



An Coimisiún
um Rialáil Fónas
**Commission for
Regulation of Utilities**

**Invitation to Tender (ITT) dated 15th September
2021**

for the Provision of

**Economic Consultancy Support for a new Irish
Water Trade Effluent Charging Policy**

CRU File Ref: 011-03-459

Tender procedure: Open procedure

Tender Deadline 12.00 noon 13th October 2021

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Invitation to Tender

The Commission for Regulation of Utilities (“**CRU**”) invites you to submit a tender for the provision of Economic Consultancy Support for a new Irish Water Trade Effluent Charging Policy as more particularly described below (the “**Procurement**”).

Title:	Provision of Economic Consultancy Support for a New Irish Water Trade Effluent Charging Policy
Published by:	CRU
Publication date:	15th September 2021
Deadline for queries:	1 st October 2021
Deadline for response to queries:	6 th October 2021
Tender deadline:	13th October 2021 – 12:00pm GMT
Notice Type:	Invitation to Tender

Term of the contract: Any Services Contract that may result from this Competition will be issued for a term of 18 months (the “**Term**”). The Contracting Authority will have the right under any Services Contract to extend the Term for a period or periods of up to a total of 12 months on the same terms and conditions, subject to the Contracting Authority’s obligations at law.

Estimated value of the contract:

The Contracting Authority estimates that the expenditure on the Services to be covered by the proposed Services Contract for the Term (including any potential extension of the Term) is a total of approximately €201,874 excl. VAT. Tenderers must understand that this figure is an estimate only based on current and future expected usage.

Statement of requirements: The scope and requirements for the contract are set out in Appendix 1.

The successful Tenderer will be fully responsible for all aspects of its Tender, including compliance with laws, health, and safety and otherwise.

Tender Submission Requirements

Please submit a Tender in the **Tender Response Document Format** outlined at Appendix 1 to this Invitation to Tender (ITT) and send your Tender within the timeframe stated below.

Tenders must be submitted via the electronic post-box available on www.etenders.gov.ie. Only Tenders submitted to the electronic post-box will be accepted. Tenders submitted by any other means (including but not limited to by email, fax, post or hand delivery) will NOT be accepted.

Tenderers must ensure that they give themselves sufficient time to upload and submit all required tender documentation before the Tender Deadline. Tenderers should take into account the fact that upload speeds vary. There is a maximum of 4GB for the total (combined) documents sent to the electronic post-box. In order to submit a document to the electronic post-box, please note that you must click "Submit Response". After submitting you can still modify and re-send your response up until response deadline. Tenderers should be aware that the 'Submit Response' button will be disabled automatically upon the expiration of the response deadline.

All Tenders submitted in soft copy must be compiled such that they can be read immediately using PDF or Microsoft Word. The CRU is not responsible for corruption in electronic documents. Tenderers must ensure electronic documents are not corrupt.

Tenders must be received not later than 12:00pm GMT on 13th October 2021 (the "Tender Deadline"). Tenders that are received late WILL NOT be considered in this Competition.

The Tenders received in response to this invitation will be graded based on the criteria outlined in Appendix 2 to this ITT.

The contract will be on the terms and conditions set out in Appendix 4.

All queries relating to any aspect of this Competition or of this ITT must be directed to the messaging facility on www.etenders.gov.ie. Queries will be accepted no later than 5:00pm GMT on 1st October 2021 unless otherwise published by the CRU. For the avoidance of doubt, Tenderers may not contact the Contracting Authority directly regarding any aspect of this Competition.

This Procurement is subject to the Procurement Conditions outlined at Appendix 3 to this ITT.

Appendix 1: Statement of Requirements

1. The statement of requirements in respect of the contract is as follows:

1.1 Overview

The Commission for Regulation of Utilities (“CRU”) is Ireland’s independent energy and water regulator. The CRU’s mission is to protect the public interest in Water, Energy and Energy Safety. The CRU is guided by four strategic priorities that sit alongside the core activities we undertake to deliver on the public interest. These are:

- Deliver sustainable low-carbon solutions with well-regulated markets and networks
- Ensure compliance and accountability through best regulatory practice
- Develop effective communications to support customers and the regulatory process
- Foster and maintain a high-performance culture and organisation to achieve our vision

Further information on the CRU’s role and relevant legislation can be found on the CRU’s website at www.cru.ie. The CRU privacy notice is available at <https://www.cru.ie>

The CRU requires external economic consultants to provide support and advice regarding the development of a new Irish Water Trade Effluent Charging Policy.

The Trade Effluent (‘TE’) Charging Policy project is a high-level priority of the CRU’s Work Plan and Priorities for 2021 which supports achievement of the CRU’s mission to “Protect the public interest in Water, Energy and Energy Safety”. The Work Plan states that a key priority is “Continued harmonisation of Irish Water charging structures” of which the key performance indicator is a “Consultation and decision on Trade Effluent Charges.”.

The project aligns with the following objective and outcome of the CRU’s Strategic Plan 2019-2021:

Objective: Provide effective regulation of Irish Water to deliver secure, efficient, and sustainable outcomes in the public interest.

Outcome: Transparent, fair, and equitable charges are implemented for connections, excessive usage, and non-domestic services.

The project will seek to introduce a harmonised suite of TE charging arrangements, and TE charges, for non-domestic customers of Irish Water who are licensed to discharge TE into Irish Water’s wastewater network. A more harmonised approach will benefit Irish Water’s TE connections in terms of transparency, simplicity, and equity.

This is necessary as:

- at present there is a wide range of separate TE charging arrangements in place across the country. These vary in level, structure, and application;
- current TE charging regime is unlikely to meet the Polluters Pay Principle; requirements set out within the EU Water Framework Directive;
- many of the existing TE charging arrangements have weak incentives to reduce the level of pollutants and volume of TE discharged into the wastewater network;
- current TE charges are unlikely to be cost reflective (at least not on a national basis); and
- many of the existing TE charging arrangements are non-transparent, not simple, and potentially inequitable.

1.2 Background & Context

In July 2019, the CRU published its decision on Irish Water's Non-Domestic Tariff Framework which will apply to Irish Water's non-domestic customers¹. This Framework will introduce a harmonised suite of tariffs for non-domestic water and wastewater customers on 1st October 2021.

Developing enduring TE charging proposals was originally within the scope of the Non-Domestic Tariff Framework. However, Irish Water informed the CRU that it did not have sufficient data on TE discharges to propose an enduring charging policy at that time. Therefore, the CRU decided that Irish Water maintain the existing Local Authority TE charging arrangements for an interim period as Irish Water had insufficient cost evidence at the time to propose an enduring policy for charging TE discharges.

Irish Water still does not have sufficient data to generate enduring TE charging proposals. However, the CRU is of the view that it would not be beneficial to wait for greater cost and discharge data to be available to Irish Water as this may take a number of years for Irish Water to gather. The CRU therefore is considering a number of options to develop interim TE charging arrangements that could be implemented in the near term, that is, until Irish Water has greater cost and discharge data (and the enduring arrangements can be implemented).

Data Constraints

Irish Water has limited data to assess the cost of collecting, treating, and disposing of TE across its wastewater assets. It also has limited data on the strength of pollutants and volumes of TE discharged into its wastewater network by its approximately 7,000 connections licensed to discharge TE into its wastewater network.

High-Level Approach

The high-level approach to the project is as follows:

- 1) Consult on the future (enduring) and interim TE arrangements:
 - **The Future Vision** – set out Future 'Vision' for enduring TE charging arrangements (where Irish Water has greater cost and discharge TE data)
 - **Data Constraints** – Explain data constraints to achieving the Future 'Vision'.
 - **Interim TE Charging Arrangements** – set out potential methodologies Irish Water could apply to develop interim TE charging arrangements, including specific TE charges, which would apply until Irish Water has greater data (and the Future 'Vision' can be implemented). The interim charging arrangements is envisioned to be a steppingstone (and neatly transition) toward the enduring charging arrangements.
- 2) Decide on interim TE arrangements and specific interim TE charge levels.

The project will involve the following:

1. Decisions² on the conceptual approach to setting TE tariffs on an **enduring basis**, including considerations of, but not exclusive to:

¹ CRU Decision Paper – Irish Water's Non-Domestic Tariff Framework (CRU/19/074) - [CRU19074-CRU-Decision-Paper-Irish-Waters-Non-Domestic-Tariff-Framework-1.pdf](#)

² Please note that there may be insufficient cost and TE discharge data to issue a decision on the future enduring TE charging arrangements. Therefore, the CRU may issue a 'minded-to view' instead of a decision on the enduring TE charging arrangements. It is expected that the 'minded-to view' would cover the broad features of the enduring trade effluent charging arrangements (such as a TE tariff structure, customer segmentation, geographic basis of charging etc.).

- Tariff class categorisation (for example, by high, medium, and low polluting connections, by volume, by risk score (using Irish Water’s TERA³ model), by business sector, etc.)
 - Tariff structures for different TE tariff class categories (e.g., Mogden Formula or other charging structure for high, medium, and low polluting connections)
 - Geographic basis of charging (for example, national tariffs, regional or wastewater treatment plant specific tariffs)
 - Cost of transporting, treating, and disposing of TE and how you allocate these costs across different types of TE connections.
2. Decisions on the conceptual approach to setting TE tariffs on an **interim basis given data constraints**, including considerations of, but not exclusive to:
- Tariff class categorisation (for example, by high, medium, and low polluting connections, by volume, by risk score (using Irish Water’s TERA model), by business sector, etc.)
 - Tariff structures for different TE tariff class categories (e.g., Mogden Formula or other charging structure for high, medium, and low polluting connections),
 - Geographic basis of charging (e.g., national tariffs, regional or wastewater treatment plant specific tariffs)
 - Cost of transporting, treating, and disposing of TE and how you allocate these costs across different types of TE producers
 - Transition of TE connections from existing charging arrangements to the interim TE charging arrangements to the enduring TE charging arrangements.
 - Relationship between the new TE charging policy and the new Non-Domestic Tariff Framework
3. Assessment of how well the enduring and interim TE charging arrangements meet the tariff principles, including the impact of the interim TE charging arrangement proposals on TE connections’ bills and Irish Water’s revenue recovery.

The development of the new Irish Water TE Charging Policy will cover two phases, and these are outlined below:

- **Phase 1:** Consultation
- **Phase 2⁴:** Decision

The key deliverables of the project, with their planned delivery dates are outlined for each phase below:

- **Phase 1:**
 - Consultation Paper on enduring TE charging arrangements for the future and Interim TE charging arrangement options (with interim TE charge levels) (Q1 2022)

³ The CRU understands that a TERA (TE Risk Assessment) is an industry standard risk assessment of individual TE discharges based on receiving wastewater treatment plant, connection compliance, and effluent volume and strength based discharge metrics. Irish Water has advised the CRU that it has developed its own TERA model.

⁴ There may be a need to issue a Proposed Decision paper on the new TE charging policy within this phase, if the scale of changes to the charging arrangements (structure and/or charge levels) are significant. This will be decided as the project progresses. Please see the deliverables section below for further detail.

- **Phase 2⁵:**
 - Decision paper on interim TE Charging Policy - A decision on the interim TE charging arrangements and interim TE charge levels, and a decision⁶ on the enduring TE charging arrangements for the future (Q3/Q4 2022)
 - Response to comments paper⁷ (Q3/Q4 2022)

The consultation phase of the project will involve stakeholder engagement with the CRU's Non-Domestic Water User Group (comprises of organisations and representative bodies which have engaged with the CRU on non-domestic water policy/issues) and TE customers and other interested parties.

The CRU's objective in publishing this Invitation to Tender is to tender for economic consultants to provide support and advice over the course of the TE Charging Policy project. The aim is to engage consultants that have knowledge of trade effluent charging policy.

1.3 Statement of Requirements

The CRU requires expert economic support and advice regarding, *inter alia*:

- Various TE tariff design and charging arrangements considerations such as, *inter alia*: TE tariff class categories; tariff structural components; cost allocation; and geographic basis of charging.
- Detailed Knowledge of TE tariffing principles, charging arrangements, tariff structures, customer segmentation, transitional arrangements, and tariff rates in place in other relevant jurisdictions.
- Knowledge of requirements outlined with Irish and European legislation and Irish national legislation with regards to charging for TE discharges.
- Evaluate the impact of proposed charging options on customer bills for different types of TE and wastewater customers.
- Advice on the tariff principles that will guide the development of new TE Charging Policy.
- Knowledge of the costs of transporting, treating, and disposing of TE and how to allocate the costs across customers.
- Evaluate the tariffing and bill impact model(s) that are used to support the policy development to ensure they are fit for purpose.
- Advice on the interaction of the new TE Charging policy and Irish Water's 'Water In ≠ Water Out' process⁸

⁵ There may be a need to issue a Proposed Decision paper on the new TE charging policy within this phase, if the scale of changes to the charging arrangements (for example, tariff structures and/or charge levels) are significant. This will be decided as the project progresses. Please see the section 1.4 Deliverables below for further detail.

