

Dated

2024

**(1) The Crown Prosecution Service**

**(2) [Provider]**

Framework Agreement for the Appointment of an Office Holder  
in Criminal Confiscation and Civil Recovery Cases – PR 2022  
112

## Contents

1	Definitions and interpretation	1
2	Term of Framework Agreement and consideration	15
3	Scope of Framework Agreement	16
4	Office Holders	16
5	Appointment of Subcontractors	19
6	Award procedures	20
7	Contract performance and precedence of documents	26
8	Social Value	26
9	Prices for Services	27
10	Variation to Prices	28
11	Warranties and representations	30
12	Service pre-requisites and statutory requirements	31
13	Staff, Taxation, National Insurance and employment liability	32
14	Reporting and meetings	32
15	Records and audit access	32
16	Security	33
17	Confidentiality	35
18	Official Secrets Acts	36
19	Data protection	36
20	Freedom of information	40
21	Transparency and Publicity	41
22	[Guarantee [and additional security]	41
23	Business Continuity	42
24	Remediation Plan Process	43
25	Termination	45
26	Termination for change of financial standing	48
27	Suspension of Provider's appointment	48
28	Consequences of termination and expiry	48
29	Complaints handling and resolution	49
30	Insurance	50
31	Dispute resolution	50
32	Conflicts of Interest and Investigation	52

33	Non-discrimination	52
34	Prevention of bribery	53
35	Transfer	54
36	Variations to Framework Agreement	55
37	Third party rights	55
38	Severance	55
39	Rights cumulative	56
40	Waiver	56
41	Entire agreement	56
42	Notices	57
43	Governing law and jurisdiction	58
	<b>Schedule 1 - Framework Specification</b>	60
	<b>Schedule 2 - Competed Services Award Criteria</b>	75
	<b>Schedule 3 - Pricing Matrices</b>	77
	<b>Schedule 4 - Order Form</b>	79
	<b>Schedule 5 - Call-off Terms and Conditions</b>	80
	<b>Schedule 6 - Framework Agreement Management Information</b>	81
	<b>Schedule 7 - Office Holders</b>	83
	<b>Schedule 8 - Framework Agreement Variation Procedure</b>	84
	<b>Schedule 9 - Data Protection</b>	88
	<b>Schedule 10 - Capewell Guidelines</b>	91
	<b>Schedule 11 - Data Protection and Security Requirements</b>	94
	<b>Schedule 12 - Commercially Sensitive Information</b>	97
	<b>Schedule 13 - Letter of Nomination and Letter of Acceptance of Appointment</b>	98
	<b>Schedule 14 - Provider's Tender</b>	102
	<b>Schedule 15 - Business Continuity Plan</b>	103
	<b>Schedule 16 - Form of Guarantee</b>	105

**Date:**

**Parties**

- (1) **THE CROWN PROSECUTION SERVICE** whose principal place of business is at 10<sup>th</sup> Floor, 102 Petty France, London SW1H 9EA (**Authority**).
- (2) **[FULL COMPANY NAME]** incorporated and registered in England and Wales with company number **[NUMBER]** whose registered office is at **[REGISTERED OFFICE ADDRESS]** (**Provider**).

**Introduction**

- A The Authority placed a contract notice **[REFERENCE]** on **[DATE]** on the UK e-notification service under the open procedure inviting providers (including the Provider) to submit tenders for the provision of Services to itself and the Other Contracting Bodies identified in the contract notice under a framework agreement for the Appointment of Office Holders in Criminal Confiscation and Civil Recovery Cases.
- B The Provider submitted a tender.
- C On the basis of the Provider's tender, the Authority selected the Provider to enter a framework agreement to provide services to those Customers who place Contracts in accordance with this Framework Agreement.
- D The Authority pays one pound to the Provider legally to form this Framework Agreement in accordance with clause 2.2 (Consideration).
- E This Framework Agreement sets out the procedure for ordering Services, the main terms and conditions for the provision of the Services and the obligations of the Provider under this Framework Agreement.
- F It is the parties' intention that Customers have no obligation to place Contracts with the Provider under this Framework Agreement or at all.

**Agreed terms**

**1 Definitions and interpretation**

- 1.1 The definitions and rules of interpretation in this clause apply in this Framework Agreement.

<b>Appointment</b>	the appointment of an Office Holder in accordance with the Court Order incorporating the terms set out in a Contract (and <b>Appointed</b> shall be construed accordingly).
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<b>Assumptions</b>	the assumptions specified by the Customer in Part 1 of the Order Form which the Provider shall take into account when proposing the Contract Price.
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<b>Audit</b>	an audit carried out pursuant to clause 15.
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<b>Auditor</b>	the Authority's or Other Contracting Bodies' internal and external auditors, including statutory or regulatory auditors and Cost Draftsman, the Comptroller and Auditor General, their staff or any appointed representatives of the National Audit
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Office, HM Treasury or the Cabinet Office, the Northern Ireland Audit Office, or any party formally appointed by the Authority to carry out audit or similar review functions and the successors or assigns of any Auditor.

<b>Award Criteria</b>		the Direct Award Criteria and/or the Competed Services Award Criteria as the context requires.
<b>Business Continuity Plan</b>		the business continuity and disaster recovery plan for the supply of Services to minimise the effect of any unplanned interruption or event that would significantly impact on the ability of the Provider to supply the Services, in whole or in part, in accordance with the terms of this Framework Agreement or a Contract. The Provider shall ensure that the plan is prepared pursuant to the requirements set out in Schedule 15 (Business Continuity).
<b>Capewell Guidelines</b>		the guidelines from <i>Robert Capewell v (1) Customs &amp; Excise Commissioners and (2) Nigel Heath Sinclair, Court Appointed Receiver</i> [2004] EWCA Civ 1628 which are set out in Schedule 10.
<b>Capped Price</b>		a price which shall apply to a Contract, or part of a Contract, as specified by the Provider in Part 2 of the Order Form, where the Provider shall (subject to clause 17.11 of the Call-off Terms and Conditions) only be able to recover their reasonable actual costs (including but not limited to, direct costs, sub-contractor costs, overheads and profit) up to the maximum sum which shall, unless a Price Variation Clause applies, never be exceeded.
<b>Call-off Terms and Conditions</b>		the terms and conditions in Schedule 5.
<b>Change Control</b>	<b>of</b>	a change of control within the meaning of section 1124 of the Corporation Tax Act 2010.
<b>Chief Clerk</b>		means Chief Clerk as referred to in sections 202(7) and 203 POCA and Articles 119(7) and 120 POCA ERO
<b>Civil Order</b>	<b>Recovery</b>	a recovery order made pursuant to section 266 of POCA and Article 177 POCA ERO.
<b>CJA</b>		the Criminal Justice Act 1988 and any amendment thereof and any subordinate legislation made under such Act from time to time.
<b>CJCNIO</b>		the Criminal Justice (Confiscation) (Northern Ireland) Order 1990 (SI 1990/2588) and any amendment or re-enactment thereof.
<b>Commencement Date</b>		[DATE].

<b>Competed Services</b>	has the meaning given in clause 6.1.2.
<b>Competed Services Award Criteria</b>	the award criteria to be applied to Supplemental Tenders received through mini-competitions held for the award of Contracts for Competed Services as detailed in Schedule 2 and more particularly described in the Order Form.
<b>Commercially Sensitive Information</b>	<p>means the information:</p> <p>(a) listed in Schedule 12; or</p> <p>(b) notified to the Authority in writing (prior to the Commencement Date) which has been clearly marked as Commercially Sensitive Information comprised of information:</p> <p style="padding-left: 40px;">(i) which is provided by the Provider to the Authority in confidence for the period set out in Schedule 12 or in the notification; and/or</p> <p style="padding-left: 40px;">(ii) which constitutes a trade secret.</p>
<b>Complaint</b>	any formal complaint raised by any Customer in relation to the Provider's performance under this Framework Agreement or under any Contract in accordance with clause 29.
<b>Confidential Information</b>	any information of either Party, however it is conveyed, that relates to the business, assets, affairs, developments, trade secrets, operations, processes, product information, know-how, designs or software, personnel and customers, clients, suppliers of the Parties, including Personal Data, Intellectual Property Rights, together with all information derived from the above, any information developed by the Parties in the course of carrying out this Framework Agreement, the terms of this Framework Agreement and any other information clearly designated as being confidential (whether or not it is marked as "confidential") or which ought reasonably to be considered to be confidential including any Commercially Sensitive Information.
<b>Confiscation Order</b>	a confiscation order made pursuant to section 71(9) CJA, Articles 4 or 5 CJCNIIO, section 2(9) DTA, Articles 17, 18 or 24 POCNIO, sections 6 and 156 POCA.
<b>Contingency Fee Pricing</b>	a price which shall apply to a Contract, or part of a Contract, based on a percentage (%), as specified by the Provider in Part 2 of the Order Form, of the value of each asset forming a part or the whole of the Receivership Estate realised by the Provider under a Contract and such percentage (%) shall, unless a Price Variation Clause applies, never be increased.
<b>Contract</b>	a legally binding agreement (made pursuant to the provisions of this Framework Agreement) for the provision of Services made between a Customer and the Provider comprising the

Order Form, its appendices, the Court Order, the Letter of Nomination, the Letter of Acceptance of Appointment, and the Call-off Terms and Conditions (as may be amended pursuant to clause 6.6).

<b>Contract Notice</b>	the contract notice [REFERENCE AND DATE] published in the UK e-notification service.
<b>Contract Price</b>	the total price for a Contract (exclusive of any applicable VAT (but inclusive of disbursements (including Subcontractors' fees)), payable to the Provider under a Contract, as set by the Provider in Part 2 of the Order Form, for the full and proper performance by the Provider of its obligations under that Contract.
<b>Contracting Authority</b>	any contracting authority as defined in regulation 2 of the Regulations.
<b>Controller</b>	as defined in the Data Protection Legislation.
<b>Court</b>	means whatever Court is exercising the power to appoint a Management Receiver, an Enforcement Receiver, an NCA Receiver, an Interim Receiver, a RICIFO, a RICPFO, a RICPO or a Trustee for Civil Recovery.
<b>Court Order</b>	an order made by a court of competent jurisdiction appointing the Office Holder as a Receiver or Trustee for Civil Recovery.
<b>CPS Security Management Policy</b>	the Authority's security management policy as notified to the Provider and may be amended by the Authority from time to time.
<b>Critical Service Failure</b>	has the meaning given in Annex C of the Call-off Terms and Conditions.
<b>Crown</b>	the government of the United Kingdom (including the Northern Ireland Assembly and Executive Committee, the Scottish Executive and the National Assembly for Wales), including, but not limited to, government ministers and government departments and particular bodies, persons, commissions or agencies from time to time carrying out functions on its behalf.
<b>Customer</b>	the Authority and any other Contracting Authority described in the Contract Notice.
<b>Data Protection Legislation</b>	all applicable data protection and privacy legislation in force from time to time in the UK including the UK GDPR; the Data Protection Act 2018 (and regulations made thereunder) and the Privacy and Electronic Communications Regulations 2003 (SI 2003/2426) as amended and the guidance and codes of practice issued by the Information Commissioner or other relevant regulatory authority and applicable to a party.

<b>Data Protection Officer</b>	shall have the same meaning as set out in the Data Protection Legislation.
<b>Data Subject:</b>	shall have the same meaning as set out in the Data Protection Legislation.
<b>Default</b>	any breach of the obligations of the relevant Party under a Contract (including fundamental breach or breach of a fundamental term) or Material Breach or any other default, act, omission, negligence or negligent statement of the relevant Party or the Staff in connection with or in relation to the subject matter of the Contract and in respect of which such Party is liable to the other.
<b>Designated Officer</b>	means a designated officer as defined in section 54(7) POCA.
<b>Direct Award</b>	has the meaning given in clause 6.1.1.
<b>Direct Award Criteria</b>	has the meaning given in clause 6.2.
<b>Dispute Resolution Procedure</b>	the procedure set out in clause 31.
<b>Domestic Law:</b>	the law of the United Kingdom or a part of the United Kingdom.
<b>DTA</b>	the Drug Trafficking Act 1994 and any amendment thereof and any subordinate legislation made under such Act from time to time.
<b>EIRs</b>	the Environmental Information Regulations 2004 ( <i>S/2004/3391</i> ) together with any guidance and codes of practice issued by the Information Commissioner or relevant government department in relation to such regulations.
<b>Enforcement Receiver</b>	an enforcement receiver appointed pursuant to section 80 CJA, Article 16 CJCNI, section 29 DTA, Article 34 POCNI, sections 50 and 198 POCA and Articles 27 and 113 POCA ERO.
<b>Estimated Price</b>	a price for a Contract, or part of a Contract, proposed by the Provider which is based on the Provider's estimated costs for delivering the Services being requested by the Customer in Part 1 of the Order Form as such price shall be specified by the Provider in Part 2 of the Order Form and calculated on the basis of the prices set out in the Pricing Matrices (provided such prices may be lowered by the Provider for a specific Contract) and governed throughout the term of the Contract in accordance with clause 14 (Estimated Price) of the Call-off Terms and Conditions and shall only be subject to change in accordance with that clause or where a Price Variation Clause applies.



<b>External Order</b>	an external order as defined in section 447(2) POCA
<b>FOIA</b>	the Freedom of Information Act 2000 and any subordinate legislation made under that Act from time to time together with any guidance and codes of practice issued by the Information Commissioner or relevant government department in relation to such legislation.
<b>Framework Agreement</b>	this agreement and all Schedules to this agreement as varied from time to time.
<b>Framework Agreement Account Manager</b>	the individual appointed by the Provider to act as the main point of contact between the Provider and the Authority, such person being the individual identified at clause 42 whose contact details shall also be set out at that clause.
<b>Framework Agreement Management Information</b>	the Framework Agreement management information specified in Schedule 6.
<b>Framework Agreement Variation Procedure</b>	the procedure set out in Schedule 8.
<b>Framework Providers</b>	the Provider and other providers appointed as framework providers under this Framework Agreement.
<b>Framework Specification</b>	the description of the Services to be delivered by the Provider under a Contract as set out at Schedule 1 (as may be supplemented by the Order Form).
<b>Framework Year</b>	any 12-month period starting on the Commencement Date and on each anniversary of the Commencement Date.
<b>Fraud</b>	any offence under Laws creating offences in respect of fraudulent acts or at common law in respect of fraudulent acts in relation to the Framework Agreement or defrauding or attempting to defraud or conspiring to defraud the Crown.
<b>Good Industry Practice</b>	using the standards, practices, methods and procedures conforming to the Law and exercising that 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 a similar type of undertaking under the same or similar circumstances.
<b>[Guarantee</b>	the deed of guarantee in favour of the Authority [or relevant Other Contracting Body] entered into by the Guarantor [on or about the date of this Framework Agreement] (substantially in the form set out in Schedule 16) or any guarantee acceptable to the Authority [or the relevant Other Contracting Body] that replaces it from time to time.]

<b>[Guarantor</b>	<b>[NAME OF GUARANTOR].]</b>
	<b>[DN – the Authority reserves the right to request that the Provider provides additional security, this may be by way of a parent company guarantee or other form of security]</b>
	<b>[DN – the above definitions will be deleted or amended along with the corresponding provisions in the main body of this Framework Agreement if no guarantor/guarantee is required]</b>
<b>Guidance</b>	any guidance issued or updated by the UK government from time to time in relation to the Regulations.
<b>Hourly Rate</b>	the standard hourly rate by grade of Staff which shall apply to the provision of the Services inclusive of all costs of the Provider, including but not limited to direct costs, overheads and profits, as specified in the Provider's rate card set out in Schedule 3 (Pricing Matrices).
<b>IA 1986</b>	the Insolvency Act 1986.
<b>Information</b>	has the meaning given under section 84 of the FOIA.
<b>Insolvency Event</b>	has the meaning given in clause 25.4.
<b>Intellectual Property Rights</b>	patents, rights to inventions, copyright and neighbouring and related rights, moral rights, trade marks and service marks, business names and domain names, rights in get-up and trade dress, goodwill and the right to sue for passing off or unfair competition, rights in designs, rights in computer software, database rights, rights to use, and protect the confidentiality of, confidential information (including know-how and trade secrets) and all other intellectual property rights, in each case whether registered or unregistered and including all applications and rights to apply for and be granted, renewals or extensions of, and rights to claim priority from, such rights and all similar or equivalent rights or forms of protection which subsist or will subsist now or in the future in any part of the world.
<b>Interim Freezing Order</b>	an interim freezing order made pursuant to section 362N POCA and Article 21L POCA EIO 2013 and Article 34L POCA EIO 2014.
<b>Interim Receiver</b>	an interim receiver appointed pursuant to section 246 POCA and Article 151 POCA ERO.
<b>Interim Receiving Order</b>	an interim receiving order made pursuant to section 246 POCA and Article 151 POCA ERO.
<b>Invitation</b>	the invitation to Framework Providers to submit a Supplemental Tender which is made by a Customer

		completing Part 1 of the Order Form which sets out the Customer's requirements for Services.
<b>Invoice Submission Default</b>		has the meaning given in clause 17.9 of the Call-off Terms and Conditions.
<b>ITT</b>		the Authority's Invitation to Tender issued on [DATE].
<b>Law</b>		the laws of England and Wales and any other laws or regulations, regulatory policies, guidelines or industry codes which apply to the provision of the Services or with which the Provider is bound to comply.
<b>Length of the Court Order</b>	(a)	in criminal recovery cases: from the date on which the Confiscation Order is made until the full amount of the benefit from criminal conduct as assessed by the Court and set out in the Confiscation Order is paid in full;
	(b)	in civil recovery cases: from the date on which the Civil Recovery Order is made until the Customer confirms to the Office Holder that no further Services are required.
<b>Letter of Acceptance Appointment</b>	of	the letter of acceptance of appointment substantially in the form set out at Part 2 of Schedule 13 sent by the Provider to the Customer confirming their acceptance of the Letter of Nomination which shall accompany the completed Order Form with Part 3 signed by both the Customer and the Provider.
<b>Letter of Nomination</b>	of	the letter of nomination seeking the Appointment of an Office Holder substantially in the form set out at Part 1 of Schedule 13 sent by the Customer to the Provider and accompanying the completed Order Form with Part 3 signed by the Customer.
<b>Management Receiver</b>		a management receiver appointed pursuant to section 77 CJA, Article 13(8) CJCNI, section 26 DTA, Article 31(8) POCNI, sections 48 and 196 POCA and Articles 15 and 101 POCA ERO.
<b>Management Receivership Order</b>		a management receivership order made pursuant to section 77 CJA, Article 13(8) CJCNI, s 26 DTA, Article 31(8) POCNI, sections 48 and 196 POCA and Articles 15 and 101 POCA ERO.
<b>Material Breach</b>		a breach of this Framework Agreement which is material and/or persistent (provided that, in the case of a persistent breach, the breach by reason of the persistence has become material) in each case having regard to all relevant circumstances including the nature of the relationship between the Parties to this Framework Agreement and the need for each such Party to maintain the confidence of the others, the nature of the breach (and in particular whether it be intentional, negligent or otherwise), the regularity with which the obligation

which has been breached fails to be performed under this Framework Agreement and the consequences of the breach;

<b>Month</b>	a calendar month.
<b>NCA</b>	the National Crime Agency.
<b>NCA Receiver</b>	an NCA receiver appointed pursuant to sections 52 and 200 POCA (as saved) and Articles 30 and 116 of POCA ERO (as saved). NCA Receivers (formerly Director of the Assets Recovery Agency's Receivers) – these were saved as follows: (a) Domestic Confiscation Orders - by the Serious Crime Act 2007 (Commencement No. 2 and Transitional and Transitory Provisions and Savings) Order 2008 (SI 2008/755) for actions done prior to 1 April 2008; and (b) External Orders – by Proceeds of Crime Act 2002 (External Requests and Orders) (Amendment) Order 2008 (SI 2008/302) for actions done prior to 6 April 2008.
<b>NCA Receivership Order</b>	an NCA receivership order made pursuant to sections 52 and 200 POCA (as saved) and Articles 30 and 116 of POCA ERO (as saved).
<b>Nominate/ Nomination</b>	a proposal by a Customer to a Court that the Provider be appointed to provide the services of an Office Holder in accordance with the completed Order Form, Letter of Nomination and Letter of Acceptance of Appointment.
<b>Notice Variation</b>	<b>of</b> has the meaning given in paragraph 2.2 of Schedule 8.
<b>Office Holder</b>	a person named Schedule 7 who is a partner, member, trustee, employee or Subcontractor of the Provider and is qualified to act as a Management Receiver, Enforcement Receiver, NCA Receiver, Interim Receiver, Receiver in Connection with a Property Freezing Order, Receiver in Connection with a Prohibition Order, Receiver in Connection with an Interim Freezing Order or Trustee for Civil Recovery as may be specified in a Contract.
<b>Official-Sensitive</b>	means the definition put forward by the <a href="#">Government Security Classifications</a> .
<b>Order Form</b>	means the document exchanged between and completed by the Customer and the Provider in accordance with this Framework Agreement (and based on the template set out at Schedule 4 (Order Form)) seeking the Appointment of a person named in Schedule 7 (Office Holders) which sets out a description of the Services to be supplied as an Office Holder including, where appropriate, the Provider's Supplemental Tender and Quality Standards.
<b>Other Contracting Bodies</b>	all Customers except the Authority.

<b>Parent Company</b>	any company which is the ultimate Holding Company of the Provider and which is either responsible directly or indirectly for the business activities of the Provider or which is engaged in the same or similar business to the Provider and <b>Holding Company</b> shall have the meaning ascribed by section 1159 of the Companies Act 2006 or any statutory re-enactment or amendment thereto.
<b>Party</b>	the Authority or the Provider and Parties shall mean both the Authority and the Provider.
<b>Personal Data</b>	shall have the same meaning as set out in the Data Protection Legislation.
<b>Personal Data Breach</b>	shall have the same meaning as set out in the Data Protection Legislation.
<b>POCA</b>	the Proceeds of Crime Act 2002 and any amendment or re-enactment thereof and any subordinate legislation made under such Act from time to time.
<b>POCA EIO 2013</b>	the Proceeds of Crime Act (External Investigations) Order 2013 ( <i>SI 2013/2605</i> ) and any amendment or re-enactment thereof.
<b>POCA EIO 2014</b>	the Proceeds of Crime Act (External Investigations) Order 2014 ( <i>SI 2014/1893</i> ) and any amendment or re-enactment thereof.
<b>POCA ERO</b>	the Proceeds of Crime Act 2002 (External Requests and Orders) Order 2005 ( <i>SI 2005/3181</i> ) and any amendment or re-enactment thereof.
<b>POCNIO</b>	the Proceeds of Crime (Northern Ireland) Order 1996 ( <i>SI 1996/1299</i> ) and any amendment or re-enactment thereof.
<b>Preferred Framework Provider</b>	has the meaning given in clause 6.5;
<b>Price Variation Clause</b>	<p>(a) clause 11 of the Call-off Terms and Conditions (Changes to the Contract Price in genuine unforeseen circumstances);</p> <p>(b) clause 12 of the Call-off Terms and Conditions (Changes to the Contract Price in the event that the Assumptions are not correct); and</p> <p>(c) clause 13 of the Call-off Terms and Conditions (Exceptional changes to the Contract Price for longer Contract Periods).</p>
<b>Pricing Matrices</b>	the pricing matrices set out in Schedule 3.

