



Home Office

DATED 25 January 2018

(1) THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

AND

(2) FOSTER & FREEMAN LTD

**FRAMEWORK AGREEMENT FOR THE SUPPLY OF
FORGERY DETECTION EQUIPMENT**

Reference: HO_BF_DS 017 215/038

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THIS AGREEMENT is made on 25 January 2018

BETWEEN:-

- (1) **THE SECRETARY OF STATE FOR THE HOME DEPARTMENT** acting through Border Force of 2 Marsham Street, London SW1P 4DF (the "**Authority**"); and
- (2) **FOSTER & FREEMAN LTD** (Company Number: 1403147) whose registered address is at Vale Park, Evesham, Worcestershire WR11 1TD (the "**Contractor**")

BACKGROUND

- (A) The Authority placed a contract notice 2017/S 224-465504 on 22 November 2017 in the Official Journal of the European Union seeking expressions of interest from suppliers for the provision of Goods to Customers (as defined below) under a framework arrangement.
- (B) The Contractor submitted its expression of interest on 29 November 2017 in response to the contract notice.
- (C) Following receipt of expressions of interest, the Authority invited potential suppliers (including the Contractor) on 29 November 2017 to tender for the provision of Goods under the open procedure in the Regulations.
- (D) The Contractor submitted a tender on 18 December 2017.
- (E) On the basis of the Contractor's tender, the Authority selected the Contractor to enter a framework arrangement to provide Goods to the Customers on a call-off basis in accordance with this Framework Agreement.
- (F) This Framework Agreement sets out the ordering procedure for Goods which may be required by Customers, the terms and conditions for any call-off contract which Customers may conclude and the obligations of the Contractor during and after the term of this Framework Agreement.
- (G) The Goods may be called off this Framework Agreement and procured by any of the Customers.
- (H) It is the Parties' intention that there will be no obligation for any Customer to award any orders under this Framework Agreement during its Term.

IT IS AGREED as follows:-

1. DEFINITIONS AND INTERPRETATION

1.1 In this Framework Agreement:

“Agreement to Proceed”	means formal written authority from the Authority that a Customer (other than the Authority) may order Goods under this Framework Agreement;
“Authority Data”	<p>(a) the 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, and which are:</p> <p>(i) supplied to the Contractor by or on behalf of the Authority; or</p> <p>(ii) which the Contractor is required to generate, process, store or transmit pursuant to this Framework Agreement and/or any Call-Off Contract; and/or</p> <p>(b) any Personal Data for which the Authority is the Data Controller;</p>
“Call-Off Contract”	<p>means: any call-off contract entered pursuant to this Framework Agreement between the Contractor and a Customer for the supply of Goods; and</p> <p>in each case, the forms of which are set out in Annex 11;</p>
“Central Government Body”	<p>means a body listed in one of the following sub-categories of the Central Government classification of the Public Sector Classification Guide, as published and amended from time to time by the Office for National Statistics:</p> <p>(a) Government Department;</p> <p>(b) Non-Departmental Public Body or Assembly Sponsored Public Body (advisory, executive, or tribunal);</p> <p>(c) Non-Ministerial Department; or</p> <p>(d) Executive Agency;</p>
“Change in Law”	means any change in Law which comes into force after the Commencement Date and which impacts on the delivery of the Goods;
“Commencement Date”	means 25 January 2018 ;
“Confidential Information”	(a) Information, including all Personal Data, which (however it is conveyed) is provided by the Disclosing Party pursuant to or in anticipation of

this Framework Agreement or a Contract that relates to the operations, business, affairs, developments, intellectual property rights, trade secrets, know-how and/or personnel of the Disclosing Party;

- (b) other Information provided by the Disclosing Party pursuant to or in anticipation of this Framework Agreement or a Contract that is clearly designated as being confidential or equivalent or that ought reasonably to be considered to be confidential (whether or not it is so marked) which comes (or has come) to the Recipient's attention or into the Recipient's possession in connection with this Framework Agreement or that Contract;
- (c) discussions, negotiations, and correspondence between the Disclosing Party or any of its directors, officers, employees, consultants or professional advisers and the Recipient or any of its directors, officers, employees, consultants and professional advisers in connection with this Framework Agreement or a Contract and all matters arising therefrom; and

(d) Information derived from any of the above,

but not including any Information which:

- (i) was in the possession of the Recipient without obligation of confidentiality prior to its disclosure by the Disclosing Party;
- (ii) the Recipient obtained on a non-confidential basis from a third party who is not, to the Recipient's knowledge or belief, bound by a confidentiality agreement with the Disclosing Party or otherwise prohibited from disclosing the information to the Recipient;
- (iii) was already generally available and in the public domain at the time of disclosure otherwise than by a breach of this Framework Agreement or breach of a duty of confidentiality;
- (iv) was independently developed without

	access to the Confidential Information; or
	(v) relates to the Contractor's performance under this Framework Agreement or a Contract or failure to pay any Sub-contractor;
"Consistent Failure"	means any of: <ul style="list-style-type: none"> (a) two (2) or more failures by the Contractor to comply with the Standards in any rolling period of twelve (12) Months; (b) two (2) or more failures by the Contractor to accept an Order within two (2) working Days of receipt in any rolling period of twelve (12) Months;
"Contract"	means a legally binding agreement made pursuant to the provisions of this Framework Agreement for the provision of Goods , made between a Customer and the Contractor, comprising of an Order Form and the associated Call-off Contract(s);
"Customer"	means the Authority, the Department for Work and Pensions (DWP) and the Driver and Vehicle Licensing Agency (DVLA);
"Data Controller"	has the meaning given to that term in the DPA;
"Default"	means any breach of the obligations of the Contractor (including fundamental breach or breach of a fundamental term) or any default, act, omission, negligence or statement of the Contractor or the Staff in connection with or in relation to the subject matter of this Framework Agreement, including, any Contract;
"Disclosing Party"	has the meaning given to that term in clause 25.1;
"DPA"	means the Data Protection Act 1998 and any subordinate legislation made under such Act from time to time together with any guidance and/or codes of practice issued by the Information Commissioner in relation to such legislation;
"Environmental Information Regulations"	mean the Environmental Information Regulations 2004 and any guidance and/or codes of practice issued by the Information Commissioner in relation to such regulations;

"Framework Agreement Variation Procedure"	means the procedure set out in Annex 10;
"FOIA"	means the Freedom of Information Act 2000 and any subordinate legislation made under such Act from time to time together with any guidance and/or codes of practice issued by the Information Commissioner in relation to such legislation;
"Force Majeure"	<p>means any of the following events:</p> <ul style="list-style-type: none"> (a) war, civil war, armed conflict or terrorism; (b) nuclear, biological or chemical contamination (unless in any case the Contractor or its Staff caused such contamination); (c) fire, flood or any disaster acts, events, omissions, happenings or non-happenings beyond the reasonable control of the Affected Party, <p>which directly cause either Party to be unable to comply with all or a material part of its obligations under this Framework Agreement;</p>
"General Change in Law"	means a Change in Law which comes into effect after the date of this Framework Agreement, where the change is not of a general legislative nature (including taxation or duties of any sort affecting the Contractor) or which would affect or relate to a comparable supply of goods of the same or similar nature to the supply of the Goods ;
"Good Industry Practice"	means at any time the exercise of that degree of skill, diligence and foresight which would reasonably and ordinarily be expected from a skilled and experienced operator engaged in the same type of business as the Contractor under the same or similar circumstances, such Contractor seeking to comply with its contractual obligations in full and complying with all applicable Laws;
"Goods"	means the goods described in Annex 1;
"Holding Company"	shall have the meaning ascribed by section 1159 of the Companies Act 2006;
"Information"	all information of whatever nature, however

conveyed and in whatever form, including in writing, orally, by demonstration, electronically and in a tangible, visual or machine-readable medium (including CD-ROM, magnetic and digital form);

"Intellectual Property Rights"

means:

- (a) patents, inventions, trade marks, service marks, logos, design rights (whether registrable or otherwise), applications for any of the foregoing, copyright, database rights, domain names, trade or business names, and other similar rights or obligations whether registerable or not in any country (including but not limited to the United Kingdom);
- (b) applications for registration, and the right to apply for registration for any of the rights listed at (a) that are capable of being registered in any country or jurisdiction; and
- (c) causes of action, interests and assets in relation to the rights listed at (a) and (b) including the right to sue for passing off;

"Law"

any law, statute, subordinate legislation within the meaning of section 21(1) of the Interpretation Act 1978, bye-law, enforceable right within the meaning of section 2 of the European Communities Act 1972, regulation, order, mandatory guidance or code of practice, judgment of a relevant court of law, or directives or requirements of any Regulatory Body with which the Contractor is bound to comply;

"Month"

means a calendar month and **"Monthly"** shall be similarly construed;

"OJEU Notice"

means the advertisement 2017/S 224-465504 on 22 November 2017 issued in the Official Journal of the European Union;

"Order"

means an order for Goods substantially in the form set out in Annex 5 or such other form as may be agreed between the Parties served by any Customer on the Contractor in accordance with the Ordering Procedures;

"Order Form"

means the document issued by a Customer which sets out the terms of the Order;

"Ordered Goods"

means the Goods which are the subject matter of a particular Order;

"Ordering Procedures"	means the ordering procedure specified in Clause 6 ;
"Parent Company"	means any company which is the ultimate Holding Company of the Contractor or any other company of which the ultimate Holding Company of the Contractor is also the ultimate Holding Company and which is either responsible directly or indirectly for the business activities of the Contractor or which is engaged in the same or similar business to the Contractor;
"Parties"	means the Contractor and the Authority and "Party" shall be construed accordingly as the context requires;
"Personal Data"	has the meaning given to that term in the DPA;
"Pre-Existing Intellectual Property Rights"	shall mean any Intellectual Property Rights vested in or licensed to the Authority or the Contractor prior to or independently of the performance by the Authority or Contractor of their respective obligations under this Framework Agreement;

“Pricing Matrix”

means the pricing matrix which determines the charges payable by the Customer under a particular Contract for Ordered Goods , as set out in Annex 3 Price Schedule;

“Prohibited Act”

means:

- (a) to directly or indirectly offer, promise or give any person working for or engaged by a Customer a financial or other advantage to:
 - (i) induce that person to perform improperly a relevant function or activity; or
 - (ii) reward that person for improper performance of a relevant function or activity;
- (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 or a Contract;
- (c) an offence:
 - (i) under the Bribery Act 2010 (or any legislation repealed or revoked by such Act);
 - (ii) under legislation or common law concerning fraudulent acts; or
 - (iii) defrauding, attempting to defraud or conspiring to defraud a Customer; or
- (d) any activity, practice or conduct which would constitute one of the offences listed under (c) above if such activity, practice or conduct had been carried out in the UK;

