

DATE: August 2020

FRAMEWORK AGREEMENT

between

(1) National Children's Bureau

and

for the supply of services

This Framework Agreement for the supply of services is made on  
between

**National Children's Bureau** a private company limited by guarantee incorporated in England and Wales with company number 00952717 having its registered office at 23 Mentmore Terrace, London, E8 3PN, United Kingdom ("NCB").  
And

(The Contractor)

## 1. **Recitals**

NCB and the Contractor wish to enter into this Framework Agreement to set out the terms and conditions upon which NCB may purchase Services from the Contractor under Task Orders.

NOW IT IS HEREBY AGREED as follows

## 2. **Definitions and Interpretation**

Unless expressly stated otherwise, the following words and expressions shall have the following meanings for the purpose of this Framework Agreement and any Task Orders formed under it:

- 2.1 "Applicable Laws" means any and all applicable laws, regulations and industry standards or guidance and any applicable and binding judgment of a relevant court of law;
- 2.2 "Commencement Date" means
- 2.3 "Confidential Information" means all information which has been designated as confidential by either party in writing or that ought to be considered as confidential including but not limited to information which relates to the business, affairs, properties, assets, trading practices, services, developments, trade secrets, intellectual property rights, know-how, personnel, customers and suppliers of either party and commercially sensitive information which may be regarded as the confidential information of the disclosing party.
- 2.4 "Contract Value" means the maximum fee payable to the Contractor by NCB for the provision of the Services, which shall be specified in the Task Order.
- 2.5 "Data Protection Directive" means Directive 95/46/EC on the protection of individuals with regard to the processing of personal data and on the free movement of such data.

- 2.6 "Data Protection Legislation" means General Data Protection Regulation (GDPR)2018.
- 2.7 "Deliverables" means all goods, records, reports, documents, papers and other materials or deliverables (whether in documentary, electronic or any other form of media) developed or produced by or on behalf of the Contractor or its staff as part of or in connection with Services.
- 2.8 "Framework Agreement" means this agreement for delivery of the Services, as amended in accordance with its terms from time to time.
- 2.9 "Good Industry Practice" means the exercise of the degree of skill, diligence, prudence, foresight and operating practice which would reasonably and ordinarily be expected of a skilled and experienced supplier engaged in the same type of undertaking as that of the Contractor.
- 2.10 "Parties" means NCB and the Contractor named above.
- 2.11 "Relevant Activity" has the meaning given to it in clause 15.3;
- 2.12 "Services" means the services to be performed by the Contractor as described in the Task Order.
- 2.13 "Task Order" means the task order to be entered into by the Parties in accordance with clause 4 in the form of the task order at Appendix v.
- 2.14 "Task Order Effective Date" means such date as is specified as the effective date in a Task Order.
- 2.15 "Task Order Termination Date" means such date as is specified as the termination date in a Task Order.
- 2.16 "Term" means the Initial Term and the Extended Term, in each case as defined in clause 3.
- 2.17 "Working Day" means any day other than a Saturday, Sunday or public holiday in England.
- 2.18 A reference to a statute or statutory provision is a reference to it as amended, extended or re-enacted from time to time and includes all subordinate legislation made from time to time under it.
- 2.19 A "person" includes a natural person, corporate or unincorporated body (whether or not having separate legal personality).
- 2.20 The Schedules and Appendices form part of this agreement and shall have effect as if set out in full in the body of this agreement. Any reference to this agreement includes the Appendices.

### 3. **Duration**

- 3.1 This Framework Agreement shall be effective from the Commencement Date and unless otherwise terminated in accordance with its terms or extended in accordance with clause 3.2, it shall expire automatically on the second anniversary of the Commencement Date ("Initial Term").
- 3.2 If NCB provides written notice to the Contractor at least one month prior to the second anniversary of the Commencement Date that it wishes to extend the term of this Framework Agreement, this Framework Agreement shall extend for a further 12 months and unless otherwise terminated in accordance with its terms shall expire automatically on the third anniversary of the Commencement Date ("Extended Term").
- 3.3 Each Task Order shall commence on the relevant Task Order Effective Date and subject to earlier termination in accordance with the terms of this Framework Agreement or in accordance with the terms of the Task Order, shall terminate on the relevant Task Order Termination Date.
- 3.4 No Task Order shall be entered into under this Framework Agreement prior to the date of this Framework Agreement or after the date of expiry or earlier termination of this Framework Agreement.

### 4. **Task Orders**

- 4.1 This Framework Agreement sets out the terms and conditions and establishes a framework under which the Contractor has agreed it shall provide, and NCB may from time to time purchase the Services.
- 4.2 Where NCB wishes to purchase Services from the Contractor and the Contractor wishes to supply such Services pursuant to the terms of this Agreement, the parties shall agree the terms of a Task Order.
- 4.3 Each Task Order shall:
- 4.3.1 be entered into by NCB and the Contractor;
  - 4.3.2 constitute a separate contract between the Parties for the supply of Services; and
  - 4.3.3 incorporate the terms of this Framework Agreement, which together with the terms of the Task Order shall apply to the supply of the Services and shall supersede all prior discussions and negotiations between the Parties.
- 4.4 A Task Order shall not be legally binding, enter into force or have any other effect unless:

- 4.4.1 it has been signed by the duly authorised representatives of both NCB and the Contractor; and
  - 4.4.2 as at the Task Order Effective Date, this Framework Agreement has not been terminated or expired.
- 4.5 Nothing in this Framework Agreement or any Task Order shall oblige NCB to agree a Task Order or to request any Services from the Contractor or prevent NCB from acquiring services which are similar to the Services from another supplier during the term of this Framework Agreement.
- 4.6 Unless expressly stated otherwise by NCB in each case, any amendment to this Framework Agreement agreed by NCB and the Contractor shall be deemed to apply to all Task Orders entered into during the term of this Framework Agreement on and from the date on which such amendment is entered into, provided that the terms of such amendment shall have no retrospective effect on any Task Order already in place at the date of the relevant amendment.