<b>Processor</b>	as defined in the Data Protection Legislation.
<b>Prohibited Act</b>	<p>the following constitute Prohibited Acts:</p> <ul style="list-style-type: none"> <li>(a) to directly or indirectly offer, promise or give any person working for or engaged by the Authority a financial or other advantage as an inducement or reward for any improper performance of a relevant function or activity;</li> <li>(b) to directly or indirectly request, agree to receive or accept any financial or other advantage as an inducement or a reward for improper performance of a relevant function or activity in connection with this Framework Agreement;</li> <li>(c) committing any offence: <ul style="list-style-type: none"> <li>(i) under the Bribery Act 2010;</li> <li>(ii) under legislation creating offences concerning fraudulent acts relating to this Framework Agreement or any other contract with the Authority;</li> <li>(iii) at common law concerning fraudulent acts relating to this Framework Agreement or any other contract with the Authority; or</li> <li>(iv) of defrauding attempting to defraud or conspiring to defraud the Authority (including offences by the Provider under Part 3 of the Criminal Finances Act 2017).</li> </ul> </li> <li>(d) any activity, practice or conduct which would constitute one of the offences listed under (c) if such activity, practice or conduct had been carried out in the UK.</li> </ul>
<b>Prohibition Order</b>	a prohibition order made pursuant to Article 141D POCA ERO.
<b>Proper Officer</b>	means the proper officer as defined in Article 18(10) CJNIO and Article 35(11) POCNIO.
<b>Property Freezing Order</b>	a property freezing order made pursuant to section 245A POCA and Article 147 POCA ERO.
<b>Provider Personnel</b>	means all employees, Staff, other workers, agents and consultants of the Provider and of any Subcontractors who are engaged in the provision of the Services from time to time including Office Holders.
<b>Quality Standards</b>	the quality standards (or equivalent) published by BSI, the British Standards Institution, ISO, the International Organisation for Standardisation or other reputable or

equivalent body (and their successor bodies), that a skilled and experienced operator in the same type of industry or business sector as the Provider would reasonably and ordinarily be expected to comply with (as may be further detailed in the Order Form).

<b>Ranking List</b>	shall have the meaning given in clause 6.4.
<b>Receiver</b>	an individual appointed by a Court for the interim protection of property (and the income of the property). The Receiver is an officer of the Court. Their duty is to act impartially, and in accordance with the directions of the Court, in administering the property to which the receivership extends.
<b>Receivership Estate</b>	the assets which are the subject of the relevant Court Order.
<b>Receivers in Connection with Interim Freezing Orders</b>	receivers in connection with Interim Freezing Orders appointed pursuant to Section 362N POCA and Article 21L POCA EIO 2013 and Article 34L POCA EIO 2014.
<b>Receivers in Connection with Prohibition Orders</b>	receivers in connection with Prohibition Orders appointed pursuant to Article 141I POCA ERO.
<b>Receivers in Connection with Property Freezing Orders</b>	receivers in connection with Property Freezing Orders appointed pursuant to ss 245E POCA and Article 150A POCA ERO.
<b>Recovery Order</b>	a recovery order made pursuant to s 266 POCA and Article 177 POCA ERO.
<b>Regulations</b>	the Public Contracts Regulations 2015 ( <i>SI 2015/102</i> ).
<b>Regulatory Bodies</b>	those government departments and regulatory, statutory and other entities, committees, ombudsmen and bodies which, whether under statute, rules, regulations, codes of practice or otherwise, are entitled to regulate, investigate, or influence the matters dealt with in this Framework Agreement or any other affairs of the Authority.
<b>Relevant Provider</b>	has the meaning given in clause 6.3.1.
<b>Relevant Requirements</b>	all applicable law relating to bribery, corruption and Fraud, including the Bribery Act 2010 and any guidance issued by the Secretary of State for Justice pursuant to section 9 of the Bribery Act 2010.
<b>Remediation Notice</b>	a written notice given by the Authority to the Provider pursuant to clause 24 (Remediation Plan Process) to initiate the Remediation Plan Process.

<b>Remediation Plan</b>		the plan agreed in accordance with clause 24 (Remediation Plan Process) for the resolution of the Provider's default in complying with its obligations under this Framework Agreement.
<b>Remediation Plan Process</b>		the process for resolving certain of the Provider's defaults as set out in clause 24.
<b>Replacement Office Holder</b>		any Office Holder appointed to replace a discharged Office Holder and continue those Appointments being delivered by the discharged Office Holder immediately prior to their discharge.
<b>Request Information</b>	<b>for</b>	a request for information or an apparent request under the FOIA or the EIRs.
<b>Required Insurance</b>		shall have the meaning given in clause 4.2.
<b>Restraint Order</b>		a restraint order made pursuant to section 77 CJA, Article 13 CJCNI, section 26 DTA, Article 31 POCNI, sections 41 and 190 POCA and Articles 8 and 95 POCA ERO.
<b>SC Clearance</b>		Security Check clearance in accordance with the UK National Security Vetting requirements, which may be updated from time to time. Further information can be obtained at the following link: <a href="https://www.gov.uk/national-security-vetting-clearance-levels">National security vetting: clearance levels - GOV.UK (www.gov.uk)</a> .
<b>Security Guidance</b>		the Data Protection and Security Requirements set out at Schedule 11.
<b>Services</b>		the services set out in: <ul style="list-style-type: none"> <li>(a) this Framework Agreement;</li> <li>(b) the Framework Specification;</li> <li>(c) the Order Form; and</li> <li>(d) the Court Order.</li> </ul>
<b>Social Value Threshold</b>		the threshold that applies to the Regulations as applicable to this Framework Agreement as may be set out in primary or secondary legislation (or equivalent threshold in any replacement legislation) or otherwise notified by government and updated from time to time.
<b>SQ Response</b>		the response to the standard selection questionnaire submitted by the Provider to the Authority on [DATE].
<b>Staff</b>		all persons employed by the Provider together with the Provider's servants, agents, and suppliers used in the performance of its obligations under this Framework Agreement or Contracts.



<b>Subcontract</b>	any contract between the Provider and a third party pursuant to which the Provider agrees to source the provision of any of the Services from that third party.
<b>Subcontractor</b>	the contractors or service providers that enter into a Subcontract with the Provider.
<b>Supplemental Tender</b>	the information submitted by the Provider to the Customer set out in Part 2 of the Order Form (including any response by the Provider in respect of weighted evaluation which may be included as an appendix to the Order Form) in response to an Invitation.
<b>Tender</b>	the tender submitted by the Provider to the Authority on [DATE].
<b>Term</b>	the period commencing on the Commencement Date and ending on [DATE] or on earlier termination of this Framework Agreement.  [DN – to be 4 years from the Commencement Date]
<b>Termination Date</b>	the date of expiry or termination of this Framework Agreement.
<b>Termination Notice</b>	any notice to terminate this Framework Agreement which is given by the Authority to the Provider in accordance with clause 24 (Remediation Plan Process).
<b>Third Party Processors</b>	shall have the meaning given in clause 19.6.
<b>Trustee for Civil Recovery</b>	a trustee for civil recovery appointed pursuant to section 266 POCA or Article 177 POCA ERO.
<b>UK GDPR</b>	has the meaning given to it in section 3(10) (as supplemented by section 205(4)) of the Data Protection Act 2018.
<b>Uninsurable Assets</b>	assets the risk of losing which would either be uninsurable or insurance would be unobtainable in accordance with Good Industry Practice.
<b>Variation Form</b>	the form to be utilised by either party requesting a variation to this Framework Agreement as set out in Part 2 of Schedule 8.
<b>Working Days</b>	any day other than a Saturday, Sunday or public holiday in England and Wales.

- 1.2 The interpretation and construction of this Framework Agreement shall all 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” are to be construed as if they were immediately followed by the words “without limitation”;
- 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 reference to a company shall include any company, corporation or other body corporate, wherever and however incorporated or established;
- 1.2.6 unless expressly provided otherwise in this Framework Agreement, a reference to legislation or a legislative provision is a reference to it as amended, extended or re-enacted and includes any subordinate legislation made under it, in each case from time to time;
- 1.2.7 headings are included in this Framework Agreement for ease of reference only and shall not affect the interpretation or construction of this Framework Agreement;
- 1.2.8 the Schedules form part of this Framework Agreement and shall have effect as if set out in full in the body of this Framework Agreement and any reference to this Framework Agreement shall include the Schedules;
- 1.2.9 references in this Framework Agreement to any clause or sub-clause or Schedule without further designation shall be construed as a reference to the clause or sub-clause or Schedule to this Framework Agreement so numbered;
- 1.2.10 references in this Framework Agreement to any paragraph or sub-paragraph without further designation shall be construed as a reference to the paragraph or sub-paragraph of the relevant Schedule to this Framework Agreement so numbered; and
- 1.2.11 reference to a clause is a reference to the whole of that clause unless stated otherwise;
- 1.2.12 reference to writing or written excludes fax but includes email;
- 1.2.13 any obligation on a party not to do something includes an obligation not to allow that thing to be done; and
- 1.2.14 in the event and to the extent only of any conflict between the clauses and the remainder of the Schedules, the clauses shall prevail over the remainder of the Schedules.

## **Part one: framework arrangements and award procedure**

### **2 Term of Framework Agreement and consideration**

- 2.1 The Framework Agreement shall take effect on the Commencement Date and (unless it is terminated in accordance with the terms of this Framework

Agreement or is otherwise lawfully terminated) shall terminate at the end of the Term.

- 2.2 The Provider shall invoice the Authority for the sum of £1 (to act as consideration to ensure this Framework Agreement is legally binding between the Parties) within 10 Working Days of the Commencement Date. The Authority shall pay such invoice within 30 days of receipt.

### **3 Scope of Framework Agreement**

- 3.1 This Framework Agreement governs the relationship between the Authority and the Provider in respect of the provision of the Services by the Provider to Customers.
- 3.2 The Authority appoints the Provider as a Framework Provider of the Services and the Provider shall be eligible to be Nominated to deliver such Services by Customers during the Term.
- 3.3 Customers may at their absolute discretion and from time to time during the Term Nominate the Officer Holder and secure Services from the Provider in accordance with the award procedure set out in clause 6 (Award procedures). The Parties acknowledge and agree that the Other Contracting Bodies have the right to secure Services pursuant to this Framework Agreement provided that they comply at all times with the Regulations and the award procedure in clause 6. If there is a conflict between clause 6 and the Regulations, the Regulations shall take precedence.
- 3.4 If and to the extent that any Services under this Framework Agreement are required, each and every Customer shall:
- 3.4.1 enter into a contract with the Provider for these Services materially in accordance with the terms of the Contract; and
- 3.4.2 comply with the award procedure in clause 6.
- 3.5 The Provider acknowledges that, in entering this Framework Agreement, no form of exclusivity or volume guarantee has been granted by the Customer for the Services and that the Customer is at all times entitled to enter into other contracts and arrangements with other providers for the provision of any or all services which are the same as or similar to the Services.
- 3.6 The Authority shall not in any circumstances be liable to the Provider or any Other Contracting Body for payment or otherwise in respect of any Services provided by the Provider to any Other Contracting Body.

### **4 Office Holders**

- 4.1 The Parties have agreed to the appointment to the Framework Agreement of the Office Holder(s) listed in Schedule 7 (Office Holders) as at the Commencement Date. The Provider shall have a maximum of three Office Holders appointed to the Framework Agreement. Subject to clause 4.3, only those Office Holders which meet all the criteria set out in clause 4.2 shall be appointed to the Framework Agreement. All changes to the Provider's list of Office Holders appointed to the Framework Agreement require the prior written

consent of the Authority which shall be requested in accordance with this clause 4.

4.2 The Provider shall ensure that each Office Holder:

- 4.2.1 is suitably qualified and authorised to act as an insolvency practitioner in England, Wales and Northern Ireland as required by the relevant legislation and in accordance with the Framework Specification;
- 4.2.2 maintains suitable professional indemnity insurance with a minimum level of cover as specified in clause 30 (**Required Insurance**);
- 4.2.3 has current and valid SC Clearance;
- 4.2.4 shall work for such a period of time in the performance of the Services that is commensurate with and sufficient to perform the obligation of that person's role; and
- 4.2.5 has never had a receivership order or trusteeship order discharged due to their poor performance (relating to either their action or inaction (or both)).

4.3 Where an Office Holder is awaiting SC Clearance to be approved they may be appointed to this Framework Agreement provided they shall not receive any Nominations nor shall any Contracts be awarded in respect of that Office Holder until such time as SC Clearance is approved.

4.4 The Provider shall give the Authority, on request, such evidence relating to each of the Provider's Office Holders as may be reasonably required by the Authority:

- 4.4.1 to verify the validity and current status of their authorisation to act as an insolvency practitioner pursuant to clause 4.2.1;
- 4.4.2 to evidence they have current and valid SC Clearance; and
- 4.4.3 to demonstrate that the Required Insurance is in place.

4.5 Where an Office Holder:

- 4.5.1 ceases to be a suitably qualified and authorised to act as an insolvency practitioner;
- 4.5.2 is discharged by a Court due to their poor performance;
- 4.5.3 has their SC Clearance revoked or their SC Clearance has lapsed;
- 4.5.4 is in breach of the terms of any Contract; or
- 4.5.5 is unable to fulfil the requirements of this Framework Agreement, including but not limited to meeting the requirements of the Framework Specification,

the Provider shall notify the Authority immediately.

- 4.6 If the Authority finds that an Office Holder is not suitably qualified and authorised to act as an insolvency practitioner pursuant to clause 4.2, or where the Authority receives notification from the Provider pursuant to clause 4.5, the Authority reserves the right to immediately remove the relevant Office Holder from the Framework Agreement (in which case it shall notify the Provider and Other Contracting Bodies in writing of the same).
- 4.7 Where the Authority removes an Office Holder from this Framework Agreement pursuant to clause 4.6, a Customer may apply to the Court to discharge the Office Holder from all Appointments they are currently delivering under the Framework Agreement and, where that Customer considers it appropriate to do so, appoint a Replacement Office Holder.
- 4.8 Where the Provider:
- 4.8.1 has fewer than three Office Holders appointed to the Framework Agreement and wishes to appoint an additional Office Holder; or
- 4.8.2 wishes to replace or remove one of its existing Office Holders appointed to the Framework Agreement,
- it shall submit such requests to the Authority through the Framework Agreement Variation Procedure Office Holder List Change Request Form in Part 2 of Schedule 8 (Framework Agreement Variation Procedure). When submitting such requests to the Authority the Provider must provide confirmation that any new Office Holder to be considered for appointment to the Framework Agreement:
- 4.8.3 complies with the Framework Specification and relevant requirements of the Framework Agreement;
- 4.8.4 is fully compliant with clause 4.2; and
- 4.8.5 that their appointment does not alter the outcome of the SQ Response,
- and shall provide any further information and evidence in relation to the proposed appointment as may be reasonably requested by the Authority.
- 4.9 The Authority shall not unreasonably delay or withhold its consent to requests submitted by the Provider pursuant to clause 4.8 provided that the Authority may interview any candidates for the position of Office Holder prior to and to assist with determining whether such consent is to be provided.
- 4.10 Where an Office Holder is to leave the employ of the Provider (including where the Office Holder is to move to another Framework Provider), the Provider must inform the Authority no less than 3 Months prior to the date on which the Office Holder is due to leave. Subject to clause 4.11, the relevant Office Holder shall be removed from the Framework Agreement.
- 4.11 Subject to clause 4.12, where an Office Holder moves from the Provider to another Framework Provider, the Provider and relevant Office Holder may enter into such agreements and establish such arrangements as may be required to ensure that the relevant Office Holder can continue to deliver and complete all

Appointments being undertaken by that Office Holder prior to the move on the same terms mutatis mutandis as that Office Holder was originally Appointed.

4.12 The Provider acknowledges and agrees that an Appointment is personal to the Office Holder and that an appointing Customer may (but shall not be obliged to) require an Office Holder to renounce their Appointment if they leave the employ of the Provider.

4.13 Where an Office Holder:

4.13.1 leaves the Provider and such arrangements pursuant to clause 4.11 have not been entered into;

4.13.2 is removed from the Framework Agreement;

4.13.3 is unable or not willing to perform the duties set out in the Contract; or

4.13.4 is otherwise removed from the Appointment,

then:

4.13.5 if requested by the Customer, the Provider shall ensure that another Office Holder continues the Appointment on the same terms as set out in the original Contract, provided such Appointment is approved by the Customer and endorsed by the Court; or

4.13.6 the Customer may approach the market to appoint a new Office Holder to continue the relevant Appointment.

4.14 If pursuant to this clause 4 the Provider has:

4.14.1 no approved Office Holders named in Schedule 7 (Office Holders); and

4.14.2 no Office Holders awaiting SC Clearance or other relevant requirement to become an approved Office Holder listed in Schedule 7 (Office Holders),

then this Framework Agreement shall terminate in accordance with clause 25 (Termination).

4.15 The Authority and/or any Customers shall not be liable for the cost of replacing any Office Holder pursuant to the Framework Agreement and the Provider shall indemnify the Authority against any and all liabilities (including but not limited to employee liabilities) that may arise in this respect.

## **5 Appointment of Subcontractors**

5.1 The Provider shall ensure that all Subcontractors appointed by them (or any subcontractors which may be appointed by Office Holders) in provision of the Services shall be:

5.1.1 suitably experienced and professionally qualified;

5.1.2 hold all necessary professional accreditations and authorisations; and

- 5.1.3 meet all relevant regulatory requirements and requirements of this Framework Agreement,

commensurate to the role for which they are engaged to ensure they can properly undertake any and all activities which may be Subcontracted to them in accordance with this Framework Agreement and all applicable Law.

## 6 Award procedures

### Awards under the Framework Agreement

- 6.1 If a Customer decides to source Services through the Framework Agreement then, subject to clause 6.2, it may:
- 6.1.1 satisfy its requirements for the Services by awarding a Contract in accordance with the terms laid down in this Framework Agreement without re-opening competition (**Direct Award**); or
  - 6.1.2 satisfy its requirements for Services by awarding a Contract following a mini-competition conducted in accordance with the requirements of clause 6.6 (**Competed Services**).
- 6.2 A Customer may satisfy its requirements for Competed Services in any circumstances but shall only satisfy its requirements for the Services by Direct Award in the following circumstances (**Direct Award Criteria**):
- 6.2.1 where there are two defendants or respondents relating to the same property, the Provider to which the Customer may Direct Award is the Provider for the Office Holder who was Appointed (or selected to be put forward for Appointment by the Customer) in respect of the first defendant or respondent;
  - 6.2.2 where there are two defendants or respondents relating to the same case, the Provider to which the Customer may Direct Award is the Provider for the Office Holder who was Appointed (or selected to be put forward for Appointment by the Customer) in respect of the first defendant or respondent;
  - 6.2.3 where there are two related cases as a result of the same criminal or civil recovery investigation, the Provider to which the Customer may Direct Award is the Provider for the Office Holder who was Appointed (or selected to be put forward for Appointment by the Customer) in respect of the first case;
  - 6.2.4 where converting:
    - (a) a Management Receiver into an Enforcement Receiver;
    - (b) an Interim Receiver or a Receiver in Connection with an Interim Freezing Order into a Receiver in Connection with a Prohibition Order or a Receiver in Connection with a Property Freezing Order; or

- (c) a Receiver in Connection with a Prohibition Order or a Receiver in Connection with a Property Freezing Order into a Trustee for Civil Recovery,

the Provider to which the Customer may Direct Award is the Provider for the Office Holder who was Appointed (or selected to be put forward for Appointment by the Customer) as the Management Receiver, the Interim Receiver, the Receiver in Connection with an Interim Freezing Order, the Receiver in Connection with a Prohibition Order or the Receiver in Connection with a Property Freezing Order (as appropriate);

- 6.2.5 where a receivership or trusteeship is completed, but at a later stage a further asset in connection with that receivership or trusteeship is discovered, the Provider to which the Customer may Direct Award is the Provider for the Office Holder who was Appointed to the receivership or trusteeship which has been completed; or
- 6.2.6 in cases of extreme urgency (as determined by the Customer), the Provider to which the Customer may Direct Award is to be determined in accordance with clauses 6.4 and 6.5,

and provided that, save for in cases of extreme urgency pursuant to clause 6.2.6, the Provider shall put forward the same Office Holder that was Appointed (or selected to be put forward for Appointment by the Customer) in respect of the earlier defendant, respondent, case or receivership giving rise to the specific Direct Award Criterion.

#### **Direct Award process (awards without re-opening competition)**

- 6.3 Where a Customer secures Services under the Framework Agreement by Direct Award pursuant to clauses 6.2.1 to 6.2.5 (inclusive):
  - 6.3.1 the Customer shall send an Order Form with Part 1 completed to the Provider which meets the relevant Direct Award Criterion (**Relevant Provider**);
  - 6.3.2 the Relevant Provider must confirm to the Customer within the time period set out in Part 1 of the Order Form that either:
    - (a) they have the capability, capacity and expertise to provide the Services within the timescales specified by the Customer and also confirm the price that they are proposing to undertake the Services by completing Part 2 of the Order Form and returning it to the Customer; or
    - (b) that they are unable to provide the Services;
  - 6.3.3 if the Relevant Provider is not able to provide the Services, and unless clause 6.2.6 applies, the Customer must satisfy its requirements for Services by conducting a mini-competition in accordance with clause 6.6.

#### **Direct Award in extreme urgency (awards without re-opening competition)**



- 6.4 Each Customer shall maintain a list of all Framework Providers in order of rank, highest to lowest, according to the evaluation of their Tenders (**Ranking List**). The Ranking List shall be used by each Customer to ensure the Framework Providers are selected in turn for Nominations where that Customer is seeking to satisfy its requirements for Services in a case of extreme urgency pursuant to clause 6.2.6.
- 6.5 Where a Customer secures Services under this Framework Agreement by Direct Award pursuant to clause 6.2.6:
- 6.5.1 the Customer shall send an Order Form with Part 1 completed:
- (a) when it is the first time they are submitting an Order Form pursuant to this clause 6.5, to the Framework Provider who is ranked highest on the Ranking List;
  - (b) when it is the second or any subsequent time thereafter they are submitting an Order Form pursuant to this clause 6.5, to the Framework Provider ranked next on the Ranking List immediately following the Framework Provider to which the Customer previously submitted an Order Form pursuant to this clause 6.5 (provided that where the previous Framework Provider is the lowest ranked on the Ranking List, the Framework Provider ranked next shall be the highest ranked Framework Provider on the Ranking List),
- and the Framework Provider receiving the Order Form shall be the **Preferred Framework Provider**;
- 6.5.2 the Preferred Framework Provider must confirm to the Customer within the time period set out in Part 1 of the Order Form that either:
- (a) they have the capability, capacity and expertise to provide the Services within the timescales specified by the Customer and the price that they are proposing to undertake the Services by completing Part 2 of the Order Form and returning it to the Customer; or
  - (b) they are unable to provide the Services;
- 6.5.3 if the Preferred Framework Provider is not able to provide the Services, the Customer may send an Order Form with Part 1 completed to the Framework Provider who is next on the Ranking List immediately following the Preferred Framework Provider;
- 6.5.4 the Customer may continue to submit Order Forms with Part 1 completed to Framework Providers in turn following the order of rank of the Ranking List until the Order Form is returned to them with Part 2 completed or there are no further Framework Providers qualified to fulfil the Customer's requirements.

