

Bord na Móna Plc and its Irish Subsidiaries
(the “**Contracting Entity**”)

Selection of Bord na Móna Bulk Road Transportation for Peat
(the “**Framework**”)

Prequalification Documentation

Information Memorandum

Procurement Reference Number [205520]

7th January 2022

Important Notice

This Information Memorandum and accompanying pre-qualification documents (the “**Shortlisting Documents**”) have been prepared for the purpose of providing certain information to parties interested in applying to be shortlisted to tender for the Framework (the “**Applicants**”). It is the Contracting Entity’s intention that the proposed framework will be established on the basis of two Framework Agreements. The purpose of this pre-qualification process is to establish a short-list of suitable candidates with the required capability to successfully provide the Contracting Entity’s requirements, who will subsequently be invited to take part in the tender stage of the procurement competition.

The information provided by Applicants, will be assessed by the Contracting Entity and its advisers in accordance with the requirements and criteria set out in the procurement documentation.

This procurement competition is being conducted under the Irish regulations entitled European Union (Award of Contracts by Utility Undertakings) Regulations 2016 (the “**2016 Regulations**”), implementing European Parliament Directive 2014/25/EU. The Contracting Entity is conducting this procurement competition using the negotiated procedure, Applicants will be required to satisfy pre-qualification criteria. This procurement competition is also subject to the rules and conditions set out in this Information Memorandum.

This Information Memorandum provides a description of the anticipated selection process under section 2. Parties who, having read this document and are interested in participating in the competition, should complete and submit the Shortlisting Documents provided in accordance with the instructions set out herein.

The information contained in the Shortlisting Documents is preliminary only and will be superseded by more detailed information in the documents to be issued to those candidates successful in being shortlisted to take part in the tender process.

In no circumstances will the Contracting Entity, its advisers, consultants, contractors and/or agents incur any liability or responsibility arising out of or in respect of the issue of the Shortlisting Documents. Any costs associated with the submission of a shortlisting application or otherwise from participation in this competition are the sole responsibility of the Applicant and will not be reimbursed.

The Shortlisting Documents are being made available by the Contracting Entity to Applicants on the terms set out in the Shortlisting Documents only. The Shortlisting Documents are not being distributed to the public nor have they been filed, registered or approved in any jurisdiction. Their possession or use in any manner contrary to any applicable law is expressly prohibited. Applicants shall inform themselves concerning any applicable legal requirements and shall observe same. No reliance shall be placed on any information or statements contained in the Shortlisting Documents, and no representation or warranty, express or implied, is or will be made in relation to such information. Without prejudice to the foregoing, neither the Contracting Entity nor its advisers, consultants, contractors and/or agents shall have any liability or responsibility in relation to the accuracy, adequacy or completeness of such information or any statements made. For the avoidance of doubt, Applicants should not assume that such information or statements will remain unchanged.

The information does not purport to be comprehensive or to have been independently verified.

The Contracting Entity reserves the right to amend the Shortlisting Documents, its requirements and any information contained herein at any time by notice, in writing, to the Applicants.

Nothing in the Shortlisting Documents is, nor shall be relied upon as, a promise or representation as to the Contracting Entity's ultimate decision in relation to the selection of the service providers for the Framework. However, The Contracting Entity reserves the right to take such steps as it considers appropriate, including (but not limited to):

- changing the basis of, or the procedures (including the timetable) relating to, the selection process;
- rejecting any, or all, of the applications/proposals;
- not inviting an Applicant to proceed further;
- not furnishing an Applicant with additional information; or
- abandoning the competition.

Nothing contained in the Shortlisting Documents is, or shall be relied upon as, a representation of fact or promise as to the future. Any summaries or descriptions of documents or contractual arrangements contained in any part of the Shortlisting Documents cannot be and are not intended to be comprehensive, nor any substitute for the underlying documentation (whether existing or to be concluded in the future), and are in all respects qualified in their entirety by reference to them.

The Contracting Entity, its advisers, consultants, contractors and/or agents do not accept any responsibility for the legality, validity, effectiveness, adequacy or enforceability of any documentation executed, or which may be executed, in relation to the Framework. No legal relationship or other obligation shall arise between any Applicant and the Contracting Entity unless and until a contract has been formally executed in writing by the Contracting Entity and the successful Applicant and any conditions precedent to such document's effectiveness have been fulfilled. The Contracting Entity shall not be obliged to select any of the Applicants for the Framework and the Contracting Entity reserves the right not to proceed with the selection process and to withdraw from the process at any time. No contract to be entered into with a successful Applicant will contain any representation or warranty in respect of the Shortlisting Documents.