## 5. **Purpose of this Framework Agreement**

- 5.1 This Framework Agreement is to ensure that the Contractor delivers the Services to an agreed work programme and employs appropriate methodologies to ensure the work is of a satisfactory standard.
- 5.2 In the provision of the Services, both parties will:
  - (a) share information and maintain good communication links; and
  - (b) ensure regular feedback on strategy, plans, delivery and performance.

## 6. **Contractor's responsibilities**

- 6.1 The Contractor shall promptly and efficiently carry out the Services in accordance with the provisions set out in this Agreement and the provisions of the Task Order.
- 6.2 The Contractor shall perform the Services with all due care, skill and diligence in accordance with Good Industry Practice.
- 6.3 The Contractor shall comply with all Applicable Laws in connection with the performance of the Services.
- 6.4 The Contractor shall comply with all applicable legislation relating to anti-bribery and anti-corruption (including but not limited to the Bribery Act 2010) and shall have and maintain in place throughout the term of this Framework Agreement and of any Task Orders its own policies and procedures (including but not limited to adequate procedures under the Bribery Act 2010) to ensure compliance with the same.

- 6.5 The Contractor agrees to ensure the delivery of the work programme within the agreed budget and timescale, and to the agreed quality standard, as outlined in any Task Order and to provide updates on progress as and when required.
- 6.6 In the event that the Contractor is performing the Services at NCB's premises, it shall observe all health and safety rules and regulations and any other security requirements that apply at any of NCB's premises.
- 6.7 The Contractor is expected to deliver the work programme themselves (including through their own employees) or to take lead accountability for any sub-contracted work.
- 6.8 Subject to clause 27, in the event that the Contractor enters into any sub-contract in connection with this Framework Agreement it shall:
- (a) remain responsible to NCB for the performance of its obligations under the Framework Agreement and any Task Order notwithstanding the appointment of any sub-contractor and be responsible for the acts or omissions of its sub-contractors;
  - (b) impose obligations on its sub-contractor in the same terms as those imposed on it pursuant to this Framework Agreement and any Task Order and shall procure that the sub-contractor complies with such terms;
  - (c) provide a copy, at no charge to NCB, of any such sub-contract on receipt of a request for such by NCB;
  - (d) take all reasonable steps to satisfy itself that its employees and subcontractors (and their employees) are suitable in respect of performing the Services;
  - (e) immediately notify NCB if they have any concerns regarding the propriety of any of their employees or sub-contractors in respect of work/services rendered in connection with this Framework Agreement or any Task Order; and
  - (f) ensure the security of all property made available to the Contractor by NCB whilst in its possession during the supply of the Services, in accordance with NCB's reasonable security requirements as required from time to time.
- 6.9 The Contractor agrees that they (and their sub-contractors and employees) have no authority (and shall not hold themselves out as having authority) to represent, commit or bind NCB unless NCB has specifically permitted the Contractor to do so in writing.

6.10 The Contractor shall promptly comply with all reasonable requests or directions of NCB in respect of the provision of the Services.

6.11 The Contractor warrants that all information which it has provided to NCB prior to the date of this Agreement in connection with the award of this Framework Agreement is true and accurate.

## 7. **NCB's responsibilities**

7.1 In consideration for the Services, NCB agrees to pay the Contractor in accordance with clause 23.

7.2 NCB agrees to provide reasonable support and information to enable the Contractor to carry out the Services and any programme of work set out in a Task Order.

## 8. **Changes to the requirements under the Framework Agreement**

8.1 NCB may from time to time request to change the terms of this Framework Agreement or any Task Order. NCB shall submit details of the requested change in writing to the Contractor (a "**Change Statement**"), which shall include:

- (a) full details of the change and the reasons for the change;
- (b) the date on which the change should take effect;
- (c) details of the impact (if any) on the Contract Value; and
- (d) any other impact of the change on the terms of this Framework Agreement or the relevant Task Order.

8.2 Subject to clause 8.3, the Contractor shall within a reasonable time of its receipt of a Change Statement (but no later than 10 Working Days after receipt) either:

- (a) notify NCB of its rejection of the terms of the Change Statement and provide details of the reasons behind its decision; or
- (b) approve the change in writing by signing the Change Statement, which shall signify the Contractor's acceptance of such change upon the terms of the Change Statement.

