

Dated

2008

(1) Legal Services Commission

(2) [*Provider*]

Specialist Support Service

DRAFT

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BETWEEN

- (1) The Legal Services Commission whose head office is situated at 85 Gray's Inn Road, London, WC1X 8TX ("**the LSC**"); and
- (2) [*PROVIDER NAME*] whose head office is situated at [*ADDRESS*] ("**the Provider**")

BACKGROUND

- (A) The LSC wishes to enter into a contract for the provision of telephone based specialist legal advice to all LSC Eligible Organisations in England and Wales, known as the Specialist Support Service. The telephone advice will be limited to expert advice on complex queries relating to new or developing areas of law.
- (B) The Provider is a supplier of specialist legal advice and has experience in the provision of telephone advice services.
- (C) The LSC wishes to appoint the Provider to fulfil the LSC's requirement for the Specialist Support Service and the Provider wishes to accept such appointment upon the terms and conditions set out in this Agreement.
- (D) The purpose of the Specialist Support Service is to:
 - raise the competence of Eligible Organisations accessing the Services; and
 - continually improve value for money, with the ultimate aim of delivering the best possible value for money.

OPERATIVE PROVISIONS

1. DEFINITIONS AND INTERPRETATION

- 1.1 In this Agreement the following expressions have the following meanings unless the context otherwise requires:

"Agreement" this agreement and its schedules

"Allocated Stand-by Hours" the hours during which the Provider must be available to provide the Specialist Support Advice, as specified in **Schedule 1**

"Approved Advisers"	the list of individuals of the Provider set out at Schedule 4 who will deliver the Specialist Support Advice and who have been approved by the LSC
"Bid Documents"	the Provider's bidding documents including their application responding to the invitation to tender for this contract
"Business Day"	a day (other than a Saturday or Sunday) on which banks are generally open for deposit taking in the City of London
"Charges"	the charges for the Services set out in Schedule 1 as may be varied from time to time by the parties in accordance with the terms of this Agreement
"Confidential Information"	<p>will include:</p> <ul style="list-style-type: none"> (a) any information of whatever nature relating to the disclosing party which is by its nature confidential; (b) any information relating to any Specialist Support Service user or Specialist Support Advice Record and any other LSC Data <p>but will exclude any part of such information which (and which can be shown by documentary evidence):</p> <ul style="list-style-type: none"> (i) is or becomes available in the public domain without breach of this Agreement or any confidentiality agreement or undertaking entered into prior to this Agreement by the parties; (ii) the receiving party can prove was lawfully in its possession free of any restriction as to its use or disclosure before the date of the disclosure;

- (iii) is or was received by the receiving party from any third party not acting on behalf of the party and where such third party having the right lawfully to disclose such information; or
- (iv) the disclosing party has given prior written approval for its disclosure by the other party

“Contract Amendment Notice”	the notice referred to in clause 12 , in the format set out at Schedule 5
“Contract End Date”	<i>[to add - 3/5 years from Contract Start Date]</i>
“Contract Period”	the period from the <i>[date of this Contract/ Contract Start Date]</i> to the date of termination or expiry of this Agreement
“Contract Start Date”	<i>[to add – services commencement date]</i>
“Contract Year”	the period of 12 months commencing on the Contract Start Date and thereafter each consecutive period of 12 months (and in the final Contract Year the period between the last anniversary of the Contract Start Date and the date of expiry or termination of this Agreement)
“Dispute Resolution Procedure”	the procedure for resolution of disputes set out in clause 28 .
“Eligible Organisation”	<p>an organisation located in <i>[England]</i>, <i>[Wales]</i>, <i>[England and Wales]</i> falling within one or more of the following categories:</p> <ul style="list-style-type: none"> • organisations holding the LSC’s Unified Contract; • organisations holding the Specialist Quality Mark; • organisations holding the General Help Quality Mark; or

- in respect of the categories of mental health [*and human rights?*], organisations holding the LSC's General Criminal Contract.

The list of such Eligible Organisations may be extended from time to time by the LSC as required

"Employed Solicitors Code" the Solicitors Regulation Authority Employed Solicitors Code 1990 (as amended)

"FOIA" Freedom of Information Act 2000

"Force Majeure" any cause preventing a party from performing any or all of its obligations (other than payment) which is beyond its reasonable control including those which arise from or are attributable to acts of war, terrorism, riots, civil disorders, labour actions (other than as stated below), rebellions or revolutions or act of God and which cannot be avoided by the party taking reasonable steps. For the avoidance of doubt Force Majeure excludes strikes; lockouts or industrial action of Party's workforce (unless comprising general strikes, lockouts or industrial action, not just affecting a Party's workforce); or any event attributable to the wilful act or neglect of the other Party

"General Help Quality Mark" means the relevant quality assurance standards published by the LSC from time to time

"Good Industry Practice" the exercise of levels of skill, care and diligence in accordance with best industry practice and standards for performing services of a similar type to the Services practised by high quality service providers

“Intellectual Property Rights”

patents, trade marks, design rights (whether registered or otherwise), applications for any of the foregoing, copyrights (including all rights in software), database rights, know-how, trade or business names, and other similar rights having equivalent or similar effect to any of them whether arising or granted under the laws of England or any other jurisdiction

“Invitation to Tender”

the document of that name issued by the LSC on [DATE] inviting bids for the Specialist Support Service

“LSC Data”

all data pertaining to, relating to or provided by the LSC, and/or on their behalf which comes into the possession, knowledge or control of the Provider either directly or indirectly under or in connection with this Agreement and which is identified as being LSC data or data which should reasonably be understood to be LSC data and may include all Specialist Support Service data, Quarterly Reports, designs, models, drawings, work notes, reports, specifications, methodologies, manuscripts, documentation, office manuals, samples, prints, photographs, negatives, tapes, discs, software, user guides, written technical guidance information or any other similar items embodied in any intangible or tangible media and all copies and drafts of such items together with all modifications, enhancements or additions to the same made by or on behalf of the Provider and assigned to the LSC pursuant to **clause 19**

“Maximum Specialist Support Advice Limit”

the maximum payment which the Provider may receive under this Agreement, for the provision of Specialist Support Advice as specified in **Schedule 1**