#### **Competed Services (awards following mini-competitions)**

- 6.6 Where a Customer is securing Competed Services under the Framework Agreement:

6.6.1 the Customer may:

- (a) complete Part 1 of the Order Form setting out their requirements for the Competed Services;
- (b) supplement and refine the Call-off Terms and Conditions only to the extent permitted by and in accordance with the requirements of the Regulations and Guidance (as such supplements and refinements may be set out in the Order Form);
- (c) invite tenders by conducting a mini-competition for its Competed Services requirements in accordance with the Regulations and Guidance and in particular:
  - (i) submit an Invitation to all Framework Providers setting out their requirements for Competed Services and inviting all Framework Providers within a specified time limit to submit a Supplemental Tender;
  - (ii) require that Providers submit any clarifications they may have in respect of the mini-competition as soon as reasonably practicable but in any event within 3 Working Days of the Provider's receipt of the Invitation. Should any clarifications be received by the Customer the Customer's responses to such clarifications (along with the clarification question) shall be shared with all Providers, subject to the Customer withholding any information which is commercially sensitive;
  - (iii) set a time limit for the receipt by it of the Supplemental Tenders which takes into account of the period within which any clarifications should be raised by Providers and other factors such as the complexity of the subject matter of the Contract, the time needed to submit tenders and the timeframe within which the Customer needs to Appoint the Office Holder; and
  - (iv) keep each Supplemental Tender confidential until the expiry of the time limit for the receipt by it of the Supplemental Tenders;
- (d) apply the Competed Services Award Criteria to any compliant Supplemental Tenders submitted through the mini-competition; and
- (e) subject to clause 6.10, submit a Letter of Nomination to the successful Framework Provider to accompany the Order Form with Part 3 executed by the Customer;

6.7 The Provider agrees that all Supplemental Tenders submitted by the Provider in relation to a mini-competition held pursuant to this clause 6 shall remain valid for sixty calendar days (or such other period specified in the Invitation issued by the relevant Customer in accordance with this clause 6).

- 6.8 When submitting clarifications pursuant to 6.6.1(c)(ii), the Provider must identify any information they consider is commercially sensitive. The Customer shall be the sole arbiter of deciding what information is commercially sensitive. If, in the opinion of the Customer, the information is not commercially sensitive, the Customer shall inform the Provider who will have the opportunity to withdraw the clarification. If the clarification is not withdrawn, the clarification question and Customer response shall be shared with all Framework Providers. Where a Provider has any questions or requires clarification with regard to the detail included in Part 1 of the Order Form, including but not limited to pricing and assumptions, the clarification process shall be their opportunity to seek such clarification.
- 6.9 The Provider shall not supplement or modify the Call-off Terms and Conditions and shall comply with all requirements of the tender procedure as specified in this Framework Agreement and Order Form. Should the Provider seek to supplement or modify the Call-off Terms and Conditions or fail to comply with any requirements of the tender procedure the Customer may disqualify them from the relevant award procedure.
- 6.10 Notwithstanding the fact that the Customer has followed the procedure set out above for Competed Services, the Customer may cancel, postpone, delay or end the procedure without issuing a Letter of Nomination for Services or awarding a Contract. Nothing in this Framework Agreement shall oblige any Customer to issue a Letter of Nomination or Contract for Services.

#### **Responsibility for awards**

- 6.11 The Provider acknowledges that each Customer is independently responsible for the conduct of its award of Contracts under the Framework Agreement and that the Authority is not responsible or accountable for and shall have no liability whatsoever in relation to:
- 6.11.1 the conduct of Other Contracting Bodies in relation to the Framework Agreement; or
  - 6.11.2 the performance or non-performance of any Contracts between the Provider and Other Contracting Bodies entered into pursuant to the Framework Agreement.

#### **Form of Appointment**

- 6.12 Subject to clause 6.1 to clause 6.11, each Customer may commence the Nomination process by serving a Letter of Nomination in writing in substantially the form set out in Part 1 of Schedule 13 (Letter of Nomination and Letter of Acceptance of Appointment).

#### **Accepting and declining Appointments**

- 6.13 Following receipt of a Letter of Nomination, the Provider shall within the time period specified in the Letter of Nomination acknowledge receipt of the Letter of Nomination and either:
- 6.13.1 notify the Customer in writing that it declines to accept the Letter of Nomination including detailed reasons as to why it is unable to accept the Letter of Nomination; or

- 6.13.2 notify the relevant Customer of its unqualified acceptance of the Letter of Nomination by:
  - (a) procuring that the Office Holder signs the Letter of Acceptance of Appointment; and
  - (b) signing Part 3 of the completed Order Form which the Provider shall return to the Customer with the signed Letter of Acceptance of Appointment;
- 6.14 If the Provider:
  - 6.14.1 notifies the Customer that it declines to accept the Letter of Nomination;
  - 6.14.2 does not provide its unqualified acceptance of the Letter of Nomination; or
  - 6.14.3 the time limit for acknowledgement referred to in clause 6.13 has expired;

then the Letter of Nomination shall lapse and the relevant Customer may then send that Letter of Nomination to another Framework Provider as follows:

  - 6.14.4 in the case of a Direct Award in cases of extreme urgency, in accordance with the Ranking List procedure set out in clause 6.5; or
  - 6.14.5 in the case of an award for Competed Services, the Framework Provider who was ranked next highest in the relevant mini-competition.
- 6.15 The Parties acknowledge and agree that the issuing of an Order Form alone does not constitute an offer from the Customer which is capable of acceptance by the Provider. Where a Customer issues a Letter of Nomination accompanied by a completed Order Form signed by the Customer in Part 3 this shall constitute an offer to the Provider. Accordingly, the Provider shall signal its unqualified acceptance of such an offer and, subject to clause 6.16 and clause 6.17, the conditional formation of a Contract, by counter-signing Part 3 of the Order Form and returning it to the Customer with the Letter of Acceptance of Appointment signed by the Office Holder.
- 6.16 The Contract shall not become legally binding until the Office Holder takes office as per the relevant Court Order. If the Office Holder never takes office then the Parties agree that no Contract shall be formed.
- 6.17 The Provider acknowledges and agrees that all Contracts are subject to the approval of the Court and that:
  - 6.17.1 the Court's approval of a Contract may be subject to the Court:
    - (a) allowing more time for a defendant or respondent to voluntarily pay the Court Order (in which case approval from the Court may be delayed);

- (b) appointing the Office Holder but on the basis that the date at which they take office is deferred to a specified date (during such time the defendant may voluntarily pay the Court Order in which case the Office Holder shall not take office and the Contract shall not become legally binding; and

6.17.2 the Court may withhold or refuse to provide approval of the Contract, in which circumstances the Customer shall not be liable for any costs or expenses, nor shall it indemnify the Provider for any costs or expenses, which may have been incurred by the Provider in relation to the relevant Contract.

## **7 Contract performance and precedence of documents**

7.1 The Provider shall perform all Contracts entered into with a Customer in accordance with:

7.1.1 the requirements of this Framework Agreement; and

7.1.2 the terms and conditions of the relevant Contract.

7.2 In the event of, and only to the extent of, any conflict or inconsistency between the terms and conditions of this Framework Agreement and the terms and conditions of a Contract, document referred to in this Framework Agreement, with Law or the Office Holder's general duties, save where may be stated otherwise in this Framework Agreement, such conflict or inconsistency shall be resolved according to the following order of priority:

7.2.1 the Court Order (including any subsequent Court Order);

7.2.2 the Law, the Capewell Guidelines (if applicable) and the Contract (except the Provider's Supplemental Tender);

7.2.3 the Office Holder's general duties;

7.2.4 the terms of the Framework Agreement, the Schedules to the Framework Agreement (except the Provider's Tender);

7.2.5 any other document referred to in the clauses of the Contract;

7.2.6 the Provider's Supplemental Tender;

7.2.7 the Provider's Tender.

## **8 Social Value**

8.1 Once the Provider has received remuneration from Contracts placed with Customers the total of which in aggregate meets or exceeds the Social Value Threshold, the Provider shall deliver the social value commitments that are set out in their Tender.

8.2 Once the Provider has received remuneration from Contracts placed with Customers the total of which in the aggregate meets or exceeds the value of £300,000, the Provider and Authority shall meet (such meeting to be convened in accordance with clause 14.2 (requesting extraordinary meetings)) to discuss, acting in good faith and using reasonable endeavours, to agree an additional

social value commitment. Such additional social value commitment shall be aligned to the Procurement Policy Notice 06/20 (Taking Account of Social Value in the Award of Central Government Contracts) and shall take into account one or more of the three CPS priority groups, namely:

- 8.2.1 victims of crime (and associated supporting organisations);
- 8.2.2 ex-offenders (and associated supporting organisations); and
- 8.2.3 people at risk of entering the criminal justice system (including but not limited to: people (and associated supporting organisations) from disadvantaged backgrounds (living in poverty or vulnerable), people not in employment, education or training (NEETs), black and minority ethnic people, disabled people, and the homeless amongst several other disenfranchised groups.

8.3 The Framework Agreement Variation Procedure shall be used to vary this Framework Agreement to incorporate any such additional social value commitments agreed pursuant to this clause 8. Any failure of the Parties to agree such additional social value commitments pursuant to this clause 8 shall be resolved in accordance with the Dispute Resolution Procedure.

## **9 Prices for Services**

9.1 The Contract Price shall be either:

- 9.1.1 a Capped Price;
- 9.1.2 an Estimated Price; or
- 9.1.3 Contingency Fee Pricing,

as such pricing type shall be selected by the Customer and specified in Part 1 of the Order Form as applying to a Contract, or part of a Contract, and may be a combination of the above with different pricing types applying to different assets and/or aspects of the Services to be delivered under the Contract.

9.2 Where the Provider is proposing a Capped Price or Estimated Price the Contract Price shall be based on the prices listed in the Pricing Matrices. The prices listed in the Pricing Matrices shall not be exceeded by the Provider when seeking awards of Contracts pursuant to this Framework Agreement but may be lowered at the Provider's discretion for any Contract.

9.3 Subject to any revisions made pursuant to clause 10 (Variation to prices), the prices listed in the Pricing Matrices shall be fixed for the Term.

9.4 Where the Provider is proposing a Contract Price for Services being secured by way of Direct Award pursuant to clause 6.3 (Direct Award), the Contract Price shall be based on the same rates as the Appointment giving rise to the relevant Direct Award Criterion.

9.5 The Provider shall only charge hourly rates for work which is commensurate to the level of work being undertaken. For the avoidance of doubt, and by way of example, work which can be carried out by an Associate shall only be charged

at the applicable Associate rate regardless of the level of seniority of the individual actually undertaking that work.

- 9.6 Where the Provider charges for disbursements including all Subcontractors' fees, such charges shall be included within the Contract Price. The Provider shall not impose any mark-up on disbursements or Subcontractors' costs.
- 9.7 The Provider shall set out their proposed Contract Price in Part 2 of the Order Form and must:
- 9.7.1 price each asset within the Receivership Estate and/or aspect of the Services to be provided according to the pricing type (or types) selected by the Customer pursuant to clause 9.1;
  - 9.7.2 base each price on the Assumptions;
  - 9.7.3 include a price breakdown for each asset within the Receivership Estate and/or aspect of the Services to be provided which shows the relevant hourly rates per grade of Staff as stated in the Pricing Matrices, plus a breakdown of Subcontractor and disbursement costs;
  - 9.7.4 include a total price for each asset within the Receivership Estate or aspect of Services to be provided. The total price for each asset shall be for the recovery and/or management of the relevant asset inclusive of disbursements;
  - 9.7.5 not include any prices which are not linked to assets within the Receivership Estate or aspects of Services to be provided as specified by the Customer in Part 1 of the Order Form,

and the Contract Price shall be the total of all prices stated for the assets within the Receivership Estate and any itemised aspects of the Services to be provided (inclusive of disbursements).

- 9.8 Where the Provider:
- 9.8.1 fails to set out their proposed Contract Price in accordance with clause 9.7 above; and/or
  - 9.8.2 seeks to introduce new assumptions, exclusions or dependencies (unless they are agreed with the Customer through the clarification process),

then the Customer may disqualify the Provider from the relevant award process.

## 10 Variation to Prices

- 10.1 The Hourly Rates shall be subject to revision on an annual basis with effect from the second anniversary of the Commencement Date and each anniversary thereafter. Any such increase shall be calculated in accordance with the formula set out below with the first increase taking effect from the beginning of the third Framework Year.

$$\text{NHR} = \text{HR} + \text{V}$$

Where:

$$V = HR \times IF - HR$$

and:

<b>SPPI<sub>0</sub></b>	represents the value of SPPI for the quarter in which the Commencement Date falls in the year 2024;
<b>SPPI<sub>t</sub></b>	represents the value of SPPI for the quarter in which the anniversary of the Commencement Date in the Framework Year 't' falls (subject to where such data is not available at the relevant date the value of SPPI for the latest available quarter shall be used);
<b>HR</b>	represents the Hourly Rate as at the Commencement Date;
<b>IF</b>	represents the indexation factor which shall be calculated to three decimal places on the basis of the following calculation:  $SPPI_t / SPPI_0$
<b>NHR</b>	represents the new Hourly Rate which shall apply following the price revision and take effect from the beginning of the relevant Framework Year;
<b>SPPI</b>	represents the SPPI Index Output Domestic All Services, excluding Financial and Insurance services (HQTl) as published in the United Kingdom by the Office for National Statistics;
<b>t</b>	is the current Framework Year; and
<b>V</b>	represents the variation of price.

Worked example:

NB - for the purposes of this worked example historic SPPI figures are used, as may have applied if the Framework Agreement had a Commencement Date of 01 May 2021 with the variation taking effect on 01 May 2023.

$$V = HR \times IF - HR$$

HR	=	<b>£10</b>
SPPI <sub>t</sub>	=	<b>120.8</b> (the SPPI figure for Q2 2023)
SPPI <sub>0</sub>	=	<b>109.4</b> (the SPPI figure for Q2 2021)
IF	=	$120.8 / 109.4 = \mathbf{1.104}$
V	=	$£10 \times 1.104 - £10 = \mathbf{£1.04}$
NHR	=	$£10 + £1.04 = \mathbf{£11.04}$



- 10.2 In the event that any material changes are made to the SPPI (such as a revised statistical base date) during the Term, then the re-basing methodology outlined by the Office for National Statistics to match the original index to the new series shall be applied.
- 10.3 In the event the SPPI ceases to be published the Authority shall decide on an appropriate replacement index. In deciding on an appropriate replacement index the Authority shall use reasonable endeavours to ensure it covers the same economic activities as the SPPI. The methodology outlined by the Office for National Statistics used for rebasing indices (as in clause 10.2 above) shall then be applied.
- 10.4 Notwithstanding the above provisions, the SPPI shall continue to be used as long as it is available and subject to ONS revisions policy.
- 10.5 Contracts for which a Part 3 of the Order Form has already been signed by both Parties shall not be amended retrospectively pursuant to or as a result of the operation of this clause 10.
- 10.6 The Provider shall notify the Authority of any factor having a material bearing on the operation of these provisions such as to cause a significant divergence from their intended purpose, in order that both Parties may consider whether any change in this provision would be appropriate.

## **Provider's general framework obligations**

### **11 Warranties and representations**

- 11.1 The Provider warrants and represents on its behalf and on behalf of the Office Holders to the Authority and to each of the Other Contracting Bodies that:
  - 11.1.1 it has full capacity and authority and all necessary consents (including, where its procedures so require, the consent of its Parent Company) to enter into and to perform its obligations under this Framework Agreement;
  - 11.1.2 this Framework Agreement is executed by a duly authorised representative of the Provider;
  - 11.1.3 in entering into this Framework Agreement or any Contract, the Provider, Provider Personnel and Subcontractors have not committed any Prohibited Act;
  - 11.1.4 to the best of its knowledge, the Provider, Provider Personnel and Subcontractors have not been nor are subject to any investigation, inquiry or enforcement proceedings by a governmental, administrative or regulatory body regarding any Prohibited Act or alleged Prohibited Act;
  - 11.1.5 the Provider, Provider Personnel and Subcontractors have not been nor are listed by any government department or agency as being debarred, suspended, proposed for suspension or debarment, or otherwise ineligible for participation in government procurement

programmes or other government contracts on the grounds of a Prohibited Act;

- 11.1.6 as at the Commencement Date, all information, statements and representations contained in the Tender and the SQ Response are true, accurate and not misleading save as may have been specifically disclosed in writing to the Authority before the execution of this Framework Agreement and it will promptly advise the Authority of any fact, matter or circumstance of which it may become aware during the Term that would render any such information, statement or representation to be false or misleading;
- 11.1.7 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 any of its assets that will or might affect its ability to perform its obligations under this Framework Agreement and any Contract which may be entered into with the Authority or Other Contracting Bodies;
- 11.1.8 it is not subject to any contractual obligation, compliance with which is likely to have an effect on its ability to perform its obligations under this Framework Agreement and any Contract;
- 11.1.9 in the two years prior to the Commencement Date:
  - (a) it has conducted all financial accounting and reporting activities in compliance in all material respects with the generally accepted accounting principles that apply to it in any country where it files accounts; and
  - (b) it has not performed any act or omission with respect to its financial accounting or reporting which could have an adverse effect on the Provider's position as an ongoing business concern or its ability to fulfil its obligations under this Framework Agreement; and
- 11.1.10 no proceedings or other steps have been taken and not discharged (nor, to the best of its knowledge, are threatened) for the winding up of the Provider 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 Provider's assets or revenue.

11.2 The Provider shall promptly notify the Authority if, at any time during the Term:

- 11.2.1 its circumstances, knowledge or awareness changes such that it would not be able to repeat the warranties set out in clause 11.1 at the relevant time; or
- 11.2.2 their financial position deteriorates to the position where the economic and financial standing assessment of their SQ Response would be different if submitted at the relevant time.

## 12 Service pre-requisites and statutory requirements

The Provider shall be responsible for obtaining for itself and all Office Holders all licences, authorisations, consents or permits required in relation to the performance of this Framework Agreement and any Contract.

**13 Staff, Taxation, National Insurance and employment liability**

- 13.1 The Provider acknowledges and agrees that the Provider Personnel do not undertake any service for or on behalf of the Authority or any Other Contracting Body which at the expiry or termination of this Framework Agreement, either in whole or in part, would constitute a relevant transfer for the purposes of the Transfer of Undertakings (Protection of Employment) Regulations 2006.
- 13.2 The Parties acknowledge and agree that each Contract shall constitute a contract for the provision of Services and not a contract of employment. The Provider shall at all times indemnify the Customers and keep the Customers indemnified in full from and against all claims, proceedings, actions, damages, costs, expenses, liabilities and demands whatsoever and howsoever arising by reason of any circumstances whereby a Customer is alleged or determined to have assumed or been imposed with the liability or responsibility for the Staff (or any of them) as an employer of the Staff and/or any liability or responsibility to HM Revenue or Customs as an employer of the Staff whether during the term of a Contract or arising from termination or expiry of a Contract.

**Provider's information obligations**

**14 Reporting and meetings**

- 14.1 The Provider shall submit to the Authority the Framework Agreement Management Information at the frequency set out at Schedule 6 (Framework Agreement Management Information) and attend such meetings with the Authority as specified within that Schedule.
- 14.2 Either Party may request an extraordinary meeting which shall take place at a date and time to be agreed between the Parties, provided that where such date and time cannot be agreed the meeting will take place at the date and time determined by the Authority and notified to the Provider on not less than 30 days' written notice. The agenda for any such meeting shall be set by the Party requesting the meeting. Any meetings held pursuant to this clause 14.2 shall not replace those meetings held pursuant to clause 14.1.
- 14.3 The Authority may share the Framework Agreement Management Information supplied by the Provider with any Other Contracting Body.
- 14.4 The Authority may make changes to the nature of the Framework Agreement Management Information that the Provider is required to supply and shall give the Provider not less than one month's written notice of any such changes.
- 14.5 The Authority and Other Contracting Bodies shall have no liability for any costs which the Provider may incur pursuant to its compliance with this clause 14.

**15 Records and audit access**

- 15.1 The Provider shall keep and maintain full and accurate records and accounts of the operation of this Framework Agreement including the Services provided under it, the Contracts entered into with Customers and the amounts received

in payment for each Contract until expiry of seven years following termination or expiry of this Framework Agreement.

- 15.2 The Provider shall keep the records and accounts referred to in clause 15.1 above in accordance with good accountancy practice.
- 15.3 The Provider shall afford the Authority, Other Contracting Bodies, or the Auditor (or all of them) such access to such records and accounts as they may require from time to time.
- 15.4 The Provider shall provide such records and accounts (together with copies of the Provider's published accounts) to the Authority (or Other Contracting Bodies) and the Auditor during the Term and for the period of seven years following termination or expiry of this Framework Agreement.
- 15.5 The Authority shall use reasonable endeavours to ensure that the conduct of each Audit does not unreasonably disrupt the Provider or delay the provision of the Services pursuant to the Contracts, save insofar as the Provider accepts and acknowledges that control over the conduct of Audits carried out by the Auditor is outside of the control of the Authority.
- 15.6 Subject to the Authority's rights of confidentiality, the Provider shall on demand provide the Auditor with all reasonable co-operation and assistance in relation to each Audit, including:
  - 15.6.1 all information requested by the Auditor within the scope of the Audit;
  - 15.6.2 reasonable access to sites controlled by the Provider and to equipment used in the provision of the Services; and
  - 15.6.3 access to the Provider Personnel.
- 15.7 The Parties agree that they shall bear their own respective costs and expenses incurred in respect of compliance with their obligations under this clause 15, unless the Audit reveals a default or a Material Breach of the Framework Agreement by the Provider in which case the Provider shall reimburse the Authority for the Authority's reasonable costs incurred in relation to the Audit.
- 15.8 The Provider acknowledges and agrees that it may be subject to an annual security review by a Customer. Should a Customer request such a review, the Provider shall co-operate and provide such assistance as the Customer may reasonably require to undertake the review.

### **Financial Standing**

- 15.9 The Authority reserves the right to monitor the Provider's economic and financial standing throughout the Term and the Provider shall (in addition to providing the Framework Agreement Management Information) provide the Authority with such financial information as may be reasonably requested by the Authority to substantiate the Provider's financial standing pursuant to this clause 15.9.