“Regulations”

means the Public Contracts Regulations 2015;

"Regulatory Bodies"

means those government departments and regulatory, statutory and other entities, committees 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 and **“Regulatory**

	Body shall be construed accordingly as the context requires;
“Relevant Requirements”	means 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;
“Request for Information”	shall have the meaning set out in FOIA or any apparent request for information under the FOIA or the Environmental Information Regulations;
“Security Policy”	means the security policy accessible at the following URL as such policy is updated, amended, varied or replaced from time to time: http://www.cabinetoffice.gov.uk/media/111428/spf.pdf ;
“Special Terms”	means any additional terms which are included by mutual agreement of the Parties into an Order Form to amend a Call-Off Contract;
“Specific Change in Law”	means a change in Law which comes into effect after the date of this Framework Agreement that specifically relates to the business of the Authority and which would not affect a comparable supply of goods or the same or similar nature to the supply of the Goods ;
“Staff”	means all persons employed by the Contractor together with the Contractor’s servants and agents used in the performance of this Framework Agreement or a Contract;
“Standards”	means the standards described in Annex 5;
“Sub-Contractor”	means each of the sub-contractors listed in Annex 9 or any person engaged by the Contractor in connection with the provision of the Goods from time to time as may be permitted by this Framework Agreement;
“Term”	means the period commencing on the Commencement Date and ending on the date being the fourth (4th) anniversary of the Commencement Date or on earlier termination of this Framework Agreement;

"VAT"	means:
	(a) any tax imposed in compliance with the Council Directive of 28 November 2006 on the common system of value added tax (EC Directive 2006/112); and
	(b) any other tax of a similar nature whether imposed in a member state of the European Union in substitution for, or levied in addition to, such tax referred to in paragraph (a) above, or imposed elsewhere;
"Working Days"	means Monday to Friday inclusive, excluding English public and bank holidays; and
"Year"	means a calendar year.

1.2 Unless the context otherwise requires, the interpretation provisions set out in the paragraphs below shall apply in this Framework Agreement.

- (a) Words importing the singular meaning include where the context so admits the plural meaning and vice versa.
- (b) Words importing the masculine include the feminine and the neuter.
- (c) The words "include", "includes" and "including" are to be construed as if they were immediately followed by the words "without limitation".
- (d) 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.
- (e) References to any statute, enactment, order, regulation or other similar instrument shall be construed as a reference to the statute, enactment, order, regulation or instrument as amended by any subsequent enactment, modification, order, regulation or instrument as subsequently amended or re-enacted.
- (f) Headings are included in this Framework Agreement for ease of reference only and shall not affect the interpretation or construction of this Framework Agreement.
- (g) The Annexes 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 Annexes.
- (h) References in this Framework Agreement to any Clause or sub-clause or Annex without further designation shall be construed as a reference to

the clause or sub-clause of or Annex to this Framework Agreement so numbered.

- (i) 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 Annex to this Framework Agreement so numbered.
- (j) Reference to a Clause is a reference to the whole of that clause unless stated otherwise.

2. TERM OF FRAMEWORK AGREEMENT

2.1 This Framework Agreement shall take effect on the Commencement Date and shall expire automatically at the end of the Term unless:

- (a) it is otherwise terminated in accordance with the terms of this Framework Agreement; or
- (b) it is otherwise lawfully terminated.

3. SCOPE OF FRAMEWORK AGREEMENT

3.1 This Framework Agreement governs the relationship between the Authority and the Contractor in respect of the provision of the Goods by the Contractor to Customers.

3.2 Customers may, at their absolute discretion and from time to time during the Term of this Framework Agreement, order Goods from the Contractor using the Ordering Procedure.

3.3 Not used.

3.4 The Contractor acknowledges that there is no obligation whatsoever for the Authority and for any Customer to purchase any Goods from the Contractor during the Term of this Framework Agreement.

3.5 No undertaking shall be deemed to have been made by the Authority nor any other Customer in respect of the total quantities or values of the Goods to be ordered pursuant to this Framework Agreement and the Contractor acknowledges and agrees that it has not entered into this Framework Agreement on the basis of any such undertaking.

4. PROVISION OF THE GOODS

The Authority appoints the Contractor as the supplier of the Goods to the Customers during the Term.

5. **NON-EXCLUSIVITY**

The Contractor acknowledges that in entering into this Framework Agreement no form of exclusivity or volume guarantee has been granted by any Customer for the purchase of Goods from the Contractor and that each Customer is at all times entitled to enter into other contracts and agreements with other suppliers for the provision of any or all services or goods which are the same as or similar to the Goods.

6. **ORDERING PROCEDURES**

Responsibility for Orders

6.1 The Contractor acknowledges that each Customer is independently responsible for the conduct of their Orders under this Framework Agreement and that the Authority is not responsible or accountable and shall have no liability whatsoever in relation to:

- (a) the conduct of the other Customer in relation to this Framework Agreement; or
- (b) the performance or non-performance of any Contracts entered into pursuant to this Framework Agreement between the Contractor and the other Customer.

Order Form

6.2 Any Customer may place an Order with the Contractor by serving an order in writing in substantially the form set out in Annex 4, or such similar or analogous form agreed by both the Customer and (if the Customer is not the Authority) the Authority with the Contractor, which may include but is not limited to, systems of ordering involving email or other on-line solutions.

6.3 Each Order Form shall:

- (a) state the Customer's Goods requirements;
- (b) state the amounts payable for the Goods , as calculated in accordance with the Pricing Matrix; and
- (c) incorporate the applicable Call-Off Contract.

6.4 The Contractor shall not accept any Special Terms proposed by a Customer other than the Authority without the prior written agreement of an authorised representative of the Authority to the inclusion of such Special Terms.

- 6.5 At the time that an Order for Goods is placed by a Customer, the Contractor must contact the Authority in order to confirm the validity of the request.

Accepting Orders

- 6.6 The Contractor shall not unreasonably refuse to accept any Order placed by a Customer.
- 6.7 The Contractor in agreeing to accept Orders referred to in Clauses 6.1 and 6.4 above shall enter a Call-Off Contract with the relevant Customer for the provision of Goods referred to in those Orders.
- 6.8 The Contractor shall use all reasonable endeavours to fulfil Orders by the date specified in the relevant Order Form.

7. CONTRACT PERFORMANCE AND PRECEDENCE OF DOCUMENTS

- 7.1 The Contractor shall perform all Contracts entered into with any Customer:
- (a) in accordance with the requirements of this Framework Agreement;
 - (b) in accordance with the terms and conditions of the relevant Call-Off Contracts and Order Form;
 - (c) in accordance with and Good Industry Practice;
 - (d) with appropriately experienced, qualified and trained Staff with all due skill, care and diligence; and
 - (e) in compliance with all applicable Laws.
- 7.2 In the event of, and only to the extent of, any conflict or inconsistency between the terms of this Framework Agreement and the terms and conditions of a Contract, such conflict or inconsistency shall be resolved according to the following order of priority:
- (a) the Order Form including any Special Terms;
 - (b) the associated Call-Off Contract;
 - (c) this Framework Agreement; and
 - (d) any other document referred to in the clauses of the Contract.

8. PRICES FOR GOODS

- 8.1 The prices offered by the Contractor for Contracts to Customers for Goods shall be the amounts listed in the Pricing Matrix.

- 8.2 The prices as set out in the Pricing Matrix for the Goods shall remain fixed for the entire Term.
- 8.3 The amounts in the Pricing Matrix are exclusive of VAT.

9. **INVOICING**

- 9.1 The Contractor shall submit all invoices in accordance with Part 2 (Invoicing) of Annex 3. Where the Contractor submits an invoice to a Customer in accordance with Part 2 (Invoicing) of Annex 3, the Authority will consider and verify that invoice within 5 Working Days.
- 9.2 The relevant Customer shall pay the Contractor any sums due under such an invoice no later than a period of 30 days from the date on which such Customer has determined that the invoice is valid and undisputed.
- 9.3 Where the relevant Customer fails to comply with clause 9.1 and there is an undue delay in considering and verifying the invoice, the invoice shall be regarded as valid and undisputed for the purposes of clause 9.2 after a reasonable time has passed.

10. **WARRANTIES AND REPRESENTATIONS**

- 10.1 The Contractor warrants and represents to the Authority and to the other Customer that:
- (a) it has full capacity and authority and all necessary consents (including, where its procedures so require, the consent of its Holding Company and/or Parent Company) to enter into and to perform this Framework Agreement and that this Framework Agreement is executed by a duly authorised representative of the Contractor;
 - (b) as at the date of this Framework Agreement, all information contained in its tender (including statements made in relation to the categories referred to in regulation 57 of the Regulations) for the Goods remain true, accurate, and not misleading;
 - (c) in relation to this Framework Agreement, it has not entered into any agreement with any other person with the aim of preventing tenders being made or as to the fixing or adjusting of the amount of any tender;
 - (d) it has not caused or induced any person to enter such agreement referred to in **Clause** 10.1(c) above;
 - (e) in relation to this Framework Agreement, it has not offered or agreed to pay or give any sum of money, inducement or valuable consideration directly or indirectly to any person for doing or having done or causing or

having caused to be done any act or omission in relation to any other tender;

- (f) no claim is being asserted and no litigation, arbitration or administrative proceeding is presently in progress, or, to the best of its knowledge pending or threatened against it or any of its assets which will or might have a material adverse effect on its ability to perform its obligations under this Framework Agreement and any Contract which may be entered with the Authority or the other Customer;
- (g) it is not subject to any contractual obligation, compliance with which will be likely to have a material adverse effect on its ability to perform its obligations under this Framework Agreement and any Contract which may be entered with the Authority or the other Customer;
- (h) no proceedings or other steps have been taken and not discharged (nor, to the best of their knowledge, are threatened) for the winding up of the Contractor or for its dissolution or for the appointment of a receiver, administrative receiver, liquidator, authority or similar officer in relation to any of the Contractor's assets or revenue;
- (i) it owns, has obtained or is able to obtain valid licences for all Intellectual Property Rights that are necessary for the performance of this Framework Agreement and the use of the Goods by the Customers; and
- (j) in the **three (3) years** prior to the date of this Framework Agreement:
 - (i) 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;
 - (ii) it has been in full compliance with all applicable securities laws and regulations in the jurisdiction in which it is established; and
 - (iii) it has not performed any act or omission with respect to its financial accounting or reporting which could have an adverse effect on the Contractor's position as an ongoing business concern or its ability to fulfil its obligations under this Framework Agreement.