“Month”

a calendar month

“party” and “parties”

either, or both, of the LSC and the Provider

“Peer Review”	the LSC’s direct independent assessment process by experienced peer practitioners.
“Permitted Categories”	the categories of law in which the Provider is contracted to provide the Services under this Agreement, as specified in Schedule 1
“Prohibited Act”	<ul style="list-style-type: none"> (a) offering, giving or agreeing to give any officer or personnel of the LSC any gift or consideration of any kind as an inducement or reward: <ul style="list-style-type: none"> (i) for doing or not doing (or for having done or not having done) any act in relation to the obtaining or performance of this Agreement; or (ii) for showing or not showing favour or disfavour to any person in relation to this Agreement; (b) entering into this Agreement in connection with which commission has been paid or has been agreed to be paid by the Provider or on its behalf, or to its knowledge; (c) committing any offence: <ul style="list-style-type: none"> (i) under any regulations creating offences in respect of fraudulent acts; or (ii) at common law in respect of fraudulent acts in relation to this Agreement; or (iii) defrauding or attempting to defraud or conspiring to defraud the LSC
“Quarterly Report”	the quarterly update report produced by the Provider outlining relevant changes in law and issues raised through provision of the Services

“Relationship Manager”	each of the Provider’s and LSC’s Personnel responsible for the day-day management of the Agreement
“Services”	the telephone consultancy service providing Specialist Support Advice to Eligible Organisations in the Permitted Categories as further defined in Schedule 2
“Solicitors Practice Rules”	the Solicitors Regulation Authority Solicitors Practice Rules 1990 (as amended)
“Specialist Support Advice”	telephone based specialist legal advice in relation to new and developing areas of law, in the Permitted Categories as specified in Schedule 2
“Specialist Support Advice Form”	the required form provided by the LSC, on which information recording details of any calls received and Specialist Support Advice provided
“Specialist Support Advice Record”	the record made by the Provider for each query received detailing the caller, the query and the nature of advice given
“Specialist Quality Mark”	means the relevant quality assurance standards published by the LSC from time to time
“Unified Contract”	the LSC Standard Contractor terms for the provision of legal aid work
“VAT”	value added tax imposed by the Value Added Tax Act 1994
“Work Report”	the report referred to in Schedule 3 , in the format set out in Schedule 4
“Worked Hours”	the number of hours that the Specialist Support Advice is delivered, by the Approved Advisers as specified in Schedule 1

1.2 The Schedules to this Agreement have full force and effect, as if set out in the main body of this Agreement and references to this Agreement include the Schedules to this Agreement.

- 1.3 References in this Agreement to clauses or Schedules are to clauses of, or schedules to, this Agreement.
- 1.4 The headings used in this Agreement are for convenience only and do not affect the construction or interpretation of this Agreement.
- 1.5 References to a statute or statutory provision include that provision as from time to time modified or re-enacted or consolidated whether before or after the date of this Agreement and any subordinate legislation made under it.
- 1.6 Unless the context otherwise requires, words importing the singular shall include the plural and vice versa and reference to any masculine, feminine or neuter gender shall include the other genders.
- 1.7 Words importing individuals or persons shall include companies, corporations, firms, unincorporated bodies of persons and partnerships.
- 1.8 The words "include", "including", "includes", "in particular" or any similar expression are to be construed as if they were immediately followed by the words "without limitation".
- 1.9 References to any document being in "agreed terms" means such document as initialled by or on behalf of each of the parties for the purpose of identification.
- 1.10 References to either party shall include a reference to that party's employees, authorised agents and sub-contractors.
- 1.11 If there is any conflict between **clauses 1 to 32** of this Agreement and the Schedules to this Agreement the following order of priority shall prevail:
 - 1.11.1 the Schedules to this Agreement;
 - 1.11.2 **clauses 1 32** to of this Agreement.

2. **CONTRACT DOCUMENTS**

- 2.1 The Bid Documents apply to this Agreement. Where there is any conflict between the terms of this Agreement and those of the Bid Documents the terms of this Agreement will prevail.

3. **TERM**

- 3.1 Subject to the provisions of this **clause 3** and **clause 26**, this Agreement will commence on the Contract Start Date and continue for three (3) years, expiring on the Contract End Date.

- 3.2 Either party may at any time terminate this Agreement early, irrespective of any failure in performance or breach of this Agreement by the other party, to have effect following a minimum of six (6) months' prior written notice.
- 3.3 If either party exercises its right under **clause 3.2**, each party shall each comply with their respective obligations under **clause 20**.
- 3.4 At any time prior to the date that is six (6) Months before the Contract End Date, the parties may agree to extend this Agreement for a further period of up to 24 Months from the Contract End Date.

4. **SERVICE PROVISION**

- 4.1 At all times during the Contract Period (and where the Provider has post termination obligations set out in this Agreement, for the period such post termination obligations apply) the Provider shall provide and deliver to the LSC the Services set out in **Schedule 2** in accordance with the terms of this Agreement and the Bid Documents.
- 4.2 The Provider shall ensure that the Services are performed by the Approved Adviser(s) who:
- 4.2.1 are properly trained;
 - 4.2.2 possess suitable and relevant skills and experience for the performance of the Services and particularly:
 - 4.2.2.1 have at least five (5) years post qualification experience of delivering specialist advice in the appropriate category of law;
 - 4.2.2.2 be accredited to the necessary level on any relevant accreditation scheme for example Approved Advisors in immigration law must be accredited to at least level 2 of the Solicitors Regulation Authority Immigration and Asylum Associated Scheme; and
 - 4.2.2.3 where appropriate have achieved the Specialist Quality Mark Supervisor Standard.
- 4.3 The Provider shall have a Lo-Call (0845) telephone number through which Eligible Organisations access the Specialist Support Advice.
- 4.4 Under this Agreement the LSC does not provide any guaranteed minimum number of Specialist Support Advice hours. The number of hours of Specialist Support Service required will be dependent on demand from Eligible Organisations.