⁶ Please note that there may be insufficient cost and TE discharge data to issue a decision on the future enduring TE charging arrangements. Therefore, the CRU may issue a 'minded-to view' instead of a decision on the enduring TE charging arrangements. It is expected that the 'minded-to view' would cover the broad features of the enduring trade effluent charging arrangements (such a TE tariff structure, customer segmentation, geographic basis of charging etc.).

⁷ Response to comments paper may form part of the decision paper.

⁸ Under Section 22.9 of the Water Services (No.2) Act 2013, there is a provision that states, "For the purpose of calculating a charge under section 21, the amount of waste water discharged from a premises is deemed to be equal to the amount of water supplied to that premises, unless Irish Water and the customer agree otherwise".

There may be non-domestic customers who are of the view that the assumption that the volume of water supplied to a property is equal to the volume of wastewater discharged from the property is not appropriate.

- How best to transition customers from their existing tariff structure to the interim TE charging arrangements and then to the enduring TE charging arrangements. This will include advice on how to ensure a smooth transition for customers in terms of charging structure changes as well as minimising impact of large bill increases for TE connections.
- Advice on how to avoid the creation of perverse incentives, boundary impacts across TE tariff classes, and also between the TE tariff classes and the non-domestic tariff classes.
- Knowledge of, and advice on, the relationship between the new TE charging policy and the Non-Domestic Tariff Framework⁹
- How to engage most effectively with a broad range of stakeholders throughout the project, including the utility Irish Water.

The CRU requires consultants to review and provide advice and assistance in the drafting of CRU project papers issued throughout the project in relation to content, structure and drafting in order to prepare documents for publication. In addition, the consultants may be required to draft bespoke reports on certain topics, for example, an international review of TE charging arrangements in place elsewhere.

The CRU also requires consultants to review, and provide advice on, the economic models used over the course of the project. The project will involve modelling of TE tariffs and customer bill impacts that are necessary to support the policy development. The models may be submitted by Irish Water or generated by the CRU, or a combination of both. The CRU requires the consultants to review the modelling to ensure they are fit for purpose for the project, and also evaluate the modelling outputs and provide advice on the policy development.

The broad scope of requirements for this project is as follows:

1. Review and provide advice on TE policy proposals and supporting tariffing models throughout the project. These policy proposals and supporting tariffing models may be submitted by Irish Water or generated by the CRU, or a combination of both. TE policy proposals include, but are not restricted to:
 - Enduring TE charging arrangements for the future: (including, but not restricted to, tariff structures, tariff components, national versus regional TE tariffs, and customer segmentation).
 - Interim TE charging arrangements: (including, but not restricted to, tariff structures, tariff components, national versus regional TE tariffs, customer segmentation and any necessary transitional arrangements).

The successful Tenderer will be required to attend meetings with Irish Water and to review information provided by Irish Water and to provide assistance with any clarification questions submitted by the CRU to Irish Water throughout the Project.

2. Review, and provide direction on, the modelling to support the project to ensure they are fit for purpose. The project will involve modelling of TE tariffs, and customer bill impacts that are necessary to support the policy development. The models may be submitted by Irish Water or generated by the CRU, or a combination of both.
3. Review and advise on TE tariffing principles, charging arrangements, tariff structures, customer segmentation, transitional arrangements, and tariff rates in place in other

The CRU has asked Irish Water to establish a standardised process for customers making applications under Section 22(9) of the Water Services (No.2) Act 2013. The CRU has no explicit legislative role in approving applications made under Section 22(9). The CRU understands that Irish Water is currently developing this process and has yet to implement it.

⁹ CRU Decision Paper – Irish Water’s Non-Domestic Tariff Framework (CRU/19/074) - [CRU19074-CRU-Decision-Paper-Irish-Waters-Non-Domestic-Tariff-Framework-1.pdf](#)

relevant jurisdictions. This advice may form part of a CRU paper (as appropriate) or requested on an ad-hoc basis as required.

4. To review different options for the interim TE charging arrangements and evaluate how they meet the tariff principles of the project.
5. To review and advise on the customer bill impact analysis of different interim TE tariff charging arrangement options throughout the project.
6. To evaluate and advise the potential impacts of any proposed TE tariff structure on Irish Water's revenue recovery.
7. Provide advice and assistance in the drafting of CRU project papers issued throughout the project. This will involve some assistance in drafting the body of the paper and the drafting of certain annexes, etc.
8. To provide practical solutions to issues that arise over the course of the project. While it is expected that Tenderers should have considerable knowledge of theoretical issues involved in developing TE charging arrangements, Tenderers should note that the CRU expects the emphasis in this project to be on the practical side. As such, the successful Tenderer must consider the plausibility and practical merit of their recommendations and investigations.
9. Aid in responding to comments/responses received during the consultation process.
10. To assist the CRU in stakeholder engagement and management, for example by attending industry workshops, presenting on issues, and fielding questions.
11. To work closely with the CRU in order to develop the skill set and knowledge base of the CRU staff working on the project. The transfer of knowledge is a key requirement for this consultancy support.

1.4 Deliverables

Fixed Fee Deliverables

The successful Tenderer must assist the CRU Team to produce the project deliverables. The following planned key deliverables are expected from the successful Tenderer:

1. **Deliverable 1: CRU consultation paper on the new Irish Water TE Charging Policy – Proposed Approach to Developing New Charging Arrangements:**
 - a. Review and provide advice on both interim and enduring TE charging policy proposals. The TE policy proposals include, but are not restricted to, proposals on national versus regional tariffs, customer segmentation, tariff structure as well as any necessary transitional arrangements. The successful party will need to review policy proposals that are submitted by Irish Water as well as proposals that are generated by the CRU. The successful party will also need to attend meetings and review information provided by Irish Water. This will also include providing assistance with any clarification questions.
 - b. Review and provide direction to the modelling of TE tariffs, and customer bill impacts that are necessary to support the policy development to ensure the models are fit for purpose for the project. The supporting tariffing models may be submitted by Irish Water or generated by the CRU, or a combination of both.
 - c. Review and advise on TE tariffing principles, charging arrangements, transitional measures, tariff structures, customer segmentation, and TE tariff rates in place in other relevant jurisdictions. This advice may form part of a CRU paper (as appropriate) or requested on an ad-hoc basis as required.

- d. Provide advice and assistance in the drafting of CRU consultation document in phase 1. It is proposed to publish¹⁰ the following consultation:

- A. CRU Consultation Paper.** This paper will cover:

- 1. Enduring TE charging arrangements for the future
 - 2. Interim TE charging arrangements and specific interim TE charge levels
 - e. Review and advise on the customer bill impact analysis of different interim TE tariff charging options including, but not restricted to, assessment of perverse incentives, boundary impacts across TE classes, and between the TE tariff classes and the non-domestic tariff classes.
 - f. Evaluate the impact of any proposed TE charging arrangements on Irish Water's revenue, interactions with the Non-Domestic Tariff Framework, Irish Water's 'Water-In ≠ Water-Out' process, and other regulatory policies. This advice may form part of a CRU paper (as appropriate) or requested on an ad-hoc basis as required.

2. **Deliverable 2: CRU Decision paper on the new Irish Water TE Charging Policy**

- a. Aid in responding to comments/responses received during the consultation process (and meet with respondents as required).
- b. Attend meetings with stakeholders to discuss their responses, as necessary.
- c. Provide advice and assistance in the drafting of CRU decision and response to comments document(s). It is proposed to publish¹¹ the following decision paper in phase 2:

- A. CRU Decision Paper.** This paper will cover:

- 1. A decision¹² on the enduring TE charging arrangements for the future.
 - 2. A decision on the Interim TE charging arrangements and specific interim TE charge levels.

- B. Response to Comments Paper¹³**

- d. Provide advice and assistance on further modelling that may be required to support the CRU policy decision paper.

3. **Deliverable 3: Ad-hoc Support**

The successful Tenderer may be required to assist the CRU Team to undertake additional ad-hoc analysis/reports and/or produce an additional paper. For example, there may be a need to issue a Proposed Decision paper on the new TE charging policy if the scale of changes to the charging arrangements (for example, tariff structures and/or charge levels) are significant.

¹⁰ The papers listed directly below are for guidance and are subject to change.

¹¹ The papers listed directly below are for guidance and are subject to change.

¹² There may be insufficient cost and discharge data to issue a decision on the enduring TE charging arrangements. Therefore, the CRU may issue a 'minded to view'. The 'minded to view' would cover the broad aspects/features of the enduring trade effluent charging arrangements. If a 'minded to view' is issued, the CRU will consult on the enduring trade effluent charging arrangements when there is sufficient cost and discharge data available.

¹³ Response to comments paper may form part of the decision paper.

Below is an outline of the expected support required should a Proposed Decision Paper be required:

CRU Proposed Decision paper on the new Irish Water TE Charging Policy

- a. Aid in responding to comments/responses received during the consultation process (and meet with respondents as required).
- b. Attend meetings with stakeholders to discuss their responses, as necessary.
- c. Provide advice and assistance in the drafting of CRU Proposed Decision and Response to Comments documents. It is proposed to publish¹⁴ the following decision papers in phase 2:
 - A. CRU Proposed Decision Paper.** This paper will cover:
 - 1. A proposed decision¹⁵ on the enduring TE charging arrangements for the future.
 - 2. A proposed decision on the Interim TE charging arrangements and specific interim TE charge levels.
 - B. Response to Comments Paper¹⁶**
- d. Provide advice and assistance on further modelling that may be required to support the CRU policy proposed decision paper.

In addition to above, there may be additional ad hoc reporting / analysis which may be required separate to the Proposed Decision Paper during the project. It is anticipated that the work described for Deliverable 3 will be capped at 25 days at a daily rate. The CRU will decide if the Ad hoc Support deliverables will be required as the project progresses, with drawdown of services to be agreed with the preferred Tenderer, as the agreed daily rates.

1.5 Reporting and contract management arrangements

The reporting and contract management arrangements will be agreed between the Contracting Authority and the preferred Tenderer at the project kick-off meeting.

Delivery of Services: The CRU envisages the majority of this work being completed remotely, via email correspondence, conference calls and MS Teams. Limited attendance at the CRU's offices may be required (subject to developments regarding Covid-19). To support the successful tenderer in completing this work, they will have direct access to a CRU Water Manager and an Analyst that are working on the TE Charging Arrangements policy.

Estimated Timeframe: It is estimated that this consultancy support will be required from Q4 2021 to Q4 2022. The estimated delivery dates, where applicable, of the key deliverables are outlined below:

	Key Deliverable	Estimated Delivery Date
1	Publish CRU Consultation paper on a new Irish Water Trade Effluent Charging Policy – Proposed Approach to Developing New Charging Arrangements	Q1 2022
2	Publish CRU Decision paper on the new Irish Water Trade Effluent Charging Policy	Q3/Q4 2022

¹⁴ The papers listed directly below are for guidance and are subject to change.

¹⁵ There may be insufficient cost and discharge data to issue a proposed decision on the enduring TE charging arrangements. Therefore, the CRU may issue a 'minded to view'. The 'minded to view' would cover the broad aspects/features of the enduring trade effluent charging arrangements. If a 'minded to view' is issued, the CRU will consult on the enduring trade effluent charging arrangements when there is sufficient cost and discharge data available.

¹⁶ Response to comments paper may form part of the proposed decision paper.

2. The following pass / fail requirements apply in respect of this Procurement:

Tenderers, in the first instance, must declare by way of completion of the Self-Declaration Form (Appendix 5) that they satisfy the pass / fail Selection Criteria set out below:

Tenderers must provide the supporting documentation specified below without delay when requested by the CRU. However, where the Tenderer is unable, for a valid reason, to provide the specified documentation to demonstrate its economic and financial standing, the Tenderer must inform the CRU of the reason as to why the documentation cannot be supplied and, if the CRU considers the reason given to be valid, provide such other suitable alternative documentation which the CRU considers appropriate to prove, to the satisfaction of the Contracting Authority, it satisfies the relevant pass / fail Selection Criterion in respect of its economic and financial standing.

2.1 Economic and Financial Standing Selection Criteria

(a) Good Financial Standing:

Pass / Fail Qualifying Threshold: The Tenderer must demonstrate that all accounts held by the Tenderer are in good standing.

Required Evidence: The Tenderer must, when so requested by the Contracting Authority, provide a letter from the Tenderer's principal bankers confirming that all accounts held by the Tenderer are in good standing.