11. PREVENTION OF BRIBERY AND CORRUPTION

- 11.1 The Contractor shall not offer or give, or agree to give, to any employee, agent, servant or representative of the Authority or of any other Customer, any gift or consideration of any kind as an inducement or reward for doing, refraining from doing, or for having done or refrained from doing, any act in relation to the obtaining or execution of this Framework Agreement or any other Contract with the Authority or the other Customer, or for showing or refraining from showing

favour or disfavour to any person in relation to this Framework Agreement or any such Contract.

11.2 The Contractor represents and warrants that neither it, nor to the best of its knowledge any Staff, have at any time prior to the Commencement Date:

- (a) 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
- (b) 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.

11.3 The Contractor shall not during the term of this Framework Agreement:

- (a) commit a Prohibited Act; and/or
- (b) do or suffer anything to be done which would cause any Customer or any of each Customer's employees, consultants, contractors, sub-contractors or agents to contravene any of the Relevant Requirements or otherwise incur any liability in relation to the Relevant Requirements.

11.4 The Contractor shall during the term of this Framework Agreement:

- (a) establish, maintain and enforce, and require that its Sub-contractors establish, maintain and enforce, policies and procedures which are adequate to ensure compliance with the Relevant Requirements and prevent the occurrence of a Prohibited Act; and
- (b) keep appropriate records of its compliance with its obligations under Clause 21 (Records and Audit Access) and make such records available to the Authority on request.

11.5 The Contractor shall immediately notify the Authority in writing if it becomes aware of any breach of Clause 11.1, 11.2 and/or 11.3, or has reason to believe that it has or any of its Staff have:

- (a) been subject to an investigation or prosecution which relates to an alleged Prohibited Act;
- (b) 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
- (c) 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.

- 11.6 If the Contractor makes a notification to the Authority pursuant to Clause 11.5, the Contractor shall respond promptly to the Authority's enquiries, co-operate with any investigation, and allow the Authority to Audit any books, Records and/or any other relevant documentation in accordance with Clause 21 (*Records and Audit Access*).
- 11.7 If the Contractor is in Default under Clauses 11.1, 11.2 and/or 11.3, the Authority may by notice:
- (a) require the Contractor to remove from performance of this Framework Agreement any Contractor Staff whose acts or omissions have caused the Default; or
 - (b) immediately terminate this Framework Agreement.
- 11.8 Any notice served by the Authority under Clause 11.7 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 has elected to take (including, where relevant, the date on which this Framework Agreement shall terminate).
- 11.9 If the Contractor, its Staff or anyone acting on the Contractor's behalf including any Sub-contractor, engages in conduct prohibited by Clauses 11.1, 11.2 and/or 11.3 or commits any offence under the Bribery Act 2010, the Authority may:
- (a) terminate this Framework Agreement and recover from the Contractor the amount of any loss suffered by the Authority resulting from the termination, including the cost reasonably incurred by the Authority of making other arrangements for the supply of the Goods and any additional expenditure incurred by the Authority throughout the remainder of the Term; or
 - (b) recover in full from the Contractor any other loss sustained by the Authority in consequence of any breach of those conditions.

12. **FRAMEWORK CAPACITY**

- 12.1 The Contractor shall at all times during the Term maintain capacity and the organisational and technical ability to provide the Goods in accordance with this Framework Agreement and the applicable Contract

13. **CONFLICTS OF INTEREST**

- 13.1 The Contractor shall take appropriate steps to ensure that neither the Contractor nor any of the Contractor's Staff are placed in a position where there is or may be an actual conflict, or a potential conflict, between the pecuniary or personal interests of the Contractor or Staff and the duties owed to the Authority and any other Customers under the provisions of this Framework Agreement

- 13.2 The Contractor shall promptly notify and provide full particulars to the Authority and any relevant other Customers if such conflict referred to in **Clause** 13.1 above arises or is reasonably foreseeable to arise.
- 13.3 The Authority reserves the right to terminate this Framework Agreement immediately by giving notice in writing to the Contractor and/or 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 Contractor and the duties owed to the Authority under the provisions of this Framework Agreement or any Contract. The action of the Authority pursuant to this Clause shall not prejudice or affect any right of action or remedy which shall have accrued or shall thereafter accrue to the Authority.
- 13.4 This Clause 13 shall apply during the Term and for a period of two (2) Years after the later of termination or expiry of this Framework Agreement and the termination or expiry of the last Contract, whichever occurs later.

14. **PREVENTION OF FRAUD**

- 14.1 The Contractor shall take all reasonable steps, in accordance with Good Industry Practice, to prevent fraud by Staff and the Contractor (including its shareholders, members, directors) in connection with the receipt of monies from any Customer.
- 14.2 The Contractor shall notify the Authority immediately if it has reason to suspect that any fraud has occurred or is occurring or is likely to occur.
- 14.3 If the Contractor or its Staff commits fraud in relation to this or any other contract with the Crown (including the Authority) the Authority may:
- (a) terminate this Framework Agreement and recover from the Contractor the amount of any loss suffered by the Authority resulting from the termination, including the cost reasonably incurred by the Authority of making other arrangements for the supply of the Goods and any additional expenditure incurred by the Authority throughout the remainder of the Term; or
 - (b) recover in full from the Contractor any other loss sustained by the Authority in consequence of any breach of this clause.

15. **SECURITY**

- 15.1 In providing the Goods, the Contractor shall at all times comply with the provisions of Annex 6 and the Security Policy.

16. **STATUTORY REQUIREMENTS**

- 16.1 The Contractor shall be responsible for obtaining all licences, authorisations, consents or permits required for the performance of this Framework Agreement and the Contracts.
- 16.2 The Contractor shall inform the Authority and any other Customer that has entered into a Contract with the Contractor if the Goods and Services provided under this Framework Agreement and/or any Contract are hazardous to health or safety and of the precautions that should be taken in respect thereto.
- 16.3 The Contractor shall take all measures necessary to comply with the requirements of the Health and Safety at Work Act 1974 and any other acts, orders, regulations and codes of practice relating to health and safety, which may apply to Staff in the performance of this Framework Agreement and any Contracts.

17. **ENVIRONMENTAL REQUIREMENTS**

- 17.1 The Contractor shall comply in all material respects with all applicable environmental laws and regulations in force from time to time in relation to the Goods provided to Customers under Contracts. Without prejudice to the generality of the foregoing, the Contractor shall promptly provide all such information regarding the environmental impact of the Goods as may reasonably be requested by any Customer.
- 17.2 The Contractor shall meet all reasonable requests by the Customers for information evidencing compliance with the provisions of this **Clause 17** by the Contractor.

18. **EQUALITY DIVERSITY AND NON-DISCRIMINATION**

- 18.1 The Contractor shall not unlawfully discriminate either directly or indirectly on such grounds as race, colour, ethnic or national origin, disability, sex or sexual orientation, religion or belief, or age or any other protected characteristic and without prejudice to the generality of the foregoing the Contractor shall not unlawfully discriminate within the meaning and scope of the Equality Act 2010 and or other relevant or equivalent equalities legislation (or any statutory modification or re-enactment thereof).
- 18.2 The Contractor shall take all reasonable steps to secure the observance of **Clause 18.1** by all Staff and Sub-contractors.

19. **INTELLECTUAL PROPERTY RIGHTS**

- 19.1 Save as granted under this Framework Agreement, neither the Authority nor the Contractor shall acquire any right, title or interest in the other's Pre-Existing Intellectual Property Rights.
- 19.2 The Contractor warrants and represents that the provision of the Goods and the performance of the Contractor's responsibilities hereunder shall not infringe any Intellectual Property Rights of any third party.
- 19.3 The Contractor shall on written demand indemnify the Authority against all claims, demands, actions, costs, expenses (including legal costs and disbursements on a solicitor and client basis), losses and damages arising from or incurred by reason of any infringement or alleged infringement (including the defence of such alleged infringement) of any Intellectual Property Right by the availability of the Goods or the performance of the Contractor's responsibilities hereunder, except to the extent that such liabilities have resulted directly from the Authority's failure properly to observe its obligations under this **Clause 19**.
- 19.4 The Contractor shall promptly notify the Authority if any claim or demand is made or action brought (each referred to as a "**Claim**") against the Contractor for infringement or alleged infringement of any Intellectual Property Right that may affect the availability of the Goods or Services hereunder.
- 19.5 The Authority shall promptly notify the Contractor if any Claim is made or action brought against the Authority or a Customer to which Clause 19.3 or Clause 19.4 may apply.
- 19.6 The Contractor shall at its own expense conduct any litigation arising from a Claim to which Clause 19.3 or 19.4 may apply and take conduct of any defence, dispute, compromise or appeal of the Claim and of any incidental negotiations relating to the Claim. With respect to any such Claim conducted by the Contractor:
- (a) the Contractor shall keep the Authority fully informed and consult with it about material elements of the conduct of the Claim;
 - (b) the Contractor shall not bring the name of the Authority into disrepute;
 - (c) the Contractor shall not pay or settle such Claim without the prior written consent of the Authority, such consent not to be unreasonably withheld or delayed; and
 - (d) the Contractor shall conduct the Claim with all due diligence.
- 19.7 The Authority shall be entitled to have conduct of the Claim and shall be free to pay or settle any Claim on such terms as it thinks fit and without prejudice to its rights and remedies under this Framework Agreement if:
- (a) the Contractor is not entitled to take conduct of the Claim;
 - (b) the Contractor fails to notify the Authority in writing of its intention to take conduct of the relevant Claim within 10 Working Days of the notice from

the Authority or if the Contractor notifies the Beneficiary in writing that it does not intend to take conduct of the Claim; or

- (c) the Contractor fails to comply in any material respect with the provisions of clause 19.4.

19.8 The Authority shall at the request of the Contractor afford to the Contractor all reasonable assistance for the purpose of contesting any Claim to which **Clause** 19.3 may apply or any Claim brought against the Contractor to which **Clause** 19.4 may apply. The Contractor shall on written demand reimburse the Authority for all costs and expenses (including, legal costs and disbursements on a solicitor and client basis) incurred in so doing.

19.9 The Authority shall not make any admissions that may be prejudicial to the defence or settlement of any claim, demand or action for infringement or alleged infringement of any Intellectual Property Right to which **Clause** 19.3 may apply or any claim or demand made or action brought against the Contractor to which **Clause** 19.4 may apply.

19.10 If a claim or demand is made or action brought to which **Clause** 19.3 may apply, or in the reasonable opinion of the Contractor is likely to be made or brought, the Contractor may at its own expense and within a reasonable time either:

- (a) modify any or all of Goods without reducing the performance and functionality of the same, or substitute alternative goods and/or services of equivalent performance and functionality for any or all of the Goods , so as to avoid the infringement or the alleged infringement, provided that the terms herein shall apply mutatis mutandis to such modified or substituted items or services and such substitution shall not increase the burden on the Authority; or
- (b) procure a licence to use the Goods on terms that are reasonably acceptable to the Authority.