8.3 The Contractor shall:

- (a) use its best endeavors to accommodate any changes requested by NCB pursuant to a Change Statement and shall not unreasonably withhold its approval to a Change Statement; and

- (b) be required to approve a Change Statement where the requested change does not materially affect the Contract Value or the scope of the Services.
- 8.4 In the event that the Contractor rejects the terms of the Change Statement, within 10 Working Days of such rejection the Contractor and NCB shall meet to attempt in good faith to agree terms for the requested changes which are mutually acceptable to both parties. If the parties agree such terms then NCB shall provide the Contractor with a revised Change Statement reflecting the agreed terms, for approval in accordance with clause 8.2(b).
- 8.5 Once the Change Statement has been signed by the Contractor, this Framework Agreement or the relevant Task Order shall be deemed to have been varied to give effect to the terms of the Change Statement.
9. **Contract management**
- 9.1 The main point of contact for the Contractor will be
- 9.2 Overall responsibility for this Framework Agreement on behalf of NCB lies with **Anna Feuchtwang, Chief Executive Officer**, or such other person as NCB nominates from time to time. The Project Manager for specific projects or pieces of work will be named in the Task Order.
- 9.3 The Contractor acknowledges the fundamental importance of the Framework Agreement and all Task Orders being properly monitored to examine and achieve value for money as well as the quality of provision. The Contractor shall maintain accounts and records for the work carried out and services provided by it pursuant to this Framework Agreement for a period of seven years. This should include expenditure records, reports and any other information relevant to this Framework Agreement or the Services or the relevant Task Order.
- 9.4 The Contractor shall ensure that all paper used in the production of reports, document and other materials arising out of the performance by the Contractor of their duties under this Framework Agreement and any Task Order consists of a minimum of 60% recycled content of which 75% is post-consumer waste.
- 9.5 Input and output VAT shall be included as separate items in the Contractor's accounts. The Contractor shall permit duly authorised staff or agents of NCB or the National Audit Office to examine the Contractor's accounts in relation to the Services at any reasonable time and shall furnish oral or written explanations of the accounts if required. NCB reserves the right to have such staff or agents carry out examinations into the economy, efficiency and

effectiveness with which the Contractor has used resources in the performance of this Framework Agreement and any Task Order.

- 9.6 The Contractor shall permit representatives of NCB to monitor the performance of the Contractor's obligations under the Framework Agreement and any Task Orders (including but not limited to the performance of the Services) and shall provide reasonable access to all accounts, records and documentation relating to the Framework Agreement and any Task Orders as and when required.
- 9.7 Where the quality of the accounts, reports and/or other information provided to or accessible by NCB is deemed inadequate by NCB, NCB may require the Contractor to supply additional accounts, reports and/or other information in a form considered acceptable by NCB, and the Contractor shall supply the same without delay.
- 9.8 Unless otherwise agreed between the Parties, whilst a Task Order is subsisting at least one representative of each of the Parties shall meet on a monthly basis in order to monitor and discuss the progress of the programme of work and the delivery of the Services.
- 9.9 If either party considers it necessary, they have the right to call an emergency meeting by giving as much notice as reasonably practicable in the circumstances to the other Party.
- 9.10 In the event that all or any part of the Services are not carried out in accordance with the terms of the Framework Agreement or the relevant Task Order, without prejudice to any other rights or remedies which NCB may have, NCB shall be entitled to:
- (a) require the Contractor promptly to re-perform or replace the relevant part of the Services without additional charge to NCB; or
  - (b) withhold or suspend payment to the Contractor and/or to require any amount of the monies paid to the Contractor by NCB and attributable to the Services in question to be repaid to NCB, subject only that the Contractor shall be compensated for admissible eligible expenditure to date but not otherwise.

## 10. **Conditions**

- 10.1 This Framework Agreement and any Task Order is to be construed for all purposes as a contract for the supply of services and not as a contract of service or contract of employment. The Contractor and any staff of the Contractor will not be employees of NCB or otherwise in NCB's employment and insurance for injury will be the Contractor's responsibility. NCB will have no public or employers' liability in respect of any matter arising from the supply

of the Contractor's services under the Framework Agreement or any Task Order, or in respect of any person employed by the Contractor.

- 10.2 The Contractor shall be responsible for and shall fully indemnify and hold NCB harmless for and in respect of:
- 10.2.1 any and all income tax, national insurance and social security deductions and contributions and any other liability, deduction, contribution, assessment or claim arising from or made in connection with the performance of the Services, where such recovery is not prohibited by law;
  - 10.2.2 all reasonable costs and expenses and any penalty, fine or interest incurred or payable by NCB in connection with or in consequence of any such contribution, liability, deduction, other contribution, assessment or claim; and
  - 10.2.3 any and all liability for any employment-status or worker-status claim (including reasonable costs and expenses) brought by the Contractor or any staff of the Contractor against the Client arising out of or in connection with the provision of the Services.
- 10.3 The Contractor warrants that they have full authority to enter into this Framework Agreement and are not bound by any agreement which would prevent delivery of the Services and any work programme set out in a Task Order and that the Services and work programme will be delivered fully in compliance with the laws of the United Kingdom and any other jurisdiction where the Services or its product will be used.

