

DATED _____

(1) NORFOLK COUNTY COUNCIL

AND

(2) []

DRAFT

**FRAMEWORK AGREEMENT FOR THE PROVISION OF
ACTUARIAL, BENEFITS AND GOVERNANCE
CONSULTANCY SERVICES
PRIMARILY IN SUPPORT OF THE
LOCAL GOVERNMENT PENSION SCHEME (LGPS)**

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BETWEEN:-

- (1) **NORFOLK COUNTY COUNCIL** whose principal place of business is at County Hall Martineau Lane Norwich Norfolk NR1 2DH (the "Authority"); and
- (2) [] (Company Number: []) whose registered address is at [] (the "Provider").

BACKGROUND

- (A) The Authority published a Contract Notice reference [] on [] in the UK e-notification services Find a Tender and Contracts Finder seeking expressions of interest from potential providers for the provision of services to Contracting Bodies under a framework agreement.
- (B) On [] the Authority issued an invitation to tender for [].
- (C) The Provider represented to the Authority in its tender response dated [] that it is capable of delivering the Services in accordance with the Authority's requirements as set out in the Invitation to Tender and, in particular, the Provider made representation to the Authority in the Tender in relation to its competence, professionalism and ability to provide the Services in an efficient and cost-effective manner.
- (D) On the basis of the Tender, the Authority selected the Provider to enter a framework agreement along with a number of other Providers appointed to the Framework to provide Services to Contracting Bodies on a competitive call-off basis (or by direct means as well as by competitive call-off in respect of Lot x Services) in respect of the Provider's Lots in accordance with this Framework Agreement.
- (E) This Framework Agreement sets out the award and ordering procedure for Services which may be required by Contracting Bodies, the main terms and conditions for any Call-Off Contract which Contracting Bodies may conclude, and the obligations of the Provider during and after the term of this Framework Agreement.

(F) It is the Parties' intention that there will be no obligation for any Contracting Body to award any orders under this Framework Agreement during its Term.

IT IS AGREED as follows:-

1. INTERPRETATION

1.1 Unless the context otherwise requires, the following words and expressions shall have the following meanings:-

"Act" means the Procurement Act 2023

"Affiliate" in relation to either Party each and any subsidiary or holding company of that Party and each and any subsidiary of a holding company of that Party where the terms "subsidiary" and "holding company" shall have the meaning defined in section 1159 of the Companies Act 2006;

"Anti-Slavery Policy" the Provider's anti-slavery policy as amended by notification to the Authority from time to time;

"Approval" means the prior written approval of the Authority and "Approve" and "Approved" shall be construed accordingly;

"Audit" means an audit carried out pursuant to clause 19;

"Auditor" means the National Audit Office or an auditor appointed by the Audit Commission as the context requires and who in so far as such an appointment is within the control of the Authority shall not be a direct competitor to the Provider;

"Award Criteria" means the Standard Services Award Criteria and/or the Competed Services Award Criteria as the context requires;

"Call-Off Contract" means the legally binding agreement (made pursuant to the provisions of this Framework Agreement) for the provision of

Services made between a Contracting Body and the Provider comprising an Order Form and the Call-Off Terms and Conditions (as may be amended pursuant to clause 7.3.3);

"Call-Off Terms and Conditions"

means the terms and conditions in Schedule 5;

"Commencement Date"

[DATE];

"Commercially Sensitive Information"

means the information (i) listed in the Commercially Sensitive Information Schedule (SCHEDULE [XX]); or (ii) notified to the Authority in writing (prior to the commencement of the Agreement) which has been clearly marked as Commercially Sensitive Information:

(a) which is provided by the Provider to the Authority in confidence for the period set out in that Schedule or notification; and/or

(b) that constitutes a trade secret;

"Competed Services"

means the competed Services set out in Schedule 1;

"Complaint"

means any formal complaint raised by any Contracting Body in relation to the performance of the Framework Agreement or any Call-Off Contract in accordance with clause 38;

"Confidential Information"

Means any information, which has been designated as confidential by either Party in writing or that ought reasonably to be considered as confidential however it is conveyed, including information that relates to the business, affairs, developments, trade secrets, know-how, personnel and suppliers of the Provider, including Intellectual Property Rights, together with all information derived from the above, and any other information clearly designated as being

confidential (whether or not it is marked as “confidential”) or which ought reasonably to be considered to be confidential and all personal data and sensitive data within the meaning of the DPA; and the Commercially Sensitive Information;

“Connected Persons” has the meaning given in paragraph 45, Part 3 Schedule 6 of the Act;

“Contracting Authority” means any contracting authority as defined in Section 2 of the Procurement Act 2023 other than the Authority;

“Contracting Bodies” means the Authority and any other contracting bodies described in the Contract Notice and “Contracting Body” shall be construed accordingly;

“Contract Price” means the price (exclusive of any applicable VAT) payable to the Provider by the Contracting Body under the Call-Off Contract as set out in the Order Form for the full and proper performance by the Provider of its obligations under the Contract;

“Contract Notice” means the contract reference [] published in the UK e-notifications services Find a Tender and Contracts Finder;

“Contract Year” means a twelve-month period beginning on the Commencement Date and each anniversary thereof;

“Customer” means the customer identified in the Order form;

“DPA” means the Data Protection Act 2018;

“Data Protection Laws” means all applicable data protection and privacy legislation in force from time to time in the UK including the UK GDPR; the Data Protection Act 2018 (and regulations made thereunder) and the Privacy and Electronic Communications

Regulations 2003 (SI 2003/2426) as amended and the guidance and codes of practice issued by the Information Commissioner or other relevant regulatory authority and applicable to a party;

"Debarment List"	the list of suppliers referred to in section 62 of the Act;
"Domestic Law"	means the law of the United Kingdom or a part of the United Kingdom;
"Environmental Information Regulations"	mean the Environmental Information Regulations 2004 together with any guidance and/or codes of practice issued by the Information Commissioner or relevant Government department in relation to such regulations;
"FCA"	means the Financial Conduct Authority set up pursuant to the Financial Services and Markets Act 2000 to regulate the financial services industry in the United Kingdom and any successor or replacement body;
"FCA Rules"	means the rules, guidance and evidential provisions established by the FCA as amended, supplemented or replaced from time to time;
"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 or relevant Government department in relation to such legislation;
"Framework Agreement"	means this agreement and all Schedules to this agreement;
"Framework Agreement Variation Procedure"	means the procedure set out in Schedule 8;

"Framework Providers"	The framework providers listed in Schedule 1;
"Fraud"	means any offence under Laws creating offences in respect of fraudulent acts or at common law in respect of fraudulent acts in relation to the Framework Agreement or defrauding or attempting to defraud or conspiring to defraud any Contracting Body;
"General Anti-Abuse Rule"	means (a) the legislation in Part 5 of the Finance Act 2013; and (b) any future legislation introduced into parliament to counteract tax advantages arising for abusive arrangements to avoid national insurance contributions;
"General Change in Law"	means a change in Law where the change is of a general legislative nature (including taxation or duties of any sort affecting the Provider) or which affects or relates to the supply of Services to a Contracting Body by the Provider that are the same or similar to the Services;
"Good Industry Practice"	means standards, practices, methods and procedures conforming to the Law and the degree of skill and care, diligence, prudence and foresight which would reasonably and ordinarily be expected from a skilled and experienced person or body engaged in a similar type of undertaking under the same or similar circumstances;
"Group"	in relation to a company, that company, any subsidiary or holding company from time to time of that company, and any subsidiary from time to time of a holding company of that company.
"Guidance"	means any guidance issued or updated by the UK Government from time to time in relation to the Regulations;

“Halifax Abuse Principle”	means the principle explained in the CJEU Case C-255/02 Halifax and others;
"Information"	has the meaning given under Section 84 of the FOIA;
"Intellectual Property Rights"	means patents, inventions, ` , service marks, logos, design rights (whether registerable or otherwise), applications for any of the foregoing, copyright, database rights, domain names, trade or business names, moral rights and other similar rights or obligations whether registerable or not in any country (including but not limited to the United Kingdom) and the right to sue for passing off;
"ITT"	means the invitation to tender issued by the Authority on [];
"Law"	means the laws of England and Wales and any other laws or regulations, regulatory policies, guidelines or industry codes with apply to the provision of the Services or with which the Provider is bound to comply;
“Lot [x] Services”	means the [x] services as more particularly described in the ITT;
“Management Fee”	means the Framework management fee chargeable in accordance with clause 13
"Management Information"	means the management information specified in Schedule 6;
“Mandatory Policies”	means the Authority’s policies listed in Schedule 11 agreed in writing between the Authority and the Provider, as amended by the agreement of the Parties from time to time;

"Material Default"

means any breach of clause 7 (Award Procedures), clause 11 (Safeguard Against Fraud), clause 14 (Statutory Requirements), clause 15(Non-Discrimination and UK Living Wage), clause 18 (Provision of Management Information), clause 19 (Records and Audit Access), clause 20 (Confidentiality) clause 21 (Data Protection), clause 22 (Freedom of Information) and clause 29 (Transfer and Sub-contracting);

"Month"

means a calendar month;

"Occasion of Tax Non-Compliance"

means where:

any tax return of the Provider submitted to a Relevant Tax Authority on or after 1 October 2012 which is found on or after 1 April 2013 to be incorrect as a result of:

- a. a Relevant Tax Authority successfully challenging the Provider under the General Anti-Abuse Rule or the Halifax Abuse Principle or under any tax rule or legislation in any jurisdiction that have an effect equivalent to the General Anti-Abuse Rule or the Halifax Abuse Principle;
- b. the failure of an avoidance scheme which the Provider was involved in, and which was, or should have been, notified to a Relevant Tax Authority under the Disclosure of Tax Avoidance Schemes rules or any equivalent or similar regime in any jurisdiction; and/or
- c. any tax return of the Provider submitted to a Relevant Tax Authority on or after 1 October 2012 which gives rise, on or after 1 April 2013, to a criminal conviction

in any jurisdiction for tax related offences which is not spent ant the Commencement Date or to a civil penalty for fraud or evasion;