In this Information Memorandum, references to the Shortlisting Documents includes all information contained in them, any accompanying documentation, and/or information and/or opinions made available during the shortlisting period by or on behalf of The Contracting Entity, its advisers, consultants, contractors, servants and/or agents in connection with the Shortlisting Documents including, without limitation, the information made available in an Application to any queries.

Irish law is applicable to the Shortlisting Documents. The Irish courts shall have exclusive jurisdiction in relation to any disputes arising from the Shortlisting Documents.

Each Applicant's acceptance of delivery of the Shortlisting Documents constitutes its agreement to, and acceptance of, the terms set forth in this Information Memorandum.

Background and Instructions to Applicants

Section 1

1. General information

1.1 Introduction

Bord na Móna was established in 1946, as a statutory body under the Turf Development Act 1946, to develop the peat resource in the Midlands and West of Ireland. Under its “Brown to Green” strategy, Bord na Móna is managing the transition away from its traditional peat businesses, to becoming a leading supplier of renewable and sustainable products and services.

Bord na Móna is a well-established Irish business (in operation for the last 80 years). Bord na Móna operates with five Business Units namely, Consumer Products, Land & Habitats, Resource Recovery, Renewable Energy and New Business.

Consumer Products – manufactures and markets peat briquettes and growing media products.

Land & Habitats - supplies peat and biomass materials for the generation of electricity in the Bord na Móna owned power station at Edenderry Power and supplies peat for briquette manufacture, and for growing media products. The Land & Habitats Business is responsible for providing peatland rehabilitation services under the Peatland Climate Action Scheme.

Resource Recovery - manages waste in a manner which maximises the segregation, reuse and recycling of materials while minimising the volume sent for landfill. This is achieved by utilising the most modern technologies, ensuring regulatory compliance and working in partnership with customers. The overarching objective is to minimise the volume of waste going to landfill.

Renewable Energy - manages and operates Bord na Móna’s existing power generation assets, which include the Edenderry co-fired peat & biomass generating unit, the Cushaling peaking plant, the wind farms at MountLucas, Bruckana, Oweninny and Bellacorrick.

This business unit has several developmental projects at different stages of maturity, that will add substantially to Bord na Móna’s electricity generating capacity over the next decade.

New Business - This business unit focuses on developing new business opportunities, leveraging our land assets with the creation of sustainable employment into the future.

Detailed company information as well as annual accounts are available on the company website at <http://www.bordnamona.ie/>.

The Contracting Entity, wishes to put a framework agreement in place with a number of logistic service providers for the provision of Road Bulk Transport Services.

Tender Description: Bord na Móna has significant road haulage requirements for bulk materials within its Peat and Horticulture businesses. These materials currently include fuel peat, horticultural peat and various biomass materials, and are distributed to both internal and external customers. Bord na Móna’s peat production bogs are widely spread across the Midlands of Ireland, supplying 1 power station, 1 briquette factories and a number of horticultural growing media facilities by both road and an internal rail network. The vast majority of road deliveries are

carried out using “walking floor” trailers, on the basis of receiving site restrictions. Bord na Móna now wishes to invite suitably qualified transport companies to tender for the haulage of peat by road from and to multiple locations throughout the country.

Volumes and locations etc will be issued in stage 2 of this eTender.

Applicants tendering to provide a service must be in a position to provide all such services. If the provider is using subcontractors or other third party providers then these need to be declared at PQQ stage.

This Information Memorandum provides Applicants with general information regarding the competition and a description of the anticipated selection process. Applicants who, having read this document, are interested in participating in the competition, should complete the Shortlisting Questionnaires in accordance with the instructions set out therein.

1.2 Contract Description

The Contracting Entity is establishing a framework for the provision of Bulk Road Transport Services in relation to various matters over an initial period of 1 year, which may be extended by the Contracting Entity.

Admission to the Framework does not guarantee the award of any contract nor does it give the members of the Framework the right to be consulted in respect of, or tender for, any contract.

The Contracting Entity makes no representation that it will procure any services exclusively from the Framework or from any individual legal service provider who is appointed, nor does it guarantee any minimum level of services to any appointed legal service provider.