## 11. Confidentiality

- 11.1 Subject to clause 11.2, and except where disclosure is expressly permitted elsewhere in this Framework Agreement or the relevant Task Order, each Party shall:
- (a) treat the other Party's Confidential Information as confidential and safeguard it accordingly; and
  - (b) not disclose the other Party's Confidential Information to any other person without the owner's prior written consent.
- 11.2 Clause 11.1 shall not apply to the extent that:
- (a) such disclosure is a requirement of law placed upon the Party making the disclosure;

- (b) such information was lawfully in the possession of the Party making the disclosure without obligation of confidentiality prior to its disclosure by the information owner;
  - (c) such information was lawfully obtained from a third party without obligation of confidentiality;
  - (d) such information was already in the public domain at the time of disclosure otherwise than by breach of this Framework Agreement or a Task Order; or
  - (e) such information is independently developed without access to the other Party's Confidential Information.
- 11.3 The Contractor may only disclose the Confidential Information to its sub-contractors and employees who are directly involved in the provision of the Services and need to know the information, provided that it shall ensure that such sub-contractors and employees are aware of and shall comply with these obligations as to confidentiality and the Contractor shall remain responsible for the acts and omissions of those sub-contractors and employees as if they were the acts and omissions of the Contractor.
- 11.4 The Contractor shall not, and shall procure that its sub-contractors and employees do not, use any of the Confidential Information received otherwise than for the purposes of this Framework Agreement and the relevant Task Order.
- 11.5 The Contractor shall ensure that their employees, servants, professional advisors and consultants are aware of the Contractor's obligations under this Framework Agreement.
- 11.6 The terms of NCB's Confidentiality Policy (**Appendix i**) will apply to confidentiality issues in relation to the safety of young people.
12. **Anti-discriminatory practice**
- NCB is fully committed to the active promotion of equal opportunities and anti-discriminatory practice in the work it undertakes and in the provision of all its services. The Contractor will refer to NCB's Equality and Diversity Policy (**Appendix ii**) and ensure they understand the requirements for their own practice.
13. **Data protection and Freedom of Information**
- 13.1 The Contractor shall comply with its obligations under Schedule 1 (Data Protection Schedule) and any Data Protection obligations in any Task Order.

- 13.2 The Contractor acknowledges that NCB is subject to the requirements of the Freedom of Information Act 2000 (“**FOIA**”) and the Environmental Information Regulations 2004 and shall assist and co-operate with NCB to enable NCB to comply with these information disclosure requirements.
- 13.3 The Contractor shall and shall procure that its sub-contractors shall:
- (a) transfer all requests for Information (as defined under the FOIA) to NCB as soon as practicable after receipt and in any event within two Working Days of receiving a request for Information;
  - (b) provide NCB with a copy of all Information in its possession or power in the form that NCB requires within five Working Days (or such other period as NCB may specify) of NCB requesting that Information; and
  - (c) provide all necessary assistance as reasonably requested by NCB to enable NCB to respond to a request for Information within the time for compliance set out in section 10 of the FOIA or regulation 5 of the Environmental Information Regulations.
- 13.4 In no event shall the Contractor respond directly to a request for Information unless expressly authorised to do so by NCB.
- 13.5 The Contractor acknowledges that NCB may, acting in accordance with the Secretary of State for Constitutional Affairs' Code of Practice on the discharge of public authorities' functions under Part 1 of FOIA (issued under section 45 of the FOIA, November 2004), be obliged under the FOIA or the Environmental Information Regulations to disclose Information:
- (a) without consulting with the Contractor; or
  - (b) following consultation with the Contractor and having taken its views into account,
- provided always that where 13.5(b) applies NCB shall, in accordance with any recommendations of the Code, take reasonable steps, where appropriate, to give the Contractor advance notice, or failing that, to draw the disclosure to the Contractor's attention after any such disclosure.
- 13.6 The Contractor shall ensure that all Information is retained for disclosure and shall permit NCB to inspect such records as requested from time to time.
- 13.7 NCB shall not be liable for any loss or damage that the Contractor may suffer as a result of NCB's disclosure of information under FOIA or the Environmental Information Regulations 2004.
- 13.8 The obligations in this clause 13 shall remain in force notwithstanding the termination of this Framework Agreement or any Task Order.

## 14. Intellectual Property

- 14.1 Subject to clause 14.3, copyright and all other intellectual property rights of whatever nature in all Deliverables arising out of the performance of the Services are to be assigned to and shall vest in NCB absolutely. The Contractor waives, and shall procure that any person acting on its behalf waives, absolutely their moral rights arising under the Copyright, Designs and Patents Act 1988 and, so far as is legally possible, any broadly equivalent rights they may have in any territory of the world.
- 14.2 Clause 14.1 shall not apply to any intellectual property rights generated by or on behalf of the Contractor prior to the commencement of any Services outlined in a Task Order, or to any third party intellectual rights licensed to the Contractor, or to any intellectual property rights which are not used exclusively for the purpose of performing the Services (together, "**Non-assignable IP**"). To the extent that any Non-assignable IP are included in material provided to NCB in connection with the performance of this Framework Agreement, the Contractor hereby grants to NCB a non-exclusive, royalty-free, perpetual licence for their use in the ordinary course of its business.
- 14.3 In relation to any material, the rights in which are assigned to NCB pursuant to clause 14.1, NCB hereby grants to the Contractor, a non-exclusive licence for the duration of the term of the Framework Agreement and any Task Order if applicable to use such applicable data and material, properly and reasonably, in the ordinary course of the Contractor's business.
- 14.4 Any logos or references required by NCB must be included in all communications and on all materials produced in relation to this Framework Agreement or any Task Order. The inclusion of any logos of individual organisations used by the Contractor in any communications or materials are subject to the prior written consent of NCB (which may be granted at NCB's discretion).
- 14.5 The Contractor agrees that they will, at the reasonable request and cost of NCB, execute any documents and do all such things as may be reasonably required for the purpose of giving full effect to this clause 14 and assisting in proving the ownership of any rights referred to above.
- 14.6 The Contractor shall indemnify NCB against all claims, demands, actions, costs, expenses (including legal costs and disbursements on a solicitor and client basis), losses and damages arising from or incurred by reason of any infringement or alleged infringement (including the defence of such alleged infringement) of any third party rights arising out of or in connection with the provision of the Services under this Framework Agreement and any Task Order

or any use of the reports and other documents and materials provided to NCB by the Contractor, except to the extent that the same have been caused or contributed to by NCB's negligence or breach of this Framework Agreement or any Task Order.