- "Order"** means an order for Services served by any Contracting Body on the Provider in accordance with the Ordering Procedures;
- "Order Form"** means a document setting out details of an Order in the form set out in Schedule 4;
- "Ordering Procedures"** means the ordering and award procedures specified in clause 7;
- "Other Contracting Bodies"** means all Contracting Bodies except the Authority;
- "Parent Company"** means any company which is the ultimate Holding Company of the Provider and which is either responsible directly or indirectly for the business activities of the Supplier or which is engaged in the same or similar business to the Supplier. "Holding Company" shall have the meaning ascribed by section 1159 of the Companies Act 2006 or any statutory re-enactment or amendment thereto;
- "Party"** means the Authority and/or the Provider;
- "Pricing Matrices"** means the pricing matrices set out in Schedule 3;
- "Provider's Lots"** means the lots which the Provider has been appointed to under this Framework Agreement as set out in Schedule 2;
- "Regulatory Bodies"** means those government departments and regulatory, statutory and other entities, committees, ombudsmen and bodies for the avoidance of doubt including the Financial Conduct Authority 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, either now active or which come into force during the term of this Framework Agreement;

“Relevant Tax Authority” means HMRC or, if applicable, the tax authority in the jurisdiction in which the Provider is established;

"Requests for Information" means a request for information or an apparent request under the FOIA or the Environmental Information Regulations;

"Services" means the range of services detailed in Schedule 1 and the Specification of Requirements included within the ITT as Appendix 2;

"Services Framework Lots" means the lots referred to in the Contract Notice and referred to in Schedule 1;

"Services Framework Providers" means the Providers appointed to provide Services under the Framework Agreement;

“Specific Change in Law” means a change in Law that relates specifically to the business of the Authority, and which would not affect the supply of Services;

"Staff" means all persons employed by the Provider or App together with the Provider's servants, agents, suppliers and sub-contractors used in the performance of its obligations under this Framework Agreement or Call-Off Contracts;

"Services Award Criteria" means the award criteria to be applied to tenders received through mini-competitions held for the award of Call-Off Contracts for Services as set out in Schedule 2;

"Tender"	means the tender submitted by the Provider to the Authority on [];
"Term"	means the period commencing on the Commencement Date and ending on [] or on earlier termination of this Framework Agreement;
"Working Days"	means any day other than a Saturday, Sunday or public holiday in England and Wales;
"Year"	means a calendar year.

1.2 The interpretation and construction of this Framework Agreement shall all be subject to the following provisions:-

- 1.2.1 words importing the singular meaning include where the context so admits the plural meaning and vice versa;
- 1.2.2 words importing the masculine include the feminine and the neuter;
- 1.2.3 the words "include", "includes" and "including" are to be construed as if they were immediately followed by the words "without limitation";
- 1.2.4 references to any person shall include natural persons and partnerships, firms and other incorporated bodies and all other legal persons of whatever kind and however constituted and their successors and permitted assigns or transferees;
- 1.2.5 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;

- 1.3 Unless the context otherwise requires, any reference to European Union law that is directly applicable or directly effective in the UK at any time is a reference to it as it applies in England and Wales from time to time including as retained, amended, extended, re-enacted or otherwise given effect on or after 11pm on 31 December 2020.
- 1.4 headings are included in this Framework Agreement for ease of reference only and shall not affect the interpretation or construction of this Framework Agreement;
- 1.5 references in this Framework Agreement to any clause or Sub-clause or Schedule without further designation shall be construed as a reference to the clause or Sub-clause or Schedule to this Framework Agreement so numbered;
- 1.6 references in this Framework Agreement to any paragraph or sub- paragraph without further designation shall be construed as a reference to the paragraph or sub-paragraph of the relevant Schedule to this Framework Agreement so numbered;
- 1.7 reference to a clause is a reference to the whole of that clause unless stated otherwise; and
- 1.8 in the event and to the extent only of any conflict between the clauses and the remainder of the Schedules, the clauses shall prevail over the remainder of the Schedules.

2. STATEMENT OF INTENT

- 2.1 In delivering the Services, the Provider shall operate at all times in accordance with the representations made by the Provider to the Authority in relation to its competence, professionalism and ability to provide the Services in an efficient and cost-effective manner as proposed in the Provider's response to the ITT upon which this Framework Agreement has been entered into.
- 2.2 This clause 2 is an introduction to this Framework Agreement and does not expand the scope of the Parties' obligations or alter the plain meaning of the terms and conditions of this Framework Agreement, except and to the extent that those terms

and conditions do not address a particular circumstance, or are otherwise ambiguous, in which case those terms and conditions are to be interpreted and construed so as to give full effect to this clause 2.

PART ONE: FRAMEWORK ARRANGEMENTS AND AWARD PROCEDURE

3. TERM OF FRAMEWORK AGREEMENT

The Framework Agreement shall take effect on the Commencement Date and (unless it is otherwise terminated in accordance with the terms of this Framework Agreement or it is otherwise lawfully terminated) shall terminate at the end of the Term.

4. SCOPE OF FRAMEWORK AGREEMENT

4.1 This Framework Agreement governs the relationship between the Authority and the Provider in respect of the provision of the Services by the Provider to the Authority and to Other Contracting Bodies.

4.2 The Authority and (subject to the following provisions of this clause 4.2) Other Contracting Bodies may at their absolute discretion and from time to time order Services from the Provider in accordance with the Ordering Procedure during the Term. The Parties acknowledge and agree that the Other Contracting Bodies have the right to order Services pursuant to this Framework Agreement provided that they comply at all times with all Laws (including, but not limited to, the Act and the Guidance) and the Ordering Procedure. If there is a conflict between clause 7 and the Act and the Guidance, the Other Contracting Body shall comply with the Act and the Guidance.

4.3 The Provider acknowledges that there is no obligation for the Authority and for any Other Contracting Body to purchase any Services from the Provider during the Term.

4.4 No undertaking or any form of statement, promise, representation or obligation shall be deemed to have been made by the Authority and/or any Other Contracting Body in respect of the total quantities or values of the Services to be ordered by them

pursuant to this Framework Agreement and the Provider acknowledges and agrees that it has not entered into this Framework Agreement on the basis of any such undertaking, statement, promise or representation.

4.5 The Call-Off Contracts awarded under this Framework Agreement may have a maximum total duration of 10 (ten) years. No Contract awarded under this Framework Agreement will be permitted to extend beyond [] 2043 and must be awarded during the Term.

4.6 The Provider acknowledges that:

4.6.1 the Authority has delivered or made available to the Provider all the information and documents that the Provider considers necessary or relevant for the performance of its obligations under this Framework Agreement;

4.6.2 it shall not be excused from the performance of any of its obligations under this Framework Agreement on the grounds of, nor shall the Provider be entitled to recover any additional costs or charges arising as a result of any:

(a) misinterpretation of the requirement of the Authority in the Invitation to Tender or elsewhere; and/or

(b) failure by the Provider to satisfy itself as to the accuracy and/or adequacy of the information and documents delivered or made available to the Provider prior to the Commencement Date.

4.7 In the event of, and only to the extent of, any conflict or inconsistency between the terms and conditions of this Framework Agreement and the terms and conditions of a Call-Off Contract, such conflict or inconsistency shall be resolved according to the following order of priority:

4.7.1 the Order Form;

4.7.2 the clauses of the Call-Off Contract

4.7.3 the call-off response;

4.7.4 the terms of the Framework Agreement, the Schedules to the Framework Agreement and the appendices to the Order Form; and

4.7.5 any other document referred to in the clauses of the Call-Off Contract.

5. PROVIDER'S APPOINTMENT

5.1 The Authority appoints the Provider as a potential provider of the Services referred to in the Provider's Lots and the Provider shall be eligible to be considered for the award of Orders for such Services by the Authority and Other Contracting Bodies during the Term.

5.2 Where applicable, the Authority shall be treated as a "professional client" under the FCA Rules. The Authority may request a categorisation with a higher level of protection when the Authority deems it is unable to properly assess or manage the risks involved.

6. NON-EXCLUSIVITY

The Provider acknowledges that, in entering this Framework Agreement, no form of exclusivity or volume guarantee has been granted by the Authority and/or Other Contracting Bodies for Services from the Provider and that the Authority and/or Other Contracting Bodies are at all times entitled to enter into other contracts and arrangements with other providers for the provision of any or all services which are the same as or similar to the Services.

7. AWARD PROCEDURES

7.1 Awards under the Framework Agreement

7.1.1 If the Authority or any Other Contracting Body decides to source Services through the Framework Agreement then it may:

- (a) satisfy its requirements in respect of [Lot x/the] Services by awarding a Call-Off Contract in accordance with the terms laid down in this Framework Agreement without re-opening competition; or

(b) satisfy its Services requirements in accordance with the terms laid down in this Framework Agreement following a further-competition conducted in accordance with the requirements of the Act and the Guidance. Further-competitions may be operated as electronic auctions where Regulation 35 so permits.

7.1.2 Obtain information regarding the level of expertise offered, quality and price taken from the information submitted in the tenders received and used to form provider catalogues which will be made available to any Other Contracting Body to support either direct call off or further competition.

7.1.3 The Authority and any Other Contracting Body may award Services jointly and may carry out a further-competition jointly provided in each case they are conducted in accordance with the requirements of the Act and the Guidance.

Awards without Re-opening Competition

7.2 Any Authority ordering [Lot x] Services under the Framework Agreement without re-opening competition shall send an Order to a Services Framework Provider listed in Schedule 1 whom it has identified from the catalogue data as the most suitable, to provide the Services within the given timescale. The parties acknowledge that the Contracting Body will select the most suitable provider from Schedule 1 on the basis of organisational need, level of expertise offered, availability, quality, price and response time.