No information contained in this document or in any communication made between the Contracting Entity and any party in connection with this qualification system shall be relied upon as constituting a contract, or part of a contract, or an offer to make a contract. There will be no contract between the Contracting Entity and any Applicant unless and until a contract is finally and formally concluded at the end of the procurement competition for the specified supplies, services and/or works and any conditions precedent to such contracts effectiveness have been fulfilled. The Contracting Entity has no obligation to enter into a contract with any Applicant.

1.3 Operation of the Framework

It is anticipated that, given the breadth of our requirements, a number of prequalified Logistic Providers will be appointed as a result of this competition. The members of the Framework will be appointed on the basis of the skills they have demonstrated in their response to tender.

At the date of issuing this Information Memorandum it is envisaged that this procurement competition is intended to establish a multi-party Framework Agreements. It is expected that Framework Agreement 1 will contain a maximum of the Five (5) highest-ranked suitably qualified Logistic Providers, however, the total number will depend on the quality of submissions. Further details will be provided at the tender phase of the competition.

The Framework term will be a One (1) year initial term, with the option, at the Contracting Entity's own discretion, to extend up to a maximum of two further 1 year periods.

Section 2

2. The Competition Process

2.1 Overview of competition process

Interested parties should note that this competition is governed by the provisions of the 2016 Regulations. The Contracting Entity intends to follow these procedures and rules in this competition. The Contracting Entity is conducting this procurement competition using the negotiated procedure.

Interested Applicants are invited to complete one or both of the Shortlisting Questionnaires and provide associated documentation, which must be returned to The Contracting Entity in accordance with the instructions set out in these Shortlisting Documents.

2.2 Completeness and Compliance check

The completed Shortlisting Questionnaire(s) (the "**Application**") will be checked for completeness and compliance with the terms of the Shortlisting Documents. Applicants who are not excluded following the carrying out of this check will have their Applications assessed against the pass / fail criteria and the qualitative criteria set out within each Shortlisting Questionnaire.

PRE-QUALIFICATION QUESTIONNAIRE

1	Please provide details of the Primary Contact for this tender: Name, Phone No, e-mail address	Pass/Fail
2	PROFESSIONAL AND BUSINESS STANDING	Pass/Fail
	You may be excluded from the procurement process at the Company's discretion if any of the responses is "Yes" to clauses 1-7 .The Company reserves the right to seek further clarifications if the answer is "Yes" to any of Clauses 1-7. Failure to fully disc	
	Do any of the following apply to your organisation, or to (any of) the director(s) / partners / proprietor(s) ?	
	1. Bankruptcy, insolvency, compulsory winding up, receivership, composition with creditors, or subject to relevant proceedings.	
	2. A conviction (or convictions) for a criminal offence related to business or professional conduct.	
	3. Legal or administrative finding of commission of an act of grave misconduct in the course of business.	
	4. Failure to fulfil obligations related to payment of social security contributions.	
	5. Failure to fulfil obligations related to the payment of taxes.	
	6. Failure to provide information required or providing inaccurate/misleading information when participating in a procurement exercise.	
	7. Failure to obtain and maintain relevant licences or membership of an appropriate trading or professional organisation where required by law.	

2	Please indicate which of the following you would be able to provide if required:	Pass/Fail
	1. A copy of your audited accounts for the most recent two years	
	2. A statement of your turnover, profit & loss account and cash flow for the most recent year of trading.	
	3. A statement of your cash flow forecast for the current year and a bank letter outlining the current cash and credit position.	
	4. Alternative means of demonstrating financial status if trading for less than one year.	
3	Please provide a summary of the tendering entity financial information for the last 3 years on the spreadsheet, available in the documents section. Turnover requirement for this RFX ideally should be greater than -	Pass/Fail
4	Please supply a company profile to include staff numbers, skillsets, premises, equipment, customer support infrastructure etc. (Maximum 4 A4 pages)	Pass/Fail
5	Please provide details of up to three contracts in the last three years that are relevant in terms of scale and scope to this particular competition requirement. Details should include: customer name, customer contact name phone and email, date contract a	70
6	Does your organisation hold a recognised quality management certification; for example BS/ISO/EN or equivalent? If "Yes" please attach current certification. If "No", does your organisation have a quality management system ? (i.e. processes and procedu	10
7	Does your company have an environmental management or sustainability policy? If "Yes" please attach. If "No", please outline what measures you are taking in your business with regard to these areas.	10
8	Does your organisation hold a current recognised Safety Management certification; for example OHSAS18001 or equivalent? If so please attach a copy of your most recent certificate. If not, does your organisation have a documented Safety Statement inclu	10
9	Successfully appointed vendors must have a valid Tax Clearance Certificate prior to contract being awarded. Please confirm this is acceptable	6 Information only
10	Please provide details of all such Insurance information as requested by prevailing legislation specifically Professional Indemnity, Public & Employers Liability	Information only

2.3 Evaluation

Applicants who pass the pass / fail requirements will have their Application evaluated and scored in accordance with the evaluation criteria set out in 2.6 below. The Contracting Entity may seek clarification or further information or both from Applicants on their applications. Qualitative scoring will be determined based on the evaluation guidance in 2.7 below.