## **16 Security**

- 16.1 To be eligible for the award of Contracts under this Framework Agreement the Provider shall pass the Authority's Data Protection Impact Assessment and obtain and maintain for the Term:
  - 16.1.1 ISO27001 certification (or equivalent as may be agreed with the Authority at the Authority's discretion); and
  - 16.1.2 Cyber Essentials + certification (or equivalent as may be agreed with the Authority at the Authority's discretion).
- 16.2 The Provider shall comply with (and shall procure that the Provider Personnel comply with) the:
  - 16.2.1 Security Guidance;
  - 16.2.2 the CPS Security Management Policy;
  - 16.2.3 all matters relating to security set out in the Framework Specification; and
  - 16.2.4 any enhanced security requirements specified in the Order Form or other notification provided by the Authority or Other Contracting Body to the Provider from time to time.
- 16.3 In entering into a Contract, the Provider is confirming that the Office Holder(s) and any Provider Personnel with access to casework material hold SC Clearance and that the Provider complies with the requirements of clause 16.1. In the event that the Office Holder(s) or any relevant Provider Personnel fail to achieve SC Clearance to the satisfaction of the Authority, or the Provider fails to comply with the requirements of clause 16.1:
  - 16.3.1 the relevant Office Holder(s) and/or Provider Personnel shall not be permitted to provide Services under the Framework Agreement;
  - 16.3.2 the Provider shall not enter into any Contracts; and
  - 16.3.3 the Authority reserves the right to terminate this Framework Agreement pursuant to clause 25 (Termination).
- 16.4 The Provider shall ensure it has effective systems and processes in place so that only those Provider Personnel with SC Clearance are permitted access to casework material.
- 16.5 In addition to those rights of audit and access which may be exercised pursuant to clause 15 (Records and audit access), the Authority may conduct unannounced inspections and audits of those areas which are under the control of the Provider to ensure that any security obligations contained in this Framework Agreement or any Contract are being or have been complied with.
- 16.6 If at the Commencement Date the Provider or any of its Office Holders or Provider Personnel do not hold SC Clearance the Provider shall within ten days of the Commencement Date submit an application to secure SC Clearance for the relevant individuals. If requested by the Authority the Provider shall within three Working Days of such request provide the Authority with such

documentation and information as may be required by the Authority to evidence the Provider's compliance with this clause 16.6.

## **17 Confidentiality**

17.1 Subject to clause 17.2, the Parties shall keep confidential the Confidential Information of the Parties and the Provider shall use all reasonable endeavours to prevent Provider Personnel and Subcontractors from making any disclosure to any person of any matters relating thereto.

17.2 Clause 17.1 shall not apply to any disclosure of information:

17.2.1 required by any applicable law, a court of competent jurisdiction or regulatory authority, or to any disclosures required under the FOIA or the EIRs or which was available to the receiving party on a non-confidential basis before disclosure;

17.2.2 where the need for the disclosure arises out of or in connection with:

- (a) any legal challenge or potential legal challenge against the Authority arising out of or in connection with this Framework Agreement;
- (b) the examination and certification of the Authority's accounts (provided that the disclosure is made on a confidential basis) 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 is making use of any Services provided under this Framework Agreement;
- (c) the conduct of a central government body review in respect of this Framework Agreement;
- (d) the Authority has reasonable grounds to believe that the Provider is involved in activity that may constitute a criminal offence under the Bribery Act 2010 and the disclosure is being made to the Serious Fraud Office;

17.2.3 that is reasonably required by persons engaged by a Party in the performance of that Party's obligations under this Framework Agreement (including to Subcontractors);

17.2.4 that is reasonably required by Other Contracting Bodies;

17.2.5 where a Party can demonstrate that such information is already generally available and in the public domain otherwise than as a result of a breach of clause 17.1;

17.2.6 a disclosure by the Authority of any document to which it is a party and which the Parties to this Framework Agreement have agreed contains no Confidential Information;

17.2.7 to enable a determination to be made under clause 31 (Dispute resolution);

- 17.2.8 which is already lawfully in the possession of the receiving party, prior to its disclosure by the disclosing party, and the disclosing party is not under any obligation of confidence in respect of that information;
  - 17.2.9 a disclosure by the Authority to any other department, office or agency of the government, provided that the Authority informs the recipient of any duty of confidence owed in respect of the information;
  - 17.2.10 a disclosure by the Authority to the British Parliament and any committees of the British Parliament or if required by any British Parliamentary reporting requirement;
  - 17.2.11 a disclosure by the Authority to the extent that the Authority (acting reasonably) deems disclosure necessary or appropriate in the course of carrying out its public functions;
  - 17.2.12 a disclosure by either Party on a confidential basis for the purpose of the exercise of their rights under this Framework Agreement;
  - 17.2.13 a disclosure by the Authority to a proposed transferee, assignee or novatee of, or successor in title to the Authority; and
  - 17.2.14 a disclosure by the Authority relating to this Framework Agreement and in respect of which the Provider has given its prior written consent to disclosure.
- 17.3 The Parties shall not use the Confidential Information of the Parties for any purpose other than to exercise their rights and perform their obligations under or in connection with this Framework Agreement.
- 17.4 Nothing in this clause 17 shall prevent a Party from using any techniques, ideas or know-how gained during the performance of this Framework Agreement in the course of its normal business to the extent that this use does not result in a disclosure of another Party's Confidential Information or an infringement of Intellectual Property Rights.
- 17.5 In the event that the Provider fails to comply with this clause 17, the Authority reserves the right to terminate this Framework Agreement with immediate effect by giving notice in writing to the Provider.

## 18 **Official Secrets Acts**

- 18.1 The Provider shall comply with (and shall ensure that the Provider Personnel comply with) the provisions of:
- 18.1.1 the Official Secrets Acts 1911 to 1989; and
  - 18.1.2 section 182 of the Finance Act 1989.
- 18.2 In the event that the Provider or the Provider Personnel fail to comply with clause 18.1, the Authority reserves the right to terminate this Framework Agreement with immediate effect by giving notice in writing to the Provider.

## 19 **Data protection**

- 19.1 Both Parties will comply with all applicable requirements of the Data Protection Legislation. The Provider shall notify the Authority immediately if it considers that any of the Authority's instructions infringe the Data Protection Legislation. This clause 19 is in addition to, and does not relieve, remove or replace, a party's obligations or rights under the Data Protection Legislation.
- 19.2 The Parties acknowledge that, subject to clause 37.1, for the purposes of the Data Protection Legislation, the Authority is the Controller and the Provider is the Processor. Schedule 9 (Data Protection) sets out the scope, nature and purpose of processing by the Provider, the duration of the processing and the types of Personal Data and categories of Data Subject.
- 19.3 Without prejudice to the generality of clause 19.1, the Authority will ensure that it has all necessary appropriate consents and notices (or other grounds as applicable) in place to enable lawful transfer of the Personal Data to the Provider for the duration and purposes of this Framework Agreement.
- 19.4 Without prejudice to the generality of clause 19.1, the Provider shall, in relation to any Personal Data processed in connection with the performance by the Provider of its obligations under this Framework Agreement:
- 19.4.1 process that Personal Data only on the written instructions of the Authority (as set out in Schedule 9 (Data Protection)), unless the Provider is required by Domestic Law to otherwise process the Personal Data. Where the Provider is relying on Domestic Law as the basis for processing Personal Data, the Provider shall promptly notify the Authority of this before performing the processing required by Domestic Law unless the Domestic Law prohibits the Provider from so notifying the Authority;
- 19.4.2 ensure that it has in place appropriate technical and organisational measures (as defined in the Data Protection Legislation), reviewed and approved by the Authority, to protect against unauthorised or unlawful processing of Personal Data and against accidental loss or destruction of, or damage to, Personal Data, appropriate to the harm that might result from the unauthorised or unlawful processing or accidental loss, destruction or damage and the nature of the data to be protected, having regard to the state of technological development and the cost of implementing any measures (those measures may include, where appropriate, pseudonymising and encrypting Personal Data, ensuring confidentiality, integrity, availability and resilience of its systems and services, ensuring that availability of and access to Personal Data can be restored in a timely manner after an incident, and regularly assessing and evaluating the effectiveness of the technical and organisational measures adopted by it);
- 19.4.3 ensure that all personnel who have access to and/or process Personal Data:
- (a) do not process that data except on the written instructions of the Authority (such instructions to include the terms of this Framework Agreement, and in particular Schedule 9 (Data Protection));



- (b) take all reasonable steps to ensure the reliability and integrity of any Provider Personnel who have access to the Personal Data and ensure that the Provider Personnel:
  - (i) are aware of and comply with the Provider's duties under this clause 19;
  - (ii) are subject to appropriate confidentiality undertakings with the Provider;
  - (iii) are informed of the confidential nature of the Personal Data and do not publish, disclose or divulge any of the Personal Data to any third party unless directed in writing to do so by the Authority or as otherwise permitted by this Framework Agreement; and
  - (iv) have undergone adequate training in the use, care, protection and handling of Personal Data.

19.4.4 not transfer any Personal Data outside of the UK unless the prior written consent of the Authority has been obtained and the following conditions are fulfilled:

- (a) the Authority or the Provider has provided appropriate safeguards in relation to the transfer (whether in accordance with Article 46 of the UK GDPR or as may be required in respect of Law Enforcement Processing under Part 3 of the Data Protection Act 2018);
- (b) the Data Subject has enforceable rights and effective remedies;
- (c) the Provider complies with its obligations under the Data Protection Legislation by providing an adequate level of protection to any Personal Data that is transferred; and
- (d) the Provider complies with the reasonable instructions notified to it in advance by the Authority with respect to the processing of the Personal Data;

19.4.5 notify the Authority immediately if it receives:

- (a) a request from a Data Subject to have access to that person's Personal Data;
- (b) a request to rectify, block or erase any Personal Data;
- (c) any other request, complaint or communication relating to either Party's obligations under the Data Protection Legislation (including any communication from the Information Commissioner);
- (d) receives a request from any third party for disclosure of Personal Data where compliance with such request is required or purported to be required by Law; or

- (e) receives any Regulator Correspondence or any other any communication from the Information Commissioner or any other regulatory authority in connection with Personal Data processed under this Framework Agreement.
- 19.4.6 assist the Authority in responding to any request from a Data Subject and in ensuring compliance with the Authority's obligations under the Data Protection Legislation with respect to security, breach notifications, impact assessments and consultations with supervisory authorities or regulators, in accordance with Article 28(3) (e) and (f) of the UK GDPR;
- 19.4.7 notify (including providing full details and copies of the relevant complaint, communication or request, as applicable) the Authority without undue delay, and in any event within 24 hours of becoming aware of a Personal Data Breach;
- 19.4.8 assist the Authority in meeting its obligations under the Data Protection Legislation to notify any Data Subject of any Personal Data Breach or other breach of this Framework agreement, where the Authority determines, at its discretion, that the event or breach is likely to result in a high risk to the rights and freedoms of the Data Subject;
- 19.4.9 at the written direction of the Authority, delete or return Personal Data and copies thereof to the Authority on termination or expiry of the Framework Agreement unless required by Domestic Law to store the Personal Data. In carrying out its obligations under this clause, the Provider shall be permitted to retain copies of the Personal Data where:
  - (a) required by Domestic Law to store the Personal Data; or
  - (b) such Personal Data is maintained on tapes, discs, servers or other storage devices provided that in each case it is put beyond use;
- 19.4.10 maintain complete and accurate records and information to demonstrate its compliance with Article 28 of the UK GDPR and this clause 19 and allow for audits by the Authority or the Auditor pursuant to clause 15 (Records and audit access) and immediately inform the Authority if, in the opinion of the Provider, an instruction infringes the Data Protection Legislation. The records kept by the Provider pursuant to this clause 19.4.10 shall contain all of the information required in Article 30(2) of the UK GDPR, namely:
  - (a) the name and contact details of the processor or processors and of each controller on behalf of which the processor is acting and where applicable of the controllers or the processors representatives, and the Data Protection Officer;
  - (b) the categories of processing carried out on behalf of the controller;
  - (c) with prior, specific or general written authorisation of the controller, where applicable transfers of personal data to a

third country or an international organisation, including the identification of that third country or international organisation and, where applicable, the documentation of suitable safeguards;

- (d) where possible a general description of the applicable technical and organisational security measures;

19.4.11 indemnify the Authority against any losses, damages, costs or expenses incurred by the Authority arising from, or in connection with, any breach of the Provider's obligations under this clause 19.

19.4.12

19.5 Where the Provider does not already employ or otherwise benefit from the services of a Data Protection Officer, and the Data Protection Legislation requires that it must do so prior to processing any Personal Data under this Framework Agreement, the Provider shall appoint and maintain in post a Data Protection Officer in accordance with the Data Protection Legislation and shall notify the Authority of that person's contact details.

19.6 The Provider shall ensure that any third parties which process Data on its behalf and may process Personal Data under this Framework Agreement (**Third Party Processors**) are only provided with such Personal Data where it is necessary to do so to enable such Third Party Processors to undertake the work required of them. In such circumstances the Provider shall ensure that the Personal Data shared with the Third Party Processor is kept to the minimum required. The Provider shall ensure that any Third Party Processors enter into a written agreement with it prior to processing any Personal Data under this Framework Agreement incorporating terms which are substantially similar to those set out in this clause 19, with the effect that the obligations set out in this Framework Agreement and required by the Data Protection Legislation, shall apply to any such Third Party Processor.

19.7 As between the Authority and the Provider, the Provider shall remain fully liable for all acts or omissions of any Third Party Processor appointed by it pursuant to this clause 19.

19.8 Either Party may, at any time on not less than 30 Working Days' written notice to the other Party, revise this clause 19 by replacing it with any applicable Controller to Processor standard clauses or similar terms forming part of an applicable certification scheme. Any such changes shall be implemented through the Framework Agreement Variation Procedure.

19.9 The provisions of this clause 19 shall apply throughout the Term and indefinitely after its expiry or termination.

## 20 **Freedom of information**

20.1 The Provider acknowledges that the Authority is subject to the requirements of the FOIA and the EIRs. The Provider shall:

20.1.1 provide all necessary assistance and cooperation as reasonably requested by the Authority to enable the Authority to comply with its obligations under the FOIA and EIRs;

- 20.1.2 transfer to the Authority all Requests for Information relating to this Framework Agreement that it receives as soon as practicable and in any event within 2 Working Days of receipt;
  - 20.1.3 provide the Authority with a copy of all Information belonging to the Authority requested in the Request for Information which is in its possession or control in the form that the Authority requires within 5 Working Days (or such other period as the Authority may reasonably specify) of the Authority's request for such Information; and
  - 20.1.4 not respond directly to a Request for Information unless authorised in writing to do so by the Authority.
- 20.2 The Provider acknowledges that the Authority may be required under the FOIA and EIRs to disclose Information (including Confidential Information) without consulting or obtaining consent from the Provider. The Authority shall take reasonable steps to notify the Provider of a Request for Information (in accordance with the Cabinet Office's Freedom of Information Code of Practice issued under section 45 of FOIA) to the extent that it is permissible and reasonably practical for it to do so but (notwithstanding any other provision in this Framework Agreement) the Authority shall be responsible for determining in its absolute discretion whether any Confidential Information and any other Information is exempt from disclosure in accordance with the FOIA and the EIRs.

## 21 **Transparency and Publicity**

- 21.1 The parties acknowledge that, except for any information which is exempt from disclosure in accordance with the provisions of the FOIA, the content of this Framework Agreement is not Confidential Information. The Authority shall determine whether any of the content of this Framework Agreement is exempt from disclosure in accordance with the provisions of the FOIA. The Authority may consult with the Provider to inform its decision regarding any redactions but shall have the final decision in its absolute discretion.
- 21.2 Notwithstanding any other provision of this Framework Agreement, the Provider hereby gives his consent for the Authority to publish this Framework Agreement in its entirety (but with any information which is exempt from disclosure in accordance with the provisions of the FOIA redacted), including any changes to this Framework Agreement agreed from time to time.
- 21.3 The Provider shall assist and cooperate with the Authority to enable the Authority to publish this Framework Agreement.
- 21.4 Unless otherwise directed by the Authority, the Provider shall not make any press announcements or publicise this Framework Agreement in any way without the Authority's prior written consent.
- 21.5 The Provider shall not do anything that may damage the reputation of the Authority or bring the Authority into disrepute.

## 22 **[Guarantee [and additional security]**

- 22.1 Before the Commencement Date [**OR** On the Authority's request,] [and at the request of each Other Contracting Body], the Provider shall procure that the Guarantor shall:
- 22.1.1 execute and deliver to the Authority [or the relevant Other Contracting Body] the Guarantee;
  - 22.1.2 deliver to the Authority [or Other Contracting Body] a certified copy extract of the board minutes of the Guarantor approving the execution of the Guarantee.
- 22.2 Where the Authority has procured a Guarantee pursuant to clause 22.1, the Authority may terminate this Framework Agreement for Material Breach pursuant to clause 25.3 (Termination for Material Breach) where:
- 22.2.1 the Guarantor withdraws the Guarantee in whole or in part for any reason whatsoever;
  - 22.2.2 the Guarantor is in breach or anticipatory breach of the Guarantee;
  - 22.2.3 an Insolvency Event occurs in respect of the Guarantor;
  - 22.2.4 the Guarantee becomes invalid or unenforceable for any reason whatsoever,

and in each case the Guarantee is not replaced by an alternative guarantee that is acceptable to the Authority.]

**[DN – the Authority reserves the right to request that the Provider provides additional security, this may be by way of a parent company guarantee or other form of security]**

**[DN – the above provisions and corresponding definitions will be removed if not applicable to the Provider]**

- 22.3 If reasonably requested by a Customer the Provider shall provide such additional security in relation to a Contract and the Receivership Estate which is the subject matter of that Contract as may be reasonably required by the Customer and specified in the Order Form.

## 23 Business Continuity

- 23.1 Within 10 Working Days of the Commencement Date the Provider shall submit to the Authority its draft Business Continuity Plan. Within 20 Working Days of its receipt of the draft Business Continuity Plan the Authority shall notify the Provider in writing of any comments it has and any changes it requires the Provider to make to the draft plan. Following receipt of the Authority's written comments on the draft plan, the Parties shall use reasonable endeavours to agree the contents of the Business Continuity Plan. Should the Parties fail to agree the contents of the Business Continuity Plan within 20 Working Days (or such alternative timescale as may be mutually agreed between the Parties) of the Provider's receipt of the Authority's comments on the draft plan, the matter shall be resolved in accordance with the Dispute Resolution Procedure.

- 23.2 Until such time as the Business Continuity Plan is agreed between the Parties pursuant to clause 23.1:
- 23.2.1 the Parties shall rely on the business continuity plan the Provider submitted in their Tender;
  - 23.2.2 notwithstanding the matter may be subject to the Dispute Resolution Procedure, should the Business Continuity Plan not be agreed within 60 Working Days of the Commencement Date, unless otherwise agreed by the Authority in writing, the Provider shall not receive any Nominations nor shall the Provider be awarded any Contracts.
- 23.3 The Provider shall maintain, update and test the Business Continuity Plan and ensure that it is able to implement the provisions of the Business Continuity Plan at any time in accordance with its terms.
- 23.4 The Provider shall provide a copy of the latest Business Continuity Plan to the Authority on request.
- 23.5 The Provider shall continually review and update the Business Continuity Plan to ensure its procedures are accurate, effective and appropriate for minimising any disruption to the supply of the Services and it complies with the principles in Schedule 15 (Business Continuity Plan). Any proposed changes to the Business Continuity Plan shall be subject to the Framework Agreement Variation Procedure.
- 23.6 The Authority may at any time request, in writing, that the Provider updates the Business Continuity Plan as may be necessary to address the Authority's reasonable requirements. Any changes proposed by the Authority to the Business Continuity Plan will be dealt with in accordance with the Framework Agreement Variation Procedure.
- 23.7 The Provider shall test the Business Continuity Plan on a regular basis and, in any event, at least once every 12 Months.
- 23.8 Following each test, the Provider shall:
- 23.8.1 send to the Authority a written report summarising the results of the test; and
  - 23.8.2 promptly implement any actions or remedial measures which the Authority reasonably considers to be necessary to address any failures or shortfalls identified by the test.
- 23.9 The Provider shall implement the Business Continuity Plan if notified by the Authority to do so.

## 24 Remediation Plan Process

- 24.1 Subject to clause 24.2, if the Provider is in default in complying with any of its obligations under this Framework Agreement and the default is capable of remedy, the Authority shall not terminate this agreement without first operating the Remediation Plan Process. If the Provider commits such a default, the Authority shall give a Remediation Notice to the Provider which shall specify the

default in outline and the actions the Provider needs to take to remedy the default.

- 24.2 The Authority shall be under no obligation to initiate the Remediation Plan Process if it issues a notice to terminate in the circumstances set out in clause 25 (Termination) or exercises its right to terminate in accordance with clause 17 (Confidentiality), clause 18 (Official Secrets Acts), [clause 22.2 (Breach of Guarantee)], clause 26 (Termination for change of financial standing), clause 32 (Conflicts of Interest and Investigation) and clause 34 (Prevention of bribery).
- 24.3 Within 5 Working Days of receipt of a Remediation Notice, the Provider shall:
- 24.3.1 submit a draft Remediation Plan, even if it disputes that it is responsible for the matters which are the subject of the Remediation Notice; or
- 24.3.2 inform the Authority that it does not intend to submit a Remediation Plan, in which event the Authority shall be entitled to serve a Termination Notice.
- 24.4 The Authority shall either approve the draft Remediation Plan within 20 Working Days of its receipt pursuant to clause 24.3.1, or it shall inform the Provider why it cannot accept the draft Remediation Plan. In such circumstances, the Provider shall address all such concerns in a revised Remediation Plan, which it shall submit to the Authority within 5 Working Days of its receipt of the Authority's comments. If no such notice is given, the Provider's draft Remediation Plan shall be deemed to be agreed.
- 24.5 Once agreed, the Provider shall immediately start work on the actions set out in the Remediation Plan.
- 24.6 If, despite the measures taken under clause 24.4, a Remediation Plan cannot be agreed within 20 Working Days then the Authority may elect to end the Remediation Plan Process and serve a Termination Notice.
- 24.7 If a Remediation Plan is agreed between the Parties, but the Provider fails to implement or successfully complete the Remediation Plan by the required completion date, the Authority may:
- 24.7.1 terminate this Framework Agreement by serving a Termination Notice; or
- 24.7.2 give the Provider a further opportunity to resume full implementation of the Remediation Plan.
- 24.8 If, despite the measures taken under clause 24.7, the Provider fails to implement the Remediation Plan in accordance with its terms, the Authority may elect to end the Remediation Plan Process and refer the matter for resolution by the Dispute Resolution Procedure or serve a Termination Notice.
- 24.9 The Authority shall not be obliged to follow the Remediation Plan Process if there is a repetition of substantially the same default by the Provider as had previously been addressed in a Remediation Plan within a period of 3 Months following the conclusion of such previous Remediation Plan. In such event, the Authority may serve a Termination Notice.

24.10 Where the Provider commits:

24.10.1 3 or more Invoice Submission Defaults; and/or

24.10.2 2 or more Critical Service Failures,

throughout the Term in relation to one or more Contracts, the Authority reserves the right to request the Provider submit a Remediation Plan in accordance with this clause 24.

## **Framework Agreement termination and suspension**

### **25 Termination**

#### **Termination in relation to security**

25.1 The Authority may terminate the Framework Agreement by serving notice on the Provider in writing with effect from the date specified in such notice where the Authority has reasonable grounds to object to the Provider continuing to provide Services due to security concerns in respect of the Provider.

#### **Termination for misconduct**

25.2 The Authority may terminate this Framework Agreement by serving notice on the Provider in writing with effect from the date specified in such notice where any Provider who is an individual, or where the Provider is a firm any partner in that firm:

25.2.1 is convicted of a criminal offence relating to the conduct of its business or profession;

25.2.2 commits an act of grave misconduct in the course of its business or profession;

25.2.3 fails to comply with any obligations relating to the payment of any taxes or social security contributions;

25.2.4 makes any serious misrepresentations in the tendering process for any project or matter in which the public sector has or had a significant participation; or

25.2.5 fails to obtain any necessary licenses or obtain or maintain membership of any relevant body.