- 14.7 On termination of this Framework Agreement the Contractor shall transfer to NCB any such information and materials relating to this Framework Agreement any Task Order or the Services as may reasonably be requested. NCB is entitled to withhold final payment of any monies due to the Contractor until this transfer has been effected.

### 15. **Child Protection and Safeguarding Procedures**

- 15.1 If requested by NCB, the Contractor shall agree appropriate child protection policies and procedures with NCB before the Services begin. Clear procedures and key staff will need to be identified and approved by NCB. NCB will work to the Contractor's procedures when working at local level but the Contractor shall ensure that these procedures cover the key issues set out in NCB's Child & Young Person Safeguarding Framework (**appendix iii**). The lead NCB staff member responsible for the implementation of this policy is **Annamarie Hassall, NCB Director of Programmes**.

- 15.2 NCB requires, and the Contractor shall procure, that all individuals working with NCB shall complete a self-declaration form (**appendix iv**) relating to their criminal record status. For the purpose of this Framework Agreement and any Task Order this applies to any individuals involved in carrying out the Services as outlined in the **Task Order** relating to this contract.

- 15.3 The Contractor shall:

- (a) ensure that any individual acting for or on behalf of the Contractor and undertaking a Relevant Activity are subject to a valid enhanced disclosure check for regulated activity undertaken through the **Disclosure and Barring Service ("DBS")** in accordance with the Disclosure and Barring Service's eligibility guidance available at <https://www.gov.uk/government/publications/dbs-check-eligible-positions-guidance> (as updated or superseded from time to time);
- (b) not employ or use the services of any individual who is barred from, or whose previous conduct or records indicate that he or she would not be suitable to carry out a Relevant Activity or who may otherwise present a risk to children or vulnerable adults.
- (c) refer information about any person involved in the Services to the DBS where it removes permission for such person to carry out the Services (or would have, if such person had not otherwise ceased to carry out

the Services) because, in its opinion, such person has harmed or poses a risk of harm to children or vulnerable adults.

For the purpose of clause 15.3 "**Relevant Activity**" means either (i) regular contact (supervised or unsupervised) with children and young people and/or vulnerable adults (as prescribed by the Disclosure and Barring Service's criteria from time to time); or (ii) engagement in Regulated Activity (as defined in Schedule 4 to the Safeguarding Vulnerable Groups Act 2006).

## 16. **Termination and dispute resolution of the Framework Agreement and any Task Orders**

16.1 Without prejudice to any other rights and remedies to which it may be entitled, NCB may by written notice to the Contractor terminate this Framework Agreement and/or any Task Order(s) with immediate effect following the occurrence of one or more of the following events:

- (a) if in the reasonable opinion of NCB, any acts or omissions of the Contractor or any of its staff or sub-contractors could bring NCB into disrepute;
- (b) if the Contractor, any employees or sub-contractors has committed any material breach of the Framework Agreement or any Task Order;
- (c) if the Contractor, any employees or sub-contractors are incompetent, guilty of serious misconduct or any serious or persistent negligence in respect of their obligations;
- (d) if the Contractor, any employees or sub-contractors suspends, or threatens to suspend, payment of its debts or is unable to pay its debts as they fall due, is unable to pay its debts in accordance with Section 123 of the Insolvency Act 1986, becomes bankrupt or insolvent, or if any step is taken in relation to the administration, bankruptcy or liquidation of the Contractor, or if NCB reasonably believes that any of the foregoing is to occur imminently; or
- (e) if there is a change in the legal or beneficial ownership of 50% or more of the Contractor's share capital issued at the date of this Framework Agreement or there is a change in the control of the Contractor, unless the Contractor has previously notified NCB in writing and NCB has given its written approval to the same (such approval not to be unreasonably withheld). For the purposes of this clause 16.2(c) "control" means the beneficial ownership of more than 50% of the issued share capital of the Contractor or the legal power to direct or cause the direction of the general management of the Contractor.