(b) Turnover:

Pass / Fail Qualifying Threshold: The Tenderer must demonstrate that:

(i) the average annual turnover of the Tenderer for its last three (3) financial years equals or exceeds €250,000 (excl. VAT); or, if the date of establishment is such that it has not completed three (3) financial years,

(j) the average annual turnover of the Tenderer for each and every financial year for which the Tenderer has been established meets or exceeds €250,000 (excl. VAT).

Required Evidence: The Tenderer must, when so requested by the Contracting Authority, furnish evidence to demonstrate that it meets the above required turnover levels. The evidence required is a letter from the Tenderer's auditor(s) or other independent proof of turnover (e.g. bank manager's confirmation).

2.2 Technical and Professional Ability Selection Criteria

(a) Previous Experience:

Pass / Fail Qualifying Threshold: The Tenderer must demonstrate that it has successfully delivered, within the past three (3) years (from the date of this ITT), Services relevant to, and of a similar nature and scope to, the Services to be provided under the Services Contract under three (3) separate contracts, each with a minimum value of at least €100,000.

Required Evidence: For each such contract, Tenderers must, upon request, provide the following information:

- (a) the nature and scope of the contract;
- (b) the start and completion date of the contract;
- (c) the (approximate) value of the contract;
- (d) the outcome/results delivered/achieved;
- (e) the role of the Tenderer in performing the contract;

- (f) a brief outline as to why the Services provided by the Tenderer under the relevant contract are of a similar nature and scope to the Services for the Services Contract and are relevant to the Services to be provided under the Services Contract;
- (g) confirmation that the Services were successfully delivered; and
- (h) a named client reference (stating their position within the client organisation and their telephone number) with whom the provided information can be verified.

The entity that performed the Services under the relevant reference contract must be the entity proposed to provide the relevant Services under the Services Contract.

Tenderers that do not meet any of the above pass / fail requirements will be rejected.

3 Tender Response Format

Tenderers should note that it is a **mandatory requirement** of this Competition for Tenderers to complete the Tender Response Document ("TRD") provided as a separate attachment to this ITT.

The purpose of the TRD is to simplify and streamline the tender response process for all Tenderers and to simplify and streamline the evaluation process for the Contracting Authority.

The TRD comprises of;

- **Appendix 5** - Self-Declaration re Financial and Economic Capacity
- **Document A** - Non Cost Award Criteria Response Document
- **Document B** - Cost Award Criteria Response Document

The TRD must be submitted in accordance with the Tender Submission Requirements in this ITT.

The Tenderer's response in the Tender Response Document must also address all of the requirements of this ITT.

Appendix 2: Grading Criteria

- The contract will be awarded to the most economically advantageous Tender.
- A total of 1,000 marks (100%) will be available. The quality/cost ratio is [70:30] as set out below:

Criteria	Max Marks Available	% of Total Marks Available
A: Quality	700	70%
B: Cost	300	30%
Totals	1,000	100%

- The Award Criteria, which will be applied in evaluating the quality and cost of the Tenders received, are set out below:

Award Criteria	Sub-Criteria	Marks Available	Minimum Qualifying Marks*
1. Quality of Approach to Service Delivery (450 Marks)	1.1: Quality of Service Delivery Methodology: This will evaluate the quality of the Tenderer's proposed service deliver methodology, including contract management and relationship management approach, for meeting the requirements and specifications outlined in Appendix 1 of the ITT.	250 Marks	150 Marks
	1.2: Understanding of Brief: This will evaluate the clarity of understanding of the requirements and specifications as set out in Appendix 1 demonstrated by the Tenderer.	200 Marks	120 Marks
2. Technical Merit of Proposed Resources (250 Marks)	Criterion: Quality of Proposed Individual: This will evaluate the technical merit of the proposed individual to deal with the issues and requirements across all relevant areas identified at Appendix 1 by reference to their relevant qualifications and experience.	250 Marks	150 marks
3. Cost (300 Marks)	In order to conduct the cost assessment, Tenderers are required to submit a fixed price for the provision of the Services as detailed in Appendix 1.	300 Marks	N/A

* Tenderers must achieve the minimum marks (if any) set out in the table above. Failure to achieve the minimum marks will result in rejection of the Tender and elimination from the procurement (in which case the price of the Tender concerned will not be used in determining the marks under the Cost criterion).

- The lowest price Tender will receive the maximum score achievable under this criterion. The maximum score available for cost is 300 marks. The scores of all other valid Tenders will be calculated using the following formula:

Cost Score =	$\frac{\text{(L) Lowest Cost Tender}}{\text{(N) Tendered Cost under evaluation}}$	x	(T) Maximum Number of Marks Available
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The “Total Cost of Tender” submitted in response to Appendix 2 is the price of Tenderers for this purpose.

5. The following scoring methodology will be applied in respect of the sub-criteria for award criteria 1 and 2. The score awarded within a range will depend on the extent to which the relevant description under the “Meaning” column below is satisfied.

Weighting	Meaning
91% - 100%	An excellent response, with very few or no weaknesses, that demonstrates a complete understanding of requirements and provides comprehensive and convincing assurance that the Tenderer will deliver to an excellent standard.
80% - 90%	A very good response that demonstrates real understanding and fully meets the requirements and assurance that the Tenderer will deliver to high standard.
60% - 79%	A satisfactory response which demonstrates a reasonable understanding of requirements and gives reasonable assurance of delivery to an adequate standard but does not provide sufficiently convincing assurance to award a higher mark.
30% - 59%	A response where reservations exist. Lacks full credibility/convincing detail, and there is a significant risk that the response will not be successful.
1% - 29%	A response where serious reservations exist. This may be because, for example, insufficient detail is provided, and the response has fundamental flaws, or is seriously inadequate or seriously lacks credibility with a high risk of non-delivery.
0%	Response completely fails to address the criterion under consideration

6. If the evaluation results in a tie break between two or more Tenders, then the Tender with the highest overall “qualitative” score under award criteria 1 to 2 shall be deemed the most economically advantageous Tender.

Appendix 3: Procurement Conditions

1. Tenderers must participate in this Procurement subject to, and in accordance with, the requirements of this document and in accordance with any other requirements communicated from time to time to Tenderers by the CRU.
2. A tenderer which fails to fully comply with these conditions or any other requirements communicated from time to time to the Tenderer by the CRU to the satisfaction of the CRU may, subject to paragraph 7 of these Procurement Conditions, be treated as failing to comply with mandatory conditions of this Procurement and may, at the absolute discretion of the CRU and subject to paragraph 7 of these Tender Conditions, be rejected and eliminated from this Procurement.
3. The CRU has final determination on whether a Tender is compliant or non-compliant.
4. Late tenders will not be considered and will be rejected.
5. All Tenders (including unaccepted tenders) must remain open and valid for three (3) months from the deadline for receipt of tenders.
6. If a Tenderer's tender fails to comply in any respect with any of the requirements set out in this document (whether or not stated to be mandatory or similar) or the CRU considers the Tender be ambiguous or require clarification or amplification in any respect, the CRU is entitled (but is not obliged), subject to applicable law, to take such action as it considers appropriate including:
 - 6.1 to reject the relevant Tenderers' Tender which is non-compliant with any requirement of the document (whether or not stated to be mandatory or similar) and eliminate the Tenderer; or
 - 6.2 without prejudice to the CRU' right (where there is non-compliance) to reject the Tenderer's Tender in a given case as non-compliant:
 - a) to meet with, raise issues and/or seek clarification, amplification or supplementary information from the tenderer in respect of the Tender and/or the non-compliance;
 - b) to request the tenderer to provide the CRU with information on items or items or documents which have not been provided or have been provided in an incorrect form or on an incorrect basis or are incomplete or erroneous; and/or
 - c) to waive a requirement which, in the opinion of the CRU, is appropriate in the circumstances (particularly if it is minor and/or procedural) and to proceed to evaluate such tender in accordance with this document,provided that no material amendments may be made to a tender in a given case where this would give rise to a breach of applicable law.
7. Any appointment as successful Tenderer is provisional and may be withdrawn. The successful Tenderer must, as a condition of award, enter into an agreement with the CRU on the terms and conditions set out in Appendix 4. If it does not do so within a period satisfactory to the CRU, the provisional appointment as successful Tenderer may be withdrawn, and the next highest ranked Tenderer may be provisionally appointed as the successful Tenderer.
8. Tenderers must not canvass directly or indirectly any member of the CRU, any officer or employee of the CRU, its advisers, or any member of the evaluation team. Failure to comply with this requirement will result in disqualification from the Procurement.

9. Collusion, or any attempt by interested parties/tenderers to influence, in any way, the procurement process, will result in the disqualification of that/those interested parties/tenderer(s). Examples of such improper influence are collusion, price fixing, information sharing, bid rotation or market division.
10. The CRU may disqualify a Tenderer if the Tenderer is economically, legally, commercially, financially or otherwise related to one or more other Tenderers in a way that would impede in any way the incentive that the Tenderer should have to compete to be the successful Tenderer.
11. No publicity whatever regarding this Procurement is permitted unless and until the CRU has consented in writing, at its absolute discretion, to the relevant communication. The CRU may issue such communications and generate such publicity in relation to this Procurement as it considers appropriate and without notice to Tenderers. The CRU, in particular, has the right to publicise or otherwise disclose to any person information regarding this Procurement, the identity of the Tenderers or the award of the contract (including, without limitation, details of the contract price) at any time.
12. Tenderers must immediately notify the CRU should they become aware of any ambiguity, discrepancy, error or omission in this document or if they do not properly understand any terms or criteria set out in this document or how they will be applied.
13. Tenderers must submit a fully compliant Tender which is not qualified in any way.
14. The CRU is not responsible for and will not pay for any expense or cost incurred or loss suffered by a Tenderer in the preparation or submission of its tender or otherwise in connection with participation in this Procurement.
15. Tenderers are responsible for obtaining their own financial, taxation, legal, technical, investment and other appropriate advice, and undertaking their own due diligence, in relation to this Procurement, this document, the opportunity and all information provided or made available to them, at their own cost and expense.
16. The publication of this document or any information made available in connection with this Procurement does not constitute, and is not to be taken as constituting, the provision by the CRU, its officers, employees, advisers, consultants and/or agents or otherwise of financial, legal, technical, investment or other advice. No representation, warranty or undertaking, express or implied, in respect of any error or misstatement by or on behalf of the CRU is made or given to any Tenderer and no responsibility or liability is accepted by the CRU for the accuracy or completeness of this document or omissions from it or any negligent misstatements.
17. Any and all liability, damages and/or loss of any nature whatever and however arising (including liability, damages and/or loss in any way connected with or resulting or arising from the Procurement which arises out of this document (even where caused due to deficiencies in the Procurement and process) is hereby expressly disclaimed and excluded by the CRU. This section operates to the fullest extent permitted by applicable law.
18. Any material information or change in events which relates to a Tenderer and/or its Tender that comes to light subsequent to the submission of its Tender must be promptly brought to the attention of the CRU by the relevant Tenderer by e-mail to the email address set out at the front of this document. If it comes to the CRU' attention that:
 - 18.1 there has been a change in events or circumstances concerning a Tenderer that could affect the CRU' assessment of that Tenderer's Tender; or

- 18.2 information submitted by a Tenderer was (when submitted) or has become (by reference to facts as they then stand) untrue, incomplete or misleading, the CRU may (but is not obliged to) revise its assessment of the Tenderer's Tender.
19. The CRU reserves the right, for any reason whatsoever at its absolute discretion, to:
- 19.1 reject any and all Tenders;
 - 19.2 not to select any Tenderer;
 - 19.3 not to award any contract under this Procurement process;
 - 19.4 not to implement any arrangement contemplated by this document;
 - 19.5 not to provide a Tenderer with any additional information;
 - 19.6 to update this or other document at any time;
 - 19.7 to amend the scope of the opportunity or any requirements of this or other document and/or the criteria and/or to re-run earlier parts of the Procurement accordingly;
 - 19.8 not to proceed with the Procurement;
 - 19.9 to withdraw from discussions;
 - 19.10 to suspend the process or discussions;
 - 19.11 to terminate, at its absolute discretion, this Procurement process at any time and without reason; and/or
 - 19.12 to procure and award the subject matter of this document in whole or in part by other means.
20. The publication of this document does not warrant or imply that any Tenderer will be awarded the contract.
21. This document does not impose or result in the imposition of any legal or contractual obligations on the part of the CRU but it does confer rights on it. No legal obligations on the part of the CRU will arise unless and until an agreement has been entered into, formally executed in writing and delivered between the CRU and the successful Tenderer and has taken legal effect.
22. Tenderers receive this document and take part in this competition on the condition that they agree to keep confidential all information received in any form and/or on any media, concerning the business and affairs of the CRU (and its agents and representatives) which they receive or obtain as a result of this document or in discussions or other communications (written or oral) relating to it.
23. This document and any matter related to or in any way connected with this document are governed by and construed in accordance with Irish law and subject to the exclusive jurisdiction of the Irish courts
24. Tenderers should be aware that, under the Freedom of Information Act 2014 and the European Communities (Access to Information on the Environment) Regulations 2007 to 2014, information provided by them during this Competition may be liable to be disclosed. Tenderers are asked to consider if any of the information supplied by them in their Tender should not be disclosed because of its confidentiality or commercial sensitivity. If Tenderers consider that certain information is not to be disclosed because of its confidentiality or commercial sensitivity Tenderers must, when providing such information, clearly identify such information and specify the reasons for its confidentiality or commercial sensitivity. If Tenderers do not identify information as confidential or commercially sensitive, it is liable to be released in response to a Freedom of Information request without further notice to or consultation with the Tenderer. The CRU will, where possible, consult with Tenderers about confidentiality

or commercially sensitive information so identified before making a decision on a request received under the Freedom of Information Acts.

