

PANEL AGREEMENT SCHEDULE 4
ORDER FORM AND TERMS AND CONDITIONS

ORDER FORM

SECTION A

- (i) This Order Form dated **Friday 23 June 2017** is issued in accordance with the provisions of the Panel Agreement for the provision of general legal services.
- (ii) The Supplier agrees to supply the Ordered Panel Services specified below on and subject to the terms of this Legal Services Contract.
- (iii) For the avoidance of doubt this Legal Services Contract consists of the terms set out in this Order Form and the Terms and Conditions.
- (iv) By signing and returning this Order Form (which may be done by electronic means) the Supplier agrees to enter this Legal Services Contract with the Customer to provide the Ordered Panel Services in accordance with this Order Form and the Terms and Conditions.
- (v) The Parties hereby acknowledge and agree that they have read this Order Form and the Terms and Conditions and by signing below agree to be bound by this Legal Services Contract.
- (vi) In accordance with paragraph 7 of Panel Schedule 5 (Ordering Procedure), the Parties hereby acknowledge and agree that this Legal Services Contract shall be formed when the Customer acknowledges (which may be done by electronic means) the receipt of the signed copy of this Order Form (together with the Terms and Conditions) from the Supplier within two (2) Working Days from such receipt.

1.1	PROC.01.0560
1.2	Water Services Regulation Authority, Centre City Tower, 7 Hill Street, Birmingham, B5 4UA ("CUSTOMER")
1.3	Pinsent Masons LLP 3 Colmore Circus Birmingham B4 6BH("SUPPLIER")
1.4	Commencement Date: 26 June 2017
1.5	<p>Term (delete either (a) or (b), as appropriate.</p> <p>(a) Expiry Date</p> <p>Expiry date of Legal Services Contract Term – 25 March 2018 an additional up to 3 months extension can apply to this expiry date</p>
1.6	Signed for and on behalf of the Customer by an authorised representative:
	Cathryn Ross Chief Executive
	Signature 
	Date <i>24/7/17</i>
1.7	Signed for and on behalf of the Supplier by an authorised representative:
	 Partner - Commercial
	Signature 
	Date <i>01/8/17</i>

SECTION B

1. PANEL SERVICES

1.1 Panel Services:

The Customer is looking to procure a partner for an In Source model where we buy in support when we need it rather than outsourcing. The Supplier has been appointed to guide the Customer through the procurement process, comment on the documents, draft the contract and assist in the competitive dialogue.

The principle legal support to be provided includes:

- **Advice on the procurement approach and the draft timetable.** Advice to guide the Customer through the process as quickly as possible while still delivering a high quality agreement. Assessment and mitigation of the risk of a challenge either to the framework contract itself or to call downs made under the Framework.
- **Draft or comment on key documents.** The Customer intends to produce drafts of the key procurement documents which will accompany the contract notice so that these can be considered by the Supplier on appointment. The Supplier will need to comment on the documents (and others produced in the process) from both a legal and a commercial point of view. There will be documents which the Supplier will be asked to draft on their own. The intention (subject to Cabinet Office consent) is to publish the Contract Notice in the OJEU by the end of June 2017 and the Supplier is required to make available resources and support to achieve that deadline.
- **Lead on the contract drafting.** The Supplier will lead on the production and agreement of the contract. A draft contract will need to be published alongside the contract notice at the end of June. The Supplier will lead on the discussion of the draft contract with the bidders, dealing directly with their legal representatives. The Supplier will lead the competitive dialogue sessions with the bidders on the drafting of the contract and attend other competitive dialogue sessions as required. The Supplier will work with the Customer to ensure that the contract will be substantively agreed prior to the announcement of the preferred bidder so that very little negotiation is required post Alcatel.
- **Provide support throughout the procurement process.** The Customer requires the Supplier to provide tactical and commercial advice throughout the procurement on an ad hoc basis.

