

FRAMEWORK AGREEMENT FOR PROFESSIONAL SERVICES

BETWEEN

- (1) **NSC**, the NSC company details of which, including country of registration and registered office, are set out in the relevant quotation or purchase order acceptance ("NSC"); and
- (2) **Buyer**, a company registered in the country from where it issues any purchase order and whose registered office is located on such purchase order or as otherwise identified by the Buyer ("the Buyer")

WHEREAS

- (A) The Buyer wishes to engage NSC to provide the Buyer with network and IT infrastructure-related consultancy and implementation support services from time to time. NSC and the Buyer have agreed this Framework Agreement shall provide a framework under which they can agree individual Scope of Works, which will specify the particular services to be provided to the Buyer.
- (B) To meet the above objectives the parties agree to abide by the terms and conditions of this Framework Agreement.

NOW IT IS AGREED AS FOLLOWS

1. DEFINITIONS

- 1.1 The following terms have the following meanings:

"Change Control Procedure"	means the procedure for changing the Scope of Work as described in Clause 6;
"Charges"	means the Work Day rates or, fixed price for the Services, as specified in each Scope of Work;
"Commencement Date"	means the date on which the Buyer accepted this Framework Agreement;
"Personnel"	means any person provided by NSC to the Buyer for the purpose of performing the Services (regardless of whether that person is an employee, contractor, sub-contractor or otherwise);
"Scope of Work"	means the description of the Services the Buyer accepted which shall, incorporate the terms and conditions of the Framework Agreement;

"Services"	means the network and IT infrastructure related consultancy and/or implementation services to be provided by NSC to the Buyer in accordance with each Scope of Work;
"Working Day"	means a calendar day between Monday and Friday excluding any Saturday, Sunday and all public or NSC holidays between 09:00 Hrs and 17:30Hrs in the pertinent country where the Services are being performed;
"Work Product"	means all works of authorship, products and materials developed, written or prepared by NSC in connection with this Framework Agreement and/or any Scope of Work including but not limited to charts, diagrams, drawings, specifications, studies, reports, computer programs and all other creative output of the Services (including drafts and working papers).

2. SCOPE OF THE FRAMEWORK AGREEMENT

- 2.1 This Framework Agreement sets out a framework for agreeing individual contracts (known as Scopes of Work). Once this Framework Agreement has been signed, the way in which the Buyer may request NSC to perform certain specified Services is by completing a template Scope of Work to be provided by NSC and forwarding it to NSC for consideration. If agreed, NSC shall accept the request by way of completion of the remainder of the documentation. The parties need then only sign the Scope of Work (i.e. they do not need to sign the Framework Agreement again) to create a contract for the Services described in that Scope of Work.
- 2.2 The contract made by the signing of the Scope of Work will then consist of two elements:
- (i) the Scope of Work itself;
 - (ii) the terms and conditions of this (previously agreed) Framework Agreement.
- In the event of any conflict or inconsistency between the Scope of Work and this Framework Agreement, the Scope of Work shall prevail.
- 2.3 The Buyer must also raise a purchase order for the Services but understands and accepts that NSC will use this document solely for the purpose of referencing invoices. The purchase order shall not in any way supersede, amend, alter or otherwise affect the terms and conditions of this Framework Agreement or the Scope of Work.

3. CONTRACT MANAGEMENT

- 3.1 Each party shall appoint an Account Manager who will be responsible for overseeing this Framework Agreement and each Scope of Work.
- 3.2 Each party shall also, in respect of each particular Scope of Work, appoint a person who will act as their project manager for that Scope of Work. That person shall deal with:
- (i) requests for information;
 - (ii) requests for any change in relation to that Scope of Work;
 - (iii) reviewing progress against any project plan contained within the Scope of Work.
- 3.3 The parties shall ensure that the project managers meet with the frequency specified in the Scope of Work to discuss and minute the performance of the Scope of Work.
- 3.4 NSC's project manager shall provide the Buyer with such information as is specified in the Scope of Work and advise on progress against the project plan.
- 3.5 NSC's project manager shall ensure that the project plan is kept up-to-date.

