

Kroll
3 London Bridge Street
London
SE1 9SG
Attn: [REDACTED]

From: [REDACTED]
[REDACTED]

Our ref: PROC-372-2022

By email to: [REDACTED]

Date: 11th March 2022

Dear [REDACTED],

Award of contract: Provision of Expertise Regarding Transfer Costs

Following your proposal for the provision of the above services dated 11th February 2022, to Competition and Markets Authority ("**CMA**") we are pleased to award this contract to your company.

This letter (the "**Award Letter**") and its Annex (namely Annex A: Terms and Conditions); Annex B: Confidentiality and security requirements; and Annex C: Conflicts of Interest in relation to Service Providers and Service Provider's Staff) (together the "**Agreement**") set out the terms of the agreement between the CMA and Kroll for the provision of the Services.

Unless the context otherwise requires, capitalised expressions used in this Award Letter have the meanings as set out in Annex A to this Award Letter. In the event of any conflict between this Award Letter and the Annexes, the order of precedence will be as follows:

1. First, the Award Letter;
2. Then, second, the Annexes; and
3. The Service Provider's proposal.

In the event there is a conflict between Annex B or Annex C and Annex A, the terms in Annex B or Annex C will take precedence.

Please do not attach any Service Provider terms and conditions to this Agreement as they will not be accepted by the CMA and may delay the processes.

For the purposes of the Agreement, the CMA and the Service Provider agree as follows:

- 1) The contract price for the Services shall be as set out in Annex A of the Agreement. The total contract value shall not exceed a maximum of £99,000 (ninety-nine thousand pounds) and the CMA shall not be liable to pay any sum above this maximum value unless formally amended in writing.
- 2) The specification of the Services to be supplied is as set out in Schedule 1 of Annex A of the Agreement.
- 3) The address for notices of the Parties are:

CMA

Service Provider

Competition and Markets Authority
The Cabot
25 Cabot Square
London
E14 4QZ

Kroll
Three London Bridge Street
London
SE1 9SG

- 4) The CMA may require the Service Provider to ensure that any person employed in the provision of the Services has undertaken a Disclosure and Barring Service check. The Service Provider shall ensure that no person who (i) discloses that he/she has a conviction that is relevant to the nature of the Services, relevant to the work of the CMA, or is of a type otherwise advised by the CMA (each such conviction a “**Relevant Conviction**”); or (ii) Service Provider to have a Relevant Conviction (whether as a result of a police check, a Disclosure and Barring Service check or otherwise) is employed or engaged in the provision of any part of the Services.

Payment

All invoices must be sent, quoting a valid Purchase Order Number, to: invoices@cma.gov.uk in accordance with the Annex A of the Agreement. Within 10 working days of receipt of your countersigned copy of this Award Letter, we will send you a purchase order (PO) with a unique Purchase Order Number. You must be in receipt of a valid Purchase Order Number before submitting an invoice.

To avoid delay in payment it is important that the invoice is compliant and that it includes a valid Purchase Order Number, Purchase Order Number item number (if applicable) and the details (name and telephone number) of your customer contact (i.e. contract manager). Non-compliant invoices will be sent back to you, which may lead to a delay in payment. If you have a query regarding an outstanding payment please contact our Accounts Payable section either by email to Finance.Team@cma.gov.uk or by telephone 0203 738 6144/6617 between 09:00-17:00 Monday to Friday.

Liaison

For general liaison your contact will be [REDACTED].

We thank you for your co-operation to date and look forward to forging a successful working relationship resulting in a smooth and successful delivery of the Services. Please confirm your acceptance of the award and the Agreement by signing and returning the enclosed copy of this Award Letter to [REDACTED] at [REDACTED] within 5 days from the date of this Award Letter. No other form of acknowledgement will be accepted. Please remember to quote the reference number above in any future communications relating to this Agreement.

Yours faithfully

[REDACTED]

[REDACTED]

Signed for and on behalf of the CMA

[REDACTED]

We accept the terms set out in this Agreement (including the Award Letter and its Annexes).

Signed for and on behalf of the Service Provider.

Name: 

Signature:



