

DATED

OPTIVO

and

xxx

AUTHORISING AGREEMENT

Relating to a framework agreement for the provision
of Consultancy Services



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THIS AGREEMENT is made the 1st April 2021

BETWEEN:

- (1) **OPTIVO** (FCA Registration Number 7561) of Grosvenor House, 125 High Street, Croydon CR0 9XP in its capacity as representative of and agent for the SEC Members (the “**Client**”);
- (2) X (the “**Authorised Entity**”)

WHEREAS:

- (1) This Agreement is made pursuant to a framework agreement for the provision of Consultancy Services dated 8th February 2021 between (1) the Client and (2) the parties named therein as the Service Providers (the “**Framework Agreement**”).
- (2) The Client wishes to grant the Authorised Entity the right to enter into Call Off Contracts with Service Providers under the Framework Agreement.
- (3) The Authorised Entity is a guest member of SEC.

IT IS AGREED:

1 Definitions

- 1.1 Where the Framework Agreement assigns a meaning to any word or expression which is used in this Agreement, the same meaning shall, unless the context otherwise requires or unless defined hereunder, be given to it in this Agreement.
- 1.2 In this Agreement unless the context otherwise requires the following terms shall have the meanings given to them below:

Agreement Period means the period commencing on the date of this Agreement and ending at the end of the Framework Term or on the Revocation Date, whichever is the earlier;

Revocation Date means the date on which the Authorised Entity receives written notice from the Client under Clause 4.2 of this Agreement that the Authorised Entity’s right to enter into Call Off Contracts pursuant to the Framework Agreement has been revoked by the Client;

SEC Consortium Agreement means the consortium agreement between the SEC Members dated 17 August 2017, as the same may be varied from time to time;

- 1.3 In this Agreement, unless the context otherwise requires:
 - 1.3.1 the headings are included for convenience only and shall not affect the interpretation of this Agreement;
 - 1.3.2 the singular includes the plural and vice versa;
 - 1.3.3 a gender includes any other gender;

1.3.4 a reference to a person¹ includes any individual, firm, partnership, company and any other body corporate;

1.3.5 a reference to a statute, statutory instrument or other subordinate legislation (“**Legislation**”) is to such legislation as amended and in force from time to time, including any legislation which re-enacts or consolidates it, with or without modification; and

1.3.6 a reference to specific standards, codes of practice, guideline, rules and/or schemes shall be construed as including all amendments, modifications, supplements, re-drafts and/or substitutes thereto.

2 Right to Enter into Call Off Contracts

In consideration of the covenants made by the Authorised Entity under this Agreement, the Client grants to the Authorised Entity for the duration of the Agreement Period the right under the Framework Agreement to enter into Call Off Contracts with Service Providers.

3 Compliance with Obligations

3.1 The Authorised Entity covenants with the Client that the Authorised Entity will duly discharge, perform and observe all the liabilities, obligations and stipulations of the Authorised Entity under any Call Off Contracts it enters into pursuant to the Framework Agreement and will keep the Client duly and effectually indemnified against all actions, proceedings, claims, demands, costs, damages, penalties and expenses whatsoever under or in respect of any such Call Off Contracts.

3.2 The Authorised Entity covenants with the Client that the Authorised Entity shall comply with all obligations in the Framework Agreement that are expressed to be obligations of an Authorised Entity.

3.3 The Authorised Entity acknowledges and agrees that, to the fullest extent permitted by law:

3.3.1 the Client shall have no liability to the Authorised Entity (whether in contract, tort or otherwise) for any matter arising out of or in connection with the carrying out of a Mini-Competition by the Client on the Authorised Entity’s behalf; and

3.3.2 the Client shall not be liable for or be required to indemnify the Authorised Entity against any expenses, liability, losses or costs incurred by the Authorised Entity which arise out of or in connection with the carrying out of a Mini-Competition by the Client on the Authorised Entity’s behalf, whether under contract, tort or on any other legal basis.