19.11 In the event that the Contractor has availed itself of its rights to modify the Goods or to supply a substitute service or services pursuant to **Clause** 19.10(a) or to procure a licence under **Clause** 19.10(b) and such exercise of the said rights has avoided any claim, demand or action for infringement or alleged infringement, then the Contractor shall have no further liability thereafter under this **Clause** 19 in respect of the said claim, demand or action.

19.12 In the event that a modification or substitution in accordance with **Clause** 19.10(a) is not possible so as to avoid the infringement, or the Contractor has been unable to procure a licence in accordance with **Clause** 19.10(b) the Authority shall be entitled to delete the relevant Goods from being available in relation to the relevant Pricing Matrix where applicable.

19.13 This **Clause** 19 sets out the entire financial liability of the Contractor with regard to the infringement of any Intellectual Property Right by the availability of the Goods hereunder. This shall not affect the Contractor's financial liability for other Defaults or causes of action that may arise hereunder.

19.14 The Authority warrants that the Contractor's use of any third party item supplied directly or indirectly by the Authority in accordance with any instructions given by the Authority in connection with the use of such item shall not cause the Contractor to infringe any third party's Intellectual Property Rights in such item.

20. **NOT USED.**

21. **RECORDS AND AUDIT ACCESS**

21.1 The Contractor shall keep and maintain until **six (6) years** after the termination or expiry (whichever is the earlier) of this Framework Agreement, full and accurate records and accounts of the operation of this Framework Agreement including the Goods provided under it, the Contracts entered into with other Customers and the amounts paid by each Customer.

21.2 The Contractor shall keep the records and accounts referred to in **Clause 21.1** above kept in accordance with good accountancy practice and shall be audited by qualified auditors at least once a year during the Term.

21.3 The Contractor shall on request afford the Authority (or relevant Customer) and its representatives, the National Audit Office and/or auditor appointed by the Audit Commission access to such records and accounts as may be required by the Authority (or relevant Customer) from time to time.

21.4 The Contractor shall provide such records and accounts together with copies of the Contractor's published accounts during the Term to the Authority (or relevant Customer) and its internal and external auditors on reasonable written notice.

21.5 The Contractor shall comply with the provisions of Annex 7 (Audit and Open Book Schedule).

22. **PROTECTION OF INFORMATION**

22.1 The Contractor shall not delete or remove any proprietary notices contained within or relating to the Authority Data.

22.2 The Contractor shall not store, copy, disclose, or use the Authority Data except as necessary for the performance by the Contractor of its obligations under this Framework Agreement and the associated Contracts or as otherwise expressly approved in writing in advance by the Authority.

22.3 To the extent that Authority Data is held and/or processed by the Contractor, the Contractor shall supply that Authority Data to the Authority as requested by the Authority.

22.4 The Contractor shall take responsibility for preserving the integrity of the Authority Data and preventing the corruption or loss of Authority Data.

- 22.5 The Contractor shall ensure that any system on which the Contractor holds any Authority Data, including back-up data, is a secure system that complies with the Security Policy.
- 22.6 If the Authority Data is corrupted, lost or sufficiently degraded as a result of the Contractor's Default so as to be unusable, the Authority may:
- (a) require the Contractor (at the Contractor's expense) to restore or procure the restoration of any Authority Data and the Contractor shall do so as soon as practicable; and/or
 - (b) itself restore or procure the restoration of the Authority Data, and shall be repaid by the Contractor any reasonable expenses incurred in doing so.
- 22.7 If at any time the Contractor suspects or has reason to believe that Authority Data has or may become corrupted, lost or degraded in any way for any reason, then the Contractor shall notify the Authority immediately and inform the Authority of the remedial action the Contractor proposes to take.
- 22.8 In the event that the Contractor or any Staff fail to comply with this **Clause 22**, the Authority may exercise the rights detailed in **Clause 29** and/or may terminate this Framework Agreement by giving notice in writing to the Contractor.

23. **PROTECTION OF PERSONAL DATA**

- 23.1 For the purposes of this **Clause 23**, the terms "Data Controller", "Data Processor", "Data Subject", "Process" and "Processing" shall have the meaning prescribed under the DPA.
- 23.2 The Contractor shall (and shall ensure that all of the Staff) comply with any applicable registration requirements and notification requirements under the DPA and duly observe all obligations under the DPA which arise in connection with this Framework Agreement. The Contractor shall perform its obligations under this Framework Agreement in such a way as does not cause the Authority to breach any of the Authority's obligations under the DPA.
- 23.3 Notwithstanding the general obligation in **Clause 23.2**, where the Contractor and/or any Staff Process Personal Data as a Data Processor for the Authority the Contractor shall:
- (a) process the Personal Data only in accordance with instructions from the Authority (which may be specific instructions or instructions of a general nature) as set out in this Framework Agreement or as otherwise notified by the Authority;
 - (b) without limiting Clause 22, comply with the Law;
 - (c) process the Personal Data only to the extent; and in such manner as is necessary for the provision of the Contractor's obligations under this Framework Agreement, or as is required by Law or any Regulatory Body;

- (d) implement appropriate technical and organisational measures to protect the Personal Data against unauthorised or unlawful Processing and against accidental loss, destruction, damage, alteration or disclosure. These measures shall be appropriate to the harm which might result from any unauthorised or unlawful Processing, accidental loss, destruction or damage to the Personal Data and having regard to the nature of the Personal Data which is to be protected;
- (e) take reasonable steps to ensure the reliability of Staff who may have access to the Personal Data;
- (f) obtain prior written consent from the Authority prior to any transfer of Personal Data to any Sub-Contractor for the provision of the Goods and/or Services;
- (g) not cause or permit the Personal Data to be transferred outside of the European Economic Area without the prior Approval of the Authority which is to have come from the Authority's Senior Information Risk Officer (or equivalent) and, where the Authority so Approves such a transfer, comply with:
 - (i) the obligations of a Data Controller under the Eighth Data Protection Principle set out in Schedule 1 of the DPA by providing an adequate level of protection to any Personal Data that is transferred; and
 - (ii) any reasonable instructions notified to it by the Authority;
- (h) ensure that all Staff required to access the Personal Data are informed of the confidential nature of the Personal Data and comply with the obligations set out in this Clause 23;
- (i) ensure that none of the Staff publish disclose or divulge any of the Personal Data to any third parties unless directed in writing to do so by the Authority;
- (j) not disclose Personal Data to any third parties in any circumstances other than with the written Approval of the Authority or in compliance with a legal obligation imposed upon the Authority;
- (k) notify the Authority (within five (5) Working Days) if it receives:
 - (i) a request from a Data Subject to have access to that person's Personal Data; or
 - (ii) a complaint or request relating to the Authority's obligations under the DPA;
- (l) provide the Authority with full cooperation and assistance in relation to any complaint or request made, including by:
 - (i) providing the Authority with full details of the complaint or request;

- (ii) complying with a subject access request within the relevant timescales set out in the DPA and in accordance with the Authority's instructions;
- (iii) providing the Authority with any Personal Data it holds in relation to a Data Subject (within the timescales required by the Authority); and
- (iv) providing the Authority with any other information requested by the Authority;
- (m) Not used.
- (n) Not used.

23.4 Where the Contractor or any Sub-contractor, as part of the Services, Processes Personal Data as a Data Controller, such Personal Data shall have been obtained fairly and lawfully. The Contractor shall ensure that it is able to disclose such Personal Data to the Authority and that the Services are designed in such a way as to ensure that use by the Authority of any such Personal Data obtained in connection with the Services does not breach the provisions of the DPA.

23.5 In the event that the Contractor or any Staff or Sub-contractors fail to comply with this **Clause 23**, the Authority may exercise the rights detailed in **Clause 48** and/or may terminate this Framework Agreement by giving notice in writing to the Contractor pursuant to **Clause 29**.

24. **OFFICIAL SECRETS ACTS**

24.1 The Contractor shall, and shall ensure that its Staff and Sub-contractors comply with:

- (a) the Official Secrets Acts 1911 to 1989; and
- (b) section 182 of the Finance Act 1989.

24.2 If the Authority requires it, the Contractor shall ensure that any Staff and Sub-contractors identified by the Authority each sign an undertaking that they will comply with the provisions of the Official Secrets Acts 1911 to 1989.

24.3 In the event that the Contractor or any Staff or Sub-contractors fail to comply with this clause, the Authority reserves the right to terminate this Framework Agreement with immediate effect by giving notice in writing to the Contractor.

25. **CONFIDENTIALITY**

25.1 For the purposes of this Clause 25, the term “**Disclosing Party**” shall mean a Party which discloses or makes available directly or indirectly its Confidential

Information and “**Recipient**” shall mean the Party which receives or obtains directly or indirectly Confidential Information.

25.2 Except to the extent set out in this Clause 25 or where disclosure is expressly permitted elsewhere in this Framework Agreement, the Recipient shall:

- (a) treat the Disclosing Party's Confidential Information as confidential and keep it in secure custody (which is appropriate depending upon the form in which such materials are stored and the nature of the Confidential Information contained in those materials);
- (b) not disclose the Disclosing Party's Confidential Information to any other person except as expressly set out in this Framework Agreement or without obtaining the owner's prior written consent;
- (c) not use or exploit the Disclosing Party's Confidential Information in any way except for the purposes anticipated under this Framework Agreement; and
- (d) immediately notify the Disclosing Party if it suspects or becomes aware of any unauthorised access, copying, use or disclosure in any form of any of the Disclosing Party's Confidential Information.

25.3 The Recipient shall be entitled to disclose the Confidential Information of the Disclosing Party where:

- (a) the Recipient is required to disclose the Confidential Information by Law, provided that Clause 27 (*Freedom of Information*) shall apply to disclosures required under the FOIA or the Environmental Information Regulations;
- (b) the need for such disclosure arises out of or in connection with:
 - (i) any legal challenge or potential legal challenge against the Authority arising out of or in connection with this Framework Agreement;
 - (ii) 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; or
 - (iii) the conduct of a Central Government Body review in respect of this Framework Agreement; or
- (c) the Recipient has reasonable grounds to believe that the Disclosing Party 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.