25. Prior to the award of any Services Contract arising out of this Procurement, the tenderer shall be required to supply its Tax Clearance Access Number and Tax Reference Number to facilitate online verification of their tax status by the CRU. By supplying these numbers the tenderer acknowledges and agrees that the CRU has the permission of the Tenderer to verify its tax cleared position online. A tenderer may be rejected if it does not have tax clearance from the Irish Revenue Commissioners or cannot procure such with such period determined by the CRU (at its discretion).
26. Any conflict of interest or potential or perceived conflict of interest on the part of a Tenderer, member, subcontractor or individual employee(s) or agent(s) of a Tenderer or member or subcontractor(s) must be fully disclosed to the CRU as soon as the conflict or potential or perceived conflict is or becomes apparent. In the event of any actual or potential or perceived conflict of interest (including prior involvement or advice to the CRU in connection with the preparation of this ITT or for this Procurement or participation in more than one Tender), the CRU will invite Tenderers to propose means by which the conflict of interest will be removed or properly addressed to the satisfaction of the CRU. The CRU will, at its absolute discretion, decide on the appropriate course of action, which may in appropriate circumstances include eliminating a Tenderer from this Procurement or terminating any Services Contract entered into by a Tenderer or permitting a Tenderer to continue in the Procurement but subject to such conditions (for example, a requirement to cease using a particular subcontractor or member of a Tenderer or a restriction on participating in more than one Tender) and/or the implementation of such measures and protections (for example, Chinese walls and other protections) as the CRU may require at their discretion.
27. The successful Tenderer shall be required to hold for the term of the Services Contract the following insurances:

Type of Insurance	Indemnity Limit
Employer's Liability	€13 million
Public Liability	€6.5 million
Professional Indemnity	€2.5 million

28. Tenderers should note the terms and conditions of the Services Contract at Appendix 4 to this ITT. Tenderers may not amend the Services Contract

Appendix 4: Contract Terms and Conditions

[Insert name of Contracting Authority]

and

[Insert successful Tenderer's full legal name]

AGREEMENT

Relating to the provision of Services pursuant to

Request for Tenders for the provision of [Insert type of services required]

THIS AGREEMENT is made on the [date e.g. 2nd] day of [month] 20[year] BETWEEN:

[Insert name of Contracting Authority], of [address] (“the Client”);

and

[Contractor's full legal name], of [address] (“the Contractor”)

(each a “Party” and together “the Parties”).

WHEREAS:

- A. By Invitation to Tender entitled “Insert title of ITT” advertised on the e-Tenders website www.etenders.gov.ie, Contract Notice Number [] of [] dated insert date of ITT (“the ITT”) the Client invited tenders from economic operators (“Tenderers”) for the provision of the services described in Appendix 1 to the ITT (the “Services”). References to the ITT shall include any clarifications issued by the Client via the messaging facility on www.etenders.gov.ie between [insert date] and [insert date] (the “ITT Clarifications”). The ITT (including the ITT Clarifications) is hereby incorporated by reference into this Agreement.
- B. The Contractor submitted a response to the ITT dated [insert date of Tender] (“the Submission”). References to the Submission shall include any clarifications issued by the Contractor in writing to the Client between [insert date] and [insert date] (the “Submission Clarifications”). The Submission (including the Submission Clarifications) is hereby incorporated by reference into this Agreement.
- C. This form of Agreement is based upon the OGP standard form Services Agreement, but modifications have been made to it both in clause 1 -24 of Schedules A and, if applicable, in clause 25 of Schedule A.

IT IS HEREBY AGREED AS FOLLOWS:

- 1. This Agreement consists of the following documents, and in the case of conflict of wording, in the following order of priority:
 - i. This Agreement and Schedules A to E attached hereto;
 - ii. The ITT;
 - iii. The Submission.

In the event of any conflict between Schedule E and any other provision of this Agreement, Schedule E takes precedence and controls. All qualifications, assumptions and anything else contained in the Submission that makes it equivocal in any respect are, except to the extent expressly set out in a side letter signed by the CRU which refers to this clause, excluded from the Submission for the purposes of this Agreement and references to “Submission” in this Agreement are construed accordingly.

- 2. The Contractor agrees to provide the Services described in Schedule B (“the Services”) to the Client in accordance with this Agreement (“Agreement”). Schedule B details the nature, quality, time of delivery, key personnel and functional specifications of the Services in accordance with the ITT and the Submission (“the Specification”).
- 3. Subject to the terms and conditions of this Agreement, the Client agrees to pay to the Contractor the charges as stipulated in Schedule C (“the Charges”). The

Charges are exclusive of VAT which shall be due at the rate applicable on the date of the VAT invoice.

- 4. For the purposes of this Agreement, the Client's Contact is [insert name] of The Grain House, The Exchange, Belgard Square North, Tallaght, D24 PXW0; the Contractor's Contact is [Contractor contact name] of [Contractor contact address].
- 5. This Agreement shall take effect on the date of this Agreement ("the Effective Date") and shall expire on [Insert date], unless it is otherwise terminated in accordance with the provisions of this Agreement or otherwise lawfully terminated or otherwise lawfully extended as agreed between the Parties ("the Term").

The Client has the right to unilaterally extend the Term for a period or periods of up to 12 months with a maximum of [Insert Number] such extensions permitted subject to its obligations at law.

- 6. Unless otherwise specified herein, a defined term used in this Agreement shall have the same meaning as assigned to it in the ITT.
- 7. Headings are included for ease of reference only and shall not affect the construction of this Agreement.
- 8. Unless the context requires otherwise, words in the singular may include the plural and vice versa. If the Contractor comprises of more than one person, all of the provisions of this Agreement are entered into jointly and severally by each such person and each such person is jointly and severally liable for the Contractor's obligations and liabilities under or in connection with this Agreement.
- 9. References to any statute, enactment, order, regulation or other legislative instrument shall be construed as a reference to the statute, enactment, order, regulation or instrument as amended, unless specifically indicated otherwise.

SIGNED for and on behalf of the Client	SIGNED for and on behalf of the Contractor
<hr/>	<hr/>
(being a duly authorised officer)	(being a duly authorised officer)
Witness	Witness

Schedule A: Terms and Conditions

1. CONTRACTOR'S OBLIGATIONS

- A. The Contractor undertakes to act with due care, skill, expertise and diligence in the provision of the Services and generally in the carrying out of its obligations under this Agreement and in the appointment, monitoring and retention of its agents and Subcontractors. The Contractor warrants to the Client that it shall require its agents and Subcontractors to exercise due care, skill, expertise and diligence in the provision of the Services and generally in the carrying out of obligations allocated by the Contractor to its agents and Subcontractors under this Agreement.
- B. In consideration of the payment of the Charges and subject to clause 3 the Contractor shall:
1. provide the Services in accordance with the Specification, the ITT, the Client's directions and the terms of this Agreement;
 2. comply with and implement any policies, guidelines and/or any project governance protocols issued by the Client from time to time and notified to the Contractor in writing;
 3. comply with all local security and health and safety arrangements as notified to it by the Client; and
 4. provide the Services in accordance with best industry practice and comply with all applicable laws including but not limited to all obligations in the field of environmental, social and labour law that apply at the place where the Services are provided, that have been established by EU law, national law, collective agreements and by international, environmental, social and labour law listed in Schedule 7 of the European Union (Award of Public Authority Contracts) Regulations 2016 (Statutory Instrument 284 of 2016) (the "Regulations") . The Contractor shall be responsible for compliance with all statutory requirements of an employer and without prejudice to the generality of the foregoing shall be solely responsible in law for the employment, remuneration, taxes, immigration and work permits of all personnel retained for the purposes of complying with this Agreement.
- C. The Contractor is deemed to be the prime contractor under this Agreement and the Contractor assumes full responsibility for the discharge of all obligations under this Agreement and shall assume all the duties, responsibilities and obligations associated with the position of prime contractor. The Contractor as prime contractor under the Submission hereby assumes liability for its Subcontractors' acts, omissions and breaches and shall ensure that its Subcontractors shall comply in all respects with the relevant terms of this Agreement, including but not limited to clause 1B(4) above, to the extent that it or they are retained by the Contractor. Subject to clause 14, the Contractor shall notify the Client as soon as possible of any changes to the name, contact details and legal representatives of its Subcontractors. The Contractor shall ensure that its Subcontractors mentioned in its Submission are involved and provide the Services in the manner, and to the extent, set out in or contemplated by its Submission.
- D. Without prejudice to clause 1C, where the Client becomes aware that any of the exclusion grounds set out in Regulation 57 of the Regulations apply to any Subcontractor, the Client reserves the right to require the Contractor to immediately replace such Subcontractor and the Contractor shall comply with such requirement. The Contractor shall include in every sub-contract a right for the Contractor to terminate the sub-contract where any of the exclusion grounds apply to the

Subcontractor and a requirement that the Subcontractor, in turn, includes a provision having the same effect in any sub-contract which it awards.

- E. During this Agreement the Contractor shall be an independent contractor and not the employee of the Client. Neither Party shall have any authority to bind or commit the other. Nothing herein shall be deemed or construed to create a joint venture, partnership, and/or fiduciary or other relationship between the Parties for any purpose. The officers, employees or agents of the Contractor are not and shall not hold themselves out to be (and shall not be held out by the Contractor as being) servants or agents of the Client for any purposes whatsoever.
- F. The Client acknowledges that the Contractor may from time to time be dependent on the Client to facilitate the Contractor in the carrying out of its duties under this Agreement. The Client agrees to use its reasonable commercial endeavours to so facilitate the Contractor within the timescales and in the manner agreed by it in writing in accordance with clause 10.
- G. The Contractor agrees that any information relating to this Agreement and / or the performance of this Agreement may be passed by the Client to the Office of Government Procurement (“OGP”) and that the OGP may use this information in the analysis and reporting of spend data including the preparation and publishing of reports.
- H. The Contractor shall comply with all applicable obligations arising pursuant to the European Communities (Protection of Employees’ Rights on Transfer of Undertakings) Regulations 2003 (S.I. No. 131 of 2003) and Council Directive 2001/23/EC (together the “TUPE Regulations”) and failure to so comply shall constitute a serious breach of this Agreement. The Contractor shall indemnify, save harmless and keep the Client and any replacements for the Contractor (following the expiration or termination of this Agreement in whole or in part) (a “**Replacement Contractor**”) indemnified from and against all losses, liabilities, costs, claims, demands, damages and/or expenses (including the cost of wages, salaries and other remuneration or benefits, expenses, taxation, PRSI payments, health contributions, levies, losses, claims, demands, actions, fines, penalties, awards, (including legal expenses on an indemnity basis)) from, or incurred or paid out by reason of, any claims made against the Client and/or any Replacement Contractor under the TUPE Regulations or otherwise by any Affected Employees. Affected Employees shall mean those employees and personnel of the Contractor and/or its Subcontractors in respect of whom the TUPE Regulations apply or are alleged to apply in connection with this Agreement.
- I. The Contractor acknowledges and agrees that the Client is deemed to have fully relied on the Contractor’s skill, expertise and experience in providing the Services, all advice given by the Contractor in connection with or as a part of the Services and all matters relating to them.
- J. The Client has no obligations, and has no liability (whether for breach of contract or other duty, negligence, or anything else) to the Contractor, in connection with this Agreement or the Services except as expressly stated in this Agreement.

2. KEY PERSONNEL AND SUBCONTRACTORS

- A. The Contractor undertakes and acknowledges that it is responsible for ensuring that all key personnel and Subcontractors as specified in the Submission (“Key Team Members”), assigned by it to provide the Services shall be available for the Term of this Agreement.