Competed Services (Awards following Further-Competitions)

7.3 Any Contracting Body ordering Services under the Framework Agreement pursuant to clause 7.1.2 shall:

7.3.1 identify the relevant Services Framework Lot which its Services requirements fall into;

- 7.3.2 identify the Services Framework Providers capable of performing the Call-Off Contract for the Services requirements;
- 7.3.3 supplement and refine the Call-Off Terms and Conditions only to the extent permitted by and in accordance with the requirements of the Act and Guidance;
- 7.3.4 invite tenders by conducting a further-competition for its Services requirements in accordance with the Act and Guidance and in particular:
 - (a) consult in writing the Services Framework Providers capable of performing the Call-Off Contract for the Services requirements and invite them within a specified time limit to submit a tender in writing for each specific contract to be awarded;
 - (b) set a time limit for the receipt by it of the tenders which takes into account factors such as the complexity of the subject matter of the contract and the time needed to submit tenders; and
 - (c) keep each tender confidential until the expiry of the time limit for the receipt by it of tenders;
- 7.4 apply the Services Award Criteria to the Services Framework Providers' compliant tenders submitted through the further-competition as the basis of its decision to award a Call-Off Contract for its Competed Services requirements; and
- 7.5 award its Competed Services requirements by placing an Order with the successful Services Framework Provider which:
 - 7.5.1 states the Services requirements;
 - 7.5.2 identifies the Services Framework Lot or Services Framework Lots for which the award is made;
 - 7.5.3 states the price payable for the Services requirements in accordance with the tender submitted by the successful Services Framework Provider; and

7.5.4 incorporates the Call-Off Terms and Conditions applicable to that Services Framework Lot as modified by the Competed Services requirements.

7.6 The Provider agrees that all tenders submitted by the Provider in relation to a further-competition held pursuant to this clause 7 shall remain open for acceptance for thirty (30) days (or such other period specified in the invitation to tender issued by the relevant Contracting Body in accordance with the Ordering Procedure).

7.7 Notwithstanding the fact that the Contracting Body has followed the procedure set out above in this clause 7, the Contracting Body shall be entitled at all times to decline to make an award for its Services requirements. Nothing in this Framework Agreement shall oblige any Contracting Body to place any Order for Services.

Responsibility for Awards

7.8 The Provider acknowledges that each Contracting Body is independently responsible for the conduct of its award of Call-Off Contracts under the Framework Agreement and that the Authority is not responsible or accountable for and shall have no liability whatsoever in relation to:

7.8.1 the conduct of Other Contracting Bodies in relation to the Framework Agreement; or

7.8.2 the performance or non-performance of any Call-Off Contracts between the Provider and Other Contracting Bodies entered into pursuant to the Framework Agreement.

Form of Order

7.9 Subject to clauses 7.1 to 7.6 above, each Contracting Body may place an Order with the Provider by serving an order in writing in substantially the form set out in Schedule 4 or such similar or analogous form agreed with the Provider including systems of ordering involving electronic mail or other on-line solutions. The Parties agree that any document or communication (including any document or communication in the apparent form of an Order) which is not in in writing in

substantially the form set out in Schedule 4 or such similar or analogous form agreed with the Provider shall not constitute an Order under this Framework Agreement.

Accepting and Declining Orders

7.10 Following receipt of an Order, the Provider shall promptly and in any event within a reasonable period (taking into account all relevant circumstances in relation to the subject matter and nature of an Order) determined by the relevant Contracting Body and notified to the Provider in writing at the same time as the submission of the Order (which in any event shall not exceed three (3) Working Days) acknowledge receipt of the Order and either:

7.10.1 notify the Contracting Body that it declines to accept the Order; or

7.10.2 notify the relevant Contracting Body that it accepts the Order by signing and returning the Order Form.

7.11 If the Provider:

7.11.1 notifies the Contracting Body that it declines to accept an Order; or

7.11.2 the time-limit referred to in clause 7.10 has expired;

7.11.3 then the offer from the Contracting Body to the Provider shall lapse and the relevant Contracting Body may offer that Order to the Services Framework Provider that submitted the next most economically advantageous tender in accordance with the relevant Award Criteria.

7.12 The Provider in agreeing to accept such an Order pursuant to clause 7.8 above shall enter a Call-Off Contract with the relevant Contracting Body for the provision of Services referred to in that Order. A Call-Off Contract shall be formed on the Contracting Body's receipt of the signed Order Form provided by the Provider (or such similar or analogous form agreed with the Provider) pursuant to clause 7.8.

PART TWO: PROVIDER'S GENERAL FRAMEWORK OBLIGATIONS

8. WARRANTIES AND REPRESENTATIONS

8.1 The Provider warrants and represents to the Authority and to each of the Other Contracting Bodies that:

8.1.1 it has full capacity and authority and all necessary consents (including, where its procedures so require, the consent of its Parent Company) to enter into and to perform its obligations under this Framework Agreement;

8.1.2 it is validly incorporated, organised and subsisting in accordance with the Laws of its place of incorporation;

8.1.3 where applicable, it is authorised and regulated by the FCA;

8.1.4 neither it nor any of the Provider's Connected Persons nor any sub-contractor is on the Debarment List;

8.1.5 no mandatory or discretionary exclusion ground applies to the Provider, the Provider's Connected Persons or any sub-contractors;

8.1.6 its execution, delivery and performance of its obligations under this Framework Agreement does not and will not constitute a breach of any Law or obligation applicable to it and does not and will not cause or result in a default of any agreement by which it is bound;

8.1.7 this Framework Agreement is executed by a duly authorised representative of the Provider;

8.1.8 on entering into this Framework Agreement or any Call-Off Contract it has not committed any Fraud;

8.1.9 as at the Commencement Date, all information, statements and representations contained in the Tender (including statements made in relation to the categories referred to in Sections 22 and 57 to 59 of the Act) for the Services are true, accurate and not misleading save as may have been specifically disclosed in writing to the Authority prior to the execution

of this Framework Agreement and it will promptly advise the Authority of any fact, matter or circumstance of which it may become aware which would render any such information, statement or representation to be false or misleading;

- 8.1.10 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 or the conditions on which any tender is made in respect of the Framework Agreement;
- 8.1.11 it has not caused or induced any person to enter such agreement referred to in clause 8.1.7 above;
- 8.1.12 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 or proposed tender for Services under the Framework Agreement;
- 8.1.13 it has not committed any offence under the Bribery Act 2010;
- 8.1.14 to the best of its knowledge and belief no claim is being asserted and no litigation, arbitration or administrative proceeding is presently in progress or, to the best of its knowledge and belief, pending or threatened against it or any of its assets which will or might affect its ability to perform its obligations under this Framework Agreement and any Call-Off Contract which may be entered into with the Authority or Other Contracting Bodies;
- 8.1.15 it is not subject to any contractual obligation, compliance with which is likely to have an effect on its ability to perform its obligations under this Framework Agreement and any Call-Off Contract which may be entered into with the Authority or Other Contracting Bodies;
- 8.1.16 no proceedings or other steps have been taken and not discharged (nor, to the best of its knowledge, are threatened) for the winding up of the Provider

or for its dissolution or for the appointment of a receiver, administrative receiver, liquidator, manager, administrator or similar officer in relation to any of the Provider's assets or revenue; and

8.1.17 it shall comply with all applicable Law in connection with the performance of this Framework Agreement;

8.2 in performing its obligations under this Framework Agreement it will comply with the Mandatory Policies, or their own, similar policies which are no less onerous than the Mandatory Policies; and

8.3 in the three (3) years prior to the date of this Framework Agreement:

8.3.1 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;

8.3.2 it has been in full compliance with all applicable securities laws and regulations in the jurisdiction in which it is established; and

8.3.3 it has not performed any act or omission with respect to its financial accounting or reporting which could have an adverse effect on the Provider's position as an ongoing business concern or its ability to fulfil its obligations under this Framework Agreement.

8.4 The Provider warrants and represents to each of the Other Contracting Bodies the statements in clause 8.1 above.

9. CORRUPT GIFTS AND PAYMENTS OF COMMISSION

9.1 The Provider shall not offer or give, or agree to give, to any employee, agent, servant or representative of the Authority or any other public body or person employed by or on behalf of the Authority or any other public body any gift or consideration of any kind which could act as an inducement or reward for doing, refraining from doing, or for having done or refrained from doing, any act in relation to this Framework Agreement, any Call-Off Contract or any other contract with the

Authority or any other public body or person employed by or on behalf of the Authority or any other public body (including its award to the Provider, execution or any rights and obligations contained in it), or for showing or refraining from showing favour or disfavour to any person in relation to any such contract. The attention of the Provider is drawn to the criminal offences under the Bribery Act 2010.

9.2 The Provider warrants that it has not paid commission nor agreed to pay any commission to the Authority or any other public body or any person employed by or on behalf of the Authority or any other public body in connection with this Framework Agreement, any Call-Off Contract or any other contract with the Authority or any other public body or person employed by or on behalf of the Authority or any other public body.

9.3 If the Provider, its Staff or any person acting on the Provider's behalf, engages in conduct prohibited by clauses 9.1 or 9.2 above or commits any offence under the Bribery Act 2010 the Authority may:

9.3.1 terminate the Framework Agreement with immediate effect by giving notice in writing to the Provider and recover from the Provider the amount of any loss suffered by the Authority resulting from the termination; or

9.3.2 recover in full from the Provider and the Provider shall indemnify the Authority in full from and against any other loss sustained by the Authority in consequence of any breach of this clause, whether or not the Framework Agreement has been terminated.

10. CONFLICTS OF INTEREST

10.1 Acting always in the best interests of the Authority the Provider shall take appropriate steps to ensure that neither the Provider nor any Staff are placed in a position where (in the reasonable opinion of the Authority) there is or may be an actual conflict, or a potential conflict, between the pecuniary or personal interests of the Provider or Staff and the duties owed to the Authority and Other Contracting Bodies under the provisions of this Framework Agreement or any Call-Off Contract.

10.2 Subject to any overriding duty of confidentiality the Provider shall promptly notify and provide full particulars to the Authority or the relevant Other Contracting Body if such conflict referred to in clause 10.1 above arises or is reasonably foreseeable to arise that cannot be managed in accordance with and by taking the appropriate steps referred to in clause 10.1 and in accordance with the Provider's regulatory and statutory obligations.

10.3 The Authority reserves the right to terminate this Framework Agreement immediately by giving notice in writing to the Provider 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 Provider and the duties owed to the Authority under the provisions of this Framework Agreement or any Call-Off 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.

10.4 This clause shall apply during the Term.

10.5 The Provider will, upon request, provide the Authority with a Conflict of Interest protocol setting out the management of conflicts of interest in accordance with clause 10 hereof for the Authority's approval.

