compliant with all relevant laws, including leading any conversation with the relevant regulators if required.

6.1.2 **Implementation phase**

6.1.2.1 Lead drafting of disclosure documents in compliance with all relevant laws;

6.1.2.2 Lead legal discussions with the broker(s), Bookrunner(s) and advisor(s) to the Authority involved in any share sale;

6.1.2.3 Ensure that the Authority's interests are protected in any share sale;

6.1.2.4 Assist the Authority and any related parties through the mechanics of any share sale;

6.1.2.5 Manage all legal issues relating to any settlement process(es); and

6.1.2.6 Assist with any post-transaction legal assistance or other requirements.

**7. KEY MILESTONES**

7.1 The Authority will provide timing and deadline guidance within reason at each stage of the project.

7.2 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. Meeting frequency will be decided and agreed going forward and will be appropriate to the type of transaction and the stage in the transaction timeline.

7.3 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.

7.4 All reports or presentations produced for the Authority may be subject to public scrutiny.

**8. THE AUTHORITY'S RESPONSIBILITIES**

8.1 The Authority will provide a designated contract manager for this requirement.



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**9. REPORTING**

- 9.1 The service provider will be required to allocate a contract manager who will liaise with the Authority's contract manager via the route of weekly updates. The format of which will be agreed following contract award.

**10. VOLUMES**

- 10.1 As this is a call-off contract volumes of work cannot be guaranteed.

**11. CONTINUOUS IMPROVEMENT**

- 11.1 The Supplier will be expected to continually improve the way in which the required Services are to be delivered throughout the Contract duration.
- 11.2 The Supplier should present new ways of working to the Authority during Contract review meetings.
- 11.3 Changes to the way in which the Services are to be delivered must be brought to the Authority's attention and agreed prior to any changes being implemented.

**12. SUSTAINABILITY**

- 12.1 There are no sustainability considerations for this requirement.

**13. QUALITY**

- 13.1 Standard of quality as per RM3787 Finance and Complex Legal Services Panel Agreement.

**14. PRICE**

- 14.1 The Authority will expect to see a rate card from the Potential Provider, including a breakdown of the relevant staff rates, seniority, and estimated weighting of roles.
- 14.2 Services provided under the Contract will be in accordance with the agreed Panel Rates. In addition to this, the Potential Provider will be required to provide capped pricing options for trading plans, accelerated bookbuilds and exchangeable bonds.
- 14.3 During the course of the contract, the Authority's contract manager will share details of each requirement for trading plans, accelerated bookbuilds and exchangeable bonds with the Potential Provider, who will be expected to agree an updated estimate of the hours or work and total cost of processing the work for the Authority.
- 14.4 This estimate will be reviewed at regular suppliers meetings, but only adjusted if the Potential Provider can demonstrate sufficiently to the Authority that the complexity or scale of the work has necessitated this.
- 14.5 Where a capped price is specified for a particular activity, the capped price represents the maximum amount the Authority will incur for each activity. The Authority will only be liable to the value of the capped price and no excess costs may be carried forward or otherwise applied to other activities.



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- 14.6 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.
- 14.7 The Authority reserves the right to request detailed breakdown of any pricing offered in the Tender Response.
- 14.8 Prices are to be submitted via Appendix E excluding VAT.

## **15. STAFF AND CUSTOMER SERVICE**

- 15.1 The Authority requires the Potential Provider to provide a sufficient level of resource throughout the duration of the Contract in order to consistently deliver a quality service to all Parties.
- 15.2 Potential Provider's staff assigned to the Contract shall have the relevant qualifications and experience to deliver the Contract.
- 15.3 The Potential Provider shall ensure that staff understand the Authority's vision and objectives and will provide excellent customer service to the Authority throughout the duration of the Contract.

## **16. SERVICE LEVELS AND PERFORMANCE**

- 16.1 The Authority will measure the quality of the Supplier's delivery by:
- 16.1.1 quality of work, as measured by acceptability to the Authority's executive and board;
  - 16.1.2 timeliness of delivery of advice, as measured by meeting necessary deadlines, in particular the Authority's Board deadlines; and
  - 16.1.3 quality of value for money and related opinions, with only necessary and reasonable caveats.
- 16.2 In the event that the Authority is not satisfied with the Supplier's delivery the Authority reserves the right to terminate the agreement.

## **17. SECURITY REQUIREMENTS**

- 17.1 There are no security requirements applicable to this contract.

## **18. INTELLECTUAL PROPERTY RIGHTS (IPR)**

- 18.1 In line with the Panel Terms & Conditions (Appendix C).

## **19. PAYMENT**

- 19.1 Payment will be made monthly in arrears based on fees outlined in the successful bid.
- 19.2 Before payment can be made, each invoice must include a detailed elemental breakdown of work completed and the associated costs.



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**20. ADDITIONAL INFORMATION**

- 20.1 The tenderer shall ensure that each and every sub-service provider, 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 who is in any way connected with this procurement exercise during the period of this procurement exercise, unless instructed otherwise by the Authority.
- 20.4 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.
- 20.5 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.
- 20.6 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.
- 20.7 The Authority reserves the right to:
- 20.7.1 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
  - 20.7.2 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
  - 20.7.3 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 the 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.
- 20.8 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.

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**21. LOCATION**

- 21.1 The location of the Services will be carried out at the successful Supplier's and Authority's premises at 1 Victoria Street, London, SW1H 0ET and 100 Parliament Street, London, SW1A 2BQ.