- B. The Contractor will use the Key Team Members at all times in the provision of the Services and in the manner, and to the extent, set out in or contemplated by its Submission. The Contractor acknowledges that the Key Team Members are essential to the proper provision of the Services to the Client. The Contractor will provide the Client with access to each of the Key Team Members at all times. The Contractor will ensure that all of the Key Team Members comply with all safety and security requirements of the Client in relation to access to its premises, data, systems and infrastructure.
- C. The Contractor shall ensure that its Subcontractors are bound by, and comply with, written terms and conditions of contract which reflect all applicable terms and conditions of this Agreement and are sufficient to enable the Contractor to comply with and discharge its obligations under this Agreement. The Contractor shall provide the Client with a copy of any subcontracts with its Subcontractors promptly upon request.
- D. The Contractor will remove (and promptly replace in accordance with this Clause 2) any member of the Key Team Members or any other person or Subcontractor involved in the provision of the Services whose removal is requested in writing by the Client if it considers such person to be unsatisfactory or undesirable or if they become unable to provide the services.
- E. The Client may not replace any of the Key Team Members without the Client's prior written consent to such replacement ("Replacement Team Member"). The Client may agree or refuse its consent at its discretion. The Client will only agree to the appointment of a proposed Replacement Team Member provided that the proposed replacement, in the Client's view, has no less experience, expertise, skills, and qualifications than the Key Team Member being replaced and, if it is a subcontractor, has sufficient economic and financial standing. Any such changes to the Key Team Members will only be effective if agreed to in writing by the Client.
- F. The Contractor, subject to this clause 2, may not subcontract any of its rights and obligations under this Agreement to any third party without the Client's prior written approval.

3. PAYMENT

- A. Subject to the provisions of this clause 3 the Client shall pay and discharge the Charges (plus any applicable VAT), in the manner specified at Schedule C. Invoicing arrangements shall be on such terms as may be agreed between the Parties. If the Services are being provided on a time basis, the Contractor shall ensure that the Services are performed in a cost efficient manner.
- B. Discharge of the Charges is subject to the following:
 1. Compliance by the Contractor with the provisions of this Agreement including but not limited to any milestones, compliance schedules and/or operational protocols in place pursuant to clause 10A from time to time.
 2. The furnishing by the Contractor of a valid invoice and such supporting documentation as may be required by the Client from time to time. Any Contractor pre-printed terms and conditions are hereby expressly excluded.
 3. Invoices being submitted to the Client's Contact (as set out in this Agreement or such other alternative contact as may be agreed between the Parties). All and any queries relating to the invoice and/or the Services for any billing period (including whether or not Services have been accepted, rejected, satisfactorily re-performed or as the case may be) must be raised by the

Client's Contact within 30 working days of receipt of invoice. In circumstances where no queries are raised within the said 30 working day period the invoice shall be deemed accepted. Upon resolution of any queries on the invoice to the satisfaction of the Client or upon such deemed acceptance the invoice shall be payable by the Client. Payment is subject to any rights reserved by the Client under any other provision of this Agreement.

4. The Client being in possession of the Contractor's current Tax Clearance Certificate. The Contractor shall comply with all EU and domestic taxation law and requirements.
- C. The European Communities (Late Payment in Commercial Transactions) Regulations, 2012 shall apply to all payments. Incorrect invoices will be returned for correction with consequential effects on the due date of payment.
- D. Wherever under this Agreement any sum of money is recoverable from or payable by the Contractor (including any sum which the Contractor is liable to pay to the Client in respect of any breach of this Agreement), the Client may deduct that sum from any sum then due, or which at any later time may become due to the Contractor under the Agreement or under any other agreement or contract with the Client. Any overpayment by either Party, whether of the Charges or of VAT or otherwise, shall be a sum of money recoverable by the Party who made the overpayment from the Party in receipt of the overpayment.
- E. The Charges shall include any and all costs or expenses incurred by the Contractor, its employees, servants and agents in the performance of its obligations under this Agreement, except, if applicable, to the extent set out in Schedule C. The Contractor acknowledges and agrees that any costs or expenses chargeable to the Client in accordance with Schedule C must be properly incurred, reasonable, vouched and pre-approved by the Client.
- F. The Charges shall be discharged as provided for in this clause subject to the retention by the Client in accordance with section 523 of the Taxes Consolidation Act, 1997 of any Professional Services Withholding Tax payable to the Contractor. Any and all taxes applicable to the provision of the Services will be the sole responsibility of the Contractor and the Contractor so acknowledges and confirms.

4. WARRANTIES, REPRESENTATIONS AND UNDERTAKINGS

- A. The Contractor acknowledges, warrants, represents and undertakes that:
 1. it has the authority and right under law to enter into, and to carry out its obligations and responsibilities under this Agreement and to provide the Services hereunder;
 2. it is entering into this Agreement with a full understanding of its material terms and risks and is capable of assuming those risks;
 3. it is entering into this Agreement with a full understanding of its obligations with regard to taxation, employment, social and environmental protection and is capable of assuming and fulfilling those obligations;
 4. it has acquainted itself with and shall comply with all legal requirements or such other laws, recommendations, guidance or practices as may affect the provision of the Services as they apply to the Contractor;

5. it has taken all and any action necessary to ensure that it has the power to execute and enter into this Agreement;
6. the status of the Contractor, as declared in the "Declaration as to Personal Circumstances of Tenderer" dated [insert date] , which confirms that none of the excluding circumstances listed in Regulation 57 of the Regulations apply to the Contractor, remains unchanged;
7. it owns, has obtained or is able to obtain, valid licences for all Intellectual Property Rights (as defined in clause 6 below) that are necessary for the performance of its obligations under this Agreement and for the Client to obtain the benefit of the Services for its business purposes;
8. **Not used**
9. it retains and shall maintain for the Term insurances for the nature and amount specified in the ITT. The Contractor undertakes to advise the Client forthwith of any material change to its insured status, to produce proof of current premiums paid upon written request and where required produce valid certificates of insurance for inspection. The Contractor shall carry out all directions of the Client with regard to compliance with this clause 4A.9;
10. the Client shall be under no obligation to purchase any minimum number or value of Services; and
11. It has obtained all approvals, consents, licences, permissions, certificates, authorisations and agreements required under contract and/or applicable law which would prudently be obtained in accordance with best industry practice in connection with the performance of this Agreement and/or the provision of the Services.

B. The Contractor undertakes to notify the Client forthwith of any material change to the status of the Contractor with regard to the warranties, acknowledgements, representations and undertakings as set out at clause 4A and, in any such case:

1. without limiting or affecting clause 4(B)(2), to comply with all reasonable directions of the Client with regard thereto; and
2. the Client may terminate this Agreement.

C. The Contractor acknowledges, warrants, represents and undertakes that:

1. it can, and will, fully meet, satisfy and comply with the ITT, Specification and Submission in providing the Services and performing its other obligations under this Agreement;
2. it will perform the Services using persons with all necessary experience, qualifications, skills, expertise, training and language skills and whom are fully acquainted with the Services and all requirements related to their role; and

3. the Services and any materials and goods supplied to the Client in providing the Services are, and will be, fit for the purpose intended as specified in the ITT.

5. REMEDIES

- A. The Contractor shall be liable for and shall indemnify the Client for and in respect of all and any losses, liabilities, costs, claims, demands, damages and/or expenses which the Client may suffer, pay out or incur arising out of or in connection with any:
 1. death, personal injury or sickness of any person; and/or
 2. loss, theft of or damage to any property of the Client or other person,which results from or arises out of the act or omission, breach of contract and/or negligence by the Contractor, its Subcontractors or either of their employees or agents or any other person for which the Contractor has responsibility. The terms of this clause 5A shall survive termination of this Agreement for any reason.
- B. Subject to clause 5(E)(1), neither Party is liable for any indirect or consequential loss. However, this does not limit or affect the Contractor's liability for any direct losses including, amongst other things, any liability of the Client to any third parties arising out of or as a result of any breach of this Agreement, wilful misconduct or negligence of the Contractor, its Subcontractors or either of their employees or agents or any other person for which the Contractor has responsibility.
- C. Should the Client find itself obliged to order elsewhere in consequence of the failure of the Contractor to deliver Services, the Client shall be entitled to recover from the Contractor any excess prices which may be paid by the Client.
- D. Except as otherwise expressly provided by this Agreement, all remedies available to either Party for breach of this Agreement are cumulative and may be exercised concurrently or separately, and the exercise of any one remedy shall not be deemed an election of such remedy to the exclusion of other remedies. The acceptance or payment by the Client in respect of any matter or deliverable does not limit or affect the Client's rights and remedies under or connection this Agreement.
- E.
 1. Nothing in this Agreement excludes or limits the liability of the Contractor:
 - (a) arising out of or in connection with fraud or fraudulent misrepresentation;
 - (b) arising out of or in connection with death, sickness or personal injury to any person arising as a result of the negligence or other acts or omissions of the Contractor, its Subcontractors or either of their employees or agents or any other person for which the Contractor has responsibility;
 - (c) arising out of or in connection with any breach of, or under, any of the provisions in clause 1(H) (TUPE), clause 5A(1), clause 7 (Confidentiality), the Confidentiality Agreement, clause 6 (Intellectual Property), clause 20 (Conflicts) and/or Schedule E (Data Processing Addendum);
 - (d) arising out of or in connection with any abandonment or deliberate breach of any provision of this Agreement by the Contractor, its Subcontractors or either of their employees or agents or any other person for which the Contractor has responsibility;

- (e) arising out of or in connection with any wilful misconduct by the Contractor, its Subcontractors or either of their employees or agents or any other person for which the Contractor has responsibility;
 - (f) to the extent that the liability or matter is or ought to be covered by the insurance to be maintained by the Supplier pursuant to clause 4(A)(9) (provided that this only applies up to the level of cover of insurance required to be maintained pursuant to clause 4(A)(9)); and/or
 - (g) to the extent prohibited by applicable law.
2. Subject to clause 5(E)(1), the limit of each Party's aggregate liability to the other Party under this Agreement (whether under statute, tort, equity or common law) shall not under any circumstances exceed the higher of (a) the amount of the insurance to be maintained for that liability or matter as specified in section 2.21.1 of the RFT or, where that liability or matter is or ought to be covered by two or more insurances specified in section 2.21.1 of the RFT, the higher of the amounts of insurance to be maintained; and (b) five hundred per cent (300%) of the Charges projected to be payable over the maximum Term of this Agreement.

F. If for any reason the Client is dissatisfied with the performance of the Contractor, a sum may be withheld from any payment otherwise due calculated as follows:

("the Retention Amount") which Retention Amount shall not at any given time exceed 20 per cent of the Charges. In such event the Client shall identify the particular Services with which it is dissatisfied together with the reasons for such dissatisfaction. Payment of the Retention Amount will be made upon replacement and/or remedy of the said Services as identified by the Client or resolution of outstanding queries. The Client shall hold the Retention Amount on behalf of the Contractor but without any obligation to invest. The terms of this clause 5F shall be without prejudice to and not be in substitution for any remedy of the Client under this Agreement.

G. Time of delivery shall be of the essence and if the Contractor fails to deliver the Services within the time period promised or specified in the Specification, the Client may by notice in writing to the Contractor's Contact release itself from any obligation to accept and pay for the Services and / or terminate this Agreement in either case without prejudice to any other rights and remedies of the Client.

H. *Not used*

6. INTELLECTUAL PROPERTY

1. The Contractor (and any other third party) has no, and will not, acquire any, right, title or interest in or to the Intellectual Property of Client or its third party licensors pursuant to this Agreement, except subject to and in accordance with Clause 6.5 (Intellectual Property).

2. The Contractor agrees to respect the Intellectual Property of Client and the Intellectual Property of its third party licensors and the Contractor will not act or omit to act in any manner which adversely affects either of their Intellectual Property.

3. The Contractor:

(a) acknowledges and agrees that all right, title and interest in or to the Services IP automatically and absolutely vests (or vested) in Client upon creation (including the right to sue for past infringement) free from all encumbrances; and

(b) hereby irrevocably, unconditionally and absolutely assigns, transfers and sets over unto Client all right, title and interest in and to all existing and future Intellectual Property in or to the Services IP to the extent that it does not vest upon creation in Client pursuant to Clause 6.3(a) (Intellectual Property) (including the right to sue for past infringement) free from all encumbrances, excluding, for certainty, the Background IP.

4. The Contractor irrevocably and unconditionally waives, and undertakes to procure the waiver of, all moral rights in respect of the Services (including the Services IP) to which it may now or at any time in the future be entitled, whether under the Copyright and Related Rights Act 2000 to 2007 (as amended) or under any similar laws in force from time to time in any part of the world in favour of Client, its employees, servants, agents, contractors, licensees, assignees and designees.