11. SAFEGUARD AGAINST FRAUD

The Provider shall safeguard the Authority and any Other Contracting Body's funding of the Framework Agreement and any Call-Off Contract against Fraud generally and, in particular, Fraud on the part of the Provider or its Staff. The Provider shall notify the Authority or the relevant Other Contracting Body immediately if it has reason to suspect that any Fraud has occurred or is occurring or is likely to occur.

12. CALL-OFF CONTRACT PERFORMANCE

12.1 The Provider shall perform all Call-Off Contracts entered into with the Authority or any Other Contracting Body in accordance with:

12.1.1 the requirements of this Framework Agreement;

12.1.2 the terms and conditions of the respective Call-Off Contracts; and

12.1.3 in compliance with all applicable Laws.

12.2 In the event of, and only to the extent of, any conflict between the terms and conditions of this Framework Agreement and the terms and conditions of a Call-Off Contract, the terms and conditions of this Framework Agreement shall prevail.

13. PRICES FOR SERVICES AND MANAGEMENT FEES

Prices for Services

13.1 The prices offered by the Provider for Services which the Provider proposes to deliver to a Contracting Body under a Call-Off Contract shall be based on the prices and/or methods for determining price as set out inset out in Schedule 3 (Pricing Matrices) and, where applicable, tendered in accordance with the requirements of the further-competition held pursuant to clause 7.

Management Fee

13.2 Pursuant to section 45(7) of the Act, the Authority shall charge a Management Fee to the Provider. The Management Fee shall be based on the revenues of the Call off Contracts entered into by the Provider on an annual basis. For the avoidance of doubt, the obligation to pay the Management Fee shall survive the termination of this Framework Agreement and shall apply to all Call Off Contracts, extensions and renewals thereof.

14. STATUTORY REQUIREMENTS

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

15. NON-DISCRIMINATION AND UK LIVING WAGE

15.1 The Provider shall not unlawfully discriminate within the meaning and scope of any law, enactment, order or regulation relating to discrimination (whether in race, gender, religion or belief, age, disability, sexual orientation or otherwise).

15.2 The Provider shall take all reasonable steps to secure the observance of clause 15.1 by all servants employees or agents of the Provider and all suppliers and sub-contractors employed in the execution of the Framework Agreement.

15.3 It is a condition of the Framework Agreement that all payments to Staff directly employed by the Provider in the United Kingdom shall be compliant with the then current UK Living Wage:

15.3.1 For Staff employed outside London as set by the Centre for Research in Social Policy Loughborough University for the Living Wage Foundation: or

15.3.2 For Staff employed in London as set by the Greater London Authority and Mayor for London's office.

16. ANTI-SLAVERY AND HUMAN TRAFFICKING

16.1 In performing its obligations under the agreement, the Provider shall (and shall use reasonable endeavours to procure that its subcontractors shall):

16.1.1 comply with all applicable anti-slavery and human trafficking laws, statutes, regulations and codes from time to time in force (Anti-slavery Laws) including but not limited to the Modern Slavery Act 2015

16.1.2 comply with their modern slavery statement and the associated policies in place from time to time;

16.1.3 not engage in any activity, practice or conduct that would constitute an offence under sections 1, 2 or 4, of the Modern Slavery Act 2015 if such activity, practice or conduct had been carried out in England or Wales;

16.1.4 use reasonable endeavours to include in its contracts with its sub-contractors, used in the provision of the Services, anti-slavery and human trafficking provisions that are at least as onerous as those set out in this clause 16;

16.1.5 notify the Authority (in writing) as soon as reasonably practicable once it becomes aware of any breach or suspected breach of clause 16.1.1, clause 16.1.2, clause 16.1.3 or clause 16.1.4 to the extent that notification will not jeopardise investigations, and

16.1.6 prepare and deliver to the Authority an annual modern slavery statement setting out the steps it has taken to ensure that slavery and human trafficking is not taking place in any of its supply chains or in any part of its business.

16.2 The Provider represents and warrants throughout the Term that:

16.2.1 neither the Provider nor any of its officers, employees or subcontractors Staff or staff of any Affiliates:

(a) has been convicted of any offence involving slavery and human trafficking anywhere in the world; or

(b) to the best of its knowledge, has been or is the subject of any investigation, inquiry or enforcement proceedings by any governmental, administrative or regulatory body regarding any offence or alleged offence of or in connection with slavery and human trafficking; or

(c) has been or is listed by any government agency as being debarred, suspended, proposed for suspension or debarment, or otherwise ineligible for participation in any government procurement programmes or other government contracts including, without limitation, any exclusion under section 59 of the Act.

- 16.3 The Provider shall implement due diligence procedures for its subcontractors or any part of its supply chain performing obligations under this Framework Agreement to ensure that there is no slavery or human trafficking taking place.
- 16.4 The Provider shall:
- 16.4.1 maintain a complete set of records to trace the supply chain of all Services provided to the Authority in connection with this Framework agreement; and
 - 16.4.2 if the Authority reasonably suspects the Provider of breach of clause 16, this clause permits the Authority and its third party representatives on reasonable notice to have access to and take copies of any records and any other relevant information at the Provider's premises and to meet with the Provider's personnel to audit the Provider's compliance with its obligations under this clause within the usual business hours; and
 - 16.4.3 implement annual audits of its compliance with the Modern Slavery Statement and the Anti-slavery Laws, either directly or through a third party auditor.
- 16.5 The Provider shall:
- 16.5.1 implement a system of training for its employees, and subcontractors, Staff or staff of Affiliates to ensure compliance with the Modern Slavery Statement and Anti-slavery Laws;
 - 16.5.2 keep a record of all training offered and completed by its employees, and subcontractors, Staff or, staff of Affiliates to ensure compliance with the Modern Slavery Statement and Anti-slavery Laws and shall make a copy of the record available to the Authority on request.
- 16.6 The Provider shall indemnify the Authority against any losses, liabilities, damages, reasonable costs (including but not limited to legal fees) and reasonable expenses incurred by the Authority as a result of any breach of this clause 16 by the Supplier

or any breach of provisions equivalent to this clause 16 in any subcontract by any subcontractor.

16.7 Breach of this clause 16 shall be deemed a material breach under clause 24.

17. CONTINUOUS IMPROVEMENT

17.1 The Provider shall at all times during this Framework Agreement:

17.1.1 to the extent of its obligations in the Framework Agreement make arrangements to secure continuous improvement in the way in which the Services are provided;

17.1.2 use all reasonable endeavours to ensure the Authority and any Other Contracting Body receive the benefit of reduced third party costs and charges relevant to the provision of the Services; and

17.1.3 use all reasonable endeavours to implement the efficiencies to be found in Good Industry Practice

PART THREE: PROVIDER'S INFORMATION OBLIGATIONS

18. PROVISION OF MANAGEMENT INFORMATION

18.1 The Provider shall submit Management Information to the Authority in the form set out in Schedule 6 throughout the Term every six months during the financial year and thereafter in respect of any Call-Off Contract entered into with any Contracting Body.

18.2 The Authority may share the Management Information supplied by the Provider with the relevant Contracting Body.

18.3 The Authority may make reasonable changes to the Management Information which the Provider is required to supply and shall give the Provider at least one (1) month's written notice of any changes.

19. RECORDS AND AUDIT ACCESS

- 19.1 The Provider shall keep and maintain until six (6) years after the date of termination or expiry (whichever is the earlier) of this Framework Agreement (or as long a period as may be agreed between the Parties), full and accurate records and accounts of the operation of this Framework Agreement including the Services provided under it, the Call-Off Contracts entered into with Contracting Bodies and the amounts paid by each Contracting Body.
- 19.2 The Provider shall keep the records and accounts referred to in clause 19.1 above in accordance with good accountancy practice and, where applicable, FCA Rules. For the avoidance of doubt, guidance shall be complied with in so far as is reasonably practicable in the circumstances
- 19.3 The Provider shall afford the Authority (or relevant Contracting Body) and/or the Auditor such access to such records and accounts as may be required to demonstrate compliance with clauses 19.1 and 19.2 from time to time.
- 19.4 The Provider shall provide such records and accounts (together with copies of the Provider's published accounts) during the Term and for a period of six (6) years after expiry of the Term to the Authority (or relevant Contracting Body) and the Auditor.
- 19.5 The Authority shall use reasonable endeavours to ensure that the conduct of each Audit does not unreasonably disrupt the Provider or delay the provision of the Services pursuant to the Call-Off Contracts, that the Auditor appointed is not subject to a professional conflict of interest as an existing direct competitor of the Provider and that reasonable arrangements to protect the duty of confidentiality to the Provider's clients are put in place save insofar as the Provider accepts and acknowledges that control over the conduct of Audits carried out by the Auditor is outside of the control of the Authority.
- 19.6 Subject to the Authority's rights of confidentiality, the Provider shall on demand provide the Auditor with all reasonable co-operation and assistance in relation to each Audit, including:

- 19.6.1 all information requested by the Auditor within the scope of the Audit;
 - 19.6.2 reasonable access to sites controlled by the Provider [and to equipment used in the provision of the Services]; and
 - 19.6.3 access to the Staff.
- 19.7 The Parties agree that they shall bear their own respective costs and expenses incurred in respect of compliance with their obligations under this clause 18, unless the Audit reveals a Material Default by the Provider in which case the Provider shall reimburse the Authority for the Authority's reasonable costs incurred in relation to the Audit.