#### **Termination on breach**

25.3 Without affecting any other right or remedy available to it the Authority may terminate the Framework Agreement by serving written notice on the Provider with effect from the date specified in such notice:

25.3.1 where the Provider commits a Material Breach and the Provider has not remedied the Material Breach to the satisfaction of the Authority within 20 Working Days, or such other period as may be specified by the Authority, after issue of a written notice specifying the Material Breach and requesting it to be remedied;



- 25.3.2 where the Provider commits a Material Breach which is not, in the reasonable opinion of the Authority, capable of remedy;
- 25.3.3 where any Customer terminates a Contract awarded to the Provider under this Framework Agreement as a consequence of a Default by the Provider;
- 25.3.4 where any warranty given in clause 11 (Warranties and representations) of this Framework Agreement is found to be untrue or misleading;
- 25.3.5 if any of the provisions of Regulation 73(1) of the Public Contracts Regulations 2015 apply.

### **Termination on insolvency and Change of Control**

- 25.4 Without affecting any other right or remedy available to it, the Authority may terminate this Framework Agreement with immediate effect by giving written notice to the Provider if any of the following occur (each being an **Insolvency Event**):
  - 25.4.1 the Provider suspends, or threatens to suspend, payment of its debts or is unable to pay its debts as they fall due or admits inability to pay its debts or (being a company or limited liability partnership) is deemed unable to pay its debts within the meaning of section 123 of the IA 1986 as if the words “it is proved to the satisfaction of the court” did not appear in sections 123(1)(e) or 123(2) of the IA 1986 or (being an individual) is deemed either unable to pay its debts or as having no reasonable prospect of so doing, in either case, within the meaning of section 268 of the IA 1986 or (being a partnership) has any partner to whom any of the foregoing apply;
  - 25.4.2 the Provider commences negotiations with all or any class of its creditors with a view to rescheduling any of its debts, or makes a proposal for or enters into any compromise or arrangement with any of its creditors other than (being a company) for the sole purpose of a scheme for a solvent amalgamation of the Provider with one or more other companies or the solvent reconstruction of the Provider;
  - 25.4.3 a petition is filed, a notice is given, a resolution is passed, or an order is made, for or in connection with the winding up of the Provider (being a company, limited liability partnership or partnership) other than for the sole purpose of a scheme for a solvent amalgamation of the Provider with one or more other companies or the solvent reconstruction of the Provider;
  - 25.4.4 an application is made to court, or an order is made, for the appointment of an administrator, or a notice of intention to appoint an administrator is given or an administrator is appointed, over the Provider (being a company, partnership or limited liability partnership), or the Provider applies to court for, or obtains, a moratorium under Part A1 of the IA 1986;

- 25.4.5 the holder of a qualifying floating charge over the assets of the Provider (being a company or limited liability partnership) has become entitled to appoint or has appointed an administrative receiver;
  - 25.4.6 a person becomes entitled to appoint a receiver over all or any of the assets of the Provider or a receiver is appointed over all or any of the assets of the Provider;
  - 25.4.7 the Provider (being an individual) is the subject of a bankruptcy petition, application or order;
  - 25.4.8 a creditor or encumbrancer of the Provider 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 Provider's assets and such attachment or process is not discharged within 14 days;
  - 25.4.9 any event occurs, or proceeding is taken, with respect to the Provider in any jurisdiction to which it is subject that has an effect equivalent or similar to any of the events mentioned in clause 25.4.1 to clause 25.4.8 (inclusive); or
  - 25.4.10 the Provider suspends or ceases, or threatens to suspend or cease, carrying on all or a substantial part of its business.
- 25.5 The Provider shall notify the Authority and Other Contracting Bodies as soon as reasonably practicable but in any event no later than 7 days following the date on which the Provider undergoes a Change of Control. The Authority may terminate this Framework Agreement by giving notice in writing to the Provider with immediate effect within 6 Months of:
- 25.5.1 being notified that a Change of Control has occurred; or
  - 25.5.2 where no notification has been made, the date that the Authority becomes aware of the Change of Control,
- but shall not be permitted to terminate where a written approval of the Authority was granted before the Change of Control took effect.
- 25.6 The Authority may terminate this Framework Agreement by giving notice in writing to the Provider with immediate effect if the Provider demerges into two or more firms, merges with another firm, incorporates or otherwise changes its legal form and the Authority has reasonable concerns (as determined by the Authority) relating to the financial standing of the new entity through which it is proposed that the Services will be delivered or there are security concerns arising from the provision of the Services by the new entity.

#### **Termination by Authority for convenience**

- 25.7 The Authority shall have the right to terminate this Framework Agreement, or to terminate the provision of any part of this Framework Agreement, at any time by giving 3 Months' written notice to the Provider.

#### **Termination where no Office Holders are appointed**

- 25.8 Where those Office Holders identified in Schedule 7 (Office Holders) are:
- 25.8.1 no longer in the employ or engagement of the Provider;
  - 25.8.2 not replaced by an alternative Office Holder in accordance with clause 4 (Office Holders); and
  - 25.8.3 the Provider has no Office Holders appointed to the Framework Agreement,
- the Authority may terminate this Framework Agreement by by serving written notice on the Provider with effect from the date specified in such notice.

## **26 Termination for change of financial standing**

- 26.1 The Authority may terminate the Framework Agreement by serving notice on the Provider in writing with effect from the date specified in such notice where (in the reasonable opinion of the Authority) there is a material detrimental change in the financial standing and/or the credit rating of the Provider:
- 26.1.1 which adversely impacts on the Provider's ability to supply Services under this Framework Agreement; or
  - 26.1.2 falls below the threshold required to pass the economic and financial standing assessment undertaken at the selection questionnaire stage.

## **27 Suspension of Provider's appointment**

Without prejudice to the Authority's rights to terminate this Framework Agreement in clause 17 (Confidentiality), clause 18 (Official Secrets Acts), [clause 22.2 (Breach of Guarantee)], clause 25 (Termination) and clause 26 (Termination for change of financial standing), if a right to terminate this Framework Agreement arises in accordance with clause 17 (Confidentiality), clause 18 (Official Secrets Acts), clause 25 (Termination), and clause 26 (Termination for change of financial standing), or where an investigation is being conducted pursuant to clause 32.4 or clause 34 (Prevention of Bribery), the Authority may suspend the Provider's right to receive Order Forms and Nominations from Customers as well as their right to enter into Contracts by giving notice in writing to the Provider. If the Authority provides notice to the Provider in accordance with this clause 27, the Provider's appointment to the Framework Agreement shall be suspended for the period set out in the notice or such other period notified to the Provider by the Authority in writing from time to time.

## **28 Consequences of termination and expiry**

- 28.1 Notwithstanding the service of a notice to terminate the Framework Agreement, the Provider shall continue to fulfil its obligations under the Framework Agreement until the date of expiry or termination of the Framework Agreement or such other date as required under this clause 28.
- 28.2 Unless expressly stated to the contrary, and subject to clause 28.4, the service of a notice to terminate the Framework Agreement shall not operate as a notice to terminate any Contract made under the Framework Agreement.
- 28.3 Termination or expiry of the Framework Agreement shall not cause any Contracts to terminate automatically. For the avoidance of doubt, all Contracts

shall remain in force unless and until they are terminated or expire in accordance with their own terms or by Court Order.

- 28.4 The Provider acknowledges that where the Authority serves a notice to terminate this Framework Agreement, this shall give rise to a right for Customers, exercisable at each Customer's discretion, to terminate any Contracts currently in force with the Provider pursuant to clause 48.2 of the Call-off Terms and Conditions (Customer's rights of termination).
- 28.5 Subject to any express requirements relating to the retention of records contained in this Framework Agreement, within 30 Working Days of the date of termination or expiry of this Framework Agreement, the Provider shall return or destroy at the request of the Authority any data, personal information relating to the Authority or its personnel or Confidential Information belonging to the Authority in the Provider's possession, power or control, either in its then current format or in a format nominated by the Authority (in which event the Authority will reimburse the Provider's reasonable data conversion expenses), together with all training manuals and other related documentation, and any other information and all copies thereof owned by the Authority, save that it may keep one copy of any such data or information for a period of up to 12 Months to comply with its obligations under this Framework Agreement, or such period as is necessary for such compliance, in either case as determined by the Authority.
- 28.6 Termination or expiry of this Framework Agreement shall be without prejudice to any rights, remedies or obligations of either Party accrued under this Framework Agreement before termination or expiry.
- 28.7 The provisions of clause 11 (Warranties and representations), clause 15 (Records and audit access), clause 16 (Security), clause 17 (Confidentiality), clause 18 (Official Secrets Acts), clause 19 (Data Protection), clause 20 (Freedom of Information), clause 21 (Transparency and publicity) clause 28 (Consequences of termination or expiry), clause 34 (Prevention of Bribery), and clause 43 (Governing law and jurisdiction) shall remain in full force and effect and survive the termination or expiry of this Framework Agreement, together with any other provision which is either expressed to or by implication is intended to survive termination.

## **29 Complaints handling and resolution**

- 29.1 The Provider shall notify the Authority of any Complaint made by Other Contracting Bodies within 2 Working Days of becoming aware of that Complaint and such notice shall contain full details of the Provider's plans to resolve such Complaint.
- 29.2 Without prejudice to any rights and remedies that a complainant may have at Law, including under the Framework Agreement or a Contract, and without prejudice to any obligation of the Provider to take remedial action under the provisions of the Framework Agreement or a Contract, the Provider shall use reasonable endeavours to resolve the Complaint within 10 Working Days and in so doing, shall deal with the Complaint fully, expeditiously and fairly.
- 29.3 The Provider acknowledges that the Authority and any Other Contracting Body that is party to a Contract may disclose details of any complaint against, or dispute with the Provider to any Other Contracting Body.

## 30 Insurance

- 30.1 The Provider shall effect and maintain policies of insurance to provide a level of cover sufficient for all risks which may be incurred by the Provider under this Framework Agreement and under any Contract entered into pursuant to it including death or personal injury, or loss of or damage to property.
- 30.2 Without prejudice to the generality of clause 30.1, the Provider shall effect and maintain as a minimum the following insurances in relation to the performance of this Framework Agreement and all Contracts entered into pursuant to it:
- 30.2.1 public liability insurance with a minimum limit of indemnity of £5 million for each individual claim;
  - 30.2.2 employers' liability insurance with a minimum limit of indemnity of £5 million or such higher limit as required by law from time to time; and
  - 30.2.3 professional indemnity insurance with a minimum limit of indemnity of £5 million for each individual claim or such higher limit as the Authority may reasonably require (either in a Contract or as may be required by Law or as the Authority may reasonably require from time to time).
- 30.3 The Provider agrees that for each Contract it shall ensure that adequate insurance to cover the replacement value of the Receivership Estate excluding Uninsurable Assets is secured and maintained throughout the duration of the relevant Contract.
- 30.4 Any excess or deductibles under such insurance (referred to in clause 30.1 and clause 30.2) shall be the sole and exclusive responsibility of the Provider.
- 30.5 The terms of any insurance or the amount of cover shall not relieve the Provider of any liabilities arising under this Framework Agreement.
- 30.6 The Provider shall produce to the Authority, on request, copies of all insurance policies referred to in this clause 30 or a broker's verification of insurance to demonstrate that the appropriate cover is in place, together with receipts or other evidence of payment of the latest premiums due under those policies.
- 30.7 If, for whatever reason, the Provider fails to give effect to and maintain the insurances required by the Framework Agreement then the Authority may make alternative arrangements to protect its interests and may recover the costs of such arrangements from the Provider.
- 30.8 The Provider shall maintain the insurances referred to in clause 30.1 and clauses 30.2.1 to 30.2.3 for a minimum of 6 years following the expiration or earlier termination of all Contracts entered into under this Framework Agreement.

## 31 Dispute resolution

- 31.1 If a dispute arises out of or in connection with this Framework Agreement or the performance, validity or enforceability of it (**Dispute**) then except as expressly provided in this Framework Agreement, the Parties shall follow the procedure set out in this clause 31:

- 31.1.1 either Party shall give to the other written notice of the Dispute, setting out its nature and full particulars (**Dispute Notice**), together with relevant supporting documents. On service of the Dispute Notice, the Parties shall attempt in good faith to resolve the Dispute;
- 31.1.2 if the Parties are for any reason unable to resolve the Dispute, the Parties agree to enter into mediation in good faith to settle the Dispute in accordance with the CEDR Model Mediation Procedure. The procedure for mediation and consequential provisions relating to mediation are as follows:
- (a) a neutral adviser or mediator (**the Mediator**) shall be chosen by agreement between the Parties or, if they are unable to agree upon a Mediator within 14 calendar days after a request by one Party to the other, or if the Mediator agreed upon is unable or unwilling to act, either Party shall within 14 calendar days from the date of the proposal to appoint a Mediator or within 14 calendar days of notice to either Party that they are unable or unwilling to act, apply to the Centre for Dispute Resolution (**CEDR**) to appoint a Mediator;
  - (b) the Parties shall within 14 days of the appointment of the Mediator meet with them 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 CEDR to provide guidance on a suitable procedure;
  - (c) 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;
  - (d) 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;
  - (e) failing agreement, either of the Parties may invite the 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 this Framework Agreement without the prior written consent of both Parties;
  - (f) if the Parties fail to reach agreement in the structured negotiations within 60 calendar days of the 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;
  - (g) the Parties shall bear their own costs, and the costs of the Mediator shall be shared equally by the Parties;

- 31.1.3 the commencement of mediation shall not prevent the Parties commencing or continuing court or arbitration proceedings.
- 31.2 The performance of each Party's obligations under this Framework Agreement shall not cease, be suspended or be delayed by the referral of a Dispute to mediation pursuant to clause 31.1.2 and the Provider shall and shall ensure that the Provider Personnel and Subcontractors comply fully with the requirements of this Framework Agreement at all times.

## **General provisions**

### **32 Conflicts of Interest and Investigation**

- 32.1 The Provider shall take appropriate steps to ensure that neither the Provider nor any Provider Personnel are placed in a position where, in the reasonable opinion of the Provider or Office Holder or Authority or relevant Other Contracting Body, there is or may be an actual conflict, or a potential conflict, between the pecuniary or personal interests of the Provider or Provider Personnel and the duties owed to Customers under the provisions of this Framework Agreement or any Contract.
- 32.2 The Provider shall promptly notify and provide particulars to the relevant Customer and (where the Authority is not the Customer) the Authority if such conflict referred to in clause 32.1 above arises or is reasonably foreseeable to arise.
- 32.3 The Authority may terminate this Framework Agreement immediately by giving notice in writing to the Provider and to take such other steps it deems necessary 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 Provider and the duties owed to the Authority under the provisions of this Framework Agreement or any Contract.
- 32.4 Where there is an investigation by any Customer or other department of the Crown or Police Force or any other relevant regulatory body into the conduct of the Provider or any Provider Personnel, the Provider shall immediately notify the Authority and all Customers of the investigation following which the Authority may:
- 32.4.1 terminate this Framework Agreement immediately by giving notice in writing to the Provider (but without giving detailed reasons); or
- 32.4.2 suspend the Provider (or Office Holder) pursuant to clause 27 (Suspension of the Provider's appointment) until the investigation has concluded (provided that when such investigation is concluded the Authority may still choose to exercise its right of termination pursuant to clause 32.4.1). Whilst the Provider (or Office Holder) is suspended, they shall not receive any Nominations nor shall any Contracts be awarded in respect of that Provider (or Office Holder as appropriate).

### **33 Non-discrimination**

- 33.1 The Provider shall (and shall procure that the Provider Personnel and Subcontractor(s) shall) perform their obligations under this Framework Agreement (including those in relation to the Services) in accordance with:

- 33.1.1 all applicable equality Law (whether in relation to race, sex, gender reassignment, age, disability, sexual orientation, religion or belief, pregnancy, maternity or otherwise);
- 33.1.2 any other requirements and instructions which the Authority reasonably imposes in connection with any equality obligations imposed on the Authority at any time under applicable equality Law;

#### 34 **Prevention of bribery**

- 34.1 The Provider represents and warrants that neither it, nor to the best of its knowledge any Provider Personnel or Subcontractors, have at any time prior to the Commencement Date:
  - 34.1.1 committed a Prohibited Act or been formally notified that it is subject to an investigation or prosecution which relates to an alleged Prohibited Act; and/or
  - 34.1.2 been listed by any government department or agency as being debarred, suspended, proposed for suspension or debarment, or otherwise ineligible for participation in government procurement programmes or contracts on the grounds of a Prohibited Act.
- 34.2 The Provider shall (and shall procure that the Provider Personnel and Subcontractors shall):
  - 34.2.1 not, in connection with this Framework Agreement and any Contract made under it, commit a Prohibited Act;
  - 34.2.2 not do, suffer or omit to do anything that would cause the Authority or Provider Personnel and Subcontractors to contravene any of the Relevant Requirements or otherwise incur any liability in relation to the Relevant Requirements;
  - 34.2.3 have and maintain in place its own policies and procedures to ensure compliance with the Relevant Requirements and prevent occurrence of a Prohibited Act; and
  - 34.2.4 notify the Authority (in writing) if it becomes aware of any breach of clause 34.2.1 or clause 34.2.2, or has reason to believe that it or any person associated with it has received a request or demand for any undue financial or other advantage.
- 34.3 The Provider shall maintain appropriate and up to date records showing all payments made by the Provider in connection with this Framework Agreement and any Contract made under it and the steps taken to comply with its obligations under clause 34.2.
- 34.4 The Provider shall allow the Authority and its Auditor to audit any of the Provider's records and any other relevant documentation in accordance with clause 15 (Records and audit access).
- 34.5 The Provider shall immediately notify the Authority or any Other Contracting Body in writing if it becomes aware of any breach of clause 34.1, or has reason to believe that it has or any Provider Personnel or Subcontractors have:



- 34.5.1 been subject to an investigation or prosecution which relates to an alleged Prohibited Act;
  - 34.5.2 been listed by any government department or agency as being debarred, suspended, proposed for suspension or debarment, or otherwise ineligible for participation in government procurement programmes or contracts on the grounds of a Prohibited Act; and/or
  - 34.5.3 received a request or demand for any undue financial or other advantage of any kind in connection with the performance of this Framework Agreement or otherwise suspects that any person or Party directly or indirectly connected with this Framework Agreement has committed or attempted to commit a Prohibited Act.
- 34.6 If the Provider makes a notification to the Authority or any Other Contracting Body pursuant to clause 34.5, or where the Provider or any Provider Personnel or Subcontractors breach this clause 34, the Provider shall respond promptly to the Authority's or any Other Contracting Body's enquiries, cooperate with any investigation, and allow the Authority or any Other Contracting Body to audit any books, records and/or any other relevant documentation in accordance with clause 15 (Records and audit access). If the Provider breaches clause 34.1, the Authority (or Other Contracting Bodies) may by notice:
- 34.6.1 require the Provider to remove from performance of this Framework Agreement and any Contract made under it any Provider Personnel or Subcontractor whose acts or omissions have caused the breach; or
  - 34.6.2 immediately terminate this Framework Agreement and any Contract made under it.
- 34.7 Any notice served by the Authority under clause 34.6 shall specify the nature of the Prohibited Act, the identity of the party who the Authority believes has committed the Prohibited Act and the action that the Authority (or Other Contracting Bodies) have elected to take (including, where relevant, the date on which this Framework Agreement and any Contract made under it shall terminate).
- 34.8 Notwithstanding the provisions of clause 31 (Dispute resolution), any dispute relating to:
- 34.8.1 the interpretation of this clause 34; or
  - 34.8.2 the amount or value of any gift, consideration or commission,
- shall be determined by the Authority and its decision shall be final binding and conclusive.
- 34.9 Any termination under this clause 34 will be without prejudice to any right or remedy which has already accrued or subsequently accrues to the Customer.

## 35 **Transfer**

- 35.1 The Framework Agreement is personal to the Provider and the Provider shall not assign, novate or otherwise dispose of the Framework Agreement or any part thereof without the previous consent in writing of the Authority neither may

the Provider subcontract the whole or any part of its obligations under this Framework Agreement except with the express written consent of the Authority.

35.2 The Authority shall be entitled to:

35.2.1 assign, novate or otherwise dispose of its rights and obligations under the Framework Agreement or any part thereof to any Other Contracting Body;

35.2.2 novate the Framework Agreement to any other body (including any private sector body) which substantially performs any of the functions that previously had been performed by the Authority, provided that such assignment, novation or disposals shall not increase the burden of the Provider's obligations under the Framework Agreement.

### 36 Variations to Framework Agreement

Any variations to the Framework Agreement must be made only in accordance with the Framework Agreement Variation Procedure set out in Schedule 8 (Framework Agreement Variation Procedure).

### 37 Third party rights

37.1 The Provider acknowledges that the Authority enters into this Framework Agreement for its own benefit and for the benefit of Other Contracting Bodies and the Provider shall perform its obligations under this Framework Agreement (including in particular under clause 19 (Data Protection) and Schedule 9 (Data Processing)) for the benefit of the Authority and each such Other Contracting Body. Accordingly, each Other Contracting Body shall be entitled to enforce their rights and remedies:

37.1.1 under clause 19 (Data Protection) and Schedule 9 (Data Processing); and

37.1.2 any other provision in this Framework Agreement which is stated to be for the benefit of Other Contracting Bodies, or which relates to the performance of a Contract entered into by that Other Contracting Body,

directly against the Provider. The Provider agrees that where any Other Contracting Body is sharing Personal Data with a Provider as part of any award procedure carried out pursuant to this Framework Agreement, the Other Contracting Body shall be the Controller and the Provider shall be the Processor and subject to the obligations set out in clause 19.

37.2 Save as provided in clause 37.1 a person who is not party to this Framework Agreement (**Third Party**) does not have any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this Framework Agreement.

37.3 If the Parties rescind this Framework Agreement or vary any of its terms in accordance with the relevant provisions of this Framework Agreement, such rescission or variation will not require the consent of any Third Party nor the consent of any Other Contracting Body.

### 38 Severance

- 38.1 If any provision or part-provision of this Framework Agreement is or becomes invalid, illegal or unenforceable, the relevant provision or part-provision shall be deemed deleted. Any deletion of a provision or part-provision under this clause shall not affect the validity and enforceability of the rest of this Framework Agreement.
- 38.2 If any provision or part-provision of this Framework Agreement is deemed deleted under clause 38.1 the Parties shall negotiate in good faith to agree a replacement provision that, to the greatest extent possible, achieves the intended commercial result of the original provision.

#### **39 Rights cumulative**

Except as otherwise expressly provided by this Framework Agreement, all remedies available to either Party (or any Other Contracting Body in accordance with clause 37.1 (Third party rights)) for breach of this Framework Agreement 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.

#### **40 Waiver**

- 40.1 The failure of either Party to insist upon strict performance of any provision of this Framework Agreement (or of a Third Party to enforce their rights in accordance with clause 37 (Third party rights), 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 Framework Agreement.
- 40.2 No waiver shall be effective unless it is expressly stated to be a waiver and communicated to the Party in default in writing in accordance with clause 42 (Notices).
- 40.3 A waiver of any right or remedy arising from a breach of this Framework Agreement shall not constitute a waiver of any right or remedy arising from any other or subsequent breach of this Framework Agreement.