5. Client hereby agrees to grant the Contractor, subject to the Client Contact's prior written consent in any case (which consent will not be unreasonably delayed or withheld by Client), a revocable non-exclusive, non-transferable, limited licence to use Intellectual Property owned by Client solely to the extent necessary for the Contractor to provide the Services in accordance with this Agreement, and not for any other purpose. This licence will immediately cease upon the earlier of its termination by Client or the termination or expiry of this Agreement (or earlier to the extent that any such Intellectual Property is not required by Contractor for the purpose of fulfilling its obligations to provide the Services under this Agreement).

6. The Contractor hereby grants to Client an irrevocable, perpetual, fully paid up, worldwide, royalty free, non-exclusive, transferable, sub-licensable licence for Client (and its service providers, suppliers, consultants, agents, representatives and other contractors) to use, update, amend, improve, adapt, distribute and/or modify the Background IP in any way whatever in connection with, and/or in order to obtain the full benefit of, the Services IP, the Services and/or this Agreement and/or for any related and/or connected purpose whatever. This Clause 6.6 survives the termination or expiration of this Agreement.

7. The Contractor acknowledges and agrees that the Services IP and, to the extent considered necessary by Client acting reasonably, the Background IP may be used, publicised and made available to the public by Client in such manner as it sees fit at its absolute discretion. [[Client will, where specifically requested to do so by the Contractor in advance, use reasonable endeavours to credit the Contractor as the original author of a specific part of the Services IP and Background IP which Client publishes or which Client cites, quotes or uses in a published report or similar document where this is considered appropriate by Client (acting reasonably), except that Client is not required to do so where Client, acting reasonably, considers that this may be to the detriment of Client or adverse to its interests or adverse to the intended use to which the Services or any product, work or output of the Services may be put by Client.]]

8. The Contractor warrants, represents and undertakes that:

(a) it has the right to grant, assign, convey and set unto, Client as the case may be, all rights, licences, interests in and to all Intellectual Property granted by it under this Agreement; and

(b) the normal use and possession by Client or any other person in accordance with this Agreement of any Intellectual Property supplied, procured, made available, generated, created or used by or on behalf of the Contractor under this Agreement and/or in connection with the Services (including the Services IP and Background IP) does not, and will not, infringe the Intellectual Property of any third party.

9. The Contractor hereby indemnifies and shall hold harmless and keep Client (and its officers, employees, contractors and agents and the State) fully and effectively indemnified on demand from and against any liabilities, costs, demands, damages, losses, fines, awards, claims and/or expenses howsoever arising which Client (and its officers, employees, contractors and agents and the State) may suffer, sustain, incur or pay out arising out of or in connection with any breach of the warranty in Clause 6.8 (Intellectual Property) and/or any threat or claim that the normal use or possession by Client (or any other person in accordance with this Agreement) of the Services, Background IP and/or Services IP infringes the rights of any third party. This indemnity survives the termination or expiration of this Agreement.

10. In this Clause 6:

“Background IP” means all Intellectual Property that is owned by or licensed to the Contractor and which is or has been developed independently of, and not for the purposes of, this Agreement, the Services (whether prior to, on or after the Effective Date).

“Intellectual Property” means all intellectual property rights including, without limitation, any copyright, database rights, sui generis database rights, discoveries, concepts, domain names, rights in domain names, patents, patent rights, secret or other processes, utility models, technologies, know how, inventions, ideas, goodwill, improvements, information, trade secrets, rights in confidential information, all copyright works, business methods, designs, trademarks, service marks, business names, trade names, trade dress, literary, dramatic, musical and artistic works anywhere in the world existing now or in the future (whether any of the foregoing is registered or unregistered and including any application or right of application or right of renewal in relation to any of them) and any related goodwill.

“Services IP” means any and all Intellectual Property (i) in or related to the Services; (ii) required in order to obtain the full benefit of the Services; and/or (iii) created by or on behalf of the Contractor arising out of or in connection with the Services and/or this Agreement before, on or after the Effective Date but which excludes the Background IP

7. CONFIDENTIALITY

- A. Each of the Parties to this Agreement agrees to hold securely and confidential all information, documentation and other material received, provided or obtained arising from their participation in this Agreement (“Confidential Information”) and shall not disclose same to any third party except to:-
1. its professional advisers subject to the provisions of this clause 7; or
 2. as may be required by law; or

3. as may be necessary to give effect to the terms of this Agreement subject to the provisions of this clause 7; or
 4. in the case of the Client by request of any person or body or authority whose request the Client or persons associated with the Client (including but not limited to the Legislature and/or the Executive and/or the Civil Service) considers it necessary or appropriate to so comply.
- B. The Contractor shall not use the Confidential Information except for the purposes of performing its obligations under this Agreement. The Contractor undertakes to comply with all reasonable directions of the Client with regard to the use and application of all and any of its Confidential Information and shall comply with the confidentiality agreement as exhibited at Appendix 6 to the ITT (“the Confidentiality Agreement”).

The obligations in this clause 7 will not apply to any Confidential Information:

1. in the receiving Party’s possession (with full right to disclose) before receiving it from the other Party; or
 2. which is or becomes public knowledge other than by breach of this clause; or
 3. is independently developed by the disclosing Party without access to or use of the Confidential Information; or
 4. is lawfully received by the disclosing Party from a third party (with full right to disclose).
- C. The Contractor acknowledges that the security of the State and its information is of paramount importance to the Client. Accordingly the Contractor confirms that it will, if requested by the Client, from time to time, submit full personal details (including those of Subcontractors) who are assigned to provide the Services (or any part thereof) under this Agreement. The Contractor further acknowledges that checks may be carried out in relation to all such personnel by police authorities and the Contractor shall comply with all reasonable directions of the Client arising therefrom.
- D. In circumstances where the Client is subject to the provisions of the Freedom of Information Act 2014 or the European Communities (Access to Information on the Environment) Regulations 2007 to 2014, then in the event of the Client receiving a request for information related to this Agreement, the Client shall consult with the Contractor in respect of the request. The Contractor shall identify any information that is not to be disclosed on grounds of confidentiality or commercial sensitivity, and shall state the reasons for this sensitivity. The Client will consult the Contractor about this confidential or commercially sensitive information before making a decision on any request received under the above legislation.
- E. The Contractor shall comply with the Data Processing Addendum set out in Schedule E.
- F. The terms of this clause 7, and the Data Processing Addendum set out in Schedule E, shall survive expiry, completion or termination for whatever reason of this Agreement.

8. FORCE MAJEURE

- A. A 'Force Majeure Event' means an event or circumstance or combination of events and/or circumstances not within the reasonable control of the Affected Party (as defined in clause 8B below) which has the effect of delaying or preventing that Party from complying with its obligations under this Agreement including but not limited to acts of God, war, out-break of disease, insurrection, riot, civil disturbance, rebellion, acts of terrorism, government regulations, embargoes, explosions, fires, floods, tempests, or failures of supply of electrical power, or public telecommunications equipment or lines, excluding industrial action of whatever nature or cause (strikes, lockouts and similar) occurring at the Contractor (or Subcontractor or agent) places of business.
- B. In the event of any failure, interruption or delay in the performance of either Party's obligations (or of any of them) resulting from any Force Majeure Event, that Party ("the Affected Party") shall promptly notify the other Party in writing specifying:
1. the nature of the Force Majeure Event;
 2. the anticipated delay in the performance of obligations;
 3. the action proposed to minimise the impact of the Force Majeure Event;
- and the Affected Party shall not be liable or have any responsibility of any kind for any loss or damage thereby incurred or suffered by the other Party, provided always that the Affected Party shall use all reasonable efforts to minimise the effects of the same and shall resume the performance of its obligations as soon as reasonably possible after the removal of the cause.
- C. If the Force Majeure Event continues for 14 calendar days the Client may terminate at 14 days' notice.
- D. In circumstances where the Contractor is the Affected Party, the Client shall be relieved from any obligation to make payments under this Agreement save to the extent that payments are properly due and payable for obligations actually fulfilled by the Contractor in accordance with the terms and conditions of this Agreement.
- E. The Contractor is not entitled to invoke the provisions of this clause 8 to the extent that:
1. the Force Majeure Event is attributable to its or its Subcontractors' or either of their personnel's negligence, breach of this Agreement or misconduct; or
 2. the Contractor or its Subcontractors failed to take reasonable precautions, in accordance with best industry practice, against the occurrence of such Force Majeure Event or its consequences.

9. TERMINATION

- A. This Agreement may be terminated by the Client, without liability for compensation or damages, by serving 3 Months written notice to the Contractor.
- B. Either Party shall have the right (in addition to its rights under clause 9(a) and any other rights which it has at law) to terminate this Agreement immediately and without liability for compensation or damages on the happening of any of the following:
1. if the other Party commits any serious breach or a series of breaches of any provision of this Agreement and fails to remedy such breach(es) (if the

breach(es) are capable of remedy) within 30 days after receipt of a request in writing from the other Party;

2. if the other Party is unable to pay its debts as they fall due, becomes insolvent, becomes bankrupt, enters into examinership or administration or has a petition presented for examinership or administration, is wound up, commences winding up or has a petition presented for its winding up, has a receiving order made against it, makes any arrangement with its creditors generally or takes or suffers any similar action as a result of debt, or an event having an equivalent or similar effect;
3. in circumstances where the Client becomes aware of any conflict of interest on the part of the Contractor which cannot, in the opinion of the Client, be removed by other means; and
4. in circumstances where the Client becomes aware of any registrable interest on the part of the Contractor.

C. The Client shall have the right, in addition to any other rights which it has at law, to terminate this Agreement immediately and without liability for compensation or damages in circumstances where:

1. the Client becomes aware that any of the exclusion grounds set out in Regulation 57 of the Regulations apply to the Contractor;
2. the Agreement has been subject to a substantial modification which would have required a new procurement procedure in accordance with Regulation 72 of the Regulations; or
3. the Agreement should not have been awarded to the Contractor in view of a serious infringement of the obligations under the Treaties governing the European Union or these Regulations that has been declared by the Court of Justice of the European Union in a procedure under Article 258 of the TFEU;
4. a Subcontractor identified in the Submission as a provider of a part of the Services ceases, or threatens to cease, to provide the Services in the manner, and to the extent, set out in or contemplated by the Contractor's Submission' and/or
5. the Contractor is in breach of any of the provisions of clause 6 (Intellectual Property), clause 7 (Confidentiality) and/or the Data Processing Addendum in Schedule E.

D. Termination of this Agreement shall not affect any antecedent and accrued rights, obligations or liabilities of either Party, nor shall it affect any provision of this Agreement which is expressly or by implication intended to come into or continue in force on or after such termination.

E. On completion or termination of this Agreement, howsoever arising, the Contractor shall immediately return all Confidential Information, records, papers, materials, media and other property of the Client which is in its possession.

F. If requested by the Client, the Contractor shall promptly furnish such anonymised information relating to the terms and conditions of the employment of all persons providing the Services as may be required by the Client ("Employment Information"). The Contractor agrees that the Client may release the Employment Information to third parties for the purposes of any procurement competition for the procurement of services that are the same or similar to the Services and are to be performed upon expiry of the Term or earlier termination of this Agreement for whatever cause.

- G. Where the Client has a right of termination under any provision of this Agreement, the Client is entitled, at its discretion, to terminate this Agreement and/or the Services in whole or in part.
- H. If the Agreement is terminated (or rendered ineffective pursuant to a Court order):
 - 1. the Client is liable only to pay the Contractor charges and fees directly attributable to the proportion of the Services properly completed in accordance with this Agreement prior to the date of termination; and
 - 2. the Contractor will immediately pay the Client in respect of any fees and changes paid in advance in respect of Services to be provided after the date of termination.

10. CONTRACT MANAGEMENT

- A. The Client's Contact and the Contractor's Contact shall liaise on a regular basis to address any issues arising which may impact on the performance of this Agreement and to agree milestones, compliance schedules and operational protocols as required by the Client from time to time. If requested in writing by the Client the Contractor shall meet formally with the Client to report on progress and shall comply with all written directions of the Client.
- B. The Contractor agrees to:
 - 1. liaise with and keep the Client's Contact fully informed of any matter which might affect the observance and performance of the Contractor's obligations under this Agreement;
 - 2. maintain such records and comply with such reporting arrangements and protocols as required by the Client from time to time;
 - 3. comply with all reasonable directions of the Client; and
 - 4. comply with the service levels and performance indicators set out in Schedule D.
- C. The Client or its authorised representative may inspect the Contractor's premises, lands and facilities (or such part or parts thereof relating solely to this Agreement) with due access to relevant personnel and documents and records and to conduct audits upon reasonable notice in writing to ensure compliance with the terms of this Agreement. The Contractor shall comply with all reasonable directions of the Client thereby arising. The cost of inspection shall be borne by the Client, except where it verifies or reveals non-compliance by the Contractor with the provisions of this Agreement.