20. CONFIDENTIALITY

- 20.1 Except to the extent set out in this clause or where disclosure is expressly permitted elsewhere in this Framework Agreement, each Party shall:
- 20.1.1 treat the other Party's Confidential Information as confidential and safeguard it accordingly; and
 - 20.1.2 subject to clause 20.3 not disclose the other Party's Confidential Information to any other person without the owner's prior written consent.
- 20.2 clause 20.1 shall not apply to the extent that:
- 20.2.1 such disclosure is a requirement of Law placed upon the party making the disclosure, including any requirements for disclosure under the FOIA or the Environmental Information Regulations pursuant to clause 22.5 (Freedom of Information);
 - 20.2.2 such information was in the possession of the Party making the disclosure without obligation of confidentiality prior to its disclosure by the information owner;
 - 20.2.3 such information was lawfully obtained from a third party which to the Party's reasonable knowledge is without obligation of confidentiality;

- 20.2.4 such information was already in the public domain at the time of disclosure otherwise than by a breach of this Framework Agreement; or
- 20.2.5 it is independently developed without access to the other party's Confidential Information
- 20.3 The Provider may only disclose the Authority's Confidential Information to its Staff or staff of Affiliates, or staff or affiliates of Group companies, who are involved in the provision of the Services provided the Provider ensures that they treat such Confidential Information no less securely than as required under the terms of the Framework Agreement. The Provider may also disclose the Authority's Confidential Information to its regulator or in order to defend its work product, and shall ensure that such Staff, and staff of Affiliates, professional advisors and the regulator are aware of and shall comply with these obligations as to confidentiality.
- 20.4 Where the Provider discloses Confidential Information of the Authority pursuant to clause 20.3 it shall remain responsible at all times for compliance with the confidentiality obligations set out in this Framework Agreement by the Staff and staff of Affiliates, professional advisors to whom disclosure has been made, for the avoidance of doubt, the provisions of this clause shall not apply in relation to data shared with its regulator.
- 20.5 The Provider shall not, and shall procure that its Staff and staff of Affiliates do not, use any of the Authority's Confidential Information received otherwise than for the purposes of this Framework Agreement.
- 20.6 At the written request of the Authority , the Provider shall procure that those Affiliates or members of the Staff identified in the Authority's notice and who are not otherwise subject to confidentiality obligations commensurate with this clause 20 sign a confidentiality undertaking prior to commencing any work in accordance with this Framework Agreement.
- 20.7 Nothing in this Agreement shall prevent the Authority from disclosing the Provider's Confidential Information:

- 20.7.1 to any government body or other Contracting Authority on the basis that the information is confidential and is not to be disclosed to a third party which is not part of any Contracting Authority;
- 20.7.2 to any consultant, contractor or other person engaged by the Authority for the purposes of providing the Services;
- 20.7.3 for the purpose of the examination and certification of the Authority's accounts;
- 20.7.4 for any 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.
- 20.8 The Authority may only disclose the Provider's Confidential Information to its Staff, staff of Affiliates and professional advisors, who are involved in the provision of the Services provided the Provider ensures that they treat such Confidential Information no less securely than as required under the terms of the Framework Agreement. The Authority may also disclose the Provider's Confidential Information to its regulator or in order to defend its work product, and shall ensure that such Staff, staff of Affiliates, professional advisors and the regulator are aware of and shall comply with these obligations as to confidentiality.
- 20.9 If the Authority is required by Law to make a disclosure of Confidential Information, the Authority shall as soon as reasonably practicable and to the extent permitted by Law notify the Provider 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.
- 20.10 Where the Authority discloses Confidential Information of the Provider pursuant to clause 20.8 or 20.9 it shall remain responsible at all times for compliance with the confidentiality obligations set out in this Framework Agreement, for the avoidance of doubt, the provisions of this clause shall not apply in relation to data shared with its regulator.

- 20.11 Nothing in this clause 20 shall prevent either Party from using any techniques, ideas or know-how gained during the performance of the Framework Agreement in the course of its normal business to the extent that this use does not result in a disclosure of the other party's Confidential Information or an infringement of Intellectual Property Rights.
- 20.12 Nothing in this clause 20 shall prevent the Provider from using the information it receives during the Term of the Framework Agreement to build databases and surveys for its internal use by the Provider's Staff and for external distribution to the Provider's other clients, subject to appropriate anonymisation, the prior written consent of the Authority and applying all other reasonable safeguards that the Authority may prescribe.
- 20.13 In the event that the Provider fails to comply with this clause 20, the Authority reserves the right to terminate this Framework Agreement for Material Default.

21. DATA PROTECTION

- 21.1 For the purposes of this clause 21, the terms "Controller", "Data Subject", "Processor", "Personal Data", "Personal Data Breach", "Process" and "Processing" shall have the meaning under the Data Protection Legislation.
- 21.2 In relation to the DPA, the Parties acknowledge and agree that:
- 21.2.1 both Parties shall be data Controllers for the purpose of this Framework Agreement and shall have all necessary legal pathways and notices in place;
 - 21.2.2 both Parties shall comply with all the obligations imposed on a Controller under the Data Protection Laws. For the avoidance of doubt, guidance shall be complied with in so far as is reasonably practicable in the circumstances;
 - 21.2.3 each Party shall assist the other in complying with all applicable requirements of the Data Protection Laws;
 - 21.2.4 the only personal data that will be exchanged will be business to business contact details to the extent that these are necessary for the performance

by each Party of its obligations under this Framework Agreement and no personal data will be shared for any other purpose. For the avoidance of doubt such personal data is not necessary for performance of the Services;

21.2.5 they will ensure recipients of the personal data are subject to written contractual obligations of confidentiality;

21.2.6 both Parties will have in place appropriate technical and organisational measures to protect against unauthorised or unlawful processing of personal data and against accidental loss or destruction of or damage to, personal data.

22. FREEDOM OF INFORMATION

22.1 The Provider 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 to enable the Authority to comply with its Information disclosure obligations.

22.2 The Provider shall and shall procure that its Affiliates and Sub-contractors shall:

22.2.1 transfer to the Authority all Requests for Information that it receives as soon as practicable and in any event within two Working Days of receiving a Request for Information;

22.2.2 provide the Authority with a copy of all Information in its possession, or power in the form that the Authority requires within five Working Days (or such other period as the Authority may specify) of the Authority's request; and

22.2.3 provide all necessary assistance as reasonably requested by the Authority to enable the Authority to respond to the Request for Information within the time for compliance set out in section 10 of the FOIA or regulation 5 of the Environmental Information Regulations.

- 22.3 The Authority shall be responsible for determining in its absolute discretion and notwithstanding any other provision in this Agreement or any other agreement whether the Commercially Sensitive Information and/or any other Information is exempt from disclosure in accordance with the provisions of the FOIA or the Environmental Information Regulations.
- 22.4 In no event shall the Provider respond directly to a Request for Information unless expressly authorised to do so by the Authority.
- 22.5 The Provider acknowledges that (notwithstanding the provisions of clause 22.6) the Authority may, acting in accordance with the Secretary of State for Constitutional Affairs Code of Practice on the Discharge of the Functions of Public Authorities under Part 1 of the FOIA 2000 Cabinet Office Freedom of Information Code of Practice (“the Code”), be obliged under the FOIA, or the Environmental Information Regulations to disclose information concerning the Provider or the Services:
- 22.5.1 in certain circumstances without consulting the Provider; or
 - 22.5.2 following consultation with the Provider and having taken their views into account;
- provided always that where clause 22.5 applies the Authority shall, in accordance with any recommendations of the Code, take reasonable steps, where appropriate, to give the Provider advanced notice, or failing that, to draw the disclosure to the Provider’s attention after any such disclosure.
- 22.6 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 be responsible for determining in its absolute discretion whether any of the content of the Framework Agreement is exempt from disclosure in accordance with the provisions of the FOIA. The Authority may consult with the Provider to inform its decision regarding any exemptions but the Authority shall have the final decision in

its absolute discretion. The Provider shall assist and cooperate with the Authority to enable the Authority to publish this Framework Agreement.

22.7 Notwithstanding any other term of this Framework Agreement, the Provider hereby gives his consent for the Authority to publish the Framework Agreement in its entirety, including from time to time agreed changes to the Framework Agreement, to the general public. The Authority shall consult with the Provider to inform its decision regarding any redactions but the Authority shall have the final decision in its absolute discretion.

22.8 The Provider acknowledges that publication of this Framework Agreement may include the publication of the name and contact details of the Provider's Representative. Such details may not be redacted. By executing this Framework Agreement, the Provider confirms that it has ensured that the Provider's Representative has given their consent to the publication of their name and contact details or otherwise taken steps to ensure that publication will not breach the Data Protection Act 2018. The name and contact details of any subsequent Provider Representative details may also be published and in every such case the Provider will ensure that consent is obtained or otherwise takes steps to ensure that publication of those details will not amount to a breach of the Data Protection Act 2018.

23. PUBLICITY

23.1 Unless otherwise directed by the Authority, the Provider shall not make any press announcements or publicise this Framework Agreement in any way without the Authority's prior written consent.

23.2 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 Auditor or otherwise.

23.3 The Provider shall not do anything which may damage the reputation of the Authority or bring the Authority into disrepute.

23.4 Each Party acknowledges to the other that nothing in this Framework Agreement either expressly or by implication constitutes an approval and/or endorsement of any products or services of the other party (including the Services) and each party agrees not to conduct itself in such a way as to imply or express any such approval and/or endorsement.

PART FOUR: FRAMEWORK AGREEMENT TERMINATION AND SUSPENSION

24. TERMINATION

Termination on Default

24.1 The Authority may terminate the Framework Agreement by serving written notice on the Provider with effect from the date specified in such notice:

24.1.1 where the Provider commits a Material Default and:

- (a) the Provider has not remedied the Material Default to the satisfaction of the Authority within a reasonable time period, or such other period as may be specified by the Authority, after issue of a written notice specifying the Material Default and requesting it to be remedied; or
- (b) the Material Default is not, in the reasonable opinion of the Authority, capable of remedy; or
- (c) where any Contracting Body terminates a Call-Off Contract awarded to the Provider under this Framework Agreement as a consequence of default by the Provider.

Termination on Financial Standing

24.2 The Authority may terminate the Framework Agreement by serving notice on the Provider in writing with effect from the date specified in such notice where (in the reasonable opinion of the Authority), there is a material detrimental change in the

financial standing and/or the credit rating of the Provider which adversely impacts on the Provider's ability to supply Services under this Framework Agreement.