- 16.2 Without prejudice to any other rights and remedies, the Contractor may by written notice to NCB terminate this Framework Agreement with immediate effect following the occurrence of one or more of following events:
- (a) if NCB has committed any material breach of the Framework Agreement and (if the breach is capable of remedy) has failed to remedy such breach within 28 days of receipt of written notice specifying the breach and requiring remedy; or
  - (b) if NCB is guilty of serious misconduct or any serious or persistent negligence in respect of their obligations; or
  - (c) is unable to pay its debts in accordance with Section 123 of the Insolvency Act 1986, becomes bankrupt or insolvent, or if any step is taken in relation to the administration, bankruptcy or liquidation of NCB.
- 16.3 Without prejudice to any other rights and remedies, the Contractor may by written notice to NCB terminate a Task Order with immediate effect if NCB has committed any material breach of that Task Order and (if the breach is capable of remedy) has failed to remedy such breach within 28 days of receipt of written notice specifying the breach and requiring remedy.
- 16.4 Without prejudice to any other rights and remedies, NCB may terminate this Framework Agreement or any Task Order by giving 30 days' written notice.
- 16.5 Any termination of this Agreement or any Task Order is without prejudice to each party's accrued rights and obligations.
- 16.6 The Parties shall use all reasonable endeavours to negotiate in good faith and settle amicably any dispute that arises during the continuance of this Framework Agreement and any Task Order. Any dispute not capable of resolution by the Parties shall be settled as far as possible by mediation in accordance with the Centre for Dispute Resolution (CEDR) Model Mediation Procedure.
- 16.7 No Party may commence any court proceedings/arbitration in relation to any dispute arising out of this Framework Agreement and any Task Order until they have attempted in good faith to settle it by mediation in accordance with clause 16.4 and either the mediation has terminated or the other Party has failed to participate in the mediation, provided that the right to issue proceedings is not prejudiced by a delay.
- 16.8 Mediation shall take place in England with a mediator appointed by both Parties and the costs of such mediation process shall be shared equally between the Parties.

## 17. **Covenants**

- 17.1 The Contractor agrees that they will not, without NCB's prior consent in writing, either on its own account or in association with any person whether directly or indirectly during the term of this Framework Agreement and any Task Order and for a period of one year after the last Task Order to terminate:
- (a) procure or provide any service of any kind to any other organisation, based on information gained during the delivery of this Framework Agreement that might reasonably be considered to pose a risk of conflict of interest without first obtaining the written approval of NCB;
  - (b) use the fact that they have been a contractor of NCB in any advertising or marketing material without the prior written consent of NCB; or
  - (c) solicit or entice away any person employed or engaged by NCB who the Contractor has come into contact with during the provision of the Services, without the prior written consent of NCB, such consent not to be unreasonably withheld.

## 18. **Insurance and liabilities**

- 18.1 The Contractor shall ensure that throughout the term of this Framework Agreement and any Task Order it has adequate insurance cover with an insurer of good repute to cover claims which may arise under this Framework Agreement and any Task Order, or any other claims or demands which may be brought or made against it by any person suffering any injury damage or loss in connection with this Framework Agreement and/or any Task Order. In particular, the Contractor shall ensure that throughout the term of this Framework Agreement and any Task Order, it has Public and Products Liability insurance which has a limit of not less than £2million. The Contractor shall upon request produce to NCB, its policy or policies of insurance, together with the receipt for the payment of the last premium in respect of each policy or produce documentary evidence that the policy or policies are properly maintained.
- 18.2 The Contractor shall be liable for and shall indemnify NCB in full against any cost, expense, liability, loss, damage, claim or proceedings (whether direct, indirect or consequential and including reasonable legal and other professional fees) arising as a result of or in connection with any breach by the Contractor of its obligations under, clause 6.4, clause 11, clause 13, or clause 15.
- 18.3 The liability of NCB whether in contract, tort or otherwise, shall not exceed a sum equal to:
- 18.3.1 in respect of a payment obligation to the amount of that obligation;

- 18.3.2 in respect of any other liability, to an amount equal to 100% of the Contract Value paid or payable by NCB to the Contractor under the relevant Task Order.
- 18.4 The liability of the Contractor whether in contract, tort or otherwise, shall not exceed a sum which is two times the aggregate Contract Value or such other sum as set out in the relevant Task Order.. The limitation in this clause 18.4 shall not apply to the Contractor's liability under clauses 10.2, 18.2.
- 18.5 Nothing in this Framework Agreement or any Task Order shall limit or exclude either party's liability for fraud, fraudulent misrepresentation or death or personal injury caused by negligence, or any other liability to the extent that it cannot be limited or excluded by law.
- 18.6 Force Majeure**
- 18.7 Neither party shall be liable to the other for any failure or delay in the performance of its obligations under this Framework Agreement or a Task Order to the extent that such failure or delay arises due to reasons beyond that party's reasonable control which that party is unable to reasonably avoid or provide against provided always that the party so affected promptly notifies the other of the cause and likely duration of the failure or delay.
- 18.8 If either party fails to perform or is delayed in performing its obligations for a period in excess of [ninety (90) days] or notifies the other in writing that it reasonably anticipates that it will fail to perform or, be delayed in performing its obligations for a period in excess of [ninety (90) days], then the unaffected party shall be entitled to terminate the Framework agreement and/or any Task Order forthwith upon written notice.

## **19. Obligations on and after termination**

- 19.1 Upon termination or expiry of this Framework Agreement and any Task Order, any provision of this Framework Agreement and any Task Order that expressly or by implication is intended to come into or continue in force on or after termination or expiry of this Framework Agreement shall remain in full force and effect (including without limitation the provisions of this clause and clauses 10, 11, 13, 14, 17 and 18).
- 19.2 The Contractor shall, at no cost to NCB, promptly provide such assistance and comply with such timetable as NCB may reasonably require for the purpose of ensuring an orderly transfer of responsibility upon the expiry or other termination of this Framework Agreement. NCB shall be entitled to require the

provision of such assistance both prior to and for a reasonable period of time after the expiry or other termination of this Framework Agreement.