Date: 14/03/22

Annex B - Confidentiality and Security Requirements

1. The secrecy and security aspects of the Competition & Markets Authority's work are governed by section 5 of the Official Secrets Act 1989, section 101 of the Telecommunications Act 1984, section 206 of the Water Industry Act 1991, section 74 of the Airports Act 1986, section 197 of the Broadcasting Act 1990, section 145 of the Railways Act 1993, Article 49 of the Airports (Northern Ireland) Order 1994, sections 348, 350(5) and 352 of the Financial Services and Markets Act 2000, Schedule 7 of the Postal Services Act 2000, section 105 of the Utilities Act 2000, Schedule 9 of the Transport Act 2000, section 245 of the Enterprise Act 2002, Article 63 of the Energy (Northern Ireland) Order 2003, section 393 of the Communications Act 2003 and Article 265 of The Water and Sewerage Services (Northern Ireland) Order 2006 (the Acts). Contractors shall be bound by the provisions of the Acts. Contractor should ensure that they fully understand the serious consequences that which may follow from a breach of any of these confidentiality requirements.
2. The confidentiality provisions of the Acts constitute a set of general restrictions on the disclosure of information obtained under the Acts in respect of particular businesses except when this is necessary for the purposes of the Act or for certain other prescribed purposes. Criminal prosecution is possible where unauthorised disclosure takes place. Most of the documents handled by the CMA fall within the scope of these statutory restrictions on disclosure and as 'sensitive documents' require the protection of effective security control and of strict observance of security rules. Contractors shall be expected to follow the CMA's security rules and these shall be discussed fully with them prior to commencement of the service.
3. Part V of the Criminal Justice Act 1993 also applies to information obtained in the course of CMA inquiries. It is a criminal offence under that legislation for members of a Contractor's staff to deal, or to encourage others to deal, in securities about which they hold inside information (i.e. unpublished price sensitive information relating to particular securities), obtained by virtue of their work for the CMA, or to disclose such information otherwise than in the proper performance of their work.
4. Contractors shall be responsible for ensuring that all staff employed in connection with any aspect of the service do not divulge any information obtained in, or as a result of, their work for the Commission, except in the course of duty. The requirement not to divulge information includes not divulging information to other members of the Contractors' staff. Contractors shall also be responsible for ensuring that members of their staff are aware of and abide by the confidentiality provisions of the Acts and sign a witnessed declaration of the form set out on the following page. This requirement shall include all support staff who may be involved in system administration or other duties which require them to be given access to any part of the Commission network. A copy of each of these signed declarations shall be sent to the Contract Manager.

CONFIDENTIALITY UNDERTAKING

COMPETITION & MARKETS AUTHORITY

I understand that in any work for 'the CMA' which I perform I shall be in possession of information which is held in confidence and which must not be disclosed without lawful authority. I am aware that the legislation referred to below provides for criminal prosecution where unauthorised disclosure takes place, and that on conviction a person may be fined or imprisoned. I am also aware that, in law, I owe duties of confidentiality to the CMA.

I accept that I must not communicate, orally or in writing, any information gained by me as a result of my work for the CMA to any person other than a person to whom it is my duty to communicate it without the consent of the Chief Executive of the CMA (or an authorised member of his staff). In the case of information with respect to any particular trade or business, I accept that the consent of the person carrying on that trade or business is required also. I accept that articles of any description prepared for publication or discussion in any written form or for broadcasting are covered by these conditions.

I also acknowledge that Part V of the Criminal Justice Act 1993 applies to me and that it is a criminal offence to deal, or to procure others to deal, in securities about which I hold unpublished price sensitive information when engaged in work for or on behalf of the CMA.

Official Secrets Act 1989, section 5

Telecommunications Act 1984, section 101

Water Industry Act 1991, section 206

Airports Act 1986, section 74

Broadcasting Act 1990, section 197

Railways Act 1993, section 145

Airports (Northern Ireland) Order 1994, Article 49

Financial Services and Markets Act 2000, sections 348, 350(5) and 352

Postal Services Act 2000, Schedule 7

Utilities Act 2000, section 105

Transport Act 2000, Schedule 9

Enterprise Act 2002, section 245

The Energy (Northern Ireland) Order 2003, Article 63

Communications Act 2003, section 393

The Water and Sewerage Services (Northern Ireland) Order 2006, Article 265

Annex C - Conflicts of Interest in Relation to Contractors and Contractor's Staff

Summary

1. Contractors and their staff must disclose any interests which might give rise to a conflict or potential conflict to the CMA before entering into a contract with the CMA. The CMA will consider whether the potential conflict causes concern and what action (if any) should be taken. It may be necessary to require the disposal of an interest in order for the CMA to be able to enter into a contract.

Detail

2. When a Contractor is approached with a view to entering into a contract or Call-off with the CMA, the Contractor must disclose to the CMA any potential conflict of interest of which it is aware, or becomes aware, affecting any of the following:
 - (a) the Contractor, their spouse, or partner (other than a spouse) and dependents;
 - (b) all staff of the Contractor whose involvement on a contract with the CMA is not purely mechanical or clerical; and
 - (c) all directors, partners and other senior staff of a Contractor with equivalent responsibilities even though they are not involved in a contract with the CMA.
3. Not used.
4. In this annex the following terms have the meanings set out below:

"relevant individuals"	means persons within sub-paragraphs 2 (a) to (c) above, together with their spouses, partners (other than a spouse) and dependents;
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“the re-determination companies” means any company (incorporated or unincorporated), partnership, business or individual that is the subject of the reference relating to the Contract or Call-off to be awarded to the Contractor;

“the relevant companies” means any company (incorporated or unincorporated), partnership, business or individual who is a competitor, customer or supplier of any reference companies.