- 4.5 The Provider shall publicise the availability of the Specialist Support Service, at its own cost, through any appropriate means, subject to prior approval by the LSC. Should the Provider propose an individual to provide the Services after the Contract Start Date who is not listed in **Schedule 4** then LSC approval must be sought prior to any Services being delivered by such individual.
- 4.6 Day to day management of this Agreement shall be between each party's Relationship Manager named at **Schedule 1**.
- 4.7 The Provider shall not use or allow any LSC Data to be used, for the provision of Services to a third party.
- 4.8 The Provider shall ensure that it complies with all relevant laws, regulation, statutory instruments and codes of practice.

5. **PERFORMANCE REVIEW**

- 5.1 The LSC shall regularly review the performance of the Provider, through information provided in the Work Report and other sources of management information.
- 5.2 The LSC Relationship Manager shall liaise with the Provider to review performance and discuss any relevant performance issues. The Provider agrees to co-operate fully with any performance review discussions and/or meetings as reasonably required by the LSC.
- 5.3 The LSC will have regard to the Provider's performance review history when considering the potential extension of the Agreement pursuant to **clause 3.4**.

Mystery shopper reviews

- 5.4 The LSC may telephone the Provider as if the LSC was an Eligible Organisation. The Provider must ensure that its personnel know that the LSC may do this. If the Provider is assessed in this way, the LSC, except so far as it may conflict with any provision of this Agreement, will follow the Market Research Society Code of Conduct. Once the LSC has evaluated the assessment, it will provide the information obtained from the assessment to the Provider.

Eligible Organisation surveys

- 5.5 The Provider must permit the LSC to carry out surveys of Eligible Organisations who have used the Service and must provide the LSC with such information as required for such purpose. If the Provider requests it, the LSC will provide a copy of the information obtained through such surveys.

6. PEER REVIEW

- 6.1 At the time of this Agreement no Peer Review process is in place for the Specialist Support Service. Should the LSC implement such a Peer Review process (using normal peer review criteria) during the term of this Agreement, the LSC reserves the right to introduce such a process on [3] Months' notice to the Provider.
- 6.2 Should the LSC implement a process of Peer Review, the Provider will be required to achieve the necessary pass rating. Failure to do so may lead to termination of this Agreement pursuant to **clause 26**.

7. CHARGES

- 7.1 Charges shall be calculated on the basis of the hourly rates and the Worked Hours in accordance with the charges set out in **Schedule 1**.
- 7.2 Unless otherwise expressly agreed by the parties in writing or expressly set out in this Agreement, the Charges shall constitute the LSC's entire payment obligations for the Services to be supplied under this Agreement. For the avoidance of doubt the Charges shall include all disbursements and telephone line rental costs paid for by the Provider.

8. COMMUNICATION

- 8.1 The LSC and the Provider will communicate with each other in a polite and professional manner.
- 8.2 Day to day communications relating to this Agreement will be made between each Party's Relationship Manager and communications will be made via the contact details specified in **Schedule 1**, unless otherwise notified.
- 8.3 Formal communication will be in accordance with the obligations set out in **clause 17**.

9. PARTNERSHIP WORKING

- 9.1 Without prejudice to more specific provisions of this Contract and the Provider's professional obligations in respect of clients, the Provider and the LSC agree to work together in mutual trust and co-operation.
- 9.2 This Agreement is a key element in the development of the LSC services. Under this Agreement the Provider will be expected to develop a partnership working approach with the LSC and with all the other Specialist Support Service providers, sharing ideas and suggestions for improving the delivery of the Specialist Support Service.

9.3 All Specialist Support Service providers should work together to create a seamless service for clients, to identify better and more cost effective ways of working and to initiate, pilot and implement ongoing improvements to the Specialist Support Service. To achieve this the LSC expects to develop an open working relationship between all parties, where opinions can be voiced and ideas welcomed.

10. **REGULATORY COMPLIANCE**

10.1 The Provider must comply with the conduct and practice rules of any relevant professional body (eg Solicitors Practice Rules, Employed Solicitors Code 1990), and any professional regulations applicable to the provision of the Services and to the extent the Services need to be performed in a certain manner to ensure that the LSC is not in breach of any applicable professional regulation.

11. **AUDITING**

11.1 The Provider must demonstrate to the LSC's reasonable satisfaction that it is complying with, and has at all times while it has been in force, complied with this Agreement.

11.2 The Provider must maintain documentation to demonstrate compliance with this Agreement, including maintaining advice files in an orderly manner including Specialist Support Advice Forms, showing what advice was given, when it was given and how long was spent providing the Specialist Support Advice.

11.3 The Provider may audit the LSC to determine the Provider's compliance with this Agreement, including financial and regulatory compliance and for such other purposes as considered necessary in connection with the LSC's statutory duties or functions.

11.4 On at least 48 hours prior notice (unless agreed otherwise), the Provider must allow the LSC during normal business hours to have access to the Provider's premises, system and all documentation in the Provider's possession, custody or control which directly relates to the LSC and/or the Services and is needed to verify the Provider's compliance with this Agreement or for such other purposes as the LSC considers necessary in connection with our statutory duties or functions.

11.5 The Provider must co-operate with the LSC in any audit. When the LSC has required access the Provider must, as soon as the LSC requires it, provide the LSC with such assistance and facilities as reasonably required eg photocopying and private interviewing facilities, and assistance in accessing information and documents. Unless agreed otherwise, the Provider's Relationship Manager must be available during the audit.

- 11.6 Each party will be responsible for their own costs arising from the exercise of the audit and access rights.
- 11.7 If the LSC is prevented or refused all or substantially all audit requirements (including access to premises and provision of relevant documentation) (an “**audit failure**”) and:
- 11.7.1 the LSC has notified on the audit failure and informed the Provider that the LSC requires access in respect of the audit; and
 - 11.7.2 three (3) Business Days have elapsed since the date of that notification; and
 - 11.7.3 the LSC’s audit requirements have still not been fulfilled,
- this will constitute an irremediable material breach and the LSC may serve a notice to terminate this Agreement pursuant to **clause 26**.