- 25.4 If the Recipient is required by Law to make a disclosure of Confidential Information, the Recipient shall as soon as reasonably practicable and to the extent permitted by Law notify the Disclosing Party of the full circumstances of the required disclosure including the relevant Law and/or regulatory body requiring such disclosure and the Confidential Information to which such disclosure would apply.
- 25.5 The Contractor may disclose the Confidential Information of the Authority on a confidential basis only to:
- (a) Contractor Staff who are directly involved in the provision of the Services and need to know the Confidential Information to enable performance of the Contractor's obligations under this Framework Agreement;
 - (b) its auditors; and
 - (c) its professional advisers for the purposes of obtaining advice in relation to this Framework Agreement.
- 25.6 Where the Contractor discloses Confidential Information of the Authority pursuant to this Clause 25, it shall remain responsible at all times for compliance with the confidentiality obligations set out in this Framework Agreement by the persons to whom disclosure has been made.
- 25.7 The Authority may disclose the Confidential Information of the Contractor:
- (a) on a confidential basis to any Central Government Body for any proper purpose of the Authority or of the relevant Central Government Body;
 - (b) to Parliament and Parliamentary Committees or if required by any Parliamentary reporting requirement;
 - (c) to the extent that the Authority (acting reasonably) deems disclosure necessary or appropriate in the course of carrying out its public functions;
 - (d) on a confidential basis to a professional adviser, consultant, supplier or other person engaged by any of the entities described in Clause 21.6(a) (including any benchmarking organisation) for any purpose relating to or connected with this Framework Agreement;
 - (e) on a confidential basis for the purpose of the exercise of its rights under this Framework Agreement; or
 - (f) on a confidential basis to a proposed Successor Body in connection with any assignment, novation or disposal of any of its rights, obligations or liabilities under this Framework Agreement,
 - (g) and for the purposes of the foregoing, references to disclosure on a confidential basis shall mean disclosure subject to a confidentiality agreement or arrangement containing terms no less stringent than those placed on the Authority under this Clause 25.

- 25.8 Nothing in this Clause 25 shall prevent a Recipient 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 the Disclosing Party's Confidential Information or an infringement of Intellectual Property Rights.

26. **TRANSPARENCY**

- 26.1 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 Contractor to inform its decision regarding any redactions but shall have the final decision in its absolute discretion.
- 26.2 Notwithstanding any other provision of this Framework Agreement, the Contractor hereby gives its consent for the Authority to publish to the general public 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.
- 26.3 The Contractor shall assist and co-operate with the Authority to enable the Authority to publish this Framework Agreement.

27. **FREEDOM OF INFORMATION**

- 27.1 The Contractor acknowledges that the Authority is subject to the requirements of the FOIA and the Environmental Information Regulations and shall assist and cooperate with the Authority (at the Contractor's expense) to enable the Authority to comply with these Information disclosure requirements.
- 27.2 The Contractor shall and shall procure that its Staff shall:-
- (a) transfer the Request for Information to the Authority as soon as practicable after receipt and in any event within **two (2) Working Days** of receiving a Request for Information;
 - (b) provide the Authority with a copy of all Information in its possession or power in the form that the Authority requires within **five (5) Working Days** (or such other period as the Authority may specify) of the Authority requesting that Information; and
 - (c) provide all necessary assistance as reasonably requested by the Authority to enable the Authority to respond to a Request for Information within the time for compliance set out in section 10 of the FOIA or regulation 5 of the Environmental Information Regulations.

- 27.3 The Authority shall be responsible for determining at its absolute discretion whether the Commercially Sensitive Information (as set out in Annex 10) and/or any other Information:
- (a) is exempt from disclosure in accordance with the provisions of the FOIA or the Environmental Information Regulations;
 - (b) is to be disclosed in response to a Request for Information, and in no event shall the Contractor respond directly to a Request for Information unless expressly authorised to do so by the Authority.
- 27.4 The Contractor acknowledges that the Authority may, acting in accordance with the Secretary of State for Constitutional Affairs' Code of Practice on the discharge of public authorities' functions under Part 1 of FOIA (issued under section 45 of the FOIA, November 2004), be obliged under the FOIA or the Environmental Information Regulations to disclose Information:
- (a) without consulting with the Contractor, or
 - (b) following consultation with the Contractor and having taken its views into account.
- 27.5 The Contractor shall ensure that all Information produced in the course of this Framework Agreement or relating to this Framework Agreement is retained for disclosure and shall permit the Authority to inspect such records as requested from time to time.
- 27.6 The Contractor acknowledges that any lists or Schedules provided by it outlining Confidential Information are of indicative value only and that the Authority may nevertheless be obliged to disclose Confidential Information in accordance with **Clause 27.4**.

28. **PUBLICITY**

- 28.1 The Contractor shall not make any press announcements or publicise this Framework Agreement in any way without the Authority's prior written consent. The Contractor shall ensure the observance of the provisions of this **Clause 28** by the Staff.
- 28.2 The Authority shall be entitled to publicise this Framework Agreement in accordance with any legal obligation upon the Authority, including any examination of this Framework Agreement by the National Audit Office pursuant to the National Audit Act 1983 or otherwise.
- 28.3 The Contractor shall not do anything to cause anything to be done, which may damage the reputation of the Authority or bring the Authority into disrepute.

29. **TERMINATION**

Termination on Corruption

- 29.1 The Authority may terminate this Framework Agreement by serving notice on the Contractor in writing with effect from the date specified in such notice where the conduct prohibited in **Clause 11** has occurred.

Termination in relation to Official Secrets Act

- 29.2 The Authority may terminate this Framework Agreement by serving notice on the Contractor in writing with effect from the date specified in such notice where the Contractor is in breach of its obligation in **Clause 24**.

Termination on Default

- 29.3 The Authority may terminate this Framework Agreement by serving notice on the Contractor in writing with effect from the date specified in such notice where the Contractor commits a Default and:
- (a) the Contractor has not remedied the Default to the satisfaction of the Authority within **twenty (20) Working Days**, or such other period as may be specified by the Authority, after issue of a written notice specifying the Default and requesting it to be remedied; or
 - (b) the Default is not, in the reasonable opinion of the Authority, capable of remedy; or
 - (c) the Default is a material breach.

Termination on Consistent Failure

- 29.4 The Authority may terminate this Framework Agreement by serving notice on the Contractor in writing with effect from the date specified in such notice where a Consistent Failure has occurred.

Termination on Financial Standing

- 29.5 The Authority may terminate this Framework Agreement by serving notice on the Contractor 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 Contractor which, in the reasonable opinion of the Authority, impacts on the Contractor's ability to supply Goods and Services under this Framework Agreement.

Termination on Insolvency

- 29.6 The Authority may terminate this Framework Agreement by serving notice on the Contractor in writing with effect from the date specified in such notice where one of the following insolvency events occurs in relation to the Contractor:

- (a) the Contractor is an individual or a firm and a petition is presented for the Contractor's bankruptcy, or a criminal bankruptcy order is made against the Contractor or any partner in the firm, or the Contractor or any partner in the firm makes any composition or arrangement with or for the benefit of creditors, or makes any conveyance or assignment for the benefit of creditors, or if an administrator is appointed to manage the Contractor's or firm's affairs; or
- (b) the Contractor is a company, if the company passes a resolution for winding up or dissolution (otherwise than for the purposes of and followed by an amalgamation or reconstruction) or an application is made for, or any meeting of its directors or members resolves to make an application for an administration order in relation to it or any party gives or files notice of intention to appoint an administrator of it or such an administrator is appointed, or the court makes a winding-up order, or the company makes a composition or arrangement with its creditors, or an administrative receiver, receiver, manager or supervisor is appointed by a creditor or by the court, or possession is taken of any of its property under the terms of a fixed or floating charge; or
- (c) where the Contractor is unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986; or
- (d) any similar event occurs under the law of any other jurisdiction.

Termination on Legislative Change

- 29.7 The Authority may terminate this Framework Agreement by serving notice on the Contractor in writing with effect from the date specified in the event of significant legislative changes to the statutory functions or powers of the Authority such that the provisions of this Framework Agreement are or will be rendered incapable of operation.

Termination by the Authority

- 29.8 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 **three (3) Months'** written notice to the Contractor.

30. SUSPENSION OF CONTRACTOR'S APPOINTMENT

Without prejudice to the Authority rights to terminate this Framework Agreement in **Clause 29** above, the Authority may suspend the Contractor's appointment to supply Goods to Customers where a right to terminate this Framework Agreement arises in accordance with **Clause 29**.

31. **CONSEQUENCES OF TERMINATION AND EXPIRY**

- 31.1 Notwithstanding the service of a notice to terminate this Framework Agreement, the Contractor shall continue to fulfil its obligations under this Framework Agreement until the date of expiry or termination of this Framework Agreement or such other date as required under this **Clause 31**.
- 31.2 Termination or expiry of this 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.
- 31.3 Within **ten (10) Working Days** of the date of termination or expiry of this Framework Agreement, the Contractor shall return to the Authority any data and Confidential Information belonging to the Authority in the Contractor'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 Contractor'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 **twelve (12) Months** to comply with its obligations under this Framework Agreement, or such period as is necessary for such compliance.
- 31.4 The Authority shall be entitled to require access to data or information arising from the provision of the Goods from the Contractor until the latest of:
- (a) the expiry of a period of **twelve (12) Months** following termination or expiry of this Framework Agreement; or
 - (b) the expiry of a period of **three (3) Months** following the date on which the Contractor ceases to provide Goods and/or Services under any Contract.
- 31.5 The provisions of:
- (a) **Clause 10** (Warranties and Representations);
 - (b) **Clause 11** (Prevention of Bribery and Corruption);
 - (c) **Clause 18.2** (Non-Discrimination);
 - (d) **Clauses 19.2 to 19.7, Clause 19.11** (Intellectual Property Rights);
 - (e) **Clause 20** (Provision of Management Information);
 - (f) **Clause 21.1, 21.3 and 21.4** (Records and Audit Access);
 - (g) **Clause 22** (Protection of Information);
 - (h) **Clause 24** (Official Secrets Acts);
 - (i) **Clause 26** (Freedom of Information);

- (j) **Clause 28.1 and Clause 28.2 (Publicity);**
- (k) **Clause 31 (Consequences of Termination and Expiry);**
- (l) **Clause 32 (Liability);**
- (m) **Clause 33 (Insurance);**
- (n) **Clause 42 (Waiver);**
- (o) **Clause 48 (Dispute Resolution); and**
- (p) **Clause 49 (Governing Law and Jurisdiction),**

(and without limitation to the foregoing, any other provision of this Framework Agreement which by its terms is to be performed or observed notwithstanding termination or expiry or which is expressed to survive termination or expiry) shall 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.

32. **LIABILITY**

32.1 Neither the Authority nor the Contractor excludes nor limits its liability to the other Party for:

- (a) death or personal injury;
- (b) any breach of any obligations implied by Section 12 of the Sale of Goods Act 1979 or Section 2 of the Supply of Goods and Services Act 1982;
- (c) for fraud or fraudulent misrepresentation; or
- (d) any liability to the extent that it cannot be limited or excluded by Law.