#### **41 Entire agreement**

- 41.1 This Framework Agreement, the Schedules and the documents annexed to it or otherwise referred to in it constitute the entire agreement between the Parties and supersedes and extinguishes all previous and contemporaneous agreements, promises, assurances and understandings between them, whether written or oral, relating to its subject matter.
- 41.2 Each party acknowledges that in entering into this Framework Agreement it does not rely on, and shall have no remedies in respect of, any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in this Framework Agreement.
- 41.3 Each Party agrees that it shall have no claim for innocent or negligent misrepresentation based on any statement in this Framework Agreement.
- 41.4 Nothing in this clause 41 shall limit or exclude any liability for Fraud or fraudulent misstatement.

## 42 Notices

- 42.1 Except as otherwise expressly provided within this Framework Agreement, no notice or other communication from one Party to the other shall have any validity under this Framework Agreement unless made in writing by or on behalf of the Party sending the communication.
- 42.2 Any notice or other communication which is to be given by either Party to the other shall be given by letter (sent by hand, post, registered post or by the recorded delivery service) or electronic mail (confirmed in either case by letter). Such letters shall be addressed to the other Party in the manner referred to in clause 42.3 provided the relevant communication is not returned as undelivered, the notice or communication shall be deemed to have been given:
- 42.2.1 2 Working Days after the day on which the letter was posted;
- 42.2.2 in the case of electronic mail, on a Working Day within 4 hours of sending provided that this shall be no later than 5.00pm and, if later, then the notice shall be deemed to have been given at 9.30am on the next Working Day; or
- 42.2.3 sooner where the other Party acknowledges receipt of such letters, or item of electronic mail.
- 42.3 For the purposes of clause 42.2, the address of each Party shall be:
- 42.3.1 For the Authority:
- CPS Commercial Team
- Address:
- The Crown Prosecution Service
- 10<sup>th</sup> Floor, 102 Petty France, London SW1H 9EA
- For the attention of: CPS Commercial Contracts Manager  
Responsible for PR 2022 112
- Email address: [Receivers.POCA@cps.gov.uk](mailto:Receivers.POCA@cps.gov.uk)
- 42.3.2 For the Provider:
- [NAME OF FRAMEWORK AGREEMENT ACCOUNT MANAGER]
- Address: [ADDRESS]
- For the attention of: [POSITION OF CONTACT]
- Email address: [EMAIL ADDRESS]
- 42.4 This clause 42 does not apply to the service of any proceedings or other documents in any legal action or, where applicable, any arbitration or other method of dispute resolution.

42.5 Either Party may change its address for service by serving a notice in accordance with this clause.

**43 Governing law and jurisdiction**

43.1 This Framework Agreement and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with the law of England and Wales.

43.2 Each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim arising out of or in connection with this Framework Agreement or its subject matter or formation (including non-contractual disputes or claims).

This Framework Agreement has been entered into on the date stated at the beginning of it.

Signed by an authorised signatory for and on behalf of the Authority:

**Crown Prosecution Service**

Signature:	
Name (in Capitals):	
Date:	
Position:	

Signed by an authorised signatory to sign for and on behalf of the Provider:

**[Provider Name]**

Signature:	
Name (in Capitals):	
Date:	
Position:	

## Schedule 1 - Framework Specification

### Part 1 General

1. The requirement is to act as a Receiver appointed by the Court (and is therefore an independent officer of the Court) except when the appointment is to act as a Trustee, in which case the Trustee will act under the direction of the relevant Customer. Save in the case of a NCA Receiver, each Customer will nominate to the Court, an Office Holder from a Provider in accordance with the process at clause 6 (Award procedures) and is appointed in accordance with the terms of the Court's order. NCA Receivers are appointed when, the Court having made a NCA Receivership Order, NCA nominates them. On appointment, the Receiver/Trustee will perform investigative, management and/or enforcement functions as appropriate.
2. The Receiver/Trustee obtains their powers from the Court Order appointing them. They may return to Court to obtain further directions or powers.

#### Working in Northern Ireland and Overseas

3. The Provider shall have the capability to operate in the Northern Ireland security environment.
4. The Provider may need to deliver the Services in jurisdictions outside of the UK. The Provider shall inform Customers of any countries where they are not prepared to operate or where they cannot deliver the Services in full. In such circumstance the Provider shall provide details of what Services can be delivered and what Services cannot be delivered.
5. All appointments concerning overseas jurisdictions will be subject to additional checks such as European Convention on Human Rights compliance, data storage/transfer, security and location/travel risk. These checks will be undertaken by the Customer on a case-by-case basis as processes and risk mitigation will vary depending on the jurisdiction. The Provider shall comply with all reasonable risk mitigation activities as determined by the Customer.

### Part 2 Interim Receivers Service Requirements and Descriptions

1. **Work and requirements of Interim Receivers (as provided by sections 246, 247 and Schedule 6 POCA and Article 151, 152 and Schedule 2 of POCA ERO).**

An Interim Receiver will typically be expected to carry out the following:

- 1.1 to take possession of or to seize property as appropriate;
- 1.2 to obtain information or to require a person to answer any question;
- 1.3 to investigate and report to the Court on whether the property covered by the Interim Receiving Order are the proceeds of unlawful conduct;
- 1.4 to commence, continue or defend legal proceedings in respect of the property;
- 1.5 to enter premises in England, Wales and Northern Ireland to:
  - 1.5.1 search for or inspect anything authorised by the Court;

- 1.5.2 make or obtain a copy or photograph or other record as authorised by the Court; and
- 1.5.3 remove anything that the Interim Receiver is required or authorised to take possession of by the Receivership Order;
- 1.6 to manage and preserve the potential recoverable property by:
  - 1.6.1 selling or disposing of the perishable assets or assets which ought to be disposed of before their value diminishes;
  - 1.6.2 where the property comprises assets of a trade or business, carrying on, or arranging for another to carry on, the trade or business;
  - 1.6.3 incurring capital expenditure in respect of the property; and
- 1.7 to undertake anything else required by section 247 and Schedule 6 of POCA or Article 152 and Schedule 2 of POCA ERO or as ordered by the Court.

## 2. **Skills, Capabilities and experience of the Interim Receiver**

Interim Receivers shall have similar skills and expertise to those of Management Receivers, RICPOs and RICPFOs together with the ability to investigate whether or not the property which is the subject of the order is property obtained through unlawful conduct such that it gives the contracting body the basis for a claim for a civil recovery order.

All Interim Receivers shall:

- 2.1 Demonstrate experience of managing assets, either in-house or via access to externally instructed capability;
- 2.2 be qualified as insolvency practitioners;
- 2.3 demonstrate capability to investigate property acquisition, either in-house or via access to externally instructed capability;
- 2.4 demonstrate capability to investigate insolvency and winding up of companies;
- 2.5 demonstrate forensic accounting expertise and capability, either in-house or via access to externally instructed expertise;
- 2.6 demonstrate legal capability – either in-house or via ability to instruct externally - to advise upon areas including but not limited to company law and taxation; and
- 2.7 demonstrate the ability to carry out all of the functions listed in paragraph 1 of Part 2 of this Schedule 1.

It is desirable that an Interim Receiver demonstrate digital capability – including the ability to manage and store digital assets, such as cryptocurrency, either in-house or via access to externally instructed capability.



### 3. **Interim Receivers Appointment**

Where an Interim Receiving Order will be made by the High Court pursuant to Part 5 of POCA or Part 5 of POCA ERO the Customer must nominate to the Court a suitably qualified person for Appointment as Interim Receiver. That person may be an Office Holder identified in the Framework Agreement.

### 4. **Overview of Appointment Process**

- 4.1 An Interim Receiving Order is an order for the detention, custody or preservation of property, and the appointment of an Interim Receiver.
- 4.2 The Interim Receiving Order shall require the Interim Receiver to take any steps the Court thinks necessary to establish whether or not the property or associated property is recoverable and whether or not any other property is recoverable in relation to the same unlawful conduct and if so, who holds it.
- 4.3 The Interim Receiving Order may authorise the Interim Receiver to obtain information or to require a person to provide it, to enter and search property and to manage and dispose of assets. The Interim Receiver may take any other steps the Court thinks appropriate in relation to the property to which the order applies.

### 5. **Interim Receiver Deliverables**

Interim Receivers shall report their findings to the Customer and the High Court in accordance with section 255 of POCA or Article 160 ERO in England, Wales and Northern Ireland.

## **Part 3 Management Receivers**

### 1. **Work and requirements of Management Receiver (as provided by section 77 CJA, section 26 DTA, Article 13(8) CJCNI, Article 31(8) POCNI, sections 48, 49, 196 and 197 POCA, and Articles 15, 16, 101 and 102 POCA ERO)**

In relation to realisable property, which is subject to a Restraint Order, the work that Management Receivers will typically be expected to carry out includes but is not limited to the following:

- 1.1 to take possession of property;
- 1.2 to manage or otherwise deal with the property including:
  - 1.2.1 selling the property or any part of it or interest in it;
  - 1.2.2 where the property comprises assets of a trade or business, carrying on, or arranging for another to carry on, the trade or business;
  - 1.2.3 incurring capital expenditure in respect of the property;
- 1.3 to start, carry on or defend any legal proceedings in respect of the property;
- 1.4 to realise so much of the property as is necessary to meet the Management Receiver's remuneration and expenses;

- 1.5 to enter premises in England, Wales & Northern Ireland to:
  - 1.5.1 search for or inspect anything authorised by the Court;
  - 1.5.2 make or obtain a copy, photograph or other record of anything so authorised;
  - 1.5.3 remove anything which the receiver is required or authorised to take possession of in pursuance of an order of the court;
- 1.6 to hold property, to enter into contracts, to sue and be sued, to employ agents; execute powers of attorney, deed or other instruments and to take any other steps that the court thinks appropriate;
- 1.7 to interact with the Customer, defendant, law investigating authority, victims and third parties as and when necessary and appropriate to do so; and
- 1.8 to undertake anything else required by section 77 CJA, section 26 DTA, Article 13(8) CJCNI, Article 31(8) POCNI, sections 49 and 197 POCA and Articles 16 and 102 POCA ERO.

## 2. **Skills, capabilities and experience of the Management Receiver**

Management Receivers in criminal confiscation cases shall have the expertise to be able to manage assets that have been restrained pursuant to a Restraint Order made by the Court as specified in the applicable legislation in order to preserve them for the payment of a Confiscation Order or an External Order that may be made.

All Management Receivers shall:

- 2.1 be qualified as insolvency practitioners;
- 2.2 demonstrate legal capability – either in-house or via ability to instruct externally – to advise upon areas including but not limited to company law and taxation; and
- 2.3 demonstrate the ability to carry out all of the functions listed at paragraph 1 of Part 3 of this Schedule 1.

It is desirable that a Management Receiver demonstrates digital capability, including the ability to manage and store digital assets, such as cryptocurrency, either in-house or via access to externally instructed capability.

## 3. **Management Receiver Appointment**

Where a Restraint Order will be or has been made, the Customer may apply to the Court as specified in the applicable legislation to appoint a Management Receiver. The Customer must nominate to the Court a suitably qualified person for the Appointment as Management Receiver. That person may be an Office Holder identified in the Framework Agreement. Applications for such appointments will be by written application, giving full details of the proposed appointment, and might require an oral hearing.

## 4. **Overview of Appointment Process**

- 4.1 The Court may confer a range of powers upon the Management Receiver in relation to any realisable property to which the Restraint Order applies or will apply.
- 4.2 The Management Receiver may be empowered in relation to the property to take possession of it, manage or otherwise deal with it or to take legal proceedings in respect of it. The Management Receiver may also realise as much of the property as is necessary to meet their remuneration and expenses.
- 4.3 Management Receivers have additional skills and experience, including the ability to undertake business reviews, continue trading, close down companies, manage and realise property and other assets and oversee living expenses claims.
- 4.4 Management Receivers are likely to be appointed where, in the absence of management, the assets are depreciating in value. Their appointment involves the Management Receiver managing and preserving the defendant's assets until the stage has been reached when it is appropriate to enforce a Confiscation Order or External Order made against the defendant by the Court as specified in the applicable legislation.
- 4.5 The Management Receiver will perform their own assessment of whether or not a particular business is viable and advise the Customer accordingly. The Customer will discuss with the Management Receiver the future of the business and how it is to be dealt with.

## 5. Management Receiver Deliverables

Management Receivers shall preserve assets so that they are available for the making of a Confiscation Order or an External Order.

## Part 4 Receivers in Connection with Prohibition Orders, Receivers in Connection with Property Freezing Orders and Receivers in Connection with Interim Freezing Orders Service Requirements and Descriptions

- 1. **Work and requirements of Receivers in Connection with Prohibition Orders (RICPO), Receivers in Connection with Property Freezing Orders (RICPFO) and Receivers in Connection with Interim Freezing Orders (RICIFO) (as provided by sections 245E and 245F and 362N and 362O and paragraph 5 Schedule 6 POCA, Articles 141I, 141J, 150A, 150B and paragraph 5 Schedule 2 POCA ERO and Articles 21L and 21M POCA EIO 2013 and 34L and 34M POCA EIO 2014).**

In relation to property which is subject to a Property Freezing Order (**PFO**) or a Prohibition Order (**PO**) or an Interim Freezing Order (**IFO**), the work that a RICPFO, RICPO or RICIFO will typically be expected to carry out includes but is not limited to the following:

- 1.1 to manage any property to which the order applies including:
  - 1.1.1 selling or otherwise disposing of assets comprised in the property which are perishable, or which ought to be disposed of before their value diminishes,

- 1.1.2 where the property comprises assets of a trade or business, carrying on, or arranging for another to carry on, the trade or business,
- 1.1.3 incurring capital expenditure in respect of the property;
- 1.2 to take any other steps, the Court thinks appropriate in connection with the management of any such property (including securing the detention, custody or preservation of the property in order to manage it);
- 1.3 to interact with the Customer, defendant, investigating authority and third parties as and when necessary and appropriate to do so;
- 1.4 to undertake anything else required by section 245F and paragraph 5 Schedule 6 of POCA or Section 362O and Paragraph 5 of Schedule 6 of POCA or Article 150B and paragraph 5 of Schedule 2 of POCA ERO or Article 21M of POCA EIO 2013 or Article 34M of POCA EIO 2014 or ordered by the Court.

## 2. **Skills, capabilities and experience of RICPO, RICPFO and RICIFO**

RICPFO, RICPO and RICIFO in civil recovery cases shall have the expertise to be able to manage assets that have been frozen pursuant to PFO, PO or IFO in order to preserve those assets so that they are available to satisfy any right of the Customer to recover the property obtained through unlawful conduct and that right is not unduly prejudiced.

All RICPFO, RICPO and RICIFO shall:

- 2.1 be qualified as insolvency practitioners;
- 2.2 demonstrate legal capability – either in-house or via ability to instruct externally - to advise upon areas including but not limited to company law and taxation; and
- 2.3 demonstrate the ability to carry out all of the functions listed in paragraph 1 of Part 4 of this Schedule 1.

It is desirable that a RICPFO, RICPO and RICIFO demonstrates digital capability, including the ability to manage and store digital assets, such as cryptocurrency, either in-house or via access to externally instructed capability.

## 3. **RICPFO, RICPO and RICIFO Appointment**

The Customer may apply to the High Court for an order appointing a RICPFO in respect of any property over which a PFO applies or RICPO in respect of any property over which a PO applies or RICIFO in respect of any property over which an IFO applies. The Customer must nominate a suitably qualified person for the appointment as a RICPFO, RICPO or RICIFO. That person may be an Office Holder identified in the Framework Agreement.

## 4. **Overview of Appointment Process**

- 4.1 The High Court may confer a range of powers upon the RICPFO in relation to property to which the PFO applies or upon the RICPO in relation to the property to which the PO applies or upon the RICIFO in relation to the property to which the IFO applies .

- 4.2 The RICPFO, RICPO or RICIFO may be empowered to take possession or manage the property.
- 4.3 The RICPFO, RICPO or RICIFO have additional skills and experience, including the ability to undertake business reviews, continue trading and close down companies which are the subject of the PFO, PO or IFO and subject to the direction of the Court.
- 4.4 They are likely to be appointed where assets require managing. The RICPFO, RICPO or RICIFO will perform their own assessment of whether or not a particular business is viable or not and advise the Customer accordingly. The Customer will discuss with the RICPFO, RICPO or RICIFO the future of the business and how it is to be managed.
- 4.5 Ordinarily, the remuneration and disbursements of the RICPFO, RICPO or RICIFO will be paid by the Customer.

## 5. **RICPFO, RICPO and RICIFO Deliverables**

The RICPFO, RICPO or RICIFO shall preserve property so that it is available to satisfy any right of the Customer to recover the property obtained through unlawful conduct and to ensure that any such rights are not unduly prejudiced.

## **Part 5 Enforcement Receivers**

### **1. Work and Requirements of Enforcement Receivers (as provided section 80 CJA, section 29 DTA, Article 16 CJCNI, Article 34 POCNI, sections 50, 51, 198 and 199 POCA, and Articles 27, 28, 29, 113, 114 and 115 POCA ERO).**

In relation to the defendant's realisable property the work that an Enforcement Receiver will typically be expected to carry out includes but is not limited to the following:

- 1.1 to take possession of that property;
- 1.2 to manage or otherwise deal with the property including:
  - 1.2.1 selling the property or any part of it or interest in it;
  - 1.2.2 where the property comprises assets of a trade or business, carrying on, or arranging for another to carry on, the trade or business;
  - 1.2.3 incurring capital expenditure in respect of the property;
- 1.3 to realise as much of the defendant's realisable property as necessary to pay the Confiscation Order or External Order made by the Court as specified in the applicable legislation in such a manner as the Court may direct;
- 1.4 to start, carry on or defend legal proceedings in respect of the property;
- 1.5 to enter premises in England and Wales and Northern Ireland to:
  - 1.5.1 search for or inspect anything authorised by the Court;
  - 1.5.2 make or obtain a copy or photograph or other record as authorised by the Court; and

- 1.5.3 remove anything that the Receiver is required or authorised to take possession of by the Receivership Order.
- 1.6 to hold property, to enter into contracts, to sue and be sued, to employ agents, to execute powers of attorney, deeds or other instruments and to take any other steps that the Court thinks appropriate;
- 1.7 to deal with and conclude third party claims on the property;
- 1.8 to liaise with the Designated Officer (England and Wales) or Chief Clerk of the Northern Ireland Courts and Tribunal Service or Proper Officer (Northern Ireland) or the Contracting Body as appropriate as to payment of the Confiscation Order or the External Order;
- 1.9 to communicate with the defendant, the police, the Customer, victims and third parties; and
- 1.10 to undertake anything else required by section 80 CJA 1988, section 29 DTA 1994, Article 16 CJNIO, Article 34 POCNIO, section 51 POCA, section 199 POCA, or Article 28 or 29 of the POCA ERO, or Article 114 or 115 of the POCA ERO, or ordered by the Court.

## 2. **Skills, Capabilities and Experience of the Enforcement Receiver**

Enforcement Receivers in criminal confiscation cases shall have the expertise to take possession of the defendant's realisable property and realise so much of it as needed to pay the Confiscation Order or the External Order.

All Enforcement Receivers shall:

- 2.1 be qualified as insolvency practitioners
- 2.2 demonstrate legal capability – either in-house or via ability to instruct externally - to advise upon areas including but not limited to company law and taxation; and
- 2.3 demonstrate the ability to carry out all of the functions listed at paragraph 1 of Part 5 of this Schedule 1.

It is desirable that an Enforcement Receiver demonstrates digital capability, including the ability to manage and store digital assets, such as cryptocurrency, either in-house or via access to externally instructed capability.

## 3. **Enforcement Receivers Appointment**

- 3.1 When a Confiscation Order or External Order has been made, has not been paid and is not subject to appeal, a Customer may apply to the Court as specified in the applicable legislation to appoint an Enforcement Receiver to take possession of the defendant's realisable property and realise as much of it as necessary to pay the Confiscation Order or External Order.
- 3.2 The Customer must nominate a suitably qualified person for the Appointment as Enforcement Receiver. That person may be an Office Holder identified in the Framework Agreement. Applications for Appointment will be by written

application, giving full details of the proposed Appointment, and may require an oral hearing.

- 3.3 An Enforcement Receiver is remunerated from the assets realised by the Enforcement Receiver in the course of the Receivership.

#### 4. **Overview of Appointment Process**

- 4.1 The Court may confer a range of powers upon the Enforcement Receiver in relation to the defendant's realisable property.
- 4.2 The Enforcement Receiver shall realise as much of the defendant's realisable property as is necessary to satisfy (pay) the Confiscation Order or External Order.

#### 5. **Enforcement Receivers Deliverables**

Enforcement Receivers take possession of the defendant's realisable property and realise as much of it as necessary to pay the Confiscation Order or External Order.

### **Part 6 Trustees for Civil Recovery**

#### 1. **Work and requirement of Trustees for Civil Recovery (as provided by sections 266, 267 and Schedule 7 POCA and Articles 177, 178 and Schedule 3 POCA ERO)**

In relation to property, which is subject to a Recovery Order, the work that Trustees will typically be expected to carry out includes but is not limited to the following:

- 1.1 to take possession of recoverable property as appropriate;
- 1.2 to sell the recoverable property or any part of it or interest in it;
- 1.3 to incur expenditure for the purpose of acquiring any part of the recoverable property, or any interest in it, which is not vested in him;
- 1.4 to incur expenditure for the purpose discharging any liabilities, or extinguishing any rights, to which the recoverable property is subject;
- 1.5 to manage recoverable property to which the order applies including:
  - 1.5.1 selling or otherwise disposing of assets comprised in the recoverable property which are perishable, or which ought to be disposed of before their value diminishes,
  - 1.5.2 where the recoverable property comprises assets of a trade or business, carrying on, or arranging for another to carry on, the trade or business,
  - 1.5.3 incurring capital expenditure in respect of the recoverable property;
- 1.6 to start, carry on or defend and settle legal proceedings in respect of the recoverable property;

- 1.7 to enter into contracts, sue and be sued, employ agents, execute powers of attorney, deeds or other instruments and to do any other act which is necessary or expedient;
- 1.8 to make any compromise or other arrangement in connection with any claim relating to the recoverable property; and
- 1.9 to undertake anything else required by section 267 and Schedule 7 of POCA or Article 178 and Schedule 3 POCA ERO or ordered by the Court.

## **2. Skills, Capabilities and Experience of the Trustee for Civil Recovery**

Trustees for Civil Recovery shall have the expertise to take possession of recoverable property and realise it for the benefit of the Customer.

All Trustees for Civil Recovery shall:

- 2.1 be qualified as insolvency practitioners;
- 2.2 demonstrate legal capability – either in-house or via ability to instruct externally - to advise upon areas including but not limited to company law and taxation; and
- 2.3 demonstrate the ability to carry out all of the functions listed at paragraph 1 of Part 6 of this Schedule 1.

It is desirable that Trustees for Civil Recovery demonstrate digital capability, including the ability to manage and store digital assets, such as cryptocurrency, either in-house or via access to externally instructed capability.