12. **AMENDMENTS/CHANGE CONTROL PROCEDURE**

- 12.1 The LSC shall have the right to amend, on reasonable notice (not being less than one month), any term of this Agreement from time to time if:
- 12.1.1 it is reasonably considered necessary or desirable to avoid any ambiguity as to the meaning of any term or to correct any provision the LSC reasonably believes to incorporate any error or clerical mistake.
 - 12.1.2 it is necessary in the circumstances to comply with, or take account of, any UK legislation or any EU legislation having direct effect, or as a result of any decision of a UK court or tribunal, or a decision of the European Court of Human Rights or of the European Court of Justice or any other institution of the European Union, or to comply with the requirements of any regulatory body or tax or similar authority.
 - 12.1.3 if it is reasonably considered to be of a minor nature (e.g. reduction of the Stand-by period or re-allocation of Specialist Support Advice Hours between categories of law) or that it will not have any material financial impact.
- 12.2 The LSC will notify the Provider of the proposed amendments and will allow a period of at least two weeks from the date of notification during which time the Provider may comment on the proposed amendments. The LSC will consider those comments and, as a result, may or may not be willing to amend some of the proposed amendments.

- 12.3 Changes will be detailed in a Contract Amendment Notice. On such occasions, where it is appropriate, the LSC will amend and re-issue the relevant section of this Agreement. Any new section issued will replace the earlier version.
- 12.4 Such changes will come into effect on the 'effective date' set out in the Contract Amendment Notice, which shall be not less than one month from the date of the Contract Amendment Notice unless the parties agree an earlier effective date.
- 12.5 If the Provider does not accept any amendment to the Agreement that the LSC makes, then the Provider may give notice to the LSC terminating this Agreement, effective from the day before the amendment takes effect.

Changes by the Provider

- 12.6 The Provider must inform the LSC immediately in writing of any changes the Provider proposes, subject to the limitations on amendments set out in **clause 12.1**, to make to its Service provision (such as the location from which the service is provided, the contact numbers etc) as set out in this Agreement, for the LSC's consideration. Changes take effect when the LSC has recorded them in a Contract Amendment Notice.

13. PAYMENT AND RECONCILIATION

- 13.1 In consideration of the proper performance of the Services by the Provider, the LSC will pay:
- 13.1.1 an hourly rate as specified in **Schedule 1** for each of the Allocated Stand-By Hours subject to the maximum specified; and
- 13.1.2 an additional payment per hour as specified in **Schedule 1** for each hour spent actually providing Specialist Support Advice, subject to the Maximum Specialist Support Advice Limit.
- 13.2 The LSC will make Monthly payments by BACS (or, at the LSC's option, by cheque or order). These payments may include payments in respect of assessed Work Reports or payments on account or a mixture of both. As these payments are triggered by receipt (within *10 days* after the end of each Month), of the Work Report as required by **Schedule 3**, late receipt will delay payment.
- 13.3 The LSC will review and revise the amount of the Monthly payments so as to pay or recover any amounts underpaid or overpaid. The aim is that the value of the claim (as indicated by the Work Reports) and the Monthly payments should be equal at the end of each anniversary of the Contract Start Date. The LSC will, from time to time, reconcile the values of (a) the claims for payment as indicated by the Work Reports and (b) the Monthly payments and, if necessary

to maintain an equal balance between them, amend the amount of the Monthly payments.

- 13.4 If the LSC disagrees with any amount claimed or requires any further information (as described further in this sentence) with respect to any amount claimed, for example in the reasonable opinion of the LSC the time taken to provide the Specialist Support Advice was not proper, reasonable or proportionate, it shall notify the Provider of such disagreement or request such further information that is reasonably required by the LSC to validate the claim within thirty (30) Business Days of it receiving the Work Report. Pending the resolution of such matter the LSC shall be entitled to withhold payment of such part of the monies which are in disagreement or subject to further investigation.
- 13.5 The LSC may set-off against any amount payable to the Provider under this Agreement or otherwise any amount payable by the Provider to the LSC under this Agreement or otherwise. For the avoidance of doubt, when this Agreement ends, any obligation to make payment is subject to this right of set-off.
- 13.6 Payment by the LSC shall be without prejudice to any claims or rights which the LSC may have against the Provider (except as specified in this Agreement) and shall not constitute any admission by the LSC as to the performance by the Provider of its obligations under this Agreement.
- 13.7 All amounts payable pursuant to this Agreement are expressed exclusive of VAT properly chargeable in accordance with the VAT regulations. If required by the VAT regulations, the LSC shall pay any VAT at the rate properly chargeable in respect of the Services, subject to the Provider providing the LSC with such valid tax invoices or other documentation as may be required by any relevant statute or regulation.

14. **REFERRALS**

- 14.1 If, during the course of providing Specialist Advice to an Eligible Organisation, the Provider considers that a matter is too complex for that Eligible Organisation to handle, the Provider must make all reasonable attempts to transfer the matter either:
- 14.1.1 to itself, where appropriate, provided that it holds a Unified Contract in the appropriate categories of law; or
- 14.1.2 to an alternative provider who has adequate expertise and authorisation to conduct the case.
- 14.2 Should the matter be transferred pursuant **clause 14.1**, the Eligible Organisation and the client must agree to the transfer and that the transfer is in the client's best interests.

15. **WARRANTIES**

15.1 The Provider warrants, represents and undertakes that:

15.1.1 it has all necessary authority, power and capacity to enter into this Agreement;

15.1.2 all information provided to the LSC in seeking to enter into this Agreement (including the information in the Bid Documents) or to demonstrate compliance with this Agreement was true and accurate in all material respects at the date of this Agreement; and

15.1.3 there are no facts or circumstances in relation to its financial position, operation, business affairs or constitution which have not been fully and fairly disclosed to the LSC in writing and which, if so disclosed, might reasonably have been expected to affect the LSC's decision to enter into this Agreement.

15.2 The Provider warrants, represents and undertakes to the LSC that from the Contract Start Date and until the end of the Contract Period:

15.2.1 it will provide the Services in accordance with this Agreement;

15.2.2 it has satisfied itself in respect of this Agreement as to the obligations therein, and the scope and requirements of the Services detailed in this Agreement;

15.2.3 it will provide the Services using properly and appropriately qualified, skilled and trained personnel.