11. DISPUTES

- A. In the event of any dispute arising out of or relating to this Agreement (the "Dispute"), the Parties shall first seek settlement of the Dispute as set out below.
- B. The Dispute shall be referred as soon as practicable to [insert Contractor contact] within the Contractor and to [insert Contracting Authorities contact] within the Client respectively.
- C. If the Dispute has not been resolved within fifteen (15) Business Days (or such longer period as may be agreed in writing by the Parties) of being referred to the nominated representatives, then either Party may refer the Dispute to an

independent mediator, the identity of whom shall be agreed in advance by the Parties.

- D. If the Parties are unable to agree on a mediator or if the mediator agreed upon is unable or unwilling to act, either Party may within twenty-one (21) days from the date of the proposal to appoint a Mediator or within twenty-one (21) days of notice to either Party that the mediator is unable or unwilling to act, apply to CEDR Ireland to appoint a mediator.
- E. Any submissions made to and discussions involving the mediator, of whatever nature, shall be treated in strict confidence and without prejudice to the rights and/or liabilities of the Parties in any legal proceedings and, for the avoidance of doubt, are agreed to be without prejudice and legally privileged. The Parties shall make written submissions to the mediator within ten (10) Business Days of his/her appointment.
- F. The Parties shall share equally the cost of the mediator. The costs of all experts and any other third parties who, at the request of any Party, shall have been instructed in the mediation, shall be for the sole account of, and shall be discharged by that Party.
- G. For the avoidance of doubt (but subject to clause 11(H)), the obligations of the Parties under this Agreement shall not cease, be suspended or delayed as a result of a Dispute, the operation of this clause 11 or by the reference of a Dispute to mediation. The Contractor shall comply fully with the requirements of the Agreement at all times.
- H. Nothing in this clause 11 prevents the Client from terminating this Agreement (in whole or in part) in accordance with its terms.

12. GOVERNING LAW, CHOICE OF JURISDICTION AND EXECUTION

- A. This Agreement, and all disputes and matters arising out of or in connection with it, (including as to its formation, existence, operation, performance and termination) shall in all aspects be governed by and construed in accordance with the laws of Ireland and the Parties hereby agree that the courts of Ireland have exclusive jurisdiction to hear and determine any such disputes.
- B. This Agreement shall be executed in duplicate and each copy of the Agreement shall be signed by all the Parties hereto. Each of the Parties to this Agreement confirms that this Agreement is executed by their duly authorised officers.

13. NOTICES

- A. Any notice or other written communication to be given under this Agreement shall either be delivered personally or sent by registered post or email. The Parties will from time to time agree primary and alternative contact persons and details for the purposes of this clause 13.
- B. All notices shall be deemed to have been served as follows:
 - 1. if personally delivered, at the time of delivery;
 - 2. if posted by registered post, at the expiration of 48 hours after the envelope containing the same was delivered into the custody of the postal authorities (and not returned undelivered); and
 - 3. if communicated by email, on the next calendar day following transmission.

14. ASSIGNMENT

Any assignment to a third party or other transfer of the Contractor's rights or obligations under this Agreement requires the prior written consent of the Client.

15. ENTIRE AGREEMENT

This Agreement, including, where applicable, any side letter referred to in it, constitutes the entire agreement and understanding of the Parties, and any and all other previous agreements, arrangements and understandings (whether written or oral) between the Parties with regard to the subject matter of this Agreement (save where fraudulently made) are hereby excluded. The Contractor acknowledges and confirms that it has not relied upon, and has no remedies in respect of, any statements, terms, conditions, promises, warranties or representations other than those expressly set out in Schedule A of this Agreement.

16. SEVERABILITY

If any term or provision herein is found to be illegal or unenforceable for any reason, then such term or provision shall be deemed severed and all other terms and provisions shall remain in full force and effect.

17. WAIVER

No failure or delay by either Party to exercise any right, power or remedy shall operate as a waiver of it, nor shall any partial exercise preclude further exercise of same or some other right, power or remedy.

18. NON-EXCLUSIVITY

Nothing in this Agreement shall preclude the Client from purchasing services (or Services) from a third party at any time during the currency of the Agreement.

19. MEDIA

No media releases, public announcements or public disclosures relating to this Agreement or its subject matter, including but not limited to promotional or marketing material, shall be made by the Contractor without the prior written consent of the Client.

20. CONFLICTS, REGISTRABLE INTERESTS AND CORRUPT GIFTS

- A. The Contractor confirms that it has carried out a conflicts of interest check and is satisfied that neither it nor any Subcontractor nor agent as the case may be has any conflict of interest in relation to the Services and its obligations undertaken under this Agreement, except (if applicable) to the extent set out in a separate conflict of interest disclosure letter that expressly refers to this clause (and, in which case, the Contractor shall comply with any conflict of interest mitigation or management measures, procedures and protocols set out or referred to in such conflict of interest side letter). The Contractor hereby undertakes to notify the Client immediately should any conflict of interest come to its attention during the currency of this Agreement and to comply with the Client's directions in respect thereof. In the event of such notification, the Client shall have the right (in addition to any other rights which it has at law) to terminate this Agreement immediately and without liability for compensation or damages. A "conflict of interest" in this Agreement means any actual, potential or perceived conflict of interest or bias or any other factor, whether arising through personal interest, current or prospective contractual obligations or any other activity or association that the Contractor, Subcontractors or any of their personnel or subcontractors has which could compromise the independence of the Contractor in its performance of the Services or any aspect of the Services or Agreement and any of their subject matter or which could create the perception that the independence of the Contractor in its performance of the Services might be so compromised and includes, without limitation:

1. a substantial pecuniary interest (whether by way of a shareholding or otherwise) in any person regulated by the Client or potentially affected by any decisions of the Client;
 2. an agreement (whether oral or written) with any person regulated by the Client or potentially affected by any decisions of the Client or which represent any persons regulated or potentially affected by decisions of the Client; and/or
 3. a position of employment, directorship (whether executive or non-executive) or any position of emolument with any person regulated by the Client or potentially affected by any decisions of the Client or which represent any persons regulated or potentially affected by decisions of the Client.
- B.** Any registrable interest involving the Contractor (and any Subcontractor or agent as the case may be) and the Client, the Ceann Comhairle (Speaker), or any member of the Government, or any member of the Oireachtas, or their relatives must be fully disclosed to the Client immediately upon such information becoming known to the Contractor (Subcontractor or agent as the case may be) and the Contractor shall comply with the Client's directions in respect thereof, to the satisfaction of the Client. In the event of such disclosure, the Client shall have the right (in addition to any other rights which it has at law) to terminate this Agreement immediately and without liability for compensation or damages. The terms "registrable interest" and "relative" shall be interpreted as per section 2 of the Ethics in Public Office Act, 1995 (as amended) a copy of which is available on request.
- C.** The Contractor shall not offer or agree to give any public servant or civil servant any gift or consideration or commission of any kind as an inducement or reward for doing or forbearing to do or for having done or forborne to do any action in relation to the obtaining or execution of this or any other public contract. Any breach of this clause 20C or the commission of any offence by the Contractor, any Subcontractor, agent or employee under the Prevention of Corruption Acts, 1889 to 2005 shall entitle the Client to terminate this Agreement immediately and without liability for compensation or damages and to recover the amount of any loss resulting from such cancellation, including but not limited to recovery from the Contractor of the amount or value of any such gift, consideration or commission.

21. ACCESS TO PREMISES

- A.** Any of the Client's premises made available from time to time to the Contractor by the Client in connection with this Agreement, shall be made available to the Contractor on a non-exclusive licence basis and shall be used by the Contractor solely for the purpose of performing its obligations under this Agreement. The Contractor shall have use of such premises as licensee and shall vacate the same on completion, termination or abandonment of this Agreement.
- B.** The Contractor shall upon reasonable notice by the Client allow the Client access to its premises (including the premises of any Subcontractor or agent) where the Services are being performed for the Client under this Agreement.

22. EQUIPMENT

- A.** The Contractor shall provide all equipment and materials necessary for the provision of the Services ("Equipment").
- B.** All Equipment brought onto the Client's premises shall be at the Contractor's own risk and the Client shall have no liability for any loss of, caused by or damage to any Equipment. The Contractor shall provide for the haulage or carriage thereof to the

Client's premises and the removal of Equipment when no longer required at its sole cost. Unless otherwise agreed, Equipment brought onto the premises will remain the property of the Contractor.

- C. The Contractor shall maintain and store all items of Equipment within the Client's premises in a safe, serviceable and clean condition.
- D. The Contractor shall, at the Client's written request, at its own expense and as soon as reasonably practicable:
 - i. remove from the Client's premises any Equipment which in the reasonable opinion of the Client is either hazardous, noxious or not in accordance with this Agreement; and
 - ii. replace such item with a suitable substitute item of Equipment.
- E. On completion of the Services the Contractor shall remove the Equipment used by the Contractor to provide the Services and shall leave the Client's premises in a clean, safe and tidy condition. The Contractor is solely responsible for making good any damage to the Client's premises or any objects contained thereon, other than fair wear and tear, which is caused by the Contractor or any of its employees or Subcontractors.

23. NON SOLICITATION

- A. For the Term and for a period of 12 months thereafter (and save in respect of publicly advertised posts) neither the Client nor the Contractor shall employ or offer employment to any of the other Party's employees without that other Party's prior written consent.

24. CHANGE CONTROL PROCEDURE

- A. At any time during the Term of this Agreement, either Party may propose a change or changes to any part or parts of this Agreement.
- B. The change control procedures set out in this clause will apply to all changes irrespective of whether the Contractor or the Client proposes the change. The Contractor acknowledges and agrees that rates, unit prices or similar no higher than the rates, unit prices or similar set out in Schedule C shall apply to any change.
- C. A change control notice ("Change Control Notice") shall, upon request by the Client, be prepared by the Contractor for all change requests. The Contractor shall provide the Client with a duplicate counter-signed copy of the Change Control Notice providing an outline description of the change requested, the rationale for the change, the effect and impact that the change will have on the Services (where ascertainable) and otherwise, the cost impact of the change and timeline for implementation of the change.
- D. All Change Control Notices proposing changes to this Agreement must promptly be submitted by the Contractor for review to Client.
- E. The Client must indicate its acceptance or rejection of the Change Control Notice within a reasonable timeframe of its completion and submission for review. The Client shall either counter-sign the duplicate Change Control Notice or reject the Change Control Notice.

- F. On counter-signing of a Change Control Notice by the Client, this Agreement shall be amended by the Change Control Notice.
- G. In the event that the Client rejects the Change Control Notice, the change(s) shall not take place and the Parties shall continue to perform their obligations under this Agreement.
- H. Where the Client proposes a change and there is a material cost in preparing a Change Control Notice, the Contractor and the Client will agree a reasonable charge in advance for investigating each proposed change and preparing each estimate, whether or not the change is implemented. If the Client's request for any change is subsequently withdrawn but results in a delay in the performance of the Services then the Contractor will not be liable for such delay provided and to the extent that it informed the Client at the time of the change request of the likelihood of such a delay and will be entitled to an extension of time equal to not less than the period of the delay to that extent.

25. DATA PROTECTION AND: SECURITY

In this Agreement the following terms shall have the meanings respectively ascribed to them:

"Data" means all Confidential Information, whether in oral or written (including electronic) form, created by or in any way originating with the Client (including but not limited to his employees, agents, independent contractors and/or Sub-contractors) and all information that is the output of any computer processing, or other electronic manipulation of any information that was created by or in any way originating with the Client provided under this Agreement and includes any Personal Data;

"Data Controller" has the meaning given under the Data Protection Laws;

"Data Processor" has the meaning given under the Data Protection Laws;

"Data Protection Laws" means all applicable national and EU data protection laws, regulations and guidelines, including but not limited to Regulation (EU) 2016/679 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (the "General Data Protection Regulation"), and any guidelines and codes of practice issued by the Office of the Data Protection Commissioner or other supervisory authority for data protection in Ireland.

"Data Subject" has the meaning given under the Data Protection Laws;

"Data Subject Access Request" means a request made by a Data Subject in accordance with rights granted under the Data Protection Laws to access his or her Personal Data;

"Personal Data" has the meaning given under Data Protection Laws;

"Processing" has the meaning given under the Data Protection Laws;

- A. The Contractor shall comply with all applicable requirements of the Data Protection Laws.
- B. The Parties acknowledge that for the purposes of the Data Protection Laws, the Client is the Data Controller and the Contractor is the Data Processor in respect of Data which is Personal Data. Schedule E sets out the scope, nature and purpose of Processing by the Contractor, the duration of the Processing and the types of Personal Data and categories of Data Subject.