4. NSC'S RESPONSIBILITIES

- 4.1 NSC will ensure that its Personnel have the skills sets necessary to enable them to properly perform their duties under each Scope of Work and that the Services will be provided using all reasonable care and skill.
- 4.2 NSC will use all reasonable endeavours to meet any timetable contained within the Scope of Work. The Buyer accepts that, the timetable will also be dependent upon the Buyer (and any third parties appointed by or under the control of the Buyer) complying with their respective responsibilities.
- 4.3 NSC shall not be liable for any failure of or delay in the performance of the Services or supply of the Work Product or any defect in the Services or Work Product, which is caused or contributed to by the Buyer failing to:
- (i) comply with its specific responsibilities set out in the Scope of Work; or
 - (ii) any other actions or omissions of the Buyer (or any third party appointed by or under the control of the Buyer).

In the case of such failure or delay, the timetable or any completion date agreed by the parties for the work specified in that Scope of Work shall be automatically extended to the extent that the failure or period of delay was caused or contributed to by the Buyer/third party and the Buyer shall be responsible for paying any additional costs incurred by NSC as a result.

5. THE BUYER'S RESPONSIBILITIES

- 5.1 The Buyer shall, in a timely manner, provide (and shall be responsible for procuring that any third party appointed by or under its control also provides) to NSC such

information and help as is reasonably required by NSC to enable it to perform its obligations under this Framework Agreement and each Scope of Work.

5.2 The Buyer shall provide to the Personnel:

- (i) such suitable working place; and
- (ii) such other facilities (such as computer facilities, the use of a private telephone, desks, typing and other office facilities) as NSC shall reasonably require; and

shall use all reasonable endeavours to ensure the safety of each member of Personnel and his/her property whilst they are working at the Buyer's premises.

5.3 The Buyer shall comply with any specific responsibilities set out in the Scope of Work.

5.4 It shall be the Buyer's responsibility to advise NSC of any industry-specific legislation, rules and guidance issued by the appropriate regulatory authorities, which is or may be applicable to the performance of each Scope of Work. If changes to that (or any other) legislation, rules or guidance (or the introduction of any new legislation, rules or guidance) result in the need for a change to Services which are already being provided, the parties shall apply the Change Control Procedure.

6. CHANGE CONTROL PROCEDURE

6.1 If either party wishes to change this Framework Agreement or a Scope of Work for any reason, it may request such a change by notice in writing. Requests for changes to the Framework Agreement should be addressed to the Account Manager. Requests for any change to a Scope of Work should be addressed to the project manager for that particular Scope of Work.

6.2 If the Buyer requests a change, NSC shall, as soon as possible, (but in any event within 30 days) inform the Buyer if the change will involve additional cost or adversely affect performance under any then-ongoing Scope of Work. Until NSC has received confirmation in writing from the Buyer that it agrees to meet any such additional cost or will accept any adverse effect in performance, NSC shall be under no obligation to carry out such change.

6.3 Where the parties do agree to implement a change, the details and impact of that change (including agreement as to scope, revised timetables of work or delivery and additional cost) shall be recorded in writing (in the same or similar format to the pro-forma Change Control Form at Schedule 2) and signed by both parties. NSC shall be under no obligation to effect any change until written agreement has been reached in accordance with this Clause 6.3.