16. **INDEMNITY**

16.1 The Provider shall indemnify and keep indemnified the LSC, without delay, against all losses, costs, claims, damages, actions, expenses and other liabilities of whatever nature incurred by the LSC as a result of:

16.1.1 any injury (fatal or otherwise) sustained by (or any loss or damage to the property of any of) LSC personnel or representatives arising in the course of exercising any of its rights, or performing any of its obligations, under this Agreement, where such injury, loss or damage arises as a consequence of any act or default committed by the Provider or by any of its personnel (save to the extent that such injury or damage arose, or was incurred as a result of the wilful default or negligence of the LSC's personnel or authorised representatives);

16.1.2 any claim made by or on behalf of a third party arising out of any act or default committed by the Provider or on its behalf (save for any

such act or default which may have been committed by the LSC and any wrongful termination or breach of this Agreement by the LSC) in connection with:

16.1.2.1 their employment, loss of employment or non-employment; or

16.1.3 the Provider's provision of, or failure to provide the Services or other information to any person or organisation; or

16.1.4 the Provider's failure to comply with any legislation.

16.2 This **clause 16** shall expressly survive expiry or termination of this Agreement.

17. **NOTICES**

17.1 Any notice or other information required or authorised by this Agreement to be given by either party to the other must be in writing and be sent by one of the following methods. The date of deemed receipt is indicated for each method, provided that if deemed receipt under this clause would otherwise occur before 9.00 am or after 5.00 pm on a Business Day or at any time on a day that is not a Business Day, deemed receipt shall instead be at 9.00 am on the next Business Day:

	Method of Delivery	Deemed to have been received:
17.1.1	delivered personally	at the time of delivery
17.1.2	sent by fax	at the time of transmission provided a confirmatory copy is sent by document exchange (DX), by pre-paid first-class post or by personal delivery before the end of the next Business Day
17.1.3	sent by email	at the time of transmission provided that: (i) no automatic response email denoting non-receipt is received by the party sending the original email within 12 hours; and (ii) a confirmatory copy is sent by document exchange (DX), by pre-paid first-class post or by personal delivery before the end of the next Business Day (if an automatic

response email denoting non receipt is received by the party sending the original email within 12 hours, the confirmatory copy shall be the notice or other information)

17.1.4 sent by document 48 hours from the date of posting exchange (DX), by pre-paid first-class post, recorded delivery or registered post.

17.2 Unless notified otherwise, the parties' designated contact numbers and addresses are as specified in **Schedule 1**.

18. **ENTIRE AGREEMENT**

18.1 This Agreement (including the Bid Specification and the Provider's response), contains all the terms agreed between the parties in relation to the subject matter of this Agreement, and supersedes any prior written or oral agreements, negotiations, representations, undertakings or understandings.

18.2 Both parties acknowledge that this Agreement has not been entered into wholly or partly in reliance on, nor has either party been given any warranty, statement, promise or representation made by or on their behalf, other than as expressly set out in this Agreement.

19. **INTELLECTUAL PROPERTY RIGHTS**

19.1 The Provider acknowledges and agrees that it will not obtain any Intellectual Property Rights in the Quarterly Report.

19.2 The parties agree that all Intellectual Property Rights arising during the continuance of this Agreement created by or on behalf of the Provider in the course of producing the Quarterly Report will belong to the LSC, and the Provider assigns to the LSC all such Intellectual Property Rights (whether existing or arising in the future).

19.3 The Provider shall fully indemnify and keep the LSC fully indemnified from and against all costs, claims, damages, loss and expenses (including reasonable legal fees and expenses) and charges suffered or incurred by the LSC arising from or by reason of any third party claim that the Provider's use or possession of the Intellectual Property relating to the Quarterly Report infringes the Intellectual Property Rights of a third party

19.4 In the event that a claim is made against the LSC to which the indemnity in **clause 19.3** applies, then the LSC shall upon becoming aware of any infringement or allegations of infringement notify the Provider of the same as soon as reasonably practicable.

20. **CONFIDENTIALITY**

20.1 In consideration of the Confidential Information being made available to a party, such party undertakes that it will:

20.1.1 use the Confidential Information solely as necessary for the purposes of this Agreement and only disclose the Confidential Information to those persons who are required in the course of their duties to receive and consider the same;

20.1.2 treat and safeguard as private and confidential all of the Confidential Information and not by any means whatsoever disclose or allow access to the Confidential Information (or permit such disclosure or access) to any person whatsoever (other than pursuant to **clause 20.1.5** without the prior written consent of the disclosing party, and in strict accordance with the terms of such consent;

20.1.3 not without the prior written consent of the disclosing party copy by any means whatsoever any of the Confidential Information supplied or disclosed to it otherwise than as shall be necessary to fulfil its obligations under this Agreement;

20.1.4 not make any commercial use of the Confidential Information or any part thereof save as agreed in writing or to carry out its obligations under this Agreement;

20.1.5 procure that any of its advisers, agents, directors or employees to whom disclosure of any Confidential Information is to be made agree prior to such disclosure, to be bound by the obligations of this Agreement as if they were a party hereto and the party receiving the Confidential Information will be responsible for any breach of such obligations as they apply to such persons; and

20.1.6 not reveal to any person other than as permitted by **clause 20.1.5** or in accordance with **clause 20.2**, or make any public announcement:

20.1.6.1 of the fact that it has requested or received any Confidential Information; or

20.1.6.2 giving details of any terms or conditions of or other facts relating to the Confidential Information, or to its status,

20.1.6.3 save as may be agreed between the parties in writing.