The Contracting Entity however reserves the right (but has no obligation) to short-list and invite more or less than eight (8) Logistic Provider Applicants.

Minor irregularities should only in exceptional circumstances lead to the exclusion of an Applicant. However repeated cases of minor irregularities can give rise to doubts about the reliability of an Applicant which could justify its exclusion

2.4 Minimum Thresholds

Applications which fail to achieve any of the minimum thresholds set out in the selection criteria will not be given further consideration and the submission will be excluded from this procurement competition.

2.5 Selection

Applications are submitted on the basis that each Applicant consents to the Contracting Entity carrying out any necessary actions to verify the information that the Applicant has provided. The Contracting Entity may (but is not obliged to), in order to verify information provided in an Application, contact and visit Applicants and and/or referees which might be provided in the Application and may conduct any investigations (either itself or through such third parties as it may, at its discretion, consider appropriate) it considers necessary in connection with Pre-Qualification Applications, including by reference to information independently sourced from the market or otherwise. The Applicants, must facilitate same, upon request.

2.6 Selection criteria

In this phase of the competition all Applicants will be assessed on the basis of the information they provide in their Application to establish whether they meet The Contracting Entity's requirements in terms of the criteria set out. Where necessary, the Applicants are ranked in order of merit. The Applications in this phase will be assessed on exclusion criteria, minimum requirements and evaluation criteria as follows:

A “Fail” on any of the “Pass/Fail” questions, automatically eliminates an Applicant from any further consideration for this procurement competition. Applicants are provided with further detail on the marking of the criteria on each online Shortlisting Questionnaire.

2.7 Qualitative Criteria questions will be marked as follows:

5 = ‘Very Good’ - Full level of Confidence

Full response exceeding requirement, demonstrating well evidenced and relevant examples, where appropriate.

Exceptional demonstration of the relevant ability, understanding, experience, skills resources & quality measures required in response to the relevant question.

3.75 = ‘Good’ – Good level of Confidence

Good response with satisfactory detail and evidence.

Satisfies the requirement, with some additional benefits.

Above average demonstration by the bidder of the relevant ability, understanding experience, skills, resource and quality measures required in response to the relevant question.

2.5 = ‘Meets Requirements’ - Adequate level of Confidence

Satisfactory level of response with sufficient details and evidence provided.

Satisfies the requirement.

Adequate demonstration by the bidder of the relevant ability, understanding, experience skills, resource & quality measures required in response to the relevant question.

1.25 = ‘Poor’ - Some Concerns

Part response with some shortcomings in evidence /information provided.

Satisfies the requirement with some reservations about the bidder’s relevant ability understanding, experience, skills, resource and quality measures required in response to the relevant question.

0 = ‘Very Poor’ - Major Concerns

Does not meet the requirement.

Does not comply and/or insufficient information provided to demonstrate that the bidder has the ability, understanding, experience, skills, resource and quality measure required.

2.8 Timelines

	Date	Time
Planned Publication Date	07/01/2022	
PQQ queries	28/01/2022	Before 17.00hrs
PQQ responses	07/02/2022	Before 17.00hrs
Issue ITT	14/02/2022	
ITT queries	25/02/2022	Before 17.00hrs
ITT Responses	04/03/2022	Before 17.00hrs
Notification of Preferred Suppliers	11/03/2022	
Award to Suppliers	28/03/2022	

3. General

3.1 Submission of Applications

Applications for shortlisting must be submitted on the eTenders system.

Applications, supporting documents and correspondence must be in English. In circumstances where an original document which is to form part of the application or correspondence with The Contracting Entity is not in the English language, Applicants must provide an accurate English translation together with a copy of the original document. In the event of any discrepancy or difference between various languages, the version in the English language shall prevail.