7. CHARGES

- 7.1 The Buyer shall pay for the Services in accordance with the Charges specified in the Scope of Work. If no other payment terms are agreed to in a document signed by both parties, then all payments shall be made by Buyer within thirty (30) days of the date that an invoice is issued to Buyer.
- 7.2 The Buyer will receive invoices monthly in arrears for those Scopes of Work, which are being carried out on a "per Work Day" basis. In these circumstances, NSC shall keep reasonable evidence of the work done and of the hours spent on each Scope of Work, including, without limitation, by retaining copies of all relevant timesheets or similar records of the time spent by the Personnel. Copies of those timesheets will be provided to the Buyer on request.
- 7.3 No Work Day rates will be charged for days which are not spent in providing the Services, due to public or NSC holidays, sickness, training or temporary absence for any other reason.
- 7.4 Unless expressly agreed otherwise in a Scope of Work, NSC will periodically review and vary, as necessary, the Work Day rates. NSC will give to the Buyer at least sixty (60) days' notice of any such variation.
- 7.5 In addition to the Work Day rates the Buyer shall pay the following, pro-rated, Charges:
- (i) one and a half times the Work Day rates for:
 - Services requested in excess of a Man Day during the working week; and
 - Services requested at weekends and on public or NSC holidays in the country where the Services are to be performed;
- 7.6 The parties will agree on Budgets or Work Day forecasts in respect of each Scope of Work which is being charged on a "per Work Day" basis but these are estimates only and are not formal offers open for acceptance. However, NSC undertakes to keep the Buyer regularly updated of progress against each budget as part of the meetings described in Clause 3.2.
- 7.7 The parties will also agree on those Scopes of Work carried out on a "fixed price" basis, and NSC will invoice the Buyer in accordance with the payment milestone schedule set out in the Scope of Work.
- 7.8 NSC will also charge the Buyer for the cost of travel, hotel and other expenses reasonably incurred by NSC in performing its obligations under this Framework Agreement and each Scope of Work (whether being charged on a "fixed price" or "per Work Day" basis). This will include (without limitation) business mileage, first class rail travel, economy air travel in the UK, club class (or equivalent) air travel overseas, accommodation and subsistence. NSC will also charge the Buyer for the costs of any goods, computer or network equipment, software licences and other such items procured for and on behalf of the Buyer, by NSC.

- 7.9 Buyer will pay NSC's invoices (in pounds sterling, unless agreed otherwise in writing), and such invoices shall be due (without deduction or set-off) within twenty-eight Work Days of the date of invoice.
- 7.10 All charges referred to in this Framework Agreement or a Scope of Work are quoted exclusive of VAT and any other similar taxes, duties or levies or other deductions or withholdings in countries outside the United Kingdom, which taxes shall be payable at the rate and in the manner prescribed by law.
- 7.11 If Buyer does not pay any charges on the due date, NSC shall be entitled, in addition to its other rights and remedies, to:
- (i) charge interest thereon at the rate of three per cent (3%) per annum above the base rate of Lloyds TSB Bank plc for the time being in force from the due date until the date of payment; and
 - (ii) suspend performance of its duties under this Framework Agreement or the Services under any then ongoing Scope of Work until such time as payment has been made in full, provided that NSC shall not so suspend its duties or the Services, if it has been notified in writing of any dispute relating to its invoices and the Buyer is actively pursuing resolution of that dispute via the problem escalation and dispute resolution procedure described in Clause 14.

8. INTELLECTUAL PROPERTY RIGHTS

- 8.1 NSC (or some other third party, as appropriate) is the owner of (and shall at all times retain ownership of) the intellectual property rights in the Work Product. However, subject to receipt of payment in accordance with Clause 7, NSC shall grant (or shall procure the grant to the Buyer of) a perpetual but non-exclusive and non-transferable licence to use the Work Product for the purposes envisaged by the Scope of Work. The Buyer must not modify or amend the Work Product or make any copies of the Work Product other than for back-up purposes.
- 8.2 The Buyer (or some other third party, as appropriate) is the owner of (and shall at all times retain ownership of) the intellectual property rights in any charts, diagrams, drawings, specifications, studies, reports, computer programs or any other material it provides to NSC, to enable it to perform the Services. However, it hereby grants (or shall procure the grant to) NSC of a licence to use the same in the performance of the Services.