Termination on Insolvency and Change of Control

24.3 Without affecting any other right or remedy available to it, the Authority may terminate this Framework Agreement with immediate effect by notice in writing where in respect of the Provider:

24.3.1 the Provider suspends, or threatens to suspend, payment of its debts or is unable to pay its debts as they fall due or admits inability to pay its debts or (being a company or limited liability partnership) is deemed unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986 or

24.3.2 a proposal is made for a voluntary arrangement within Part I of the Insolvency Act 1986 or of any other composition scheme or arrangement with, or assignment for the benefit of, its creditors; or

24.3.3 the Provider commences negotiations with all or any class of its creditors with a view to rescheduling any of its debts, or makes a proposal for or enters into any compromise or arrangement with its creditors other than (being a company) for the sole purpose of a scheme for a solvent amalgamation of the Provider with one or more other companies or the solvent reconstruction of the Provider; or

24.3.4 a shareholders' meeting is convened for the purpose of considering a resolution that it be wound up or a resolution for its winding-up is passed (other than as part of, and exclusively for the purpose of, a bona fide reconstruction or amalgamation); or

24.3.5 a petition is presented for its winding up (which is not dismissed within 14 (fourteen) Working Days of its service) or a liquidator is appointed by way of deemed consents or a virtual meeting in accordance with section 100 (1A) of the Insolvency Act 1986 and rule 6.14 of the Insolvency Rules 2016;

- 24.3.6 an application or an administration order is made for the appointment of an administrator or for an administration order and an administrator is appointed, or notice of intention to appoint an administrator is given; or
 - 24.3.7 the holder of a qualifying floating charge over the assets of the Provider (being a company) has become entitled to appoint or has appointed an administrative receiver;
 - 24.3.8 a receiver, administrative receiver or similar officer is appointed over the whole or any part of its business or assets specifically involved in the provision of the services;
 - 24.3.9 it is or becomes insolvent within the meaning of section 123 of the Insolvency Act 1986;
 - 24.3.10 a creditor or encumbrancer of the Provider attaches or takes possession of, or a distress, execution, sequestration or other such process is levied or enforced on or sued against, the whole or any part of the Provider's assets and such attachment or process is not discharged within 10 (ten) Working Days;
 - 24.3.11 any event similar to those listed in clause 24.3.1 to clause 24.3.10 occurs under the law of any other jurisdiction;
 - 24.3.12 the Provider suspends or ceases, or threatens to suspend or cease, carrying on all or a substantial part of its business.
- 24.4 The Provider shall notify the Authority immediately if the Provider undergoes a change of control within the meaning of section 1124 of the Corporation Tax Act 2010 ("Change of Control") and obtain the Authority's Approval to such Change of Control, such approval not to be unreasonably withheld. The Authority may terminate the Framework Agreement by giving notice in writing to the Provider with immediate effect within six (6) Months of:
- 24.4.1 being notified that a Change of Control has occurred; or

24.4.2 where no notification has been made, the date that the Authority becomes aware of the Change of Control;

24.4.3 if it believes, acting reasonably, that such change is likely to have an adverse effect on the provision of the Services, but it shall not be permitted to terminate where an Approval was granted prior to the Change of Control.

Termination by the Authority

24.5 The Authority shall have the right to terminate this Framework Agreement, or to terminate the provision of any part of the Framework Agreement at any time by giving six Months written notice to the Provider and all other Services Framework Providers.

Termination for Breach of the Act

24.6 The Authority may give the Provider written notice of its intention to terminate if it considers that a termination ground listed in section 78(2) of the Act applies. A notice of intention to terminate under this clause must:

24.6.1 set out which termination ground the Authority considers applies pursuant to section 78(2) of the Act together with the Customer's reasons for deciding to terminate on this basis;

24.6.2 invite the Provider to make representations to the Authority about the existence of the termination ground and the Authority's decision to terminate;

24.6.3 specify the means by which, and the time by which, such representations must be made; and

24.6.4 insofar as it states the Authority's intention to terminate by reference to the status of a Sub-Contractor under section 78(2)(b) or (c) of the Procurement Act 2023, specify a time by which the Provider may terminate the Subcontract and, if necessary, appoint an alternative Subcontractor.

24.7 On the expiry of the time for the Provider to make representations under clause 24.6.3, if, after considering any representations, the Authority is satisfied that the termination ground applies, it may terminate the agreement with immediate effect by giving final notice to the Provider.

Partial Termination

24.8 Where the Authority has the right to terminate this Framework Agreement, the Authority is entitled to terminate all or part of this Framework Agreement provided always that, if the Authority elects to terminate the Framework Agreement in part, the parts of this Framework Agreement not terminated or suspended can, in the Authority's reasonable opinion, operate effectively to deliver the intended purpose of the surviving parts of this Framework Agreement.

24.9 The Parties shall endeavour to agree the effect of any Variation necessitated by a partial termination in accordance with the Variation Procedure including the effect that the partial termination may have on the provision of other Services and the Pricing Matrices provided that:

24.10 the Provider shall not be entitled to an increase in the Pricing Matrices in respect of the Services that have not been terminated if the partial termination arises due to exercise of any of the Authority's termination rights; and

24.11 The Provider shall not be entitled to reject the Variation.

25. SUSPENSION OF PROVIDER'S APPOINTMENT

25.1 Without prejudice to the Authority's rights to terminate the Framework Agreement in clause 24 above, if a right to terminate this Framework Agreement arises in accordance with clause 24, the Authority may suspend the Provider's ability to accept Orders under this Framework Agreement by giving notice in writing to the Provider to suspend the Provider's appointment for the period set out in the notice or such other period notified to the Provider by the Authority in writing from time to time. During the period specified in the Authority's notice, the Provider agrees that it shall not be entitled to enter into any new Call-Off Contract.

- 25.2 Any suspension under clause 25.1 shall be without prejudice to any right of termination which has already accrued, or subsequently accrues, to the Authority.
- 25.3 The parties acknowledge that suspension shall not affect the Provider's obligations to perform any existing Call-Off Contracts concluded prior to the suspension notice.
- 25.4 For the avoidance of doubt, no period of suspension under this clause 25 shall result in an extension of the Term.
- 25.5 If the Authority provides notice to the Provider in accordance with this clause 25, the Provider's appointment shall be suspended for the period set out in the notice or such other period notified to the Provider by the Authority in writing from time to time. For the avoidance of doubt, no period of suspension under this clause 25 shall result in an extension of the Term.

26. CONSEQUENCES OF TERMINATION AND EXPIRY

- 26.1 Notwithstanding the service of a notice to terminate the Framework Agreement, the Provider shall continue to fulfil its obligations under the Framework Agreement until the date of expiry or termination of the Framework Agreement or such other date as required under this clause 26.
- 26.2 Termination or expiry of the Framework Agreement shall not cause any Call-Off Contracts to terminate automatically. For the avoidance of doubt, all Call-Off Contracts shall remain in force unless and until they are terminated or expire in accordance with their own terms and the Provider shall continue to pay any Management Fees due to the Authority in relation to such Call-Off Contracts, notwithstanding the termination or expiry of the Framework Agreement.
- 26.3 Within thirty (30) Working Days of the date of termination or expiry of the Framework Agreement, the Provider shall return or destroy at the request of the Authority to the Authority any Confidential Information belonging to the Authority in the Provider's possession, power or control, either in its then current format or in a format to be agreed with the Authority (in which event the Authority will reimburse the Provider's reasonable data conversion expenses), together with all training

manuals and other related documentation, and any other information and all copies thereof owned by the Authority, save that it may keep copies of any such data or information to comply with its regulatory or legal obligations and its obligations under the Framework Agreement or as necessary to defend its work product provided such storage is for archiving purposes only and not ordinarily accessible on a day to day basis.

26.4 The Authority shall be entitled to require access to data or information arising from the provision of the Services from the Provider until the latest of:

26.4.1 the expiry of a period of twelve (12) Months following termination or expiry of the Framework Agreement; or

26.4.2 the expiry of a period of three (3) Months following the date on which the Provider ceases to provide Services under any Call-Off Contract.

26.5 Termination or expiry of this Framework Agreement shall be without prejudice to any rights, remedies or obligations of either Party accrued under this Framework Agreement prior to termination or expiry.

26.6 The provisions of clause 8 (Warranty and Representations), clause 9 (Corrupt Gifts and Payment of Commission), clause 10 (Conflict of Interest), clause 11 (Safeguard Against Fraud), clause 12 (Call-off Contract Performance), clause 13.2 (Prices for Services and Management Fees), clause 18 (Provision of Management Information), clause 19 (Records and Audit Access), clause 20 (Confidentiality), clause 21 (Data Protection), clause 26 (Consequences of termination and Expiry), clause 28 (Insurance), clause 32 (Rights of Third Parties) and clause 40 (Law and Jurisdiction) shall survive the termination or expiry of the Framework Agreement, together with any other provision which is either expressed to or by implication is intended to survive termination.

PART FIVE: INSURANCE AND LIABILITY

27. LIABILITY

27.1 Neither Party excludes or limits its liability for:

27.1.1 death or personal injury caused by its negligence, or that of its Staff;

27.1.2 fraud or fraudulent misrepresentation by it or its Staff; or

27.1.3 any liability in respect of a breach of duty or obligation under the Financial Services and Markets Act 2000 (as amended from time to time); or

27.1.4 any liability to the extent that it cannot be excluded or limited by Law.

27.2 Subject to clause 27.1 the Provider's total aggregate liability in connection with this Framework Agreement during the Term (whether in contract, tort including negligence, breach of statutory duty or howsoever arising) shall be limited to £3 million. For the avoidance of doubt, the Provider acknowledges and agrees that this clause 27 shall not limit the Provider's liability under any Call-Off Contract and that the Provider's liability in relation to a Call-Off Contract shall be as set out in the Call-Off Contract.

Subject to clause 27.1, in no event shall either Party be liable to the other party for:

27.2.1 any loss (whether direct or indirect) of profits;

27.2.2 any loss (whether direct or indirect) of anticipated savings;

27.2.3 any loss (whether direct or indirect) of goodwill or injury to reputation;

27.2.4 any loss (whether direct or indirect) of business opportunity;

27.2.5 any loss (whether direct or indirect) of or corruption to data;

27.2.6 indirect, consequential or special loss or damage,

27.3 in each case arising out of or in connection with this Framework Agreement (including as a result of breach of contract, negligence or any other tort, under statute or otherwise), and regardless of whether the Provider knew or had reason to know of the possibility of the loss, injury or damage in question.