- 19.3 Such assistance may include (without limitation) the return of any property in the Contractor's possession belonging to NCB, and any original or copy documents or any data obtained by them in the delivery of this Framework Agreement and any Task Order at any time upon request and in any event prior to the termination of this Framework Agreement. The Contractor also endeavors to delete any information relating to the business of NCB stored on any means, including without limitation any personal data, derived from any source which is in their possession or under their control outside the premises of NCB.
- 19.4 The Contractor undertakes that it shall not knowingly do or omit to do anything which may adversely affect the ability of NCB to ensure an orderly transfer of responsibility for the services.

## 20. **Variation and notice**

- 20.1 This Framework Agreement and any Task Order may only be varied by a document signed by both Parties. In varying the Framework Agreement and any Task Order, the Contractor shall comply with any formal procedures which NCB may have in place.
- 20.2 Any notice required by this Framework Agreement to be given by either Party to the other shall be in writing and shall be served by sending the same by registered post or recorded delivery to the last known address of the other party and any receipt issued by the postal authorities shall be conclusive evidence of the fact and date of posting of any such notice. Notice may also be served by fax or e-mail and such notice shall be deemed to be received on the date of the first Working Day after transmission (provided that no error message indicating failure to deliver has been received by the sender).

## 21. **Waiver**

The failure of a party to exercise or enforce any right under this Agreement shall not be deemed to be a waiver of that right nor operate to bar the exercise or enforcement of it at any time or times thereafter.

## 22. **Terms of payment**

NCB shall pay the costs and charges set out in the Task Order in accordance with the terms of payment outlined in the payment schedule contained in the Task Order.

23. **Details of programme of work**

Details of Services and programme of work will be outlined in the Task Order.

24. **Entire Agreement**

This Framework Agreement, together with any documents referred to in it (including the attached documents (Appendices i to v) and any Task Orders entered into pursuant to this Framework Agreement) represents the entire agreement and understanding of the Parties and supersedes any and all prior negotiations, agreements and understandings relating to its subject matter. Each party agrees that it shall have no remedies in respect of any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in this Framework Agreement, the attached documents (Appendices i to v) and any Task Orders.

25. **Severance**

If any clause of this Framework Agreement or any Task Order is or becomes invalid, illegal or unenforceable, it shall be deemed modified to the minimum extent necessary to make it valid, legal and enforceable. If such modification is not possible, the relevant clause shall be deemed deleted. Any modification to or deletion of a clause under this clause shall not affect the validity and enforceability of the rest of this Framework Agreement or any Task Order.

26. **Assignment and subcontracting**

The Contractor may not assign, novate, subcontract, transfer or otherwise dispose of or deal with this Framework Agreement and/or any Task Order (in whole or in part) or any or all of its rights and/or obligations under this Framework Agreement or any Task Order, without the prior written consent of NCB.

27. **Governing Law and Jurisdiction**

This Agreement and any non-contractual obligations arising out of or in connection with it shall be governed by the laws of England and Wales and the parties hereby irrevocably submit to the exclusive jurisdiction of the courts of England and Wales.

## Schedule 1: Data Protection

### 1. Data Protection

- 1.1 Each term used in this Schedule 1 shall have the meaning given in the Data Protection Laws unless otherwise stated. References to "**Articles**" in this Schedule 1 shall mean the Articles of the GDPR.
- 1.2 The Contractor acknowledges and agrees that for the purposes of this Framework Agreement NCB is the Data Controller and the Contractor is a Data Processor in respect of all Personal Data processed pursuant to this Framework Agreement.
- 1.3 The Contractor warrants and represents that it shall, and shall procure that the Contractor's Personnel, process Personal Data only for the purpose of performing the Data Processing Services during the Term on documented instructions that NCB may give to the Contractor from time to time and in compliance with the Data Protection Laws.
- 1.4 The Contractor warrants and represents that it shall:
  - 1.4.1 not do anything that would put NCB in breach of the Data Protection Laws;
  - 1.4.2 put in place before undertaking any processing and maintain appropriate technical and organisational measures in accordance with Articles 5 and 32;
  - 1.4.3 provide NCB with such assistance as NCB requires to ensure compliance with Articles 32 to 36 (inclusive), taking into account the nature of the processing and the information available to the Contractor;
  - 1.4.4 maintain a record of all of its processing activities under or in connection with this Framework Agreement and of the measures implemented under this Schedule 1 in accordance with the requirements of Article 30 and make such record available to the relevant Supervisory Authority;
  - 1.4.5 provide NCB with such information as NCB requests from time to time to enable NCB to satisfy itself that the Contractor is complying with its obligations under this Schedule 1;
  - 1.4.6 allow NCB, its agents, representatives and external auditors access (on reasonable notice and during normal business hours)

to its premises and/or any other location where Personal Data is processed under this Framework Agreement to allow NCB to audit the Contractor's compliance with this Schedule 1. For the purposes of any such audit, the Contractor shall permit and/or shall procure that NCB shall be permitted access to such premises and/or locations, facilities, personnel, systems, records, books, accounts and information as may reasonably be required by NCB for the purpose of such audit;

1.4.7 not cause or allow Personal Data to be transferred to and/or otherwise processed in a Non-adequate Country without NCB's prior written approval;

1.4.8 not transfer Personal Data to, or permit the processing of Personal Data by, any third party save to the Contractor's employees, except:

1.4.8.1 with NCB's prior written consent in each case (such consent to be given or withheld at NCB's absolute discretion); and

1.4.8.2 where NCB has given such consent, the Contractor has entered into a written contract with that third party under which that third party agrees to obligations that are equivalent to the Contractor's obligations set out in this Schedule 1,

unless required to do so by Applicable Law, in which case the Contractor shall (to the extent permitted by Applicable Law) give NCB prior written notice of such requirement.