In carrying out the Ordered Panel Services the following Mandatory Services will be required:

Public Law

	<p>Competition Law</p> <p>Contracts</p> <p>EU Law</p> <p>Information law including data protection law</p> <p>Intellectual property law</p> <p>Public procurement law</p> <p>Outsourcing</p> <p>Where necessary other Mandatory Services may be needed</p>
1.2	<p>Management and review of the Services</p> <p>In accordance with clauses 3.2 and 3.3, the Supplier shall review the contract on publication of the contract notice, on completion of the Competitive Dialogue and at the announcement of the preferred bidder.</p>
1.3	<p>Place of performance</p> <p>The majority of the work will take place in the Suppliers Offices. Meetings will be held in the most cost effective location which could be the Customer's London office or the Supplier's offices. Telephone or video conferences will be used whenever possible to keep costs low.</p>

2. CHARGES

2.1a	Hourly Rates used]		
	Grade	Hourly Rate	Discount against Framework rate
	Partner	£300	£20.96
	Senior Solicitor	£260	£22.64
	Solicitor	£220	£19.53
	Junior Solicitor	£190	£20.78
	Trainee	£60	£27.19

2.1b Day rates and monthly rates not provided

2.2 Estimate of Charges used

The estimated maximum cost of the service is therefore £97,700 plus VAT with the following units:

Grade	Estimated number of units
Partner	30
Senior Solicitor	45
Solicitor	100
Junior Solicitor	50
Trainee	20

Acknowledging the need to remain within the maximum cost estimate and the objective of minimising costs, the Supplier and the Customer agree to produce a plan showing the distribution of tasks needed to complete the project between them. The plan shall include a more detailed estimated cost for each phase (including a profile of spend over the contract) pricing assumptions and define the deliverables for each phase.

2.3 Fixed Price used/

Two fixed prices were included in the ITT and these will be used as the basis for the plan referred to in 2.2 above.

2.4 Capped Price not used

2.5 Other Costs

Reimbursable Expenses

Payable

Accommodation:

Paid on actual expenditure within the following prescribed ceilings:

London	£165
Elsewhere	£115
Private residence	£25

These rates cover a 24 hour period for accommodation only, inclusive of VAT, receipts must be submitted.

Mileage Rates:

25p per mile

A mileage log must be submitted (to/from, mileage/date, to see/purpose)

	<p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p>
3.4	<p>NOTICES</p> <p>THE SUPPLIER Pinsent Masons LLP 55 Colmore Row Birmingham B3 2AA</p> <p>THE CUSTOMER Water Services Regulation Authority, Centre City Tower, 7 Hill Street, Birmingham, B5 4UA</p>
3.5	<p>CUSTOMER BILLING ADDRESS Water Services Regulation Authority, Centre City Tower, 7 Hill Street, Birmingham, B5 4UA</p>
3.6	<p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p> <p>[REDACTED]</p>
3.7	<p>CUSTOMER'S PURCHASE ORDER NUMBER – PROVIDED AFTER CONTRACT SIGNED</p>
3.8	<p>APPROVED SUB-CONTRACTORS NONE</p>
3.9	<p>BCDR</p>
3.10	<p>Exit Management: Schedule 2 shall not apply. Both parties shall agree any exit arrangements during the contract period.</p>

3.11	Transparency Reports In Contract Schedule 4 (Transparency Reports) – NOT REQUIRED
3.12	Call Off Guarantee (Clause 10 of the Legal Service Contract): Not required

4. VARIATIONS TO THE TERMS AND CONDITIONS

4.1	Liability cap The default limits in clause 7 shall apply.
4.2	Conflicts of Interest The Supplier confirms that no conflict of interest exists and does not already advise any potential bidder on the Customer's proposed procurement for the in source model. Should the Supplier be approached by any bidder or potential bidder it would not act for such bidder.
4.3	Confidentiality No additional requirements
4.5	Intellectual Property Rights No variation required.
4.6	