32.2 The Contractor shall indemnify and keep indemnified the Authority fully against all claims, proceedings, actions, damages, legal costs, expenses and any other liabilities whatsoever arising out of, in respect of or in connection with this Framework Agreement including in respect of any death or personal injury, loss of or damage to property, financial loss arising from any advice given or omitted to be given by the Contractor, or any other loss which is caused directly or indirectly by any act or omission of the Contractor. This clause shall not apply to the extent that the Contractor is able to demonstrate that such death or personal injury, or loss or damage was not caused or contributed to by its negligence or default, or the negligence or default of its Staff, or by any circumstances within its or their control.

33. **INSURANCE**

- 33.1 The Contractor shall effect and maintain policies of insurance to provide a level of cover sufficient for all risks which may be incurred by the Contractor under this Framework Agreement including death or personal injury, or loss of or damage to property.
- 33.2 The Contractor shall effect and maintain the following insurances for duration of this Framework Agreement and any Contracts in relation to the performance of this Framework Agreement:
- (a) public liability insurance adequate to cover all risks in the performance of this Framework Agreement and the Contracts from time to time; and
 - (b) employers' liability insurance with a minimum limit of indemnity as required by Law from time to time.
- 33.3 Any excess or deductibles under such insurance (referred to in **Clause 33.1** and **Clause 33.2**) shall be the sole and exclusive responsibility of the Contractor.
- 33.4 The terms of any insurance or the amount of cover shall not relieve the Contractor of any liabilities arising under this Framework Agreement.
- 33.5 The Contractor shall produce to the Authority, on request, copies of all insurance policies referred to in this **Clause 33** 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.
- 33.6 If, for whatever reason, the Contractor fails to give effect to and maintain the insurances required by this Framework Agreement then the Authority may make alternative arrangements to protect its interests and, unless otherwise agreed by the Authority, the Contractor shall reimburse the Authority on written demand for the costs of such arrangements.
- 33.7 The Contractor shall maintain the insurances referred to in **Clause 33.1** and **Clause 33.2** a minimum of **six (6) years** following the expiration or earlier termination of this Framework Agreement.

34. **ASSIGNMENT AND SUB-CONTRACTING**

- 34.1 This Framework Agreement is personal to the Contractor and Contractor shall not assign, novate, or otherwise dispose of this Framework Agreement or any part thereof without the prior consent in writing of the Authority.
- 34.2 Notwithstanding the provisions of Clause 34.1, the Contractor shall be entitled to sub-contract its obligations to supply the Goods to those Sub-Contractors listed in Annex 9 (Sub-Contractors). The Contractor shall ensure that terms are included in any Sub-Contract permitted under this Framework Agreement which:

- (a) require the Contractor to pay any undisputed sum due to the relevant Sub-Contractor within a specified period that does not exceed thirty (30) Working Days from the date the Contractor receives the Sub-Contractor's invoice; and
 - (b) prohibit the Sub-Contractor from further sub-contracting any element of the service provided to the Contractor without the written Approval of the Authority.
- 34.3 The Contractor shall not substitute or remove a Sub-Contractor or appoint an additional sub-contractor without the prior written consent of the Authority, such consent not be unreasonably withheld or delayed. Such consent shall not constitute approval or endorsement of such substitute or additional sub-contractor and the Contractor shall remain responsible for the provision of the Ordered Goods at all times.
- 34.4 The Authority shall be entitled to:
 - (a) assign, novate or otherwise dispose of its rights and obligations under this Framework Agreement or any part thereof to any Central Government Body; or
 - (b) novate this 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 Contractor's obligations under this Framework Agreement.
- 34.5 The Contractor shall, at the Authority's request, enter into a novation agreement in such form as the Authority shall reasonably specify in order to enable the Authority to exercise its rights pursuant to Clause 34.2 above.
- 34.6 The Contractor shall be responsible for the acts and omissions of its sub-contractors as though they are its own in the performance of this Framework Agreement or any Contract with any Customer.
- 34.7 The Contractor shall send copies of each sub-contract entered into the performance of this Framework Agreement or any Contract with any Customer upon request by the Authority or other Customer
- 34.8 The Contractor shall not use the services of self-employed individuals for the performance of this Framework Agreement of any Contract with any Customer without prior written approval of the Authority or the relevant Customer.
- 34.9 The Authority may, by written notice, require the Contractor to novate any Contract from the relevant other Customer to the Authority. If so, the Contractor shall promptly execute a novation agreement in such form as the Authority shall reasonably specify.

35. **VARIATIONS TO THE FRAMEWORK AGREEMENT**

- 35.1 This Framework Agreement may not be varied except by written agreement signed by duly authorised officers of the Authority and the Contractor and carried out in accordance with this Framework Agreement Variation Procedure.

36. **FORCE MAJEURE**

- 36.1 Neither Party shall be liable to the other Party for any delay in or failure to perform its obligations under the Agreement (other than a payment of money) if such delay or failure results from a Force Majeure event.
- 36.2 Notwithstanding the foregoing, each Party shall use all reasonable endeavours to continue to perform its obligations hereunder for the duration of such Force Majeure event. However, if any such event prevents either Party from performing all of its obligations under this Framework Agreement for a period in excess of **six (6) Months**, (notwithstanding **Clause 36.1**) either Party may terminate this Framework Agreement by notice in writing with immediate effect.
- 36.3 Any failure or delay by the Contractor in performing its obligations under this Framework Agreement which results from any failure or delay by the Staff shall be regarded as due to Force Majeure only if the relevant Staff concerned is itself impeded by Force Majeure from complying with an obligation to the Contractor.
- 36.4 This **Clause 36** does not affect the Authority's rights under **Clause 29**.
- 36.5 If either of the Parties becomes aware of circumstances of Force Majeure which give rise to or which are likely to give rise to any such failure or delay on its part as described in **Clause 36.3** it shall forthwith notify the other by the most expeditious method then available and shall inform the other of the period which it is estimated that such failure or delay shall continue.
- 36.6 For the avoidance of doubt it is hereby expressly declared that the only events which shall afford relief from liability for failure or delay of performance of this Framework Agreement shall be any event qualifying for Force Majeure hereunder.

37. **CHANGE IN LAW**

- 37.1 The Contractor shall neither be relieved of its obligations in provision of the Goods in accordance with the terms of this Framework Agreement nor be entitled to an increase in prices in the Pricing Matrices and/or any charges payable by the Contractor as the result of:-
- (a) a General Change in Law; or
 - (b) a Specific Change in Law where the effect of that Specific Change in Law on the delivery of the Goods is known at the Commencement Date whether by publication of a Bill, as part of a Government Departmental

Consultation paper, a draft Statutory Instrument, a proposal in the Official Journal of the European Union or otherwise.

37.2 If a Specific Change in Law occurs or will occur during the Term (other than those referred to in **Clause** 37.1), the Contractor shall notify the Authority of the likely effects of that change, including:

- (a) whether any change is required to the Services, the prices in the Pricing Matrix or this Framework Agreement; and
- (b) whether any relief from compliance with the Contractor's obligations is required, including any obligation to achieve any milestones or to meet any service level requirements at any time.

37.3 As soon as practicable after any notification in accordance with **Clause** 37.2 the Parties shall discuss and agree the matters referred to in that clause and any ways in which the Contractor can mitigate the effect of the Specific Change of Law, including:

- (a) providing evidence that the Contractor has minimised any increase in the rates and charges or maximised any reduction in the rates and charges, including in respect of the charges of its sub-contractors;
- (b) demonstrating that a foreseeable Specific Change in Law had been taken into account by the Contractor before it occurred;
- (c) giving evidence as to how the Specific Change in Law has affected the cost of providing the Services; and
- (d) demonstrating that any expenditure that has been avoided has been taken into account in amending the prices in the Pricing Matrices.

37.4 Any increase in the price in the Pricing Matrix or relief from the Contractor's obligations agreed by the Parties pursuant to this **Clause** 37 shall be implemented in accordance with the Framework Agreement Variation Procedure.

38. **RIGHTS OF THIRD PARTIES**

This Framework Agreement shall not create any rights, under the Contracts (Rights of Third Parties) Act 1999 or otherwise, that shall be enforceable by anyone other than the Authority and/or the Contractor, except that the rights specified in this Framework Agreement for the benefit of other Customers may be enforced by those other Customers.

39. **STATUTORY INVALIDITY**

The Authority and the Contractor expressly agree that should any limitation or provision contained in this Framework Agreement be held to be invalid under any

particular statute or law, or any rule, regulation or bye-law having the force of law, it shall to that extent be deemed to be omitted but, if the Authority or the Contractor thereby becomes liable for loss or damage which would have otherwise been excluded, such liability shall be subject to the other limitations and provisions set out herein.

40. **SEVERABILITY**

40.1 Subject to the provisions of **Clause 39**, if any provision of this Framework Agreement is held invalid, illegal or unenforceable for any reason, such provision shall be severed and the remainder of the provisions hereof shall continue in full force and effect as if this Framework Agreement had been executed with the invalid provision eliminated.

40.2 In the event of a holding of invalidity so fundamental as to prevent the accomplishment of the purpose of this Framework Agreement, the Authority and the Contractor shall immediately commence good faith negotiations to remedy such invalidity.

41. **REMEDIES CUMULATIVE**

Except as otherwise expressly provided by this Framework Agreement, all remedies available to either Party 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.

42. **WAIVER**

42.1 The failure of the Contractor or the Authority to insist upon strict performance of any provision of this Framework Agreement or to exercise any right or remedy to which it is entitled hereunder, shall not constitute a waiver thereof and shall not cause a diminution of the obligations established by this Framework Agreement.

42.2 A waiver of any default shall not constitute a waiver of any other default.

42.3 No waiver of any of the provisions of this Framework Agreement shall be effective unless it is expressed to be a waiver communicated by notice, in accordance with the provisions of **Clause 46**.

43. **FURTHER ASSURANCES**

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

45. **ENTIRE AGREEMENT**

- 45.1 This Framework Agreement constitutes the entire understanding between the Authority and the Contractor relating to the subject matter.
- 45.2 Neither the Authority nor the Contractor has relied upon any representation or promise except as expressly set out in this Framework Agreement.
- 45.3 **Clauses** 45.1 and 45.2 shall not apply to any representations made by the Contractor as part of the tender process
- 45.4 Without prejudice to the generality of the foregoing, save as expressly provided in this Framework Agreement and with the exception of statements made fraudulently, the Authority gives no promise, warranty, undertaking or representation to the Contractor.

46. **NOTICES**

- 46.1 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 concerned.
- 46.2 Any notice or other communication which is to be given by either Party to the other shall be given by letter (sent by hand, first class post, recorded delivery or special delivery), or by or electronic mail. Such letters and electronic mail items shall be addressed to the other Party in the manner referred to in **Clause** 46.4. Provided the relevant communication is not returned as undelivered, any notice or communication which is posted or delivered by hand but not sent by electronic mail shall be deemed to have been given:
- (a) subject to Clause 46.3, where the notice or communication is posted, two (2) Working Days after the date of postage; and
 - (b) subject to Clause 46.3, at the time of delivery, where the notice or communication is delivered by hand.
- 46.3 Where a notice or communication is given by electronic mail the notice or communication shall be deemed to have been given at 9am on the first Working Day after sending the notice or communication.