3.2 Date and time for receipt of applications

The latest date and time for receipt of Applications is the 7th February 2022 before 17.00hrs. The Contracting Entity may, at its absolute discretion, extend the Application submission date/time. Any extension

3.3 Shortlisting Documents

The Shortlisting Documents include the following:

- i. Information Memorandum (this document);
- ii. Shortlisting Questionnaire(s) (eTenders online);

All the Shortlisting Application documents must be submitted through eTenders. All requested documents must be uploaded at the indicated location on eTenders.

3.4 Confidentiality

Applicants must treat their Applications and their participation in this competition as confidential. Applicants must not disclose any information about this competition (including these Shortlisting Documents) to anyone other than to those who have a legitimate need to know or whom they need to consult for the purpose of submitting a shortlisting application, and then only on a confidential basis, or as required by law. Applicants shall promptly return these Shortlisting Documents to The Contracting Entity upon request.

Applicants shall not at any time release information concerning the Shortlisting Documents and/or accompanying documentation and/or the scope of supply for publication in the press or on radio, television, screen or any other medium.

If an Applicant considers that information it supplies is commercially sensitive or confidential, this should be clearly stated and clear and substantive reasons should be given. Representations as to confidentiality or commercial sensitivity should give a time after which the information may be disclosed; this would not normally exceed 5 years.

Subject to the foregoing paragraph of this section 3.4, The Contracting Entity is entitled to publicise or otherwise disclose to any person any information about this competition, including the identity of the Applicants and details of the Framework the identity of shortlisted Applicants, the competition process, the identity of the selected Applicants, or the award of the Framework at any time.

3.5 Conflicts of interest

Any conflict of interest or potential conflict of interest must be fully disclosed to The Contracting Entity as soon as such conflict or potential conflict becomes apparent. In the event of any conflict or potential conflict of interest, The Contracting Entity shall, in its absolute discretion, decide on the appropriate course of action.

Without prejudice to the foregoing, any registrable interest, involving the Applicant and The Contracting Entity, members of the Board of Bord Na Móna plc, members of the Government, members of the Oireachtas or employees of Bord Na Móna plc or their relatives must be fully disclosed in the application, or should be communicated to The Contracting Entity immediately upon such information becoming known to the Applicant, in the event of this information only coming to their notice after the submission of their application. The terms 'registrable interest' and 'relatives' shall be interpreted in line with the Ethics in Public Office Act 1995.

3.6 Communication, further information and queries

All communications from an Applicant to The Contracting Entity concerning this competition must be via the eTenders system.

Each Applicant must nominate a single point of contact in your organisation (“**Primary Contact**”) for the purposes of this competition and give relevant contact information for same.

Any questions regarding this competition should be sent through eTenders using the clarification question facility. The Contracting Entity will endeavour to respond to all queries within 3 business days. Applications will be issued through eTenders. Any answer that results in additional information regarding the requirement or specification, of this competition, will be sent to all Applicants. The final date for receipt of queries is 12pm on 26th March 2020. The Contracting Entity reserves the right, at its discretion, to answer queries received after this time and date.

It is anticipated that a list of questions raised by Applicants with the corresponding answers will be compiled and may be published to all Applicants if necessary. The Contracting Entity will endeavour, but will not be obliged, to answer any question which is raised by an Applicant before the deadline referred to above.

If an Applicant believes a query/request and/or its Application relates to a confidential or commercially sensitive aspect of its application it must mark the query/request as “confidential” or “commercially sensitive”.

If the Contracting Entity, at its absolute discretion, is satisfied that the query/request and/or its Application should be properly regarded as confidential or commercially sensitive, the nature of the query/request and its Application shall be kept confidential (subject to any applicable legal requirements).

If the Contracting Entity is of the opinion that it would be inappropriate to answer the query/request on a confidential basis it will notify the Applicant and require the Applicant to either withdraw the query or to raise any objection within two working days of such notification and state the grounds for its objection.

If the Applicant does not withdraw the query/request or raise any objection within the specified period, or The Contracting Entity is of the opinion that, notwithstanding the objection of the Applicant or the Applicant’s withdrawal of the query/request, the query/request is not confidential or commercially sensitive, or that a clarification or additional information in respect of part or all of the subject matter of the question should be issued, The Contracting Entity may issue the query/request and its Application to all of the Applicants, or may exercise its rights under this section to amend/clarify these Shortlisting Documents or issue additional information to all Applicants.