"shareholding"

includes:

- shares, whether bearing a right to vote or not;
- stock or debentures; and
- options and similar rights;

in each case whatever the value of the holding and whether held as trustee or beneficially, (for example under a family trust or a Personal Equity Plan). Holdings in unit trusts, investment trusts, unit linked policies or similar arrangements under which the investor has interests in a large number of enterprises would not normally give rise to a potential conflict of interest, unless any company involved in the arrangements were itself affected by the re-determination. However, if the trust or arrangement specialises in investing in a particular industry which is affected by the reference or if the investor believes that there is a real possibility of the value of the investment being affected by the outcome of the reference, the interest should be disclosed to the CMA.

5. The requirement under paragraph 2 to disclose any potential conflict of interest includes a requirement to disclose any relationship which may give an appearance of bias on the part of the Contractor or its staff including but not limited to:

- the Contractor's present or past contractual relationship with any of the reference companies;
- the Contractor's present or past contractual relationship with any of the relevant companies;
- the Contractor's or relevant individuals' shareholding or partnership in,

ownership (whether full or partial) or directorship of, or employment by:

(i) the reference companies;

(ii) the relevant companies; and

(iii) any enterprise the value of whose shares may be affected by the outcome of the reference (eg an enterprise in the same industry).

- the Contractor's present or past contractual relationship with, or the Contractor's, or relevant individuals', employment by the relevant regulator;
- the management of the investment of a shareholding or other interest of a person for which the Contractor, or any relevant individual, is responsible; and
- a recent personal or family involvement with the reference companies or the relevant companies eg a substantial shareholding or other interest which has recently been disposed of.

6. Not used.

7. A potential conflict of interest may arise in other circumstances, such as where there is a business relationship with an enterprise affected by the reference or any other close relationship with a person whose affairs may be affected by the reference. **In case of doubt the Contractor or relevant individual should disclose the interest.**

8. An interest as a consumer would not need to be disclosed, in normal circumstances, where the value of the goods or services obtained is small or most individuals are consumers.

9. The Contractor should check and relevant individuals as defined in paragraph 4 above should be required by the Contractor to check (if they are not already confident of the facts) their own shareholdings and shareholdings held on their behalf. They should also check, information which has been provided to them, eg as trustees or a holder of a specialised unit trust and whether they are aware in general terms of any conflict of interest.

10. Where an actual or potential conflict of interest is identified, the Contractor will undertake to resolve it in a timely manner and to the satisfaction of the CMA.

CONFLICT OF INTEREST STATEMENT

COMPETITION & MARKETS AUTHORITY

1. We confirm that there is no conflict of interest that might give rise to a risk of challenge in the courts to the re-determination on the ground of bias (whether actual or apparent), except as disclosed to the CMA. The acceptance of the following terms and conditions shall be taken as confirmation that no such conflicts of interest exist.
2. We shall ensure that actual or even potential conflicts do not arise during the course of the re-determination. In particular, unless otherwise agreed with the CMA,
 - (i) For the duration of the re-determination we shall not undertake or actively seek any work for any organisation that is directly related to the subject of the re-determination . We agree that work which is indirectly related other than that laid out in the contract should only be undertaken with the CMA's consent which shall not be unreasonably withheld.
 - (ii) We confirm that any individuals providing services to the re-determination, as applicable, shall not carry out any work related to the subject of the re-determination for any other client for the duration of the re-determination.
 - (iii) We confirm that individuals providing services to the re-determination and their immediate families do not own or have a beneficial interest in the shares of the main parties to the re-determination or their suppliers unless such holdings are independently managed (e.g. by a unit trust or pension fund).
 - (iv) All information acquired by the individuals providing services to the re-determination shall be treated as confidential to the CMA both for the duration of the agreement and thereafter. The individuals shall not communicate it to third parties or other individuals within your firm unless it has already entered the public domain by other means. All documents supplied to us in connection with the re-determination and this agreement, copies of any part of such documents, whether in electronic or material form, and any documents prepared by us which are based on material supplied in connection with this re-determination, must be returned to the CMA at the end of the re-determination, or sooner if requested.
3. The CMA may terminate this contract at any time should it become of the opinion that an actual or potential conflict of interest on our part has arisen. We shall be entitled to remuneration on the basis set out in this letter up to the date of termination save in circumstances where we are in breach of our obligations under the terms of the contract.
4. It shall be our responsibility to ensure that no conflict of interest arises which might be said to prejudice our independence and objectivity in performing the contract. This

responsibility includes all of our senior staff (e.g. directors, and partners) or our personnel whose involvement on the contract with the CMA is not purely mechanical or clerical. If we are at any time in doubt about whether any conflict of interest may exist or arise, we shall notify the CMA forthwith and comply with any directions given with a view to avoiding the conflict.

5. Unless otherwise agreed with the CMA during the period of the contract, and for an **agreed period** after it ends, we would, **except with the prior written consent of the Contract Manager**, be debarred from working for, or having any other interest in, any of the main parties to the re-determination (which is the subject of the Contract) or any of their competitors in the relevant industry. This requirement is made to avoid conflicts of interest.