46.4 For the purposes of Clauses 46.2 and 46.3, the address for notices of each Party shall be:

(a) For the Authority:

Address:

Commercial Manager
Home Office
Martello House
Shearway Business Park
Shearway Road
Folkestone
Kent CT19 4RH

For the attention of: Amanda Hallinan
Tel: 01303 299304
Email: amanda.hallinan@homeoffice.gsi.gov.uk

(b) For the Contractor:

Address:

Foster & Freeman Ltd
Vale Park
Evesham
Worcestershire WR11 1TD

For the attention of: Huw Jones
Tel: 01386 768050
Email: sales@fosterfreeman.com

46.5 Either Party may change its address for service by serving a notice in accordance with this **Clause 46**.

47. **COMPLAINTS HANDLING AND RESOLUTION**

47.1 The Contractor shall inform the Authority (or such other alternative body notified to the Contractor by the Authority) of any Complaint made by a Customer (other than the Authority) within **five (5) Working Days** of becoming aware of that complaint.

47.2 Without prejudice to any rights and remedies that a complainant may have at law, including under this Framework Agreement or a Contract, and without prejudice to any obligation of the Contractor to take remedial action under the provisions of this Framework Agreement or a Contract, the Contractor shall use all reasonable endeavours to resolve the Complaint and in so doing, shall deal with the complaint fully, expeditiously and fairly.

- 47.3 Within **three (3) Working Days** of a request by the Authority, the Contractor shall provide full details of a Complaint to the Authority, including details of steps taken to its resolution.

48. **DISPUTE RESOLUTION**

- 48.1 The Parties shall attempt in good faith to negotiate a settlement to any dispute between them arising out of or in connection with this Framework Agreement within **twenty (20) Working Days** of either Party notifying the other of the dispute such efforts shall involve the escalation of the dispute to the commercial director (or equivalent) of each Party.

- 48.2 Nothing in this dispute resolution procedure shall prevent the Parties from seeking from any court of the competent jurisdiction an interim order restraining the other Party from doing any act or compelling the other Party to do any act.

- 48.3 If the dispute cannot be resolved by the Parties pursuant to **Clause 48.1** the dispute shall be referred to mediation pursuant to the procedure set out in **Clause 48.5** unless (a) the Authority considers that the dispute is not suitable for resolution by mediation; or (b) the Contractor does not agree to mediation.

- 48.4 The performance of this Framework Agreement shall not be suspended, cease or be delayed by the reference of a dispute to mediation and the Contractor shall (and shall ensure the Staff) comply fully with the requirements of the Agreement at all times.

- 48.5 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 **ten (10) Working 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 **ten (10) Working Days** from the date of the proposal to appoint a Mediator or within **ten (10) Working Days** of notice to either Party that he is unable or unwilling to act, apply to the Centre for Effective Dispute Resolution ("**CEDR**") to appoint a Mediator.
- (b) The Parties shall within **ten (10) Working Days** of the appointment of the Mediator meet with him in order to agree a programme for the exchange of all relevant information and the structure to be adopted for negotiations to be held. If considered appropriate, the Parties may at any stage seek assistance from 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 **sixty (60) Working 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.

49. **GOVERNING LAW AND JURISDICTION**

- 49.1 This Framework Agreement and all non-contractual obligations arising in any way whatsoever out of or in connection with this Framework Agreement shall be governed by, construed and take effect in accordance with English law.
- 49.2 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.

THE AUTHORITY

SIGNED by)
)
 for and on behalf of the Authority)
)

THE CONTRACTOR

SIGNED by)
)
 for and on behalf of the Contractor)
)

ANNEX 1

SPECIFICATION (GOODS)

1. Specification of the VSC80/FS Workstation

1.1 The specification of the VSC80/FS Questioned Document Examination Workstation including PC and monitor (the “Goods”) with the specification as per the embedded document below;



2. Technical Requirements

2.1 The Goods shall enable its document examiners to;

- i. examine all known security features in secure documents for signs of simulation/tampering;
- ii. examine pages for signs of watermark simulation, counterfeiting of pages and alteration/concealment of endorsements; and
- iii. examine inks used in the personalisation of travel documents, visas and endorsements to confirm authenticity against known issued examples for signs of alterations or counterfeiting.

2.2 The Goods shall be capable of subjecting questioned documents to a range of different light sources including as a minimum:

- i. White light;
- ii. Focused white light;
- iii. Ultraviolet light (UV): short (254nm)/medium(312nm)/long(365nm);
- iv. Oblique (side) light;
- v. Co-axial light;
- vi. Infra-red (absorption/reflective/fluorescence) including anti-stokes;
- vii. Transmitted UV light; and
- viii. Transmitted light and focused transmitted light.

2.3 The Goods shall provide functions for magnification with a minimum x40 optical against a database of specimen documents.

2.4 The Goods shall include capability for;

- i. optical character recognition;
- ii. decoding the Invisible Personal Information (IPI) in the digital image found in all security documents with this feature;
- iii. viewing latent images i.e. Intaglio-printed motif, visible when tilted and viewed under oblique light; and
- iv. Diffractive Optically Variable Image Devices – (DOVIDs) which may contain a dimensional image or kinematic and/or colour-changing security feature.

2.5 The Goods shall include all hardware and software necessary for the functional performance of the equipment.

2.6 The Goods shall allow digital images to be saved in a digital format e.g., BMP, JPG, JPEG, RAW, TIFF and exported to external media such as USB stick, CD/DVD and or memory card. It is essential that JPEG format is included in the range of digital formats provided.

2.7 The Goods' operating software shall include options for viewing, image enhancement, zoom and contrast filtering.

2.8 The Goods shall be CE marked and fully compliant with all relevant UK and EU electrical safety and health & safety regulations.

3. Training Services

3.1 The Contractor shall provide Training Services to officers of the Authority in the operation of the Goods.

ANNEX 2
SPECIFICATION (SERVICES)

Not Applicable

ANNEX 3

Part 1 - PRICING MATRIX

Supply of Goods

FORGERY DETECTION EQUIPMENT										
No.	Offered Description/Model No.	Price per unit based on volume of Goods ordered at any one time								
		1 to 5 Units	6 to 10 Units	11 to 15 Units	16 to 20 Units	21 to 25 Units	26 to 30 Units	31 to 35 Units	36 to 40 Units	40+ Units
1	VSC80/FS Questioned Document Examination Workstation including PC and monitor									
2	Delivery costs:									
3	Lead time for delivery:	6 weeks	8 weeks	10 weeks	12 weeks	12 weeks	12 weeks	12 weeks	12 weeks	12 weeks
4	Installation Cost (per machine)									
5	Training Costs (per machine)									
6	Warranty Period	12 (tw elve) months from the date of installation								

Supply of Spare Parts

SPARE PARTS & CONSUMABLES		
Item	Description	Unit Price
1	Consumable lamp kit comprising; Short w ave UV-C 6W 8" G5 (incident 254 UV (quantity 2) Replacement lamp for Short w ave UV-C (254nm) 6W 8" G5 Medium w ave UV-B 6W 8" G5 (incident 313 UV) (Quantity x2) Replacement lamp for medium w ave UV-B (313nm) 6W 8" G5	

PART 2 - INVOICING AND PAYMENT

Invoicing

1. The Contractor is required to invoice a Customer for the Ordered Goods separately.
2. The Contractor shall supply, either on the invoice itself or on an accompanying schedule, a schedule showing:
 - the dates of delivery or installation of the relevant Ordered Goods (in respect of Ordered Goods invoices) and/or
 - Ordered Services conducted during the billing period and the serial numbers of the Ordered Goods serviced (in respect of Ordered Services invoices).
3. The Contractor shall submit an electronic copy of the invoice, and any accompanying schedule, to the Customer within ten [10] Working Days of the end of the period to which it relates.
4. The Contractor shall provide a copy of any invoice which it issues to any Customer which is not the Authority, to the Authority, at the same time as such invoice is issued to the relevant Customer.

General

5. The Contractor shall only submit an invoice once the Goods and/or Services have been provided in full for each Order.
6. Invoices shall include (without limitation) the following details:
 - The Order number;
 - The building name and full address of delivery;
 - Details of Ordered Goods/ Ordered Services provided;
 - Full cost breakdown;
 - VAT Registration number.

The Contractor will submit all Authority invoices to:

WL Phoenix-HO5015 FLO.
Home Office Shared Services.
HO Box 5015
Newport
Gwent

NP20 9BB

Tel: 0845 0100125

Email: finance-ap-enquiries@homeoffice.gsi.gov.uk

7. Other Customer's invoices shall be submitted to the address shown on the relevant Order From.
8. The Contractor may be required to submit evidence acceptable to the Customer in order to verify an invoice submitted to the Customer for payment. Should the Contractor not comply with this requirement, the Customer shall be entitled to deduct the invoiced value of the element(s) not supported by acceptable evidence from any payment. Such deduction shall only be reinstated once the Customer, acting reasonably, has received the relevant evidence from the Contractor.
9. In the event that either the Customer or the Contractor determines that there is a discrepancy or an apparent discrepancy on the Contractor's invoice the Customer shall either:
 - disregard the discrepancy for initial payment purposes and request that the Contractor issue a credit note for the Customer's use against a subsequent invoice (or invoices); or
 - request that the Contractor withdraw its payment application through issue of a credit note, and resubmit with the discrepancy resolved.

Payment Terms

10. The Contractor shall accept payment by Bankers Automated Clearing Service (BACS).
11. Payments will be made by the Customer in GBP/Sterling. Fluctuations in currency will be at the Contractor's risk.

ANNEX 4
ORDER FORM

As generated by the Customers Purchase to Pay (P2P) system

ANNEX 5

STANDARDS SCHEDULE

The Contractor shall comply with the following Standards:

1. Technical

The Contractor shall ensure that its delivery processes include:

- Service Level management;
- Financial management;
- Capacity management;
- Availability management;
- Service Continuity management; and
- Security management.

2. Security

The Contractor shall ensure that security is maintained to the level required by the standards set out in Annex 6 (Security Requirements Schedule).

3. Environment

The Contractor undertakes to follow a sound environmental management policy so that its activities comply with all applicable environmental legislation and regulations and that the Goods are procured, produced, packaged, delivered and are capable of being used and ultimately disposed of, in ways that are appropriate from an environmental protection perspective.

The Contractor shall comply with relevant obligations under the Waste Electrical and Electronic Equipment Regulations 2002/96/EC or national equivalent.