3.4 The Authorised Entity covenants with the Client that the Authorised Entity shall comply with the following provisions of the SEC Consortium Agreement as though it were a “Member” for the purposes of the SEC Consortium Agreement:

3.4.1 clause 2.3 (Scope and Objectives of Consortium);

3.4.2 clause 3.1 (excluding 3.1.3), 3.2, 3.3 and 3.5 (General Duties of Members); and

3.4.3 clause 10 (Confidentiality)

4 Revocation

4.1 Without prejudice to the Client’s other rights against the Authorised Entity under this Agreement or under common law, the Client may revoke the Authorised Entity’s right to enter into Call Off Contracts pursuant to the Framework Agreement if:

4.1.1 the Authorised Entity commits a material breach of the provisions of this Agreement; and/or

4.1.2 the Authorised Entity commits a material breach of the provisions of the Framework Agreement; and/or

4.1.3 the Authorised Entity commits a breach of Clause 3.4 of this Agreement

4.2 If the Client wishes to exercise its right under Clause 4.1, it must serve a written notice on the Authorised Entity stating that the Authorised Entity’s right to enter into Call Off Contracts pursuant to the Framework Agreement has been revoked.

4.3 Following the Revocation Date, the Authorised Entity shall not be entitled to enter into any new Call Off Contracts pursuant to the Framework Agreement.

4.4 In no event shall revocation referred to in Clause 4.1 be deemed to affect or amend in any way any Call Off Contracts entered into prior to the Revocation Date.

5 SEC Fees

5.1 The Authorised Entity acknowledges the provisions of Clause 27 of the Framework Agreement. In particular, the Authorised Entity acknowledges and agrees that pursuant to Clause 27 of the Framework Agreement the Client is entitled to receive from Service Providers the SEC Fees payable in respect of Call Off Contracts awarded to the Service Providers under the Framework Agreement, and may collect these fees out of monies received by the Service Providers from the Authorised Entity under Call Off Contracts.

6 Provision of Information

6.1 Within three (3) Working Days of awarding any Call Off Contract to a Service Provider under the Framework Agreement the Authorised Entity shall provide the Client with confirmation of the projected total value of such Call Off Contract and the projected monthly value of such Call Off Contract (in both cases excluding VAT), together with such other information as the Client may reasonably require in connection with such Call Off Contract. For the avoidance of doubt, the projected monthly value for this purpose shall be an amount equal to the total projected value divided by the number of months that the Call Off Contract is due to last for, disregarding the effect of any proposed retention;

- 6.2 The Authorised Entity shall, within three (3) days of any request from the Client, provide the Client with copies of all invoices the Authorised Entity has received from Service Providers pursuant to the terms of Call Off Contracts, together with such other information as the Client may reasonably require in connection with such Call Off Contracts.
- 6.3 For the avoidance of doubt (and without limitation to any other provision of this Agreement), a breach of any provision of this Clause 6 by the Authorised Entity shall constitute a material breach of the provisions of this Agreement for the purposes of Clause 4.1.1.

7 Call Off Contract Annual Reviews

- 7.1 The Authorised Entity acknowledges the provisions of Clauses 7.1 to 7.12 of the Framework Agreement.
- 7.2 The Authorised Entity shall participate in any Call Off Contract Annual Review held pursuant to Clause 7.1 of the Framework Agreement that relates to a Call Off Contract awarded by the Authorised Entity under the Framework Agreement.
- 7.3 The Authorised Entity shall monitor the Service Provider's compliance with any Action Plan issued by the Service Provider to the Client and the Authorised Entity under Clause 7.7 of the Framework Agreement, and shall provide the Client and the Service Provider with a report in relation to the same within three (3) months of the date of the relevant Call Off Contract Annual Review.
- 7.4 The Authorised Entity shall provide the Client with such information and assistance as the Client may reasonably require to enable it to carry out Call Off Contract Annual Reviews under the Framework Agreement.

8 Assignment and Novation

- 8.1 The Client may, at any time, assign, novate, charge or transfer its interest in this Agreement and/or any rights arising under it to any party without the consent of the Authorised Entity being required. The Authorised Entity shall enter into all necessary documentation to give effect to such assignment, novation, charge or transfer.
- 8.2 The Authorised Entity shall not assign, novate, charge or transfer its interest in this Agreement and/or any rights arising under it to any party without the prior written consent of the Client.

9 No Agency, Partnership or Joint Venture

Nothing contained in this Agreement shall be construed as creating an agency, partnership or joint venture relationship between the parties.

10 General

- 10.1 This Agreement is supplemental to the Framework Agreement and the provisions thereof shall apply hereto insofar as they are necessary to give effect to this Agreement.
- 10.2 This Agreement shall be governed by and construed in accordance with the laws of England and Wales.

IN WITNESS whereof the parties have entered into this Agreement on the date set out at the head of this Agreement.

Executed by **OPTIVO**)

acting by:)

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Authorised Signatory

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Authorised Signatory

Executed by xxx)

acting by:)

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Authorised Signatory

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Authorised Signatory