27.4 Subject to clause 27.2, the Provider acknowledges that the Authority may, among other things, recover from the Provider the following losses incurred by the Authority to the extent that they arise as a result of a default by the Provider:

27.4.1 any reasonable fee which is due and payable to the Authority;

27.4.2 any reasonable additional operational and/or administrative costs and expenses incurred by the Authority, including costs relating to time spent by or on behalf of the Authority in dealing with the consequences of the default;

27.4.3 any regulatory losses, fines, expenses, penalty or costs incurred by the Authority arising from a breach by the Provider of any Law.

27.5 Each Party shall use all reasonable endeavours to mitigate any loss or damage suffered arising out of or in connection with this Framework Agreement.

28. INSURANCE

28.1 The Provider shall effect and maintain policies of insurance to provide a level of cover sufficient for all risks which may be incurred by the Provider under this Framework Agreement including death or personal injury, or loss of or damage to property.

28.2 The Provider shall effect and maintain the following insurances for the duration of the Framework Agreement in relation to the performance of the Framework Agreement:

28.2.1 public liability insurance to a minimum amount of £1,000,000 (one million pounds) each and every claim adequate to cover all risks in the performance (or default in performance) of this Framework Agreement from time to time;

28.2.2 employers' liability insurance in accordance with any legal requirement for the time being in force in relation to each and every claim or series of claims;
and

- 28.2.3 professional indemnity insurance with a minimum limit of indemnity of £1,000,000 (one million pounds) for each individual claim and as required by law from time to time.
- 28.3 Any excess or deductibles under such insurance (referred to in clause 28.1 and clause 28.2) shall be the sole and exclusive responsibility of the Provider.
- 28.4 The terms of any insurance or the amount of cover shall not relieve the Provider of any liabilities arising under the Framework Agreement.
- 28.5 The Provider shall produce to the Authority, on request, copies of all insurance policies referred to in this clause 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.
- 28.6 If, for whatever reason, the Provider fails to give effect to and maintain the insurances required by the Framework Agreement then the Authority may make alternative arrangements to protect its interests and may recover the costs of such arrangements from the Provider.
- 28.7 The Provider shall maintain the insurance referred to in clause 28.2.3 for a minimum of six (6) years following the expiration or earlier termination of the Framework Agreement.

PART SIX: OTHER PROVISIONS

29. PROMOTING TAX COMPLIANCE

- 29.1 If, at any point during the Term, an Occasion of Tax Non-Compliance occurs, the Provider shall:
- 29.1.1 notify the Authority in writing of such fact within a reasonable timeframe of its occurrence; and
- 29.1.2 promptly provide to the Authority:

- (a) details of the steps that the Provider is taking to address the Occasion of Tax Non-Compliance, together with any mitigating factors that it considers relevant; and
- (b) such other information in relation to the Occasion of Tax Non-Compliance as the Authority reasonably requires.

29.2 In the event that the Provider fails to comply with this clause 29 and/or does not provide details of proposed mitigating factors which in the reasonable opinion of the Authority are acceptable, then the Authority reserves the right to terminate this Framework Agreement for Material Default.

30. TRANSFER AND SUB-CONTRACTING

30.1 The Framework Agreement is personal to the Provider and the Provider shall not assign, novate or otherwise dispose of the Framework Agreement or any part thereof without the previous consent in writing of the Authority. Save with the consent of Authority not to be unreasonably withheld the Provider shall not be entitled to sub-contract any of its rights or obligations under this Framework Agreement.

30.2 Notwithstanding any permitted sub-contract pursuant to clauses 30.1, the Provider shall at all times remain responsible for all acts and omissions of its sub-contractors and the acts and omissions of those employed or engaged by the sub-contractors as if they were its own. An obligation on the Provider to do, or refrain from doing, any act or thing shall include an obligation upon the Provider to procure that the Provider Staff also do, or refrain from doing, such act or thing.

30.3 The Authority shall be entitled on seeking the prior written consent of the Provider which shall not be unreasonably withheld to:

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

30.3.2 novate the Framework Agreement to any other body (including any private sector body) which substantially performs any of the functions that previously had been performed by the Authority;

30.3.3 provided that such assignment, novation or disposals shall not increase the burden of the Provider's obligations under the Framework Agreement.

30.4 The Provider shall enter into such agreement and/or deed as the Authority shall reasonably require so as to give effect to any assignment, novation or disposal made pursuant to clause 30.3.

30.5 A change in the legal status of the Authority such that it ceases to be a Contracting Body shall not affect the validity of this Framework Agreement and this Framework Agreement shall be binding on any successor body to the Authority.

31. VARIATIONS TO THE FRAMEWORK AGREEMENT

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

32. RIGHTS OF THIRD PARTIES

Save as provided in clauses 4, 7 and 8.2 and the rights specified in the Framework Agreement for the benefit of Contracting Bodies, a person who is not party to this Framework Agreement ("Third Party") has no right under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this Framework Agreement but this does not affect any right or remedy of any person which exists or is available otherwise than pursuant to that Act. If the Parties rescind this Framework Agreement or vary any of its terms in accordance with the relevant provisions of this Framework Agreement, such rescission or variation will not require the consent of any Third Party.

33. SEVERABILITY

33.1 If any provision or part-provision of the Framework Agreement is or becomes or is held to be invalid, illegal or unenforceable for any reason, it shall be deemed

modified to the minimum extent necessary to make it valid, legal and enforceable. If such modification is not possible, such provision or part-provision shall be severed and the remainder of the provisions hereof shall continue in full force and effect as if the Framework Agreement had been executed with the invalid provision eliminated.

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

34. CUMULATIVE REMEDIES

Except as otherwise expressly provided by the Framework Agreement, all remedies available to either Party for breach of the 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.

35. WAIVER

- 35.1 The failure of either Party to insist upon strict performance of any provision of the Framework Agreement, or the failure of either Party to exercise, or any delay in exercising, any right or remedy shall not constitute a waiver of that right or remedy and shall not cause a diminution of the obligations established by the Framework Agreement.
- 35.2 No waiver shall be effective unless it is expressly stated to be a waiver and communicated to the other Party in writing in accordance with clause 37.
- 35.3 A waiver of any right or remedy arising from a breach of the Framework Agreement shall not constitute a waiver of any right or remedy arising from any other or subsequent breach of the Framework Agreement.

36. ENTIRE AGREEMENT

36.1 This Framework Agreement constitutes the entire agreement and understanding between the Parties in respect of the matters dealt with in it and supersedes, cancels or nullifies any previous agreement, arrangements and understandings between the Parties in relation to such matters.

36.2 Each of the Parties acknowledges and agrees that in entering into this Framework Agreement it does not rely on, and shall have no remedy in respect of, any statement, representation, warranty or undertaking (whether negligently or innocently made) other than as expressly set out in this Framework Agreement. The only remedy available to either Party of such statements, representation, warranty or understanding shall be for breach of contract under the terms of this Framework Agreement.

36.3 Nothing in this clause 36 shall operate to exclude Fraud or fraudulent misrepresentation.

37. NOTICES

37.1 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 the Framework Agreement unless made in writing by or on behalf of the Party sending the communication.

37.2 Any notice or other communication which is to be given by either Party to the other shall be given by letter (sent by hand, post, registered post or by the recorded delivery service), or by electronic mail (confirmed in either case by letter). Such letters shall be addressed to the other Party in the manner referred to in clause 37.3. Provided the relevant communication is not returned as undelivered, the notice or communication shall be deemed to have been given at the time the notice is left at the proper address if delivered by hand, two (2) Working Days after the day on which the letter was posted, or four (4) hours, in the case of electronic mail or sooner where the other Party acknowledges receipt of such letters, or item of electronic mail.

37.3 For the purposes of clause 37.2, the address of each Party shall be:

For the Authority:

National LGPS Frameworks, Norfolk Pension Fund

Address: County Hall, Martineau Lane, Norwich, NR1 2DH

For the attention of: Leon Thorpe (or such other persons as notified to the Provider from time to time)

Tel: 01603 495922

Email: leon.thorpe@norfolk.gov.uk

For the Provider:

Address:

For the attention of: (or such other persons as notified to the Provider from time to time)

Tel:

Email:

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

38. COMPLAINTS HANDLING AND RESOLUTION

38.1 Where applicable, the Provider shall maintain procedures in accordance with the FCA Rules for the effective consideration and handling of Contracting Body complaints. Complaints will be considered promptly by the appropriate business team or compliance department of the Provider which is not personally involved in the subject matter of the complaint. In the event that the Provider is unable to resolve the complaint, the Contracting Body may have a right to complain to the Financial

Ombudsman Service, subject to eligibility. For the avoidance of doubt, guidance shall be complied with in so far as is reasonably practicable in the circumstances

38.2 The Provider shall notify the Authority of any Complaint made by Other Contracting Bodies within two (2) Working Days of becoming aware of that Complaint and such notice shall contain full details of the Provider's plans to resolve such Complaint.

38.3 Without prejudice to any rights and remedies that a complainant may have at Law, including under the Framework Agreement or a Call-Off Contract, and without prejudice to any obligation of the Provider to take remedial action under the provisions of the Framework Agreement or a Call-Off Contract, the Provider shall use its best endeavours to resolve the Complaint within ten (10) Working Days and in so doing, shall deal with the Complaint fully, expeditiously and fairly.

38.4 Within two (2) Working Days of a request by the Authority, the Provider shall provide full details of a Complaint to the Authority, including details of steps taken to its resolution.

39. DISPUTE RESOLUTION

39.1 The Parties shall attempt in good faith to negotiate a settlement to any dispute between them arising out of or in connection with the Framework Agreement within twenty (20) Working Days of either Party notifying the other of the dispute and such efforts shall involve the escalation of the dispute to those persons identified in clause 37 above.

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

39.3 If the dispute cannot be resolved by the Parties pursuant to clause 39.1 the Parties shall refer it to mediation pursuant to the procedure set out in clause 39.5 unless:

39.3.1 the Authority considers that the dispute is not suitable for resolution by mediation; or

39.3.2 the Provider does not agree to mediation.

39.4 The obligations of the Parties under the Framework Agreement shall not be suspended, cease or be delayed by the reference of a dispute to mediation and the Provider and its employees, personnel and associates shall comply fully with the requirements of the Framework Agreement at all times.