4. Legislation

The Contractor is required to comply with the following extant legislation/Regulations or the national equivalent. Please note that this list is not exhaustive.

- Health and Safety at Work Act 1974;
- Data Protection Act 1998;

- Human Rights Act 1998;
- Workplace Health Safety and Welfare Regulations 1992;
- Management of Health Safety at Work Regulations 1999;

5. U.K. Environmental legislation

The Contractor must demonstrate compliance with the relevant extant environmental legislation the national equivalent, e.g.:

- Environmental Protection Act 1990;
- Water Resources Act 1991;
- Water Industry Act 1991; and
- COSHH legislation (The control of Substances Hazardous to Health regulations) 1994.

ANNEX 6

SECURITY REQUIREMENTS SCHEDULE

1. Physical Security

The Contractor shall ensure that, as a minimum:

- protectively marked data is secured in appropriate security containers;
- windows, locks, doors and entry controls at premises owned or used by the Contractor or its Staff in connection with the provision of the Goods meet appropriate security standards; and

The Contractor shall ensure that plans are in place for dealing with and intercepting unauthorised visitors and intruders.

2. Accountability in respect of Authority Data

The Contractor shall appoint at least one responsible person who is accountable for the assurance of Customer Data used in delivering the Ordered Goods. The responsible person shall be:

Name:

Address:

Telephone number:

The Contractor shall consult with the Customer in relation to any proposed change to the person accountable for the assurance of Customer Data.

3. Structured Risk Assessment for Authority Data

The Contractor shall ensure that it has undertaken a structured risk assessment which highlights when Customer Data is most vulnerable whilst in its care.

The Contractor shall ensure that:

- it records the security risks identified as a result of such risk assessment in a risk register with such risk register to be made available to the Authority on request;
- the results of such risk assessment are taken into account when planning, selecting, designing and modifying its facilities.

4. Data Handling Policies

The Contractor shall have in place documented policies and procedures which are consistent with the requirements of the Contract and which govern the delivery of the Ordered Goods and Ordered Services with respect to:

- the level of security clearance required by Staff before they can access Customer Data;
- where Customer Data can be stored;
- when Customer Data can or cannot be transmitted electronically, by fax or discussed over the telephone; and
- when Customer Data can or cannot be sent via post or courier.

Without prejudice to its obligations under the DPA, the Contractor shall have clear policies in place which cover, as a minimum, the following principles of the DPA:

- Personal Data is processed fairly and lawfully;
- Personal Data is obtained and only used for specified and lawful purposes;
- Personal Data is adequate, relevant and not excessive;
- Personal Data is accurate and kept up to date;
- Personal Data is kept for no longer than is necessary;
- Personal Data is processed in accordance with the individual's rights;
- Personal Data is kept secure; and
- Personal Data is only transferred to countries that offer adequate data protection and where the Customer's Approval has been granted.

The Contractor shall have in place clear policies for informing Staff of responsibilities, restrictions and considerations when sharing access to Customer Data with other members of Staff.

The Contractor shall provide guidance to all Staff on its policies and procedures for handling Customer Data. The Contractor shall further procure that any guidance, policies, procedures and contracts placed in furtherance to the execution of this Contract with such third parties, shall, as a minimum, contain all requirements relating to the secure handling of information as set out within this Contract.

5. Breaches

The Contractor shall have in place a documented procedure which addresses breaches of the requirements for handling Customer Data (including the procedures the Contractor is required by this Schedule to have in place). Any breach or suspected breach must be reported immediately to the Customer by telephone.

The Contractor shall ensure that clear guidance is provided to the Staff and any third parties it proposes to engage in the delivery of this Contract highlighting that deliberate or accidental compromise of protectively marked material may lead to disciplinary action and/or criminal proceedings.

ANNEX 7

AUDIT AND OPEN BOOK DATA SCHEDULE

OPEN BOOK DATA

1. The Contractor acknowledges the importance to the Authority of the Authority's need for complete transparency in the way in which the Contract Price is calculated.
2. During the Contract Period, and for a period of 6 years following the end of the Contract Period, the Contractor shall:
 - (a) maintain and retain the Open Book Data; and
 - (b) disclose and allow the Authority and/or the Audit Agents access to the Open Book Data.

AUDIT

1. Except where an audit is imposed on the Authority by a Regulatory Body, the Authority may, not more than twice in any year and for a period of twelve (12) months following the Term, conduct an audit for purposes including the following purposes:
 - (i) to verify the accuracy of the rates and charges;
 - (ii) to review the integrity, confidentiality and security of the Authority Data;
 - (iii) to review the Contractor's compliance with the DPA, FOIA and any other Laws applicable to the Services;
 - (iv) to review the Contractor's compliance with its audit obligations under this Framework Agreement ;
 - (v) to carry out the audit and certification of the Authority's accounts;
 - (vi) to carry out an examination pursuant to Section 6(1) of the National Audit Act 1983 of the economy, efficiency and effectiveness with which the Authority has used its resources;
 - (vii) to verify the accuracy and completeness of any management information delivered or required by this Framework Agreement ;
 - (viii) to inspect any IT environment (or any part of it) used for or in connection with the delivery of the Services;
 - (ix) to inspect the Authority's property, including the Authority's Intellectual Property, the Equipment, Goods, facilities and maintenance, for the purposes of ensuring

that the Authority's assets are secure and that any register of assets is up to date; and/or

- (x) to ensure that the Contractor is complying with the Standards;
 - (xi) to review the accuracy and completeness of any register the Contractor is required to maintain.
2. The Authority shall use its reasonable endeavours to ensure that the conduct of each audit does not unreasonably disrupt the Contractor or delay the supply of the Goods.
 3. Subject to the Authority's obligations of confidentiality, the Contractor shall on demand provide the Authority (and/or its agents or representatives) with all reasonable co-operation and assistance in relation to each audit, including:
 - all information requested by the Authority within the permitted scope of the audit;
 - reasonable access to any sites controlled by the Contractor and to any Equipment used (whether exclusively or non-exclusively) in the performance of the Services;
 - access to the Contractor's IT system; and
 - access to Staff.
 4. The Contractor shall implement all measurement and monitoring tools and procedures necessary to measure and report on the Contractor's performance of the Services against the applicable service levels or performance measures detailed in the Statement of Requirement's at a level of detail sufficient to verify compliance with the service levels.
 5. The Authority shall endeavour to (but is not obliged to) provide at least fifteen (15) Working Days notice of its intention to conduct an audit.
 6. The Parties agree that they shall bear their own respective costs and expenses incurred in respect of compliance with their obligations under this Schedule, unless the audit identifies a material Default by the Contractor in which case the Contractor shall reimburse the Authority for all the Authority's reasonable costs incurred in the course of the audit.
 7. If an audit identifies that:
 - (i) the Contractor has failed to perform its obligations under this Framework Agreement and/or any Contract in any material manner, the Parties shall agree and implement a remedial plan. If the Contractor's failure relates to a failure to provide any information to the Authority required by this Framework Agreement, then the remedial plan shall include a requirement for the provision of all such information;
 - (ii) the Authority or any Customer has overpaid the charges, the Contractor shall pay to the Authority or the relevant Customer (as appropriate) the amount overpaid

within twenty (20) Working Days. The Authority may deduct the relevant amount from the charges if the Contractor fails to make this payment; and

- (iii) the Authority or any Customer has underpaid any amount due as part of the charges, the Authority or the relevant Customer (as appropriate) shall pay to the Contractor the amount of the under-payment, less, in the case of any underpayment by the Authority, the cost of the audit incurred by the Authority if this was due to a Default by the Contractor in relation to invoicing, within twenty (20) Working Days.

ANNEX 8
COMMERCIALLY SENSITIVE INFORMATION

Price Schedule

ANNEX 9

NOTIFIED SUB-CONTRACTORS SCHEDULE

NOT APPLICABLE

ANNEX 10

FRAMEWORK AGREEMENT VARIATION PROCEDURE

CHANGE CONTROL

1. Introduction

- 1.1 This Schedule sets out the principles to be used in the event that either Party requires any change to this Framework Agreement.

2. Principles

- 2.1 Both the Authority and the Contractor shall designate change managers who shall be responsible for managing the change process.
- 2.2 From time to time, Requests For Change ("**RFC**") will result in a potential change to this Framework Agreement.
- 2.3 Any work undertaken by the Contractor in connection with any proposed change to this Framework Agreement by the Contractor, its sub-contractors or agents shall be undertaken entirely at the expense and liability of the Contractor unless and until the prior written agreement of the Authority is obtained.
- 2.4 The Contractor shall not charge for any work associated in the development of, or its response to, an RFC.
- 2.5 Any discussions, negotiations or other communications which may take place between the Authority and the Contractor in connection with any proposed change to this Framework Agreement, including but not limited to the submission of any written communications, prior to the signing by both parties of the relevant Contract Change Note ("**CCN**"), shall be without prejudice to the rights of either Party.
- 2.6 Unless otherwise agreed in the approval of the RFC, the Contractor shall ensure that, prior to the implementation of the change, all relevant documentation reflects the change.

3. Change Control Procedure

- 3.1 The Authority and the Contractor shall discuss changes requested by either Party. Such discussion may result in:
- (a) agreement not to proceed further; or
 - (b) rejection of the request by the non-requesting party; or
 - (c) agreement to proceed in principle.
- 3.2 Where it is agreed in principle to proceed with a RFC:
- (a) if the request was initiated by the Authority, the Authority shall submit a written RFC which describes the requirements in detail;
 - (b) if the request was initiated by the Contractor or the Contractor has received a written RFC in accordance with paragraph 3.2(a) above, the Contractor shall submit a CCN to the Authority within a reasonable time, to be agreed between the Parties at the time. The CCN may be complete and include appropriate information as specified below or, in the case of changes which propose to vary the nature of the Goods or the Services, partially complete as described below.
- 3.3 Each complete CCN shall contain:
- (a) the title of the change;
 - (b) the originator and the date of the RFC;
 - (c) the reason for the change;
 - (d) full details of the change including any specifications and user facilities;
 - (e) the price, if any, for implementing the change;
 - (f) any consequential changes to Schedule 1, if appropriate;
 - (g) an implementation timetable;
 - (h) the impact, if any, of the change on other aspects of this Framework Agreement including but not limited to the Goods, the Services and Service Levels;
 - (i) the date of expiry of the CCN; and
 - (j) provision for signature by the Authority and the Contractor.

- 3.4 Receipt by the Contractor of a copy of any CCN signed by both the Authority and the Contractor shall advise the Contractor of the acceptance of such CCN and shall constitute a formal amendment to this Framework Agreement.

ANNEX 11

CALL-OFF CONTRACTS

Please refer to the attached document;

Home Office Long Form Goods Contract