## **3. Trustees for Civil Recovery Appointment**

Where a Recovery Order is made, the High Court, on the nomination of the Customer appoints a Trustee for Civil Recovery. The Recovery Order vests the property in the Trustee for Civil Recovery for the purpose of realising the property for the benefit of the relevant Customer. The Trustee for Civil Recovery must realise the property vested in them in the manner best calculated to maximise the amount payable to the Customer. The Trustee shall act upon the directions of the Customer for the purpose of realising the assets. The Trustee for Civil Recovery's function is to realise these assets in accordance with the terms of the Recovery Order. Ordinarily, the Trustee for Civil Recovery will be remunerated by the Customer.

## **4. Overview of Appointment process**

- 4.1 The Court may confer a wide range of powers on the Trustee for Civil Recovery.
- 4.2 Ordinarily, the remuneration and disbursements of the Trustee for Civil Recovery will be paid by the Customer.

## **5. Trustees for Civil Recovery Deliverables**

Trustees for Civil Recovery realise property vested in them by the Civil Recovery Order for the benefit of the Customer. The Trustee for Civil Recovery must realise the property vested in them in the manner best calculated to maximise the amount payable to the Customer unless directed otherwise.



## **Part 7 NCA Receivers**

### **1. Work and requirements of NCA Receivers (as provided by Sections 52, 53, 200 and 201 POCA and Articles 30,31,32, 116, 117 and 118 POCA ERO).**

This type of Receivership requires the NCA Receiver to manage restrained assets to preserve them for the payment of a Confiscation Order or External Order that may be made and, once a Confiscation Order or External Order is made, to realise those assets and pay the proceeds into Court towards satisfaction (payment) of the Confiscation Order or External Order.

NCA Receivers shall be expected to carry out those functions set out in respect of:

1.1 Management Receivers set out at paragraph 1 of Part 3 of this Schedule 1; and

1.2 Enforcement Receivers set out at paragraph 1 of Part 5 of this Schedule 1.

### **2. Skills, Capabilities and Experience of the NCA Receiver**

NCA Receivers in criminal confiscation cases shall have the expertise to manage assets that have been restrained pursuant to a Restraint Order in the Court as specified in the applicable legislation in order to preserve them for the payment of a Confiscation Order or External Order that may be made and, once the Confiscation Order or External Order has been made, to take possession of the defendant's realisable property and realise so much of it as needed to pay the Confiscation Order or External Order.

All NCA Receivers shall:

2.1 to be qualified as insolvency practitioners

2.2 demonstrate legal capability – either in-house or via ability to instruct externally - to advise upon areas including but not limited to company law and taxation; and

2.3 demonstrate the ability to carry out all of the functions listed at paragraph 1 of Part 7 of this Schedule 1.

It is desirable that NCA demonstrate digital capability, including the ability to manage and store digital assets, such as cryptocurrency, either in-house or via access to externally instructed capability.

### **3. NCA Receivers Appointment**

An NCA Receiver's Appointment shall be as for Management Receivers or Enforcement Receivers as set out at paragraph 3 of Part 3 of this Schedule 1 and paragraph 3 of Part 5 of this Schedule 1, respectively.

### **4. Overview of appointment process**

An NCA Receiver's overview of Appointment shall be as for Management Receivers or Enforcement Receivers as set out at paragraph 4 of Part 3 of this Schedule 1 and paragraph 4 of Part 5 of this Schedule 1, respectively.

### **5. NCA Receivers Deliverables**

An NCA Receiver shall provide those deliverables to the Customer as directed by the Customer which will be aligned with either the Management Receiver Deliverables or the Enforcement Receiver Deliverables (**NCA Receiver Deliverables**).

## Part 8 Table of Receiver and Trustee Powers

This table of powers summarises the legal provisions under which the Customers will apply to the court for the appointment of each type of Receiver / Trustee.

### Criminal Confiscation

Appointment		England & Wales		Northern Ireland	
Type		Domestic	External	Domestic	External
Management Receiver (MR)	Appointment	s 77 CJA s 26 DTA s 48 POCA	A 15 POCA ERO	A 13(8) CJCNI A 31(8) POCNI s 196 POCA	A 101 POCA ERO
	Powers	s 77 CJA s 26 DTA s 49 POCA	A 16 POCA ERO	A 13(8) CJCNI A 31(8) POCNI s 197 POCA	A 102 POCA ERO
Enforcement Receiver (ER)	Appointment	s 80 CJA s 29 DTA s 50 POCA	A 27 POCA ERO	A 16 CJCNI A 34 POCNI s 198 POCA	A 113 POCA ERO
	Powers	s 80 CJA s 29 DTA s 51 POCA	A 28 & 29 POCA ERO	A 16 CJCNI A 34 POCNI s 199 POCA	A 114 & 115 POCA ERO
NCA Receiver (as saved)	Appointment	s 52 POCA (as saved)	A 30 POCA ERO (as saved)	s 200 POCA (as saved)	A 116 POCA ERO (as saved)
	Powers	s 53 POCA (as saved)	A 31 & 32 POCA ERO (as saved)	s 201 POCA (as saved)	A 117 & 118 POCA ERO (as saved)

## Civil Recovery

Appointment		England & Wales		Northern Ireland	
Type		Domestic	External	Domestic	External
Interim Receiver (IR)	Appointment	s 246 POCA	A 151 POCA ERO	s 246 POCA	A 151 POCA ERO
	Functions	s 247 & Sch 6 POCA	A 152 & Sch 2 POCA ERO	s 247 & Sch 6 POCA	A 152 & Sch 2 POCA ERO
	Report	s 255 POCA	A 160 ERO	s 255 POCA	A 160 ERO
Receivers in connection with Interim Freezing Orders (RICIFO)	Appointment	s 362N	A 21L POCA EIO 2013 (civ) A 34L POCA EIO 2014 (crim)	s 362N	A 21L POCA EIO 2013 (civ) A 34L POCA EIO 2014 (crim)
	Powers	s 362O	A 21M POCA EIO 2013 (civ) A 34M POCA EIO 2014 (crim)	S 362N	A 21M POCA EIO 2013 (civ) A 34M POCA EIO 2014 (crim)
Receivers in connection with Prohibition Orders (RICPO)	Appointment	Not Applicable	A 141I POCA ERO	Not Applicable	A 141I POCA ERO
	Powers	Not Applicable	A 141J POCA ERO	Not Applicable	A 141J POCA ERO
Receivers in connection with Property Freezing Orders (RICPFO)	Appointment	s 245E POCA	A 150A POCA ERO	s 245E POCA	A 150A POCA ERO

	Powers	s 245F & Para 5 Sch 6 POCA	A 150B & Para 5 Sch 2 POCA ERO	s 245F & Para 5 Sch 6 POCA	A 150B & Para 5 Sch 2 POCA ERO
Trustees for Civil Recovery (TCR)	Appointment	s 266 POCA	A 177 POCA ERO	s 266 POCA	A 177 POCA ERO
	Functions	s 267 & Sch 7 POCA	A 178 & Sch 3 POCA ERO	s 267 & Sch 7 POCA	A 178 & Sch 3 POCA ERO

## **Schedule 2 - Competed Services Award Criteria**

1. This Schedule 2 applies to all awards of Contracts for Competed Services.
2. Subject to paragraph 3, a Customer may choose to evaluate a mini-competition on the basis of:
  - 2.1 lowest price; or
  - 2.2 weighted evaluation.
3. A Customer shall take into account the following factors when deciding whether to evaluate a mini-competition on the basis of:
  - 3.1 **lowest price**, the Customer perceives that:
    - 3.1.1 the technical elements of the requirement are adequately provided for with reference to the Framework Specification and the Provider's Tender and the Customer does not need to take into account any further technical information in its assessment of the mini-competition;
    - 3.1.2 the requirement is perceived to be low to medium risk; and
    - 3.1.3 the requirement is not novel and/or contentious;
  - 3.2 **weighted evaluation**, the Customer perceives that:
    - 3.2.1 the technical elements of the requirement are not adequately provided for with reference to the Framework Specification and the Provider's Tender and the Customer needs to take into account further technical information in its assessment of the mini-competition;
    - 3.2.2 the requirement is perceived to be medium to high risk; or
    - 3.2.3 the requirement is novel and/or contentious.
4. Where a Customer is evaluating a mini-competition on the basis of lowest price, the evaluation will be based on 100% of the Contract Price (of compliant tenders) proposed by the Provider in Part 2 of the Order Form.
5. Where a Customer is evaluating a mini-competition on the basis of weighted evaluation, subject to paragraph 7, the Customer shall have regard to the criteria which was applied for the award of the Framework Agreement. The following criteria were applied for the award of the Framework Agreement:
  - 5.1 Technical (60%) – broken down as follows:
    - 5.1.1 Investigation of Assets (i.e., Interim Receivers) – 5%;
    - 5.1.2 Management and Realisation of Assets (i.e., the other types of receivers/trustees) – 20%;
    - 5.1.3 Digital Assets – 2.5%;
    - 5.1.4 Approach to UK-Based Assets – 12.5%;
    - 5.1.5 Approach to Northern Ireland and Overseas-Based Assets – 2.5%;
    - 5.1.6 Breadth of Assets and Access to Appropriate Experience – 7.5%;
    - 5.1.7 Cost Control, Management, VFM and Reporting – 10%;
  - 5.2 Price (30%); and

5.3 Social Value (10%).

6. Customers shall ensure that the weighted evaluation criteria are within scope of the criteria which was applied for the award of the Framework Agreement, but do not necessarily need to mirror them. Criteria which are not relevant for a particular mini-competition do not need to be included. In determining what percentages to allocate to the weighted evaluation criteria, Customers shall have regard to the criteria applied for award of the Framework Agreement, but in any event shall work within the following percentages:

Criterion	Percentage Weightings and allowable variance to be set by the Customer conducting the mini-competition
Technical	50%-90%
Price	10%-50%
Social Value	0% - 10%

7. A Customer may choose to include 10% social value in the above weighted evaluation award criteria. Should a Customer choose to allocate 10% of the weighted evaluation award criteria to social value that Customer shall have regard to the contents of Procurement Policy Note (PPN) 06/20.

### Schedule 3 - Pricing Matrices

#### FIXED HOURLY RATES

The hourly rates by grade of Staff which shall apply to the provision of the Services are as follows **(all prices stated exclusive of VAT but inclusive of all other costs and profit):**

	<b>Standard Rate Card by Grade of Staff</b>
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Grade Title	Grade Description	Hourly Rate £
<b>Partner / Managing Director / Director (Office Holder)</b>	<p>Partners / Managing Directors / Directors (Office Holders) are expected to be acknowledged experts in at least one function, capability and/or industry and have extensive experience of leading major and/or complex projects. Activities are likely to include but are not limited to:</p> <ul style="list-style-type: none"> <li>- being accountable for overall project delivery and overseeing knowledge transfer to customer</li> <li>- bringing innovative strategic insight and best practice</li> <li>- applying relevant private and public sector knowledge including policy and political issues</li> <li>- delivering results that meet or exceed customer expectations</li> <li>- developing strong customer relationships with senior stakeholders</li> </ul> <p>Someone working at this grade would typically be expected to have over ten years relevant experience and would typically be the Office Holder.</p>	
<b>Managing Consultant / Director / Associate Partner</b>	<p>Managing Consultants / Directors (non-Office Holders) / Associate Partners are expected to have deep expertise in at least one function, capability and/or industry and perform a wide range of leadership responsibilities. Activities are likely to include but are not limited to:</p> <ul style="list-style-type: none"> <li>- providing leadership to the project team and the customer</li> <li>- reviewing and improving the project team's recommendations</li> <li>- providing relevant thought leadership and expertise to the customer</li> <li>- forming strong working relationships with customer stakeholders</li> </ul> <p>Someone working at this grade would typically have over eight years relevant experience</p>	
<b>Principal Consultant / Associate Director / Senior Manager</b>	<p>Principal Consultants / Associate Directors / Senior Managers are expected to have specialised knowledge of a function, capability and/or industry and be responsible for providing leadership both internally for the project team and when interfacing with the customer. Activities are likely to include but are not limited to:</p> <ul style="list-style-type: none"> <li>- designing the project structure</li> <li>- providing leadership and coaching to internal project team members</li> <li>- contributing to the development of customer-facing presentations</li> <li>- leading on the delivery of presentation of recommendations to customer stakeholders</li> </ul>	



	Someone working at this grade would typically have between seven and eight years relevant experience.	
<b>Senior Consultant / Manager</b>	<p>Senior Consultants / Managers are expected to have specialised knowledge of a function, capability and/or industry and be responsible for managing several or all components of a project. Activities are likely to include but are not limited to:</p> <ul style="list-style-type: none"> <li>- managing the project across multiple workstreams</li> <li>- prioritising the team's workload</li> <li>- bringing together the team's inputs into coherent recommendations</li> <li>- engaging customer stakeholders including presenting recommendations</li> </ul> <p>Someone working at this grade would typically have between five and six years relevant experience.</p>	
<b>Consultant / Senior Analyst / Senior Associate / Assistant Manager</b>	<p>Consultants / Senior Analysts / Senior Associates / Assistant Managers are expected to have knowledge of a function, capability and/or industry and be responsible for larger and/or more complex components of a project. They would have strong analytical skills, along with excellent verbal, written and presentation skills. Activities are likely to include but are not limited to:</p> <ul style="list-style-type: none"> <li>- analysing and modelling data</li> <li>- drawing out high quality insights</li> <li>- presenting recommendations</li> <li>- meeting with customer stakeholders to understand their issues</li> </ul> <p>Someone working at this grade would typically have between two and four years relevant experience.</p>	
<b>Analyst / Junior Consultant / Associate</b>	<p>Analysts / Junior Consultants / Associates are expected to be responsible for a specific component of a project and have good analytical and communication skills. Activities are likely to include but are not limited to:</p> <ul style="list-style-type: none"> <li>- identifying and researching information sources</li> <li>- gathering and interpreting data</li> <li>- executing qualitative and quantitative analysis</li> <li>- interacting with customer stakeholders</li> </ul> <p>Someone working at this grade would typically have up to two years relevant experience.</p>	
<b>Administration / Support Staff</b>	<p>Administration / Support staff are expected to provide supporting roles to the team. Activities are likely to include but are not limited to:</p> <ul style="list-style-type: none"> <li>- Providing general administrative assistance to the team</li> <li>- Supporting the wider team to achieve deadlines and team targets by carrying out designated tasks to a high standard</li> <li>- Data input</li> <li>- Interacting with internal stakeholders</li> </ul>	

#### **Schedule 4 - Order Form**

Please see additional document for the details of this schedule

### **Schedule 5 - Call-off Terms and Conditions**

Please see additional document for the details of this schedule

## **Schedule 6 - Framework Agreement Management Information**

### **1. Reporting**

- 1.1 The Provider shall provide the Authority with the following Management Information:
  - 1.1.1 the Framework Agreement Management Information Report in the format as set out at appendix 1 to this Schedule 6 on the last day of each quarter (calculated from the Commencement Date). Where the Provider is not awarded any Contracts, the Provider shall confirm as such by providing a 'nil return' to the Authority.
  - 1.1.2 a Social Value Report detailing the progress to date against the Provider's social value commitments. This requirement applies only if the Provider has received remuneration from Contracts placed with Customers the total of which in aggregate meets or exceeds the Social Value Threshold. If the requirement applies, the Provider shall submit the Social Value report every 6 months. If the requirement does not apply, the Provider shall submit a 'nil return' to the Authority every 6 months.
- 1.2 The Provider shall provide the Framework Agreement Management Information via e-mail using the Criminal Justice Secure Email System (CJSM) to the Authority's point of contact as set out at clause 42.3.

### **2. Meetings**

- 2.1 At the request of the Authority, the Provider shall attend a Framework Agreement Performance Meeting. The Authority shall only request a Framework Agreement Performance Meeting if the Authority has concerns regarding:
  - 2.1.1 the Provider's performance under the Framework Agreement;
  - 2.1.2 the Provider's compliance with obligations under the Framework Agreement; and/or
  - 2.1.3 the Provider's economic and financial standing.
- 2.2 The agenda for each Framework Agreement Performance Meeting shall be set by the Authority and sent to the Provider in advance. Topics which may be covered at the Framework Agreement Performance Meeting include:
  - 2.2.1 review of the Provider's performance under this Framework Agreement;
  - 2.2.2 review of any concerns the Authority has in relation to the Provider's compliance with obligations under the Framework Agreement;
  - 2.2.3 review of the Provider's economic and financial standing; and/or
  - 2.2.4 where applicable, review of the Provider's adherence to the Remediation Plan(s).

- 2.3 The Authority shall give at least 10 working days' notice of the meeting, if it is to be held.
  - 2.4 The Framework Agreement Performance Meeting shall be attended by, as a minimum, Provider personnel with sufficient seniority to make decisions in relation to the subject matter(s) under discussion.
- 3. Framework Agreement Account Manager
  - 3.1 The Provider shall appoint a Framework Agreement Account Manager.
  - 3.2 The Framework Agreement Account Manager shall be the main point of contact for the Authority with regard to all matters relating to the Framework Agreement.

### **Appendix 1 to Schedule 6**

Please see additional spreadsheet for details of this appendix.

### **Schedule 7 - Office Holders**

1. At the Commencement Date the Provider shall have the following Office Holders (a maximum of 3) appointed to the Framework Agreement:
  - 1.1 [TBC];
  - 1.2 [TBC]; and
  - 1.3 [TBC].

## Schedule 8 - Framework Agreement Variation Procedure

### Part 1 Variation Procedure

#### 1. Introduction

1.1 This Schedule 8 details the scope of the variations permitted and the process to be followed where:

1.1.1 the Authority proposes a variation to the Framework Agreement;

1.1.2 the Provider wishes to add, remove or change an Office Holder appointed to the Framework Agreement, or update details of their Framework Agreement Account Manager or contact details for notices; or

1.1.3 changes to the Hourly Rates are to be recorded pursuant to clause 10 (Variation to prices).

1.2 The Authority may propose a variation to the Framework Agreement under this Schedule 8 only where the variation does not amount to a material change in the Framework Agreement or the Services.

1.3 The Provider may only propose a variation to this Framework Agreement pursuant to paragraphs 1.1.2 and 1.1.3 of this Schedule 8.

#### 2. Procedure for the Authority to propose a variation:

2.1 Except where paragraph 6 applies, the Authority may propose a variation using the procedure contained in this paragraph 2.

2.2 In order to propose a variation, the Authority shall serve each Framework Provider with written notice of the proposal to vary the Framework Agreement (**Notice of Variation**).

2.3 The Notice of Variation shall contain details of the proposed variation providing sufficient information to allow each Framework Provider to assess the variation being proposed.

2.4 On receipt of the Notice of Variation, each Framework Provider has 10 Working Days to respond in writing with any objections to the variation.

2.5 Where the Authority does not receive any written objections to the variation within the timescales detailed in paragraph 2.4, the Authority may then serve each Framework Provider with a Variation Form detailing the variation to be signed and returned by each Framework Provider within 15 Working Days of receipt.

2.6 On receipt of a signed Variation Form from each Framework Provider, the Authority shall notify all Framework Providers in writing of the commencement date of the variation.

#### 3. Objections to a variation

- 3.1 In the event that the Authority receives one or more written objections to a variation, the Authority may:
  - 3.1.1 withdraw the proposed variation; or
  - 3.1.2 propose an amendment to the variation.
4. Changes to the list of Office Holders
 

Where the Provider wishes to propose a change to the list of Office Holders appointed to this Framework Agreement they shall complete the Variation Form (in particular the detail required in Part 2 of that form) and submit a signed copy of the Variation Form to the Authority for Consideration. If the proposed changes are approved the Authority shall countersign the relevant Variation Form and return a copy to the Provider. The changes shall take effect on the Effective Date as specified in the relevant Variation Form.
5. Price adjustments
 

All changes to the Hourly Rates made pursuant to clause 10 (Variation to prices) shall be documented through completion of the Variation Form, which shall be completed and signed by the Provider and submitted to the Authority for counter signature.
6. Variations that are not permitted
  - 6.1 In addition to the provisions contained in paragraph 1.2, the Authority may not propose any variation that:
    - 6.1.1 may prevent one or more of the Framework Providers from performing its obligations under the Framework Agreement; or
    - 6.1.2 is in contravention of any Law.

## Part 2 Variation Form

PART 1 – Details of the variation – to be completed for all variations	
Framework and parties' details	
Framework Name and Reference	Framework Agreement for the Appointment of an Office Holder in Criminal Confiscation and Civil Recovery Cases – PR 2022 112
<b>This Variation is between</b>	The Authority and [NAME OF PROVIDER]
Details of Proposed Variation	
Variation requested by:	
Variation number:	



<b>Date variation raised:</b>	
<b>Proposed variation:</b>  Where a change to the list of Office Holders is being requested by the Provider the Provider must fill out Part 2 of this form.	
<b>Reason for Variation:</b>	
<b>Framework Agreement Variation:</b>	This Framework Agreement shall be varied as follows:  [Insert details of variation – where prices are to be adjusted in accordance with the price adjustment clause, you may wish to cross refer to additional documents where the new prices are set out]
<b>PART 2 – to be completed for changes to the list of Officer Holders only</b>	
<b>Name of Requestor:</b>	
<b>Contact Details of Requestor:</b>	Email:  Tel:
<b>Date Requested:</b>	
<b>Full Name of Office Holder:</b>	
<b>Update Required:</b>	
<b>Reason For Update:</b>	
<b>New SC Clearance Required:</b>	Yes/No <i>(Delete as appropriate)</i>
<b>Existing SC Clearance Validation Required:</b>	Yes/No <i>(Delete as appropriate)</i>
<b>PART 3 – Execution – for all variations</b>	
This variation must be signed by both Parties and shall become effective on the Effective Date.  Words and expressions used in this variation shall have the same meanings as given in the Framework Agreement.  The Framework Agreement, including any previous variations, shall remain in full force and effect except as may be amended by this variation.	