1.4.9 at any time upon request, and in any event upon termination or expiry of this Framework Agreement, deliver up to NCB or (at NCB's choice) securely delete or destroy all Personal Data in the Contractor's possession (except for such Personal Data which the Contractor is required to keep in compliance with Data Protection Laws);

1.4.10 provide all assistance requested by NCB from time to time in undertaking any data protection impact assessments and consultation with a Supervisory Authority that NCB may reasonably decide to undertake; and

1.4.11 ensure the Contractor Personnel are subject to binding obligations of confidentiality in respect of Personal Data processed under this Framework Agreement.

- 1.5 The Contractor shall assist NCB by appropriate technical and organisational measures to comply with its obligations to fulfil Data Subjects' rights under Data Protection Laws, including:
  - 1.5.1 responding to requests or queries from Data Subjects in respect of their Personal Data (including without limitation the provision of Portable Copies);
  - 1.5.2 cooperating with an investigation in connection with the Personal Data by a regulatory body (including without limitation a Supervisory Authority); or
  - 1.5.3 reconstructing and/or otherwise safeguarding the Personal Data, within any reasonable timescales specified by NCB.
- 1.6 If the Contractor becomes aware of or suspects a Personal Data Breach it shall notify NCB without undue delay and in any event within 24 hours, providing all the information set out in Article 33 and/or as requested by NCB. The Contractor shall at its own cost provide all assistance reasonably requested by NCB to ensure that NCB complies with its obligations under Articles 33 and 34. The Contractor shall take all reasonable steps to mitigate any risks of a Personal Data Breach occurring in the future.
- 1.7 If for any reason the Contractor is unable to provide any of the information set out in Article 33 within the timescale referred to in paragraph 1.6 of this Schedule 1, it shall provide a written explanation to NCB and use all reasonable endeavours to provide all such information as soon as possible.
- 1.8 The Contractor shall not disclose any information about or in connection with any unauthorised or unlawful processing or accidental loss or destruction of, or damage to, Personal Data, other than:
  - 1.8.1 to NCB;
  - 1.8.2 with NCB's express prior written approval; or
  - 1.8.3 as required to be disclosed by Applicable Law.
- 1.9 The Contractor shall procure that all its personnel, and any sub-processors who have access to Personal Data in connection with this Framework Agreement comply with the terms of this Schedule 1 and the Contractor shall be liable for all acts and omissions of such personnel, and sub-processors.

1.10 The Contractor warrants that, it shall where applicable comply with its obligations to appoint and maintain in place throughout the Term a data protection officer as required by Articles 37, 38 and 39 and it shall designate a representative in the European Union where required by Articles 3(2) and 27 and ensure that its representative complies with paragraphs 1.4.4, 1.4.6 and 1.5.2 of this Schedule 1.

1.11 For the purpose of this Schedule 1 the following definitions apply:

<b>"Adequacy Decision"</b>	a finding under Article 25(2) of the Data Protection Directive that a country or territory ensures an adequate level of protection within the meaning of Article 25 of the Data Protection Directive or (as applicable) a finding under Article 45(1) of the General Data Protection Regulation that a country, a territory or one or more specified sectors within that country, or the international organisation in question ensures an adequate level of protection within the meaning of Article 45 of the General Data Protection Regulation;
<b>"Data Controller"</b>	has the meaning given to <b>"controller"</b> in the General Data Protection Regulation;
<b>"Data Processing Services"</b>	the data processing services described in the data processing section within each Task Order;
<b>"Data Processor"</b>	has the meaning given to <b>"processor"</b> in the General Data Protection Regulation;
<b>"Data Protection Directive"</b>	Directive 95/46/EC on the protection of individuals with regard to the processing of personal data and on the free movement of such data;
<b>"Data Protection Laws"</b>	the General Data Protection Regulation;
<b>"GDPR"</b>	Regulation (EU) 2016/679 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data;

- "Non-adequate Country"** a country or territory which is outside the European Union and in respect of which there has not been an Adequacy Decision. For the purposes of this Agreement, **"Non-adequate Country"** includes the United States of America; and
- "Portable Copy"** a copy of Personal Data in such form as to enable NCB to comply with its obligations under Article 20 of the General Data Protection Regulation.

Appended documents to this contract can be accessed online

No.	Description
Appendix i	NCB's Confidentiality Code of Practice (for information only) <a href="https://www.ncb.org.uk/suppliers-area">https://www.ncb.org.uk/suppliers-area</a>
Appendix ii	NCB's Equality and Diversity Policy (for information only) <a href="https://www.ncb.org.uk/suppliers-area">https://www.ncb.org.uk/suppliers-area</a>
Appendix iii	NCB's Children and Young People Safeguarding Framework (for information only) <a href="https://www.ncb.org.uk/suppliers-area">https://www.ncb.org.uk/suppliers-area</a>

## Signature Page

Signed	
Print Name	Adeeba Khan
Position	Project Assistant – Corporate Services
Date	06/08/2020

Signed Contractor	by
Print Name	
Date	