- 20.2 In the event that a disclosing party provides prior written consent to allow the Provider to disclose Confidential Information to a third party, the recipient will ensure that those third parties execute a confidentiality agreement or on equivalent terms, as set out in this **clause 21**.
- 20.3 Within seven days of receipt of a written request from a party hereto, on termination of this Agreement each other party will, in relation to the Confidential Information held in connection with this Agreement return to the other parties all physical Confidential Information that is in its possession or under its custody and control and all copies thereof and will expunge any Confidential Information from any computer, word processor or other device, and all analyses, compilations, notes, studies, memoranda or other documents prepared which contain Confidential Information will be destroyed and each party will deliver to the other parties a certificate signed by the Relationship Manager confirming compliance with the requirements of this **clause 20.3**. Each party shall be entitled to retain Confidential Information for any post Agreement period reasonably required to comply with its legal or contract obligations, performance or other claims (actual or possible) or other issues with respect to the performance of Services.
- 20.4 Each party will be fully responsible for instituting, maintaining, implementing and enforcing all security or other measures to comply with its obligations under this **clause 20**.
- 20.5 All Confidential Information supplied or disclosed by a party will remain the property of such party or relevant licensors.
- 20.6 Without prejudice to any other rights or remedies under this Agreement, the parties acknowledge and agree that damages would not be an adequate remedy for any breach of the provisions of this **clause 20**, and an affected party will be entitled without proof of special damage to the remedies of injunction, specific performance and other equitable relief for any threatened or actual breach of any such provision by any other party.
- 20.7 The Provider acknowledges that the LSC may be subject to the FOIA both at the Effective Date and to a greater or lesser degree at a later date. The Provider will act in accordance with the FOIA (and any other applicable codes of practice or guidance notified to the Provider from time to time relating to the supply of information, to the extent failure to apply with those codes or guidance is considered breach of the FOIA by the relevant regulatory authority) to the extent that they apply to the Provider's performance under this Agreement.
- 20.8 The Provider agrees that the provisions of this **clause 20** are subject to the respective obligations and commitments of the LSC under the FOIA and where

the LSC is managing a request thereunder, the Provider shall co-operate with the LSC making the request and shall respond within five Business Days of any request by it (or such other period as is reasonable, with reference to the date by which a response is required by law) for assistance in determining how to respond to a request for disclosure.

20.9 The restrictions upon Confidential Information contained in this **clause 20** will continue to apply after the termination of this Agreement without limit in time until the relevant Confidential Information is no longer confidential (other than as a result of a breach by any party of their obligations under this Agreement).

21. **DATA PROTECTION**

21.1 Each party agrees that, in the performance of its respective obligations under this Agreement, it shall comply with the provisions of the Data Protection Act 1998 ("the **Act**") to the extent it applies to each of them. Where used in this **clause 21**, the expressions "**process**" and "**Personal Data**", "**Data Processor**", "**Data Subject**" and "**Data Controller**" shall bear their respective meanings given in the Act.

21.2 If the Provider is acting as a Data Processor in providing the Services and where processing Personal Data within the European Economic Area then it shall:

21.2.1 process the Personal Data strictly in accordance with the terms of this Agreement and the LSC's instructions from time to time, having regard to provisions of the Act;

21.2.2 the Provider shall ensure appropriate operational and technical measures are in place to safeguard against any unauthorised access, loss, destruction, theft, use or disclosure of the Personal Data and, having regard to the state of technological development and the cost of implementing any measures, the measures must ensure a level of security appropriate to the harm that might result from unauthorised or unlawful processing or accidental loss, destruction or damage. In addition, the Provider will provide to the LSC assurance in respect of the security of any data processed by the Provider as may be reasonably required by the LSC to comply with its obligations under the Act, including for example, promptly providing reasonable information to the LSC upon request such as security measures;

21.2.3 the Provider undertakes not to disclose the Personal Data to a third party in any circumstances other than at the specific request of the LSC (or as required by law);

21.2.4 the Provider will allow its data processing facilities, procedures and documentation which relate to the processing of the Personal Data to

be inspected by the auditors of the LSC and/or the LSC's employees or agents, in order to ascertain compliance with the terms of this Agreement. The Provider shall promptly carry out any request from the LSC requiring the Provider to amend, transfer or delete the Personal Data or any part of the Personal Data (subject to compliance with applicable law);

21.2.5 the Provider shall not and will ensure that its sub-contractors shall not, under any circumstances transfer the Personal Data outside the European Economic Area.

21.3 If under this Agreement the Provider is acting as a Data Controller, then the following provisions shall apply to the Provider:

21.3.1 the Provider undertakes that it shall process the Personal Data strictly in accordance with the terms of this Agreement; and

21.3.2 the Provider agrees that it has made the appropriate notifications and has complied with the notification provisions of the Act (or that it is deemed to have so complied by virtue of paragraph 2 of Schedule 14 to the Act) in respect of its respective obligations under this Agreement and that performance of its respective obligations hereunder shall not breach or otherwise contravene such notification.

22. **INSURANCE**

22.1 During the term of this Agreement and for two years following the date of expiry or termination, the Provider shall maintain insurance policies with reputable insurers covering the risks and amounts set out in **clause 22.6** and all such other insurances as may be required by law. The Provider shall bear any and all excesses and deductibles incorporated therein.

22.2 The Provider shall, if requested in writing at any time by the LSC, provide the LSC with evidence from its insurance broker that the required coverage has been implemented and is in place. Such evidence shall be provided within 14 days of such request.

22.3 The Provider shall give written notice to the LSC as soon as reasonably practicable and without undue delay in the event of cancellation or any material adverse change in the said insurance policies.

22.4 Neither failure to comply nor full compliance with the insurance provisions of this Agreement shall limit or relieve the Provider of its liabilities and obligations under this Agreement.

22.5 If the Provider is in breach of **clause 22.1**, the LSC may pay any premiums required to keep such insurance in force or itself procure such insurance and may in either case recover such amounts from the Provider together with reasonable administration fees incurred forthwith upon written demand. The LSC may set off any such sums against sums payable to the Provider at any time under this Agreement. Any action or inaction by the LSC under this **clause 22.5** shall not affect the liability of the Provider pursuant to this Agreement.

22.6 The Provider shall carry insurance cover which is no less extensive than:

22.6.1 insurance in accordance with its statutory obligations including health and safety at work requirements of not less than *£5,000,000 (five million pounds)* per occurrence. Such insurance shall cover all employees of the Provider engaged in the performance of the Provider's obligations under this Agreement;

22.6.2 public liability insurance with a bodily injury and property damage limit of not less than *£5,000,000 (five million pounds)* per occurrence; and

22.6.3 professional indemnity insurance of not less than *£2,000,000 (two million pounds)* per occurrence or series of occurrences arising from the same event. Such insurance shall cover liability for fraud by the Provider and/or any of its employees and cover for liability for the criminal acts of the employees of the Provider.