Notwithstanding anything else in these Shortlisting Documents, if The Contracting Entity is of the opinion that these Shortlisting Documents need to be supplemented with clarifying or amending information (including additions or deletions to the Shortlisting Documents) it is entitled to supplement the Shortlisting Documents at any time.

If an Applicant becomes aware of any ambiguity, discrepancy, error, or omission in these Shortlisting Documents, it must immediately notify The Contracting Entity, even after the time for submitting queries has expired.

3.7 Consortium Applicants

Applicants may apply to participate as single entities only. Applications by consortiums will be rejected as non-compliant.

3.8 Changes in application information

Following the submission of its Application, an Applicant may not make any changes to its information set out in the Application without the consent of The Contracting Entity. The Contracting Entity may decide, at its absolute discretion, whether to accept or reject the change.

If, as a result of a change in circumstances or otherwise, any information given by an Applicant to The Contracting Entity, including in the Shortlisting Questionnaire(s), was (when submitted) or has become (by reference to the facts as they then stand) untrue, incomplete or misleading, the Applicant must so inform The Contracting Entity as soon as it becomes aware of this. If appropriate, the Applicant may make a request to change information in its application.

If it comes to The Contracting Entity's attention that:

- there has been a change in circumstances concerning an Applicant that could affect The Contracting Entity's assessment of that Applicant's application or The Contracting Entity's decision to shortlist the Applicant; or
- information submitted by an Applicant was (when submitted) or has become (by reference to the facts as they then stand) untrue, incomplete or misleading,

The Contracting Entity may (but is not required to) revise its assessment of the Applicant's application on the basis of the information then available to The Contracting Entity.

3.9 Qualification and compliance

If an Application fails to comply in any respect with the requirements set out in these Shortlisting Documents or is ambiguous, The Contracting Entity shall be entitled at its absolute discretion (but shall not be obliged) to take such action as it considers appropriate, including (but not limited to):

- (a) rejecting the relevant application as non-compliant;
- (b) without prejudice to The Contracting Entity's right to reject the application:
 - (i) meeting with, raising issues and/or seeking clarification from the Applicant in respect of the relevant application;
 - (ii) requesting the Applicant to provide The Contracting Entity with information or items which have not been provided or have been provided in an incorrect form;
 - (iii) waiving a requirement which, in the opinion of The Contracting Entity, is minor or procedural;
 - (iv) amending a requirement and requesting all Applicants to submit revised applications on the basis of the amended requirements.

The Contracting Entity's decision as to whether an application is compliant is final.

3.10 General

Unwarranted or inappropriate attempts (including canvassing) to influence the decision of The Contracting Entity by or on behalf of an Applicant will result in the application being disqualified.

By submitting an Application in response to these Shortlisting Documents, an Applicant confirms that it has satisfied itself, from its own investigation, about all of the requirements of these Shortlisting Documents.

Applicants should note that no reimbursements shall be made for any costs incurred by Applicants in participating in this competition, including (but without limitation) preparing an Application to these Shortlisting Documents, attending any briefings or presentations at the premises of The Contracting Entity or elsewhere, or in connection with any visits made by representatives of The Contracting Entity to the Applicant's place of business.

The Contracting Entity reserves the right to make independent trade, credit and security inquiries about Applicants before shortlisting any Applicant.

3.11 Financial and Technical Resources and Security

By submitting an Application, the Applicant warrants, represents, confirms and agrees that it considers it has the necessary financial and technical resources to complete the contract based on the information made available by the Contracting Entity at this stage of the procurement competition.

Without prejudice to the above, the Contracting Entity reserves the right at its discretion to require the successful preferred Applicants to procure to the satisfaction of the Contracting Entity:

- (i) a parent company guarantee or other form of financial security from a parent company;
- (ii) and/or other suitable security arrangements.

The Contracting Entity will set out its requirements in this regard in the Tender documents. By submitting an Application, each Applicant warrants, represents and undertakes to the Contract Entity that they can comply, or procure compliance as the case may be, with the requirements above upon request by the Contracting Entity.

3.12 Data Protection

For this procurement competition:

“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 from time to time;

“Data Subject” has the meaning given under the Data Protection Laws;

The Contracting Entity will be a Data Processor in respect of any Personal Data required to be provided by Applicants in response to this phase of the procurement competition.

The Applicant, as Data Controller in respect of any Personal Data provided by it in its submission, is required to have a lawful basis if it is providing Personal Data of any Data Subject to the Contracting Entity for the purposes of its participation in this procurement competition.

[END MEMO]