- C. Without prejudice to the generality of clause 25B, the Contractor shall, in relation to any Personal Data processed in connection with the performance by the Contractor of its obligations under this Agreement: -
- (1) process that Personal Data only on the written instructions of the Client;
 - (2) ensure that it has in place appropriate technical and organisational measures, reviewed and approved by the Client, to protect against unauthorised or unlawful processing of Personal Data and against accidental loss or destruction of, or damage to, Personal Data, appropriate to the harm that might result from the unauthorised or unlawful processing or accidental loss, destruction or damage and the nature of the data to be protected, having regard to the state of technological development and the cost of implementing any measures (those measures may include, where appropriate, pseudonymising and encrypting Personal Data, ensuring confidentiality, integrity, availability and resilience of its systems and services, ensuring that availability of and access to Personal Data can be restored in a timely manner after an incident, and regularly assessing and evaluating the effectiveness of the technical and organisational measures adopted by it);
 - (3) ensure that all personnel who have access to and/or process Personal Data are obliged to keep the Personal Data confidential;
 - (4) not transfer any Personal Data outside of the European Economic Area unless the prior written consent of the Client has been obtained and the following conditions are fulfilled;
 - i. appropriate safeguards are in place in relation to the transfer, to ensure that Personal Data is adequately protected in accordance with Chapter V of Regulation 2016/679 (General Data Protection Regulation);
 - ii. the data subject has enforceable rights and effective legal remedies;
 - iii. The Contractor complies with its obligations under the Data Protection Laws by providing an adequate level of protection to any Personal Data that is transferred; and
 - iv. The Contractor complies with reasonable instructions notified to it in advance by the Client with respect to the processing of the Personal Data;
- D. The Contractor shall promptly notify the Client if it receives a Data Subject Access Request to have access to any Personal Data or any other complaint, correspondence, notice, request any order of the Court or request of any regulatory or government body relating to the Client's obligations under the Data Protection Laws and provide full co-operation and assistance to the Client in relation to any such complaint, order or request (including, without limitation, by allowing Data Subjects to have access to their data).
- E. The Contractor shall without undue delay report in writing to the Client any data compromise involving Personal Data, or any circumstances that could have resulted in unauthorised access to or disclosure of Personal Data.
- F. The Contractor shall assist the Client in ensuring compliance with its obligations under the Data Protection Laws with respect to security, impact assessments and consultations with supervisory authorities and regulators.

- G. The Contractor shall at the written direction of the Client, amend, delete or return Personal Data and copies thereof to the Client on termination of this Agreement unless the Contractor is required by the laws of any member of the European Union or by the laws of the European Union applicable to the Contractor to store the Personal Data.
- H. The Contractor shall permit the Client, the Data Protection Commission or other supervisory authority for data protection in Ireland, and/ or their nominee to conduct audits and or inspections of the Contractor's facilities, and to have access to all data protection, confidentiality and security procedures, data equipment, mechanisms, documentation, databases, archives, data storage devices, electronic communications and storage systems used by the Contractor in any way for the provision of the Services. The Contractor shall comply with all reasonable directions of the Client arising out of any such inspection, audit or review.
- I. The Contractor shall fully comply with and implement policies which are communicated or notified to the Contractor by the Client from time to time.
- J. The Contractor shall maintain complete and accurate records and information to demonstrate its compliance with this clause 25 and allow for inspections and contribute to any audits by the Client or the Client's designated auditor.
- K. The Contractor shall: -
 - (1) take all reasonable precautions to preserve the integrity of any Personal Data which it processes and to prevent any corruption or loss of such Personal Data;
 - (2) ensure that a back-up copy of any and all such Personal Data is made [insert frequency at contract completion] and this copy is recorded on media from which the data can be reloaded if there is any corruption or loss of the data; and
 - (3) in such an event and if attributable to any default by the Contractor or any Sub-contractor, promptly restore the Personal Data at its own expense or, at the Client's option, reimburse the Client for any reasonable expenses it incurs in having the Personal Data restored by a third party.
- L. The Client does not consent to the Contractor appointing any third party processor of Personal Data under this agreement
- M. Save for clauses 25B, 25C, 25D(4) and 25E, all the obligations on the Contractor in this clause 25 relating to the processing of Personal Data shall apply to the processing of all Data.
- N. The provisions of this clause 25 shall survive termination and or expiry of this Agreement for any reason.

26. ADDITIONAL CONDITION(S)

Not used.

Schedule B: Services: The Specification

[Insert when completing contract]

Schedule C: Charges

[Insert when completing contract]

Schedule D: Service Levels

[Insert when completing contract, if applicable]

Schedule E: Data Processing Instructions

[Insert when completing contract, if applicable]

Processing, Personal Data and Data Subjects

1. Processing by the Contractor

- 1.1 Subject matter of processing: all information, whether in oral or written (including electronic) form, created by or in any way originating with the Client (including but not limited to his employees, agents, independent contractors and/or Sub-contractors) and all information that is the output of any computer processing, or other electronic manipulation of any information that was created by or in any way originating with the Client provided under the Agreement which relates to an identified or identifiable natural person;
- 1.2 Nature of processing: the Contractor will process Personal Data as necessary to perform the services and its other obligations under this Agreement and to comply with Client's instructions;
- 1.3 Purpose of processing: to allow the Contractor to provide the services under the Agreement;
- 1.4 Duration of the processing: the Term of the Agreement.

2. Types of personal data:

[Insert when completing contract]

3. Categories of data subject:

[Insert when completing contract]

Appendix 5: Self-Declaration re Financial and Economic Capacity

Name of Tenderer:			
TAX CLEARANCE			
<p>(A) I confirm and declare having a current and valid Tax Clearance Certificate in place and our tax affairs are in order. CRU can verify your tax clearance status through Revenue's online facility at https://www.revenue.ie/itp/view.isp. To this end, please confirm:</p>			
		Please confirm YES/NO	
Do you grant CRU permission to verify your tax cleared position online?			
Registration Number <i>(as shown in your Tax Clearance Certificate)</i>			
Certificate Number <i>(as shown in your Tax Clearance Certificate)</i>			
OR			
<p>(B) I confirm that I have applied for a Tax Clearance Certificate which will be made available on request</p>			
TURNOVER			
I confirm that our financial profile over the last three years was as follows:			
Year	2020	2019	2018
Month End (e.g. December 2020)			
Turnover			
INSURANCES			
I confirm that we have the following insurances in place:			
Type of Insurance	Employers Liability	Public Liability	Professional Indemnity
Level	€	€	€
Excess	€	€	€
AND			

(B) I confirm that If successful I will be in a position to put the required forms and levels of insurances required for the contract in place.

I confirm that I will provide the following promptly on request at any time prior to the award decision being made:

'evidence of insurances in place or 'letter from Insurance Broker confirming that the required levels could be put in place if successful"

Declarations must be signed by a duly authorised officer

I hereby declare that the above is an accurate and complete Declaration of Financial and Economic Capacity on the part of my firm in relation to this tender competition. I undertake to inform CER of any changes to this Declaration which may arise prior to the award of contract and to provide evidence of all self-declared information promptly on request.

Signed:

Date:

Name:

Position:

Appendix 6: Confidentiality Agreement

THIS AGREEMENT is made on the [date] day of [month] 20[year] BETWEEN:

[Insert name of Contracting Authority] of [insert Address] (hereinafter “the Contracting Authority”) of the one part; and

[Contractor's legal name: to be completed on signing.], of [Contractor's address: to be completed on signing.] (hereinafter called “the Contractor”) of the other part.

WHEREAS

A. By Request for Tenders dated [insert date] entitled [insert title] (the “RFT”) the Contracting Authority invited tenders (“Tenders”) for the provision of the services described in Appendix 1 to the RFT (the “Services”) (“the Competition”). The Contractor submitted a response to the RFT dated the [Insert Date of Tender].

The Contractor has been identified as the preferred bidder in the Competition.

B. For the purposes of the Competition and any subsequent contract awarded thereunder (if any) (“the Contract”) certain confidential information (the “Confidential Information”) as defined at clause 2 of this Agreement, will be furnished to the Contractor. The Confidential Information is confidential to the Client.

NOW IT IS HEREBY AGREED in consideration of the sum of €2.00 (the receipt of which is hereby acknowledged by the Contractor) as follows:

1. The Contractor acknowledges that Confidential Information may be provided to him by the Contracting Authority and that each item of Confidential Information shall be governed by the terms of this Agreement.

2. For the purposes of this Agreement "Confidential Information" means:

2.1 unless specified in writing to the contrary by the Contracting Authority all and any information (whether in documentary form, oral, electronic, audio-visual, audiorecorded or otherwise including any copy or copies thereof and whether scientific, commercial, financial, technical, operational or otherwise) relating to the Contracting Authority, the provision of services under the Contract and all and any information supplied or made available to the Contractor (to include agents, Subcontractors, customers and suppliers) for the purposes of the Contract (s); and

2.2 any and all information which has been derived or obtained from information described in sub-paragraph 2.1

3. Save as may be required by law, the Contractor agrees in respect of the Confidential Information:

3.1 to treat such Confidential Information as confidential and to take all necessary steps to ensure that such confidentiality is maintained;

3.2 not, without the prior written consent of the Contracting Authority, to communicate or disclose any part of such Confidential Information to any person except

i to those employees, agents, Subcontractors and other suppliers on a need to know basis; and/or

- ii to the Contractor's auditors, professional advisers and any other persons or bodies having a legal right or duty to have access to or knowledge of the Confidential Information in connection with the business of the Contractor

PROVIDED ALWAYS that the Contractor shall ensure that all such persons and bodies are made aware, prior to disclosure, of the confidential nature of the Confidential Information and that they owe a duty of confidence to the Contracting Authority, and shall use all reasonable endeavours to ensure that such persons and bodies comply with the provisions of this Agreement.

4. The obligations in this Agreement will not apply to any Confidential Information:
 - i in the Contractor's possession (with full right to disclose) before receiving it from the Contracting Authority; or
 - ii which is or becomes public knowledge other than by breach of this clause; or
 - iii is independently developed by the Contractor without access to or use of the Confidential Information; or
 - iv is lawfully received from a third party (with full right to disclose).
5. The Contractor undertakes:
 - 5.1 to comply with all directions of the Contracting Authority with regard to the use and application of all and any Confidential Information or data (including personal data as defined in Data Protection law);
 - 5.2 to comply with all directions as to local security arrangements deemed reasonably necessary by the Contracting Authority including, if required, completion of documentation under the Official Secrets Act, 1963 and comply with any vetting requirements of the Contracting Authority including by police authorities;
 - 5.3 upon termination of the Competition (or the Contract) for whatever reason to furnish to the Contracting Authority, all Confidential Information or at the written direction of the Contracting Authority to destroy in a secure manner all (or such part or parts thereof as may be identified by the Contracting Authority) Confidential Information in its possession and shall erase any Confidential Information held by the Contractor in electronic form. The Contractor will upon request furnish a certificate to that effect should the Contracting Authority so request in writing. For the avoidance of doubt "document" includes documents stored on a computer storage medium and data in digital form whether legible or not; and
 - 5.4 to comply with the requirements of Data Protection law
 - 5.5 for the purposes of this Agreement "Data Protection law" means all applicable national and EU data protection laws, regulations and guidelines, including but not limited to the Data Protection Acts 1988 to 2018; Regulation (EU) 2016/679 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (the General Data Protection Regulation), and any guidelines and codes of practice issued by the Data Protection Commission or other supervisory authority for data protection in Ireland from time to time.
6. The Contractor shall not obtain any proprietary interest or any other interest whatsoever in the Confidential Information furnished to him by the Contracting Authority and the Contractor so acknowledges and confirms.

7. The Contractor shall, in the performance of the Contract, access only such hardware, software, infrastructure, or any part of the databases, data or ICT system(s) of the Contracting Authority as may be necessary for the purposes of the Competition (and obligations thereunder or arising therefrom) and only as directed by the Contracting Authority and in the manner agreed in writing between the Parties.

8. The Contractor agrees that this Agreement will continue in force notwithstanding any court order relating to the Competition or termination of the Contract (if awarded) for any reason.

9. The Contractor agrees that this Agreement shall in all aspects be governed by and construed in accordance with the laws of Ireland and the Contractor hereby further agrees that the courts of Ireland have exclusive jurisdiction to hear and determine any disputes arising out of or in connection with this Agreement.

SIGNED for and on behalf of the Contracting Authority	SIGNED for and on behalf of the Contractor
(being a duly authorised officer)	
Witness	Witness