22.6.4 For Solicitor organisations current professional indemnity must exist in accordance with s37 of the Solicitors Act 1974 and must comply with solicitors' indemnity insurance rules.

22.6.5 Non-solicitor organisations must comply with any minimum terms and conditions set by their representative body and must provide a certificate of indemnity insurance showing continuous cover since the Service Commencement date of up to £1,000,000 (one million pounds) for each claim or series of claims.

23. **WAIVER**

23.1 No failure by the LSC to exercise any power (or to insist upon strict compliance by the Provider with any obligation or condition) shall constitute a waiver of any of its rights under this Agreement.

23.2 No waiver by the LSC of any particular default by the Provider will affect or impair the LSC's rights in respect of any other default (of any kind) by the Provider.

23.3 No delay or omission by the LSC to exercise any rights arising from any particular default will affect or impair the LSC's rights in respect of such default or any other default (of any kind).

24. **FORCE MAJEURE**

24.1 Neither of the parties to this Agreement are responsible to the other for any delay in performance, or for any non-performance, of its obligations and duties under this Agreement due to Force Majeure.

24.2 If any Force Majeure occurs the affected party must immediately:

24.2.1 inform the other party in writing of such cause and of what obligation or duty it has delayed or prevented being performed; and

24.2.2 take all action within its power to comply with the terms of this Agreement as fully and promptly as possible

and, unless the affected party takes such steps, this **clause 24** shall not have the effect of absolving that party from its obligations under this Agreement.

24.3 Without prejudice to the other provisions of this **clause 24**, the LSC shall not be obliged to pay any sum due under this Agreement to the extent that the Provider is not able to deliver the Services.

24.4 If the Force Majeure does not appear to be of a temporary nature, either party may give the other notice of termination of this Agreement within such period as is reasonable in the circumstances (which shall be no shorter than one month).

24.5 Any notice given under **clause 24.4** shall not take effect if the party that was prevented from complying with this Agreement (or complying with it in a timely manner) is unable, to the other party's satisfaction, to comply with its obligations and duties under this Agreement within the period of notice specified in accordance with **clause 24.4**.

25. **ASSIGNABILITY AND SUB-CONTRACTING**

25.1 The Provider may not assign, delegate, transfer, sub-contract or otherwise dispose of any rights or responsibilities under this Agreement without the LSC's prior written consent.

26. **TERMINATION**

26.1 The LSC may by a minimum of thirty (30) days' prior written notice terminate part or all of this Agreement if the Provider

26.1.1 is in material breach of this Agreement and the breach is not capable of remedy; or

26.1.2 commits a persistent breach of its obligations under this Agreement; or

26.1.3 is in material breach of this Agreement which is capable of remedy but which it fails to remedy within 30 days after service of a written notice from the LSC specifying the breach and requiring it to be remedied, save for any failure to provide the LSC with the required access or information as specified in **clause 11** (Audit), whereupon the LSC reserves the right to terminate this Agreement within a timescale decided at its discretion; or

26.1.4 ceases to trade; or

26.1.5 the LSC is entitled to exercise its rights of termination under other provisions of this Agreement.

26.2 In addition to the termination rights above, either the LSC or the Provider (the "**Terminating Party**") may by written notice served on the other party (the "**Defaulting Party**") terminate this Agreement immediately if:

26.2.1 the Defaulting Party summons a meeting of its creditors, makes a proposal for a voluntary arrangement, becomes subject to any voluntary arrangement, is unable to pay its debts within the meaning of section 123 Insolvency Act 1986, has a receiver, manager, administrator or administrative receiver appointed over any of its assets, undertakings or income, has passed a resolution for its winding up (save for the purpose of a voluntary reconstruction or amalgamation without insolvency), is subject to a bona fide petition presented to any Court for its winding up (save for the purpose of a voluntary reconstruction or amalgamation without insolvency), is subject to a bona fide petition presented to any Court for its administration, has a provisional liquidator appointed, has a proposal made for a scheme or arrangement under section 425 Companies Act 1985 or is the subject of a bona fide notice to strike off the register at Companies House or is subject to an administration order; or

26.2.2 the Defaulting Party has any distraint, execution or other process levied or enforced on any of its property that materially adversely affects the Defaulting Party's ability to carry on its business and

perform obligations under this Agreement, which is not contested or paid out within 20 Business Days of being levied or enforced.

27. **EFFECT OF TERMINATION**

- 27.1 The termination or expiry of this Agreement or any part of the Agreement, howsoever arising, is without prejudice to the rights and remedies of either party accrued prior to termination or expiry.
- 27.2 Notwithstanding the service of notice to terminate this Agreement, the Provider will continue to provide the Services in accordance with the terms of this Agreement until the date of termination of this Agreement.
- 27.3 The Provider will ensure that on termination all enquiries received from Eligible Organisations are either responded to or transferred to another Specialist Support Services Provider.

28. **DISPUTE RESOLUTION**

- 28.1 If a dispute arises between the parties in relation to or arising from this Agreement, each party will continue to perform its respective obligations under this Agreement irrespective of the dispute. If the parties cannot reach agreement, the unresolved matter will be escalated in accordance with this **clause 28**.
- 28.2 Each party will endeavour to resolve disputes at the lowest level through discussion between the Relationship Manager.
- 28.3 The Relationship Manager will collate information on problems/disputes that arise and keep these for reference, eg at performance reviews.
- 28.4 In the event that such resolution is not possible within 20 Business Days (or longer as agreed), the parties will attempt to agree a mechanism for reaching a solution. This may involve the commissioning of an independent expert report from, for example, an accountant or auditor. In these circumstances, each party agrees to be bound by the report's recommendations.
- 28.5 If a mechanism for reaching a solution cannot be agreed within 20 Business Days (or longer as agreed), the parties may agree to refer a dispute to mediation. Unless otherwise agreed, the mediation will be conducted in accordance with the CEDR Model Mediation Procedure, and the mediator will be nominated by CEDR.
- 28.6 To initiate the mediation either party must give notice in writing (a "**Mediation Notice**") to the other party requesting a mediation. The Mediation Notice must be given within 14 days of agreement to mediation and a copy should be sent to CEDR.