39.5 The procedure for mediation and consequential provisions relating to mediation are as follows:

39.5.1 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 to appoint a Mediator 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 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;

39.5.2 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 the Centre for Effective Dispute Resolution to provide guidance on a suitable procedure;

39.5.3 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;

39.5.4 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;

39.5.5 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; and

39.5.6 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.

40. LAW AND JURISDICTION

40.1 Subject to the provisions of and clause 39, the Authority and the Provider accept the exclusive jurisdiction of the English courts and agree that the Framework Agreement is to be governed by and construed according to English Law.

41. LEGISLATIVE CHANGE

41.1 Subject to schedule 3, the Provider shall neither be relieved of its obligations under this Framework Agreement nor be entitled to increase the Pricing Matrices directly as the result of:

41.1.1 a General Change in Law; or

41.1.2 a Specific Change in Law where the effect of that Specific Change in Law on the Services is reasonably foreseeable at the Commencement Date.

41.2 If a Specific Change in Law occurs or will occur during the Term (other than as referred to in clause 41.1.2), the Provider shall:

41.2.1 notify the Authority as soon as reasonably practicable of the likely effect of that change including whether any Variation is required to the Services, the Pricing Matrices or this Framework Agreement; and

41.2.2 provide the Authority with evidence:

- (a) that the Provider has minimised any increase in costs or maximised any reduction in costs, including in respect of the costs of its sub-contractors;
- (b) as to how the Specific Change in Law has affected the cost of providing the Services; and
- (c) demonstrating that any expenditure that has been avoided, has been taken into account in amending the Pricing Matrices.

41.3 The Authority shall be entitled to either agree or reject any change in the Pricing Matrices or relief from the Provider's obligations resulting from a Specific Change in Law.

41.4 Any agreed change in the Pricing Matrices or relief from the Provider's obligations resulting from a Specific Change in Law (other than as referred to in clause 41.1.2) shall be implemented in accordance with the Framework Agreement Variation Procedure.

42. RELATIONSHIP OF THE PARTIES

42.1 Except as expressly provided otherwise in this Framework Agreement, nothing in this Framework Agreement, nor any actions taken by the Parties pursuant to this Framework Agreement, shall create a partnership, joint venture or relationship of employer and employee or principal and agent between the Parties, or authorise either Party to make representations or enter into any commitments for or on behalf of any other Party.

IN WITNESS whereof the parties have executed this Framework Agreement as a Deed on the date set out at the start of this agreement

SCHEDULE 1 - SERVICES

DRAFT

SCHEDULE 2- AWARD CRITERIA

	Criteria	Weighting	
Quality			
Price		Single Manager	Framework

Criteria and associated weighting for calls-off under this Framework Agreement may vary and have different a focus.

The criteria for call-offs will be within the following ranges (to be determined accordingly in respect of each call-off):

Evaluation criteria	Minimum and maximum %	Sub-criteria	Sub-criteria % of overall score
Quality offered			
Service fit (this could be a presentation)			
Value for money			
Total	100%		

DRAFT

SCHEDULE 3 –PRICING MATRICES

[INSERT RELEVANT PRICING MATRICES SUBMITTED IN PROVIDER'S TENDER FOR THE SERVICES]

Review of Prices

- 1.1 The Prices will remain fixed for two (2) Years from the Commencement Date.

DRAFT

SCHEDULE 4 – ORDER FORM

Template Provided Overleaf

DRAFT

ORDER FORM

Framework Agreement

FROM

Authority	
Service Address	
Invoice Address	
Contact Ref:	Ref: Phone: e-mail:
Order Number	To be quoted on all correspondence relating to this Order:
Order Date	

TO

Provider:	[insert Provider's name]
For the attention of:	
E-mail	
Telephone number	
Address	

1. SERVICES REQUIREMENTS

(1.1) Services [and Deliverables] Required:

(1.2) Commencement Date:

(1.3) Price Payable by Customer:

(1.4) Completion Date:

(1.5) Extension Period (subject to Call-Off Terms and Conditions):

2 FURTHER-COMPETITION ORDER - ADDITIONAL REQUIREMENTS

(2.1) Supplemental Requirements in addition to Call-Off Terms and Conditions:

(2.2) Variations to Call-Off Terms and Conditions

3. PERFORMANCE OF THE SERVICES AND DELIVERABLES

(3.1) Key Personnel of the Provider to be involved in the Services and Deliverables:

(3.2) Key Performance Indicator

KPI Title	Description	Method of Calculating performance against KPI	Target KPI

(3.3) Location(s) at which the Services are to be provided:

(3.4) Quality Standards

(3.5) Contract Monitoring Arrangements

4. CONFIDENTIAL INFORMATION

(4.1) The following information shall be deemed Commercially Sensitive Information or Confidential Information:-

(4.2) Duration that the information shall be deemed Commercially Sensitive Information or Confidential Information

5. INTELLECTUAL PROPERTY RIGHTS

(5.1) The following deliverables and/or information consisting of Intellectual Property Rights of the Contractor shall not vest in the Customer, notwithstanding the provisions of clause 5.7 of the Call-off Terms and Conditions:

(5.2) The following terms apply to the Customer's access to and/or (as applicable) use of those Intellectual Property Rights for the purposes of this Order Form:

6. LIABILITY CAPS

(6.1) Any agreed variations to the liability cap provided for under clause 7.1.2 of the Call-off Terms and Conditions:

7. DATA PROTECTION

(7.1) The Customer agrees to the Provider appointing the following sub-processors:

By signing and returning this Order Form the Provider agrees to enter a legally binding contract with the Customer to provide to the Customer the Services specified in this Order Form (together with, where completed and applicable, the further-competition order (additional requirements) set out in section 2 of this Order Form) incorporating the rights and obligations in the Call-Off Terms and Conditions set out in the Framework Agreement entered into by the Provider and the Authority on [] 20 [].

Appendix I – Further Competition Response

[DRAFTING NOTE: Insert Further Competition Response Here]

For and on behalf of the Provider:-

Name and Title	
Signature	

Date	
------	--

For and on behalf of the Customer:-

Name and Title	
Signature	
Date	

1.

SCHEDULE 6

- MANAGEMENT INFORMATION REQUIREMENTS

The following information will be provided to the Authority on a six monthly basis reflecting the Authority's financial year (1 April to 31 March)

Invoices raised:

- LGPS Fund
- Order number
- Invoice number
- Invoice date
- Invoice Description Invoice value

Invitations to further competition:

- LGPS Fund
- Date of invitation

- Bid/no bid
- Result – won/lost

Complaints:

- LGPS Fund
- Date of complaint
- Description of complaint
- Customer organisation
- Status of complaint
- Description of resolution

Business overall:

- LGPS Fund
- Contract start and end dates
- Description of any additional business

Participating Authorities may require management information in respect of their individual contracts to be specified at further-competitionSCHEDULE 7

– COMMERCIALLY SENSITIVE INFORMATION

SCHEDULE 8

- FRAMEWORK AGREEMENT VARIATION PROCEDURE

1. Introduction

1.1 Schedule 8 details the scope of the variations permitted and the process to be followed where the Authority proposes a variation to the Framework Agreement.

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

2. Procedure for proposing a Variation

2.1 Except where paragraph 5 applies, the Authority may propose a variation using the procedure contained in this paragraph 2.

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

2.3 The Notice of Variation shall:-

2.3.1 contain details of the proposed variation providing sufficient information to allow each Services Framework Provider to assess the variation and consider whether any changes to the prices set out in its Pricing Matrices are necessary; and

2.3.2 require each Services Framework Provider to notify the Authority within 14 days of any proposed changes to the prices set out in its Pricing Matrices.

2.4 Upon receipt of the Notice of Variation, each Services Framework Provider has 14 days to respond in writing with any objections to the variation.

2.5 Where the Authority does not receive any written objections to the variation within the timescales detailed in paragraph 2.4, the Authority may then serve each Services Framework Provider with a written agreement detailing the variation and date of commencement of the variation. This is to be signed and returned by each Services Framework Provider within 14 days of receipt.

3. Objections to a Variation

3.1 In the event that the Authority receives one or more written objections to a variation, the Authority may:-

3.1.1 withdraw the proposed variation; or

3.1.2 propose an amendment to the variation.

4. Changes to the Pricing Matrices

4.1 Where a Services Framework Provider can demonstrate that a variation would result in a change to the prices set out in its Pricing Matrices, the Authority may require further evidence from the Services Framework Provider that any additional costs to the Services Framework Provider will be kept to a minimum.

4.2 The Authority may require the Services Framework Provider to meet and discuss any proposed changes to the Pricing Matrices that would result from a variation.

4.3 Where a change to a Services Framework Provider's Pricing Matrices is agreed by the Authority, the Authority shall notify its acceptance of the change to the Services Framework Provider in writing.

4.4 In the event that the Authority and the Services Framework Provider cannot agree to the changes to the Pricing Matrices, the Authority may:-

4.4.1 withdraw the variation; or

4.4.2 propose an amendment to the variation

5. Variations which are not permitted

5.1 In addition to the provisions contained in paragraph 1.2, the Authority may not propose any variation which:-

5.1.1 may prevent one or more of the Services Framework Providers from performing its obligations under the Framework Agreement; or

5.1.2 is in contravention of any Law.

SCHEDULE 9 - MANAGEMENT FEE

The following management fee will apply to **all** work awarded and delivered under this Framework Agreement. These fees will be applied to the prices as agreed at further competition and contract award if these are different to the prices as established under this Framework Agreement.

- *A flat Management Fee of 1% will apply to all contracts let under this framework. This will be due for cash payment to the Norfolk Pension Fund to cover the administration of The National LGPS Frameworks as at 31 March each year for work invoiced during the financial year.*

SCHEDULE 10 - NOT USED

SCHEDULE 11 – STANDARDS AND POLICIES

Mandatory Policies

Any policy as reasonably requested by the Authority from time to time to enable the Authority or other contracting bodies to comply with any applicable Law

THE COMMON SEAL of)

THE NORFOLK COUNTY COUNCIL)

was hereunto affixed in the presence of)

EXECUTED and DELIVERED as a DEED)

By[])

acting by)

Authorised Signatory

Authorised Signatory