9. INTELLECTUAL PROPERTY RIGHTS INDEMNITY

- 9.1 NSC shall indemnify and keep indemnified the Buyer against all costs, losses, damages and expenses arising out of or in connection with any claim made against the Buyer by a third party alleging that the use of the Work Product infringes its intellectual property rights provided that:
- (i) the claim has not arisen as a result of the Buyer using or combining the Work Product with any other product;

- (ii) the Buyer gives to NSC the sole conduct of the claim or any resultant proceedings;
 - (iii) the Buyer affords NSC all reasonable assistance in connection with its defence of such a claim and does not make any statement prejudicial to NSC's position.
- 9.2 NSC reserves the right (but without materially affecting the functionality or content of the Work Product) to replace or modify the Work Product to avoid infringement of third party intellectual property rights or to obtain a licence to allow continued use of the Work Product. In the event that it is unable to do so, it shall refund the charges paid for that particular Work Product.
- 9.3 This Clause 9 shall apply mutatis mutandis to any claim made against NSC by a third party alleging that the use by NSC of materials provided by the Buyer, infringe the third party's intellectual property rights.
- 9.4 This Clause 9 sets out the total liability of each party to the other in respect of third party claims of intellectual property rights infringement.

10. TERM AND TERMINATION

- 10.1 This Framework Agreement shall continue in force until for a period of up to twelve (12) months, and shall thereafter continue until terminated in accordance with Clauses 10.2 - 10.4.
- 10.2 Either party may terminate this Framework Agreement for convenience by giving to the other party not less than three (3) months written notice. Termination of the Framework Agreement under this Clause 10.2, shall not affect any then current Scope of Work, which will remain in force until terminated in accordance with Clause 10.3.
- 10.3 Subject to Clause 10.4, each Scope of Work will remain in force until it is either completed or terminated in accordance with its terms.
- 10.4 Either party shall be entitled to terminate this Framework Agreement and any then current Scope of Work with immediate effect by notice in writing:
- (i) if the other has committed a material breach of its obligations under the Framework Agreement/Scope of Work and has failed to remedy that material breach within 30 days of having been requested to do so in writing; or
 - (ii) upon the other party passing a resolution for winding-up (save for the purposes of amalgamation or reconstruction where the amalgamated or reconstructed company agrees to adhere to this Framework Agreement/then current Scope of Works) or suffering a winding-up order being made against it or going into administration; or
 - (iii) if a receiver or administrative receiver is appointed or an encumbrancer takes possession of the undertaking or assets (or any part thereof) of the other party; or

- (iv) if the other party is unable to pay its debts as they come due or ceases to or threatens to cease to carry on its business or enters into a composition with its creditors; or
 - (v) if the other party suffers an event in any country in which it is incorporated which has a similar effect to the events described in this Clause 10.4.
- 10.5 Termination of this Framework Agreement or any Scope of Work shall be without prejudice to any rights of either party, which arose on or before its termination or which are expressed to arise upon or continue after termination.
- 11. LIMITATION OF LIABILITY**
- 11.1 This Clause 11 prevails over all other clauses in this Framework Agreement save that the limits in Clause 11.4 do not apply to:
- (i) any charges which are properly due and payable by the Buyer to NSC under this Framework Agreement and/or any Scope of Work; or
 - (ii) the intellectual property rights indemnity at Clause 9.
- 11.2 Neither party excludes or limits its liability to the other party for fraud or for death or personal injury caused by its negligence.
- 11.3 The liability of either party in respect of loss or damage to tangible property of the other party caused by its negligence shall be limited to £1,000,000 per event or series of connected events.
- 11.4 Except as provided in Clauses 11.1 - 11.3 and 11.5, the total liability of either party for all claims made by the other in relation to any particular Scope of Work for all loss or damage suffered by that party however that liability arises, including (without limitation) breach of contract, tort, misrepresentation (other than fraudulent misrepresentation) or breach of statutory duty, shall be limited (for that Scope of Work) to a sum which is equal to the higher of:
- (i) the Charges paid for the Services under that particular Scope of Work during the 12 months immediately preceding the date of claim; or
 - (ii) where the claim occurs during the first 12 months of the Scope of Work and the ongoing charges for the Services can be easily quantified, the Charges due to be paid for the Services under that particular Scope of Work, during the 12-month period from commencement of those Services.
- 11.5 It is the Buyer's responsibility to ensure that it takes a back-up copy of any software or data provided to NSC under or in connection with this Framework Contract or any Scope of Work and to keep those back-up copies secure. NSC shall not be liable for loss or damage suffered by the Buyer where the Buyer, having taken a proper backup of such software or data could have avoided that loss or damage.