28.7 The mediation will take place not later than 28 days after the date of the Mediation Notice.

28.8 If the dispute is not one that can be resolved by mediation, or if either party do not agree to attempt to resolve it by mediation, either party may, as a last resort, refer a dispute to the courts to resolve.

29. **THIRD PARTY RIGHTS**

This Agreement does not create any right that is enforceable by any person who is not a party to it under the Contracts (Rights of Third Parties) Act 1999.

30. **NO PARTNERSHIP**

30.1 Nothing in this Agreement and no action taken by either party pursuant to this Agreement, will be deemed to constitute a relationship between the parties of partnership, joint venture, principal and agent or employer and employee. The Provider acknowledges that it is an independent provider of the Services. The Provider is not the employee, agent or partner (in law) of the LSC and must neither act as such nor so as to give such an impression.

31. **LAW**

31.1 The formation, existence, construction, performance, validity and all aspects whatsoever of this Agreement will be governed exclusively by English law.

32. **SEVERABILITY**

If any clause or part of this Agreement is found by any competent authority to be invalid, illegal or unenforceable in whole or in part, that will not affect any of the other provisions of this Agreement which will remain in full force and effect.

AS WITNESS the hands of the duly authorised representatives of the parties on the date stated at the beginning of this Agreement.

SIGNED by NAME)
duly authorised to sign for and on behalf of)
LEGAL SERVICES COMMISSION)
in the presence of:)

Witness signature:

Name:

Address:

Occupation:

SIGNED by NAME)
duly authorised to sign for and on behalf of)
[PROVIDER])
in the presence of:)

Witness signature:

Name:

Address:

Occupation:

SCHEDULE 1

Key Information Table

Eligible Organisation Location:	[<i>England</i>] [<i>Wales</i>] [<i>England and Wales</i>]
Permitted Categories:	[<i>INSERT CATEGORIES</i>]
Allocated Stand-By Hours:	10 hours per week between the hours of [<i>10.00 am to 12.00 pm Monday to Friday</i>]
Stand-By Payment	[<i>£30 per hour</i>]
[Maximum Stand-by Payment]	[<i>DETAILS</i>]
Specialist Support Advice Hours Payment	[<i>£70 per hour</i>]
Maximum Specialist Support Advice Limit:	[<i>DETAILS</i>]
Quarterly Report Payment	[<i>£70 per hour, up to a maximum of £500</i>] [<i>Free of charge</i>]
Provider's Relationship Manager:	Name Contact: Email: Postal Telephone:
LSC's Relationship Manager:	Name Contact: Email: Postal Telephone:
Designated Telephone Number(s):	[<i>0845</i>]

SCHEDULE 2

Services

Specialist Support Advice Work

1. The Provider must:
 - 1.1 be available to provide the Specialist Support Service during the Allocated Stand-By Hours; The telephone line must be staffed either by an Approved Adviser or an appropriately trained telephone operator, who will pass on call details to any Approved Adviser.
 - 1.2 provide the Specialist Support Service using the telephone number(s) set out as the "Designated Telephone Number(s)" in **Schedule 1**. Eligible Organisations can contact you to discuss any case they are dealing with or ask about case law developments.
 - 1.3 during the Allocated Hours, use the Designated Telephone Number(s) for the provision of the Specialist Support Service only and not for any other purpose;
 - 1.4 ensure that all communications received from Eligible Organisations are responded to within one working day. Where possible the response should be substantive (ie answering the query in full). Where this is not possible due to the complexity of the issues raised, the 24 hour response should at least agree a timetable for action with the Eligible Organisation.
 - 1.5 in any event any request for Specialist Support Advice must be provided within five (5) Business Days from the date of receipt by the Provider.
 - 1.6 give advice only in relation to the Permitted Categories.
 - 1.7 complete a Specialist Support Advice Form for each call.
 - 1.8 where requested by the Relationship Manager provide a Quarterly Report in a format specified by the LSC which outlines changes in the relevant areas of law and issues identified as a consequence of queries raised by Eligible Organisations. The LSC reserves all rights to publish such reports at our discretion. The LSC retains all IPR created in the reports and maintains full editorial control.

SCHEDULE 3

Reporting Obligations

1. By the 10th of every Month following the Contract Start Date, the Provider must send to the LSC [*by email*] a Work Report, in the format as specified by the LSC from time to time.
2. The Provider must record as a minimum, the following information in the Work Reports:
 - 2.1 name of the Advisor;
 - 2.2 name of the caller from the Eligible Organisation;
 - 2.3 Eligible Organisation;
 - 2.4 date and time of receipt of the contact call;
 - 2.5 full details of the query from the caller;
 - 2.6 date and time of first contact by the Advisor with the caller;
 - 2.7 date and time the advice was given;
 - 2.8 full details of the Specialist Support Advice given;
 - 2.9 if contact could not be made, details of the steps taken to make contact;
 - 2.10 time taken to provide the Specialist Support Advice - in hours and minutes;
 - 2.11 any issues of concern regarding the Eligible Organisation.
3. The reports must be true, accurate and reasonable.
4. Receipt of the monthly Work Report triggers payment under **clause 13**. If a Work Report is not received by the due date in any Month, the LSC is entitled to delay payment.
5. The LSC is entitled to assess all Work Reports.
6. The LSC may amend the format and content of the Work Report at any time by giving at least 28 days notice to the Provider.

SCHEDULE 4

List of Approved Advisors

SCHEDULE 5

Contract Amendment Notice

Contract Amendment Notice Number:	
Date of Contract Amendment Notice:	
Effective date (date amendment comes into effect):	
Details of amendments to the Contract: (Minor changes will be listed in this box. If the amendment involves substantial changes to the text of the Contract, the relevant pages, showing the changes in "tracked changes" will be attached to this Notice; any new annex will be attached to this Notice, stating which annex it replaces)	
Signed:	 On behalf of the LSC On behalf of the Provider