Part 2 –Terms and Conditions

CONTENTS

PROC.01.0560	2
1. DEFINITIONS AND INTERPRETATION	11
2. THE ORDERED PANEL SERVICES.....	12
3. DELIVERY AND MANAGEMENT OF THE ORDERED PANEL SERVICES.....	12
4. VARIATION AND EXTENSION.....	16
5. PERSONNEL.....	16
6. CHARGES AND INVOICING	23
7. LIABILITY AND INSURANCE	25
8. INTELLECTUAL PROPERTY RIGHTS	27
9. PROTECTION OF INFORMATION	27
10. WARRANTIES, REPRESENTATIONS AND UNDERTAKINGS	33
11. TERMINATION	35
12. CONSEQUENCES OF EXPIRY OR TERMINATION	37
13. PUBLICITY, MEDIA AND OFFICIAL ENQUIRIES.....	39
14. PREVENTION OF FRAUD AND BRIBERY.....	39
15. NON-DISCRIMINATION.....	40
16. ASSIGNMENT AND NOVATION.....	41
17. WAIVER AND CUMULATIVE REMEDIES	42
18. FURTHER ASSURANCES.....	42
19. SEVERABILITY.....	42
20. RELATIONSHIP OF THE PARTIES.....	43
21. ENTIRE AGREEMENT.....	43
22. CONTRACTS (RIGHTS OF THIRD PARTIES) ACT	43
23. NOTICES.....	43
24. DISPUTES AND LAW	44
CONTRACT SCHEDULE 1: DEFINITIONS	46
CONTRACT SCHEDULE 2: EXIT MANAGEMENT.....	57
CONTRACT SCHEDULE 3: STAFF TRANSFER	68
CONTRACT SCHEDULE 4: TRANSPARENCY REPORTS.....	99

RECITALS

- A. The Customer has followed the call off procedure set out in paragraph 1.3 of Panel Schedule 5 (Ordering Procedure) and has awarded this Legal Services Contract to the Supplier by way of a Further Competition Procedure.
- B. The Customer issued its Statement of Requirements for the provision of the Ordered Panel Services on 15 May 2017
- C. In response to the Statement of Requirements the Supplier submitted a Tender to the Customer on the 30 May 2017 through which it provided to the Customer its solution for providing the Ordered Panel Services.
- D. On the basis of the Tender, the Customer selected the Supplier to provide the Ordered Panel Services to the Customer in accordance with the terms of this Legal Service Contract.

1. DEFINITIONS AND INTERPRETATION

1.1 Definitions

- 1.1.1 In this Legal Services Contract, unless the context otherwise requires, capitalised expressions shall have the meanings set out in Contract Schedule 1 (Definitions) or the relevant Contract Schedule in which that capitalised expression appears.
- 1.1.2 If a capitalised expression does not have an interpretation in Contract Schedule 1 (Definitions) or relevant Contract Schedule, it shall have the meaning given to it in the Panel Agreement. If no meaning is given to it in the Panel Agreement, it shall, in the first instance, be interpreted in accordance with the common interpretation within the relevant market sector/industry where appropriate. Otherwise, it shall be interpreted in accordance with the dictionary meaning

1.2 Interpretation

- 1.2.1 The interpretation and construction of the Legal Services Contract shall be subject to the following provisions:
 - 1.2.1.1 words importing the singular meaning include where the context so admits the plural meaning and vice versa;
 - 1.2.1.2 words importing the masculine include the feminine and the neuter;
 - 1.2.1.3 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;
 - 1.2.1.4 references to a person include an individual, company, body corporate, corporation, unincorporated association, firm, partnership or other legal entity or Crown;
 - 1.2.1.5 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 Legal Services Contract);

- 1.2.1.6 headings are included in the Legal Services Contract for ease of reference only and shall not affect the interpretation or construction of the Legal Services Contract;
- 1.2.1.7 references to "Clauses" and the "Contract Schedules" are, unless otherwise provided, references to the clauses of and the schedules to this Legal Services Contract and references in any Contract Schedule to parts, paragraphs, annexes and tables are, unless otherwise provided, references to the parts, paragraphs, annexes and tables of the Contract Schedule in which these references appear;
- 1.2.1.8 a reference to a Clause is a reference to the whole of that Clause unless stated otherwise; and
- 1.2.2 in the event of and only to the extent of any conflict between the Order Form, these Terms and Conditions and the provisions of the Panel Agreement, the conflict shall be resolved in accordance with the following order of precedence:
 - 1.2.2.1 the Panel Agreement (excluding Panel Schedule 4 (Template Order Form and Template Terms and Conditions));
 - 1.2.2.2 the Order Form;
 - 1.2.2.3 these Terms and Conditions;
 - 1.2.2.4 any other document referred to in the Legal Services Contract; and
 - 1.2.2.5 Panel Schedule 21 (Tender).