<b>Effective Date:</b>	[DATE/ <b>OR</b> As shall be notified to the Provider by the Authority]
<b>Signed on behalf of the Provider</b>	
<b>Name of Provider's signatory</b>	
<b>Position of the Provider's signatory</b>	
<b>Date signed on behalf of the Provider</b>	
<b>Signed on behalf of the Authority</b>	
<b>Name of Authority's signatory</b>	
<b>Position of the Authority's signatory</b>	
<b>Date signed on behalf of the Authority</b>	

## Schedule 9 - Data Protection

This Schedule 9 consists of the following Parts:

Part 1 - Processing, Personal Data and Data Subjects

Part 2 - Assistance with Data Protection Impact Assessment

### Part 1 - Processing, Personal Data and Data Subjects

1. The Provider shall comply with any further written instructions with respect to processing by the Authority.
2. Any such further instructions shall be incorporated into this Schedule.
3. The contact details of the Authority's Data Protection Officer are:

Jackie Ronchetti  
Crown Prosecution Service  
102 Petty France  
London  
SW1H 9AE

Email: [dataprotectionofficer@cps.gov.uk](mailto:dataprotectionofficer@cps.gov.uk)

<b>Subject matter of the Processing</b>	The services provided under this Framework Agreement shall enable the Provider to process, store or transmit Personal Data for the purpose of delivering the Customer's exercise of its criminal confiscation and civil recovery powers and other business functions determined by statute.
<b>Duration of the Processing</b>	Approved as the period: (i) in relation to the relevant Customer data, from the Commencement Date to the expiry or termination (all or part, as applicable) of the Framework Agreement, and until (ii) the fulfilment of any Contracts placed under this framework agreement.
<b>Nature of the processing</b>	<p>The nature shall include but not be limited to the collection, recording, organisation, structuring, storage, adaptation or alteration, retrieval, consultation, use, disclosure by transmission, dissemination or otherwise making available, alignment or combination, restriction, erasure or destruction of data (whether or not by automated means).</p> <p>The purposes shall be the support and management of the Customer's:</p> <p>(i) exercise of its criminal confiscation powers under the Proceeds of Crime Act 2002 and the legislation which preceded it, including any secondary legislation made under that Act and the legislation which preceded it;</p> <p>(ii) exercise of its civil recovery powers under the Proceeds of Crime Act 2002, including any secondary legislation made under that Act.</p>

<b>Types of Personal Data</b>	<p>Data, text, drawings, diagrams, images or sounds (together with any database made up of any of these) which are embodied in any electronic, magnetic, optical or tangible media that may contain but not be limited to:</p> <ul style="list-style-type: none"> <li>• Personal contact details</li> <li>• Family, lifestyle and social circumstances</li> <li>• Financial records</li> <li>• Employment and education details</li> <li>• Criminal convictions</li> <li>• Court Orders</li> <li>• Physical or mental health details</li> <li>• Race or racial or ethnic origin</li> <li>• Witness and Victim Statements</li> <li>• Persons engaged to provide Goods or services</li> </ul>
<b>Categories of Data Subject</b>	<ul style="list-style-type: none"> <li>• Offenders/suspected offenders</li> <li>• Relatives, Guardians and associates of Offenders/suspected Offenders</li> <li>• Victims of crime and Witnesses</li> <li>• Advisers, Consultants and other professional Experts</li> <li>• Contracting Body employees and/or contractors</li> <li>• Providers and service providers</li> <li>• Persons working in the Criminal Justice System</li> <li>• Persons working in the Civil Justice System</li> <li>• Legal professionals</li> <li>• Foreign Governments and their prosecuting authorities and agencies</li> <li>• Contacts at other organisations</li> </ul>
<b>Plan for return and destruction of the data once the processing is complete UNLESS requirement under Domestic Law to preserve that type of data</b>	<p>Data relating to (i) case progression may be retained during processing and must be kept for seven (7) years from the completion of the work under that Appointment, after which point it must be returned and destroyed by the Provider; and</p> <p>Data relating to (ii) other purposes may be retained during processing and must be returned to the department as determined by the Customer's authorised representative in the commission given to the Provider. As a minimum, all copies destroyed within 30 days of the data being returned to the Customer.</p>

## **Part 2 - Assistance with Data Protection Impact Assessment**

1. Where the Customer determines that the processing, taking into account its nature, scope, context and purposes, is likely to result in a high risk to the rights and freedoms of natural persons, the controller shall, prior to the processing, carry out an assessment of the impact of the envisaged processing operations on the protection of Personal Data (the Data Protection Impact Assessment).
2. Taking account of the information reasonably available to it, the Provider shall provide reasonable assistance to the Customer in the preparation of the Data Protection Impact Assessment prior to commencing the processing. Such assistance may, at the discretion of the Customer, include:

- 2.1 a systematic description of the envisaged processing operations and the purpose of the processing;
  - 2.2 an assessment of the necessity and proportionality on the processing operations in relation to the Services;
  - 2.3 an assessment of the risks to the rights and freedoms of Data Subjects; and
  - 2.4 the measures envisaged to address the risks, including safeguards, security measures and mechanisms to ensure the protection of Personal Data.
3. The Customer shall notify the Information Commissioner's Office in the event that the Data Protection Impact Assessment indicates that the processing to be carried out under this Framework Agreement would result in a high risk to Data Subjects in the absence of measures taken by the Customer to mitigate the risk.

## **Schedule 10 - Capewell Guidelines**

### **Robert Capewell v (1) Customs & Excise Commissioners and (2) Nigel Heath Sinclair, Court Appointed Receiver [2004] EWCA Civ 1628**

#### **Counsels' Suggested Guidelines for appointment of Receivers**

##### **Application by the Prosecutor**

##### **Application by the Prosecutor**

1. Within the witness statement in support of the application to appoint a Management Receiver, the prosecutor should set out the reasons the prosecutor seeks the appointment of a Receiver; and what purpose the prosecutor believes the Receivership will serve.
2. The witness statement in support of the application should also give an indication of the type of work that it is envisaged the Receiver may need to undertake, based on the facts known to the prosecutor at the time of the appointment.
3. The witness statement should specifically draw to the Court's attention the proposition that the assets over which the Receiver is appointed will be used to pay the costs, disbursements and other expenses of the Receivership (even if the defendant is acquitted or the Receivership is subsequently discharged).
4. The letter of acceptance of appointment from the Receiver, which must be exhibited to the applicant's witness statement, should contain the time charging rates of the Staff the Receiver anticipates he may need to deploy or other structure for remuneration agreed with the Prosecutor.
5. In appropriate cases, where it is possible, and this will not be in every case, the Receiver should give in his letter of acceptance an estimate as to how much the Receivership is likely to cost.
6. The prosecutor's witness statement in support of the application should inform the Court of the nature of the assets and their approximate value (if known), and the income the assets might produce (if known).
7. If the prosecutor or Receiver is unable to comply with any of the above requirements the prosecutor should explain the reasons for the failure in the prosecutor's application to the court, and the matter will be left at the discretion of the court.

##### **Upon appointment**

8. Upon the appointment of a Receiver, the Judge should consider whether it is appropriate, in all the circumstances, to reserve any future applications to himself, with a view to minimising costs.
9. Upon the appointment of a Receiver, the Judge should consider whether it is appropriate, in all the circumstances, to set a return date, balancing the need for such a hearing with the interests of the defendant, who ultimately will bear the costs of such a hearing.
10. The Receiver should inform the parties by written report as soon as reasonably practicable, if it appears to him that any initial costs estimate will be exceeded, or

Receivership costs are increasing, or are likely to increase to a disproportionate level. Such a report should also be filed with the Court. In such circumstances the parties and the Receiver shall be at liberty to seek directions from the Court.

### **Reporting requirements**

11. Unless the Court directs otherwise, the Receiver should report 28 days after his appointment and quarterly thereafter.
12. Unless the Court directs otherwise, the report should be served on the prosecutor and the defendant and filed with the Court.
13. Every report should set out: the costs incurred to date; the work done; the projected costs until the next report; a summary of how those costs attach to the matters that led to the appointment or to the matters that may have arisen; and, where appropriate, an estimated final outcome statement.
14. Every report should contain a statement that the Receiver believes that his costs are reasonable and proportionate in all the circumstances.
15. If the Receiver is unable to fulfil any of the above reporting requirements, he should give, as soon as reasonably practicable, an explanation, by way of written report to be filed at Court and served on the parties, of why this is the case, and those parties shall be at liberty to seek directions from the Court.

### **Lawyers and other agents**

16. The parties should always be told that lawyers or other agents have been instructed unless it is not practicable or in the interests of justice to do so (for example, to make an urgent without notice application to secure assets).
17. If lawyers or other agents are instructed the Receiver should ask for monthly bills or fee-notes. The Receiver should endeavour to keep a close control on such fees and satisfy himself that the costs being incurred are reasonable and proportionate in all the circumstances.
18. The Receiver should notify the parties as soon as reasonably practicable, if it appears to him that any lawyers or other agents' costs are rising to a disproportionate level, and those parties shall be at liberty to apply to the Court for directions.

### **General**

19. Nothing in these guidelines should be read as supplanting the appropriate rules of court, particularly CPR 69 , and the relevant statutory provisions.
20. Judges appointing Receivers should always bear in mind that the costs of the Receivership may fall on an innocent man. They should also bear in mind that the interests of justice dictate that Receiverships are a necessary and essential tool of the criminal justice process for preserving and managing assets to satisfy confiscation orders if the defendant is convicted.
21. Management Receivership orders should be endorsed with the appropriate penal notice. It will be a term of most orders that defendants should cooperate with and comply with, as soon as possible and forthwith, directions and requests of the Receiver, so as to enable the Receiver to efficiently and cost-effectively carry out the duties,

functions and obligations of his office. It is therefore in the defendant's interest to avoid, as far as possible, the need for the Receiver to return to Court for further orders or directions, the cost of which ultimately fall on the defendant's estate.



## **Schedule 11 - Data Protection and Security Requirements**

### **1. DATA PROTECTION AND SECURITY**

#### **1.1 Security Check Level Security Clearance**

- 1.1.1 The Customers may specify additional security requirements from the Provider as may be required for the specific circumstances of the Contract.
- 1.1.2 For the purposes of this Framework Agreement, the Provider will be required to process, store and transmit information at Official-Sensitive level.
- 1.1.3 The Office Holder and any Provider Personnel accessing casework material under this Framework Agreement will require valid Security Check (SC) Level Security Clearance to be in place.
- 1.1.4 All vetting clearances are undertaken by UK Security Vetting, a part of the Cabinet Office in line with the government's personnel security and national security vetting policies. See guidance on how the processes work in the His Majesty's Government (HMG) personnel security controls guidance.
- 1.1.5 The Authority will provide the necessary sponsorship to allow SC Level Security Clearance to be obtained for the Office Holders and relevant personnel. SC Level Security Clearance can only be obtained if the Authority or another government authority sponsors such clearance.
- 1.1.6 In the event that the Office Holder or Provider Personnel has already achieved SC Level Security Clearance prior to award of this Framework Agreement, the Authority will still need to take necessary steps to verify any SC Level Security Clearance that the Office Holder or relevant personnel may already have in place in line with the HMG personnel security controls.
- 1.1.7 SC Level Security Clearance for an Office Holder or Provider Personnel may be transferable between government departments providing that the Authority is satisfied that its requirements are met through the vetting process. Please note in particular, the relevant personnel would be required to demonstrate that the most recent government contract was within the last 12 Months.
- 1.1.8 On completion of the SC Level Security Clearance verification checks or vetting process, a decision will be made by the Authority to refuse or approve the clearance application.
- 1.1.9 If the Office Holder or any Provider Personnel with access to casework material put forward by the Provider fails to achieve SC Level Security Clearance, the affected personnel would not be allowed to conduct work on behalf of the Authority.
- 1.1.10 The Provider must be able to demonstrate to the Authority that those individuals who are not cleared do not have access to any casework

material. Only those cleared individuals would be able to execute work on behalf of the Authority or Other Contracting Bodies and those individuals awaiting clearances should not have access to casework material or work on behalf of the Authority or Other Contracting Bodies. Please note that in the event that the Authority finds that unauthorised individuals are accessing casework material information, the Authority reserves the right to remove the awarded Provider from this Framework Agreement.

- 1.1.11 In the event that the Office Holder and all relevant Provider Personnel fail to achieve clearance, the Provider will not be able to deliver any Services under this Framework Agreement and the Authority reserves the right to remove the Provider from the Framework Agreement.
- 1.1.12 In the event that a Provider has no Office Holders with SC Level Security Clearance, the Authority reserves the right to remove the Provider from the Framework Agreement.
- 1.1.13 It is the responsibility of the Provider to ensure that the Office Holder(s) and Provider Personnel with access to case work material (including any new Office Holders or Provider Personnel that will join the Provider during the Term) are always SC Cleared and shall notify the Authority accordingly when SC Clearance is required. The Authority shall carry out periodic spot checks to ensure that the Office Holder and relevant Provider Personnel have been security cleared to the appropriate level throughout the Term.

## **1.2 Storage and transmission of Information**

- 1.2.1 The Office Holder will always share sensitive information via a secure email facility sponsored by the Authority.
- 1.2.2 The Provider shall ensure that it has in place a security management plan, as per ISO 27001, in the event of a failure it is still able to deliver its duties under the Framework Agreement.
- 1.2.3 The Authority reserves the right to review the security management plans of the Provider to ensure compliance is being maintained.
- 1.2.4 Site checks will need to be carried out by the Authority, where required, to provide assurance to the Authority that the Provider's onsite security arrangements meet the requirements as outlined in the CPS Security Management Policy. Where the Provider fails to meet such requirements, the Authority reserves the right to remove the Provider from the Framework Agreement.
- 1.2.5 The Provider shall ensure that it does not process, store or transmit information at Official-Sensitive level or any Authority or Other Contracting Body data outside of the United Kingdom unless otherwise agreed with the Authority or Other Contracting Body on a case-by-case basis and for the purpose of recovery.

### 1.3 **Amendments to this Schedule 11**

The Authority reserves the right to update and amend this Schedule 11 in accordance with the Framework Agreement Variation Procedure.

### **Schedule 12 - Commercially Sensitive Information**

1. The Parties have identified the following Commercially Sensitive Information:

<b>No.</b>	<b>Date</b>	<b>Item(s)</b>	<b>Duration of Confidentiality</b>
	[insert date]	[insert details]	[insert duration]

**[DN – to be populated by the Provider as part of their Tender response – to include periods where relevant for such information to be provided to the Authority]**

## **Schedule 13 - Letter of Nomination and Letter of Acceptance of Appointment**

### **Part 1 Letter of Nomination**

Date: *[insert date]*

Dear *[insert Name of Receiver/Trustee]*

**DEFENDANT(S) / RESPONDENT(S):** *[insert name of Defendant/Respondent]*

**URN:** *[insert URM]*

**Contract Reference Number:** *[insert Contract Reference Number]*

**Re:** *[Proceeds of Crime Act 2002 or appropriate legislation – populate as appropriate]*

**Proposed appointment of [state type of Receiver / Trustee]**

We are writing to enquire whether you would be prepared to act as an *[insert type of Receiver / Trustee]* pursuant to *[Section 50 of the Proceeds of Crime Act 2002 – or appropriate legislation – populate as appropriate]* in the above case of which the *[Crown Prosecution Service or insert other Customer as appropriate]* has conduct.

You will appreciate that your appointment is dependent on an order being made by the *[Crown Court / High Court – insert as appropriate]*. This letter sets out the terms upon which we propose to seek your appointment. These terms will form part of the order for your appointment. In addition, your appointment is subject to the Contract Reference set out above between the *[Crown Prosecution Service or insert other Customer as appropriate]* and *[insert name of Provider]*, to the provisions of *[Part 33 of the Criminal Procedure Rules or Part 69 and Practice Direction 69 of the Civil Procedure Rules - insert as appropriate]* *[and in accordance with the Capewell Guidelines – insert as appropriate]*.

### **BACKGROUND**

Please refer to Part 1 of the Order Form.

### **PROPERTY INVOLVED**

Please refer to Part 1 of the Order Form.

### **TERMS OF APPOINTMENT**

#### **1. Record keeping**

Please refer to clause 32.3 of the Call-off Terms and Conditions.

#### **2. Accounts**

Please refer to Annex D of the Call-off Terms and Conditions.

#### **3. Reports**

Please refer to Part 1 of the Order Form and Annex D of the Call-off Terms and Conditions.

#### **4. Legal proceedings and employment of agents**

Please refer to clause 24 of the Call-off Terms and Conditions.

*[For Management Receiverships in criminal confiscation cases only, please include the following wording:*

*The employment of lawyers or other agents by you is also subject to paragraphs 16 to 18 of the Capewell Guidelines referred to below.*

*16. The parties should always be told that lawyers or other agents have been instructed unless it is not practicable or in the interests of justice to do so (for example, to make an urgent without notice application to secure assets).*

*17. If lawyers or other agents are instructed the Receiver should ask for monthly bills or fee-notes. The Receiver should endeavour to keep a close control on such fees and satisfy himself that the costs being incurred are reasonable and proportionate in all the circumstances.*

*18. The Receiver should notify the parties as soon as reasonably practicable, if it appears to him that any lawyers or other agents' costs are rising to a disproportionate level, and those parties shall be at liberty to apply to the Court for directions.]*

## **5. Discharge**

Please refer to clauses 52.1 and 52.2 of the Call-off Terms and Conditions.

## **6. Agreed fees**

Please refer to Part 2 of the Order Form and clauses 10 to 14 of the Call-off Terms and Conditions.

## **7. Remuneration**

Please refer to Part 2 of the Order Form and clauses 16 and 17 of the Call-off Terms and Conditions.

The Customer will not indemnify you if the sum collected by you is insufficient to cover your price. In any event, if it becomes clear to you at any stage that there are insufficient assets within the receivership estate to cover your price, whether incurred or anticipated, you must immediately notify the Customer in writing.

## **8. Security Bond**

Please refer to Part 3 of the Order Form and clause 18 of the Call-off Terms and Conditions.

### **Letter of Acceptance of Appointment**

If you are prepared to act as *[Receiver / Trustee – delete as appropriate]* in this case we will require a letter from you confirming your willingness to act in accordance with the completed Order Form. Please sign the Part 3 of the Order Form and return to us with the Letter of Acceptance of Appointment, as per the template letter at *[Appendix 1 to this letter – attach template Letter of Acceptance of Appointment]*.

If you do not return a signed Part 3 and Letter of Acceptance of Appointment in accordance with the above by *[insert date]*, this offer shall lapse and the Customer reserves the right to seek the appointment of a different Office Holder in accordance with clause 6.14 of the Framework Agreement Terms and Conditions.

Yours sincerely,

## Part 2 Letter of Acceptance of Appointment

Date: *[insert date]*

Dear *[insert Name of Customer]*

**DEFENDANT(S) / RESPONDENT(S):** *[insert name of Defendant/Respondent]*

**URN:** *[insert URM]*

**Contract Reference Number:** *[insert Contract Reference Number]*

**Re:** *[Proceeds of Crime Act 2002 or appropriate legislation – populate as appropriate]*

### **Acceptance of appointment of [state type of Receiver / Trustee]**

I can confirm I am willing to act as *[sole / joint – delete as appropriate]* *[insert type of Receiver / Trustee]* in this case.

It is agreed that my appointment will be in accordance with:

- a. the Contract Reference as above between the *[Crown Prosecution Service or insert other Customer as appropriate]* and *[insert name of Provider]*;
- b. the provisions of *[Part 33 of the Criminal Procedure Rules or Part 69 and Practice Direction 69 of the Civil Procedure Rules as appropriate]*;
- c. *[the Capewell Guidelines – insert for Management Receivers only]*;
- d. the Letter of Nomination dated *[insert date]* including the following terms of appointment:

#### **1. Record keeping**

I can confirm that records shall be kept in accordance with clause 32.3 of the Call-off Terms and Conditions.

#### **2. Accounts**

I can confirm that I will provide accounts in accordance with Annex D of the Call-off Terms and Conditions.

#### **3. Reports**

I can confirm that I will provide reports in accordance with Part 1 of the Order Form and Annex D of the Call-off Terms and Conditions.

#### **4. Legal proceedings and employment of agents**

I can confirm that I will inform the Customer in accordance with clause 24 of the Call-off Terms and Conditions.

*[For Management Receiverships in criminal confiscation cases only, please include the following wording: "I can confirm I will comply with paragraphs 16 to 18 of the Capewell Guidelines."]*

#### **5. Discharge**

I can confirm that I will comply with the discharge provisions set out at clauses 52.1 and 52.2 of the Call-off Terms and Conditions.

#### **6. Agreed fees**

I can confirm that the agreed price is as stated at Part 2 of the Order Form and I can confirm compliance with Call-off Terms and Conditions clauses 10 to 14. I can confirm that details of the

fees to be charged by each grade of fee earner (and disbursements and all other costs) *[in accordance with Capewell Guideline 4 – insert for Management Receivers only]* are as stated at Part 2 of the Order Form.

**7. Remuneration**

I can confirm that remuneration shall be in accordance with Part 2 of the Order Form and clauses 16 and 17 Call-off Terms and Conditions. It is noted that the Customer will not indemnify me if the sum collected by me is insufficient to cover my price. In any event, if it becomes clear to me at any stage that there are insufficient assets within the receivership estate to cover my price, whether incurred or anticipated, I must immediately notify the Customer in writing.

**8. Security Bond**

I will comply with the security bond provisions in Part 3 of the Order Form and clause 18 of the Call-off Terms and Conditions.

Yours sincerely,



#### **Schedule 14 - Provider's Tender**

**[DN – Provider's Tender to be incorporated into this Schedule]**

## **Schedule 15 - Business Continuity Plan**

### **1. Purpose of the Business Continuity Plan**

- 1.1 The purpose of the Business Continuity Plan shall be to ensure that, in the event of any failure or disruption to the Services:
  - 1.1.1 the business operations of the Provider are maintained during and after each period of failure or disruption;
  - 1.1.2 that Customers can continue to receive Services during and after each period of failure or disruption;
  - 1.1.3 any adverse impact on the standard of the Services, including the achievement of service levels, is prevented;
  - 1.1.4 there is no loss of data and the integrity of all data is preserved; and
  - 1.1.5 normal supply of the Services is recommenced as soon as possible.
- 1.2 The Provider shall ensure that the Business Continuity Plan achieves this purpose.

### **2. Content of the Business Continuity Plan**

- 2.1 The Provider shall ensure that the Business Continuity Plan is bespoke to the Services being provided under this Framework Agreement and that it complies with the Business Continuity Institute Good Practice Guidelines 2018 Edition (or equivalent).
- 2.2 The Provider shall ensure that the Framework-Specific Business Continuity Plan includes:
  - 2.2.1 introduction, purpose and scope;
  - 2.2.2 objectives and any assumptions which may apply (including those defining the limitations of the plan relating to extent, duration, or impact of the incident);
  - 2.2.3 the response structure;
  - 2.2.4 details of how the Provider will identify failures and disruptions to the supply of Services;
  - 2.2.5 plan activation criteria, procedures and authorisation, including implementation procedures:
    - (a) invocation of continuity solutions;
    - (b) team mobilisation instructions;
  - 2.2.6 details of how the Provider will execute the Business Continuity Plan, including alternative business processes, options and responsibilities;

- 2.2.7 details as to how the invocation of any element of the Business Continuity Plan may impact on the supply of the Services and a full analysis of the risks to the operation of this Framework Agreement;
- 2.2.8 prompts for immediate action and any specific decisions the team(s) may need to make, for example, whether to activate an alternative site;
- 2.2.9 the rules and procedures for data storage, back-up, availability and verification;
- 2.2.10 a communication strategy, including communication requirements and procedures concerning relevant interested parties, for example, personnel, suppliers, customers and the media;
- 2.2.11 response team roles and responsibilities (with alternates as appropriate) and key contact details;
- 2.2.12 individual responsibilities and authorities of team members;
- 2.2.13 internal and external interdependencies and interactions, including contact details
- 2.2.14 summary information (at a level of detail appropriate to the plan) of the organisation's prioritised activities and resource requirements as identified in the analysis stage of the business continuity management lifecycle, with reference to continuity timeframes within which they are required;
- 2.2.15 decision supporting checklists;
- 2.2.16 details of meeting locations;
- 2.2.17 information flow and document processes;
- 2.2.18 procedures for reverting to normal service (including standing down the team) and steps to address any prevailing effects of the failure or disruption to the supply of the Services;
- 2.2.19 appendices with relevant information capture templates, for example, an action log;
- 2.2.20 plan approval and distribution information.

**Schedule 16 - Form of Guarantee**

**[DN – form of Guarantee to be inserted]**