12. CONFIDENTIALITY

- 12.1 Neither party shall disclose to any person (other than with the written authority of the other) any confidential information concerning the products, customers, business, accounts, finance or contractual arrangements or other dealings, transactions or affairs of the other which may come to that party's knowledge in the course of performing its duties under this Framework Agreement nor may the Buyer disclose the Work Product (whether wholly or in part) to any other person.
- 12.2 Nothing contained in this Clause 12 shall prevent either party from disclosing that information: -
- (i) to any of its employees whose work requires the disclosure of that information and who have prior to the disclosure of that information agreed in writing to keep such information confidential;
 - (ii) to any government department or other authority court or arbitrator having statutory authority or jurisdiction to require the disclosure of that information;
 - (iii) if that information is at the time of disclosure known to the public through no act or default on the part of the recipient of the information.
- 12.3 Both parties shall, at all times, comply with the provisions of the applicable data protection laws.
- 12.4 The parties agree that each of them will establish and maintain such security measures and procedures as are reasonably practicable to provide for the safe custody of the Confidential Information and to prevent unauthorised access.

13. SUB CONTRACTING

- 13.1 NSC shall be entitled to subcontract its responsibilities under this Framework Agreement or any Scope of Work. However, before it does so it shall ensure that it has made sufficient arrangements to ensure that confidentiality is preserved and it shall remain wholly responsible for the performance of the Services, as if NSC were continuing to perform those itself.

14. PROBLEM ESCALATION AND DISPUTE RESOLUTION

- 14.1 Any dispute arising out of or in connection with a Scope of Work shall in the first instance be referred to the project managers for discussion and resolution at the next project review meeting. If the matter is not resolved at that meeting, (or if the dispute relates to any question or difference concerning the construction, meaning or effect of the Framework Agreement) the matter will be referred to the Account Managers for discussion and resolution on or before the next account review meeting. If the matter is not resolved at that meeting, it will be referred to the Managing Directors of each party who must meet within two (2) weeks to attempt to resolve the matter. If the unresolved matter is having a serious effect on the performance of this Framework Agreement or a Scope of Work, the parties will use reasonable endeavours to reduce the elapsed time in completing the process.

- 14.2 If the matter is not resolved through negotiation, the parties will attempt in good faith to resolve the dispute through an Alternative Dispute Resolution (ADR) procedure as recommended to the parties by the Centre for Dispute Resolution in London.
- 14.3 If the matter has not been resolved by an ADR procedure within 30 days of the initiation of that procedure, or if either party will not participate in an ADR procedure, the dispute shall be decided by the High Court.

15. MATTERS RELATING TO THE PERSONNEL

- 15.1 The Buyer shall not, without the prior written consent of NSC, actively initiate recruitment of any of the Personnel or otherwise directly or indirectly procure the services of any of the Personnel:
- (i) during the life of or for a period of 6 months from termination of this Framework Agreement; or
 - (ii) during the life of or a period of 6 months from expiry or termination of the last Scope of Work being performed by NSC
- (whichever is the last to come to an end).
- 15.2 In recognition of the value of the Personnel to NSC and the inconvenience which would be caused to it as a result of the Buyer's breach of Clause 15.1, the Buyer agrees that, if it does breach Clause 15.1, the Buyer shall pay to NSC:
- (i) in respect of an employee of NSC - an amount which is equivalent to that employee's gross salary over the 4 months immediately preceding the date of termination of his/her employment with NSC;
 - (ii) in respect of any other person - an amount which is equivalent to the gross revenue generated (from all sources) by that person during the 4 months immediately preceding the date of termination of his/her engagement with NSC.
- 15.3 The parties hereby expressly agree that the sums referred to in Clause 15.2 represent a genuine pre-estimate of the loss likely to be suffered by NSC; in those circumstances.
- 15.4 NSC reserves the right to substitute new personnel (with equivalent levels of qualification) for the Personnel assigned to the Scope of Works from time to time. The Buyer may not refuse any alternative personnel offered by NSC unless it can provide valid and objective reasons for such refusal.
- 15.5 The parties do not intend that any employees of Buyer or any third party shall transfer to NSC, but in the event that there are any such transfers, due to the Acquired Rights Directive or any similar law, Buyer shall indemnify NSC with respect to the costs and expenses which NSC may suffer as a result of such transfer.