2. The Ordered Panel Services

- 2.1 This Legal Services Contract shall commence on the Commencement Date set out at section A, paragraph 1.4 (Commencement Date) of the Order Form and expire either as set out at section A, paragraph 1.5 (Term) of the Order Form or on the completion of the Ordered Panel Services, unless extended or terminated earlier in accordance with these Terms and Conditions.
- 2.2 The Supplier shall supply the Ordered Panel Services set out in the Order Form (as the same may be amended or updated in accordance with this Legal Services Contract) to the Customer in accordance with the provisions of the Legal Services Contract.

3. Delivery and management of the Ordered Panel Services

- 3.1 Within a reasonable period of time of the Commencement Date (having regard to the circumstances), the Supplier shall take proactive steps (in a manner and to an extent proportionate to the size and nature of the Order) to plan and agree the Ordered Panel Services to be provided with the Customer to clarify and document (to the extent that the above have not been done prior to or at the Commencement Date and included at paragraph 1.2 of section B (the Ordered Panel Services) of the Order Form):
 - 3.1.1 the legal advice required;
 - 3.1.2 how legal input will be structured to minimise costs and maximise efficiency;
 - 3.1.3 whether and how work previously undertaken for central Government can be re-used to reduce cost;
 - 3.1.4 the levels and names of Supplier Personnel working on performing the Ordered Panel Services, including the Key Personnel identified in the Order Form and/or pursuant to Clause 5 (below);

- 3.1.5 which of the Customer's Personnel can provide instructions and authorise additional work; and
 - 3.1.6 the general management of the Ordered Panel Services and the provision by the Supplier thereof.
- 3.2 During the performance of the Ordered Panel Services the Supplier shall conduct reviews at intervals specified at paragraph 1.2 of section B (the Ordered Panel Services) of the Order Form (if so specified) but in any event no less than once every three (3) Months to:
- 3.2.1 review adherence to the plans (whether original plans or plans as subsequently amended under this Clause 3.2, as the case may be) for the Ordered Panel Services prepared pursuant to clause 3.1 (above); and
 - 3.2.2 ensure optimisation of efficiency and value for money in provision of the Ordered Panel Services.
- 3.3 The Supplier shall:
- 3.3.1 confirm to the Customer that any review required has, in each case, been completed; and
 - 3.3.2 report to the Customer on the outcome of the review (including documenting the same in such form as the Customer may reasonably require); and
 - 3.3.3 make and apply such adjustments to the plans for the delivery of the Ordered Panel Services as the Customer may direct.
- 3.4 The Supplier shall:
- 3.4.1 comply with all reasonable instructions given to the Supplier and the Supplier Personnel by the Customer in relation to the Ordered Panel Services from time to time, including reasonable instructions to reschedule or alter the Ordered Panel Services;
 - 3.4.2 without prejudice to Clause 3.4.1, immediately report to the Customer's Representative any matters which involve or could potentially involve an actual or potential Conflict of Interest and/or of Clause 9.2 (Confidentiality) and shall follow any direction made by the Customer in respect of the proper management and mitigation of the same;
 - 3.4.3 co-operate in a timely and prompt manner with the Customer and the Customer's other professional advisers in relation to the Ordered Panel Services as required by the Customer;
 - 3.4.4 comply with the Customer's internal policies and procedures and Government codes and practices in force from time to time (including policies, procedures, codes and practices relating to vetting, security, equality and diversity, confidentiality undertakings and sustainability) in each case as notified to the Supplier in writing by the Customer; and
 - 3.4.5 save to the extent expressly set out in the Order Form, obtain Approval from the Customer's Representative before advising the Customer on:
 - (a) EU law (including State aid and public procurement); or
 - (b) public law (including national security); or
 - (c) the Transfer of Undertakings (Protection of Employment) Regulations 1981 (or any subsequent enactment thereof); or