16. FORCE MAJEURE

- 16.1 Neither party will be liable for delay in performing obligations or for failure to perform obligations if the delay or failure resulted from circumstances beyond its reasonable control.
- 16.2 Each party agrees to give written notice to the other on becoming aware of an event of force majeure, such notice to contain details of the circumstances giving rise to the event of force majeure.
- 16.3 Either party shall have the right to terminate this Framework Agreement and/or any Scope of Work on written notice without liability to the other (except in respect of then accrued rights and liabilities) if the event of force majeure continues for a period in excess of 14 consecutive days.

17. NOTICE

- 17.1 Any notice given under this Framework Agreement must be given in writing and sent or delivered by hand, post, or email to the other party at the address stated in the Framework Agreement (or any other address notified for this purpose by that party) provided that any:
- (i) notice delivered by hand shall be deemed to have been given when deposited at the appropriate address;
 - (ii) notice sent by post shall be deemed to have been given forty-eight (48) hours after a first class registered letter is posted to the appropriate address; and
 - (iii) notice sent by email shall carry a marker, which identifies when the email has been received and shall be deemed to have been given when electronic confirmation of receipt is indicated.

18. GENERAL

- 18.1 The parties hereby expressly agree that any person who is not a party to this Framework Agreement shall have no right to enforce any term of this Framework Agreement or any Scope of Work against either of the parties. Each party shall be obliged to immediately notify the other in writing, if it becomes aware of any legislation, rules or guidance which might impact upon the lawful provision of the Services.
- 18.2 No failure, delay or indulgence on the part of either party in exercising any power or right under this Framework Agreement or a Scope of Work shall operate as a waiver of such power or right.
- 18.3 If any provision of this Framework Agreement or Scope of Work shall be held by a court of competent jurisdiction to be invalid or voidable such provision shall be struck out and the remainder shall stand in full force or effect.
- 18.4 The Buyer recognises NSC's objective of building its business and will, wherever possible, use NSC as its preferred supplier for network and IT infrastructure-related consultancy and implementation support services. It will also co-operate with NSC's reasonable requests in publicising the relationship between the parties. However,

both parties hereby agree that any publicity to be issued in connection with this Framework Agreement and/or any Scope of Work (including any dispute arising) shall only be issued subject to prior written consent from the other.

18.5 Neither party may assign or novate this Framework Agreement or any Scope of Work or any of its rights and obligations there under without the prior written consent of the other.

19. ENTIRE AGREEMENT AND LAW

19.1 This Framework Agreement and each Scope of Work constitutes the entire agreement between the parties with respect to the subject matter contained therein. All prior agreements, representations, statements, negotiations, understandings and undertakings either written or oral are, unless made fraudulently, superseded hereby and the parties hereby acknowledge that they have not placed any reliance on any representation made but not embodied in those documents.

19.2 Both parties agree that, unless they expressly provide otherwise in any Scope of Work, all conditions or warranties of any kind (whether expressed or implied, statutory or otherwise) concerning the quality or fitness for purpose of the Services or Work Product are hereby excluded to the fullest extent permitted by law.

19.3 No change to this Framework Agreement or to a Scope of Work or any waiver of any of the terms hereof shall be valid unless made in writing and signed by the duly authorised representatives of both parties.

19.4 This Framework Agreement and related Scope of Works shall be subject to the law of the country in which NSC is incorporated and, subject to the provisions of Clauses 14.1 and 14.2, the parties agree to submit to the exclusive jurisdiction of the courts of such country.

We/I have read the terms and conditions of the Framework Agreement for Professional Services and agree to be bound by them.

SIGNED ON BEHALF OF NSC

SIGNED ON BEHALF OF THE BUYER

SIGNATURE: _____

SIGNATURE: _____

DATE: _____

DATE: _____

PRINT NAME: _____

PRINT NAME: _____

POSITION: _____

POSITION: _____