

Educational Research Centre



Invitation to tender for provision of Technical Support Services
for the delivery of computer-based testing.

RFT Reference 12th September 2025

Multi Party Framework Agreement via Open Procedure

Tender Deadline: 13th October 2025 at 10:00am

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Part 1: Introduction

The Educational Research Centre (ERC) (the “Contracting Authority”) invites tenders to this request for tenders (“RFT”) from economic operators (“Tenderers”) for appointment to a single-supplier framework agreement (the “Framework Agreement”) and for the provision of Technical Support Services for the delivery of computer based testing in Part 3 to this RFT.

In summary, the Services comprise of: provision of Technical Support Services for the delivery of computer-based testing in schools across Ireland, including testing for projects/studies such as:

- TIMSS (Trends in International Mathematics and Science Study),
- PISA (Programme for International Student Assessment),
- PIRLS (Progress in International Reading Literacy Study),
- NAMER (National Assessment of Mathematics and English Reading),
- TGD (Triail Ghaeilge Dhroim Conrach Drumcondra Irish Test), and
- any additional associated tests introduced by the Contracting Authority.

Each of these projects involves testing students in schools over a number of weeks, prescribed by ERC (‘the testing window’). Suppliers will be required to provide technical support staff for each study to:

- Attend one (or more) in-person training session(s) provided by the ERC in advance of testing
- Test and check laptops prior to testing in schools
- Charge all laptops prior to each testing session
- Visit schools participating in testing, in order to
 - Transport laptops to schools/classrooms,
 - Set up laptops for each participating student (i.e., turn on laptop, connect mouse and charger, launch software, connect to Wi-Fi or network, as required),
 - Provide on-site laptop support to teachers/test administrators during testing,
 - Download/transfer test data at the end of each test session.
 - Document any technical issues occurring during testing and log relevant information on devices used
- Upload test data to the Relevant server at the end of each test session,
- Liaise, as required, with the ERC and participating schools (where required) throughout the study process,
- Adhere to all data security measures including security and traceability of data on laptops and USBs.

This public procurement competition has **one** lot, covering the entire country. To facilitate the administration of the above projects, participating schools are grouped into **six** geographical regions (county coverage is approximate and some changes in the assignment of schools to regions may occur; e.g., near county borders and depending on the location of the specific schools that are randomly selected for each study).

Successful Suppliers will be awarded a single national contract and will be appointed as the main contractor for delivering Technical Support Services. We recognise that additional capacity may be required to deliver the Technical Support Services, particularly in remote or difficult-to-reach locations. Therefore, in order to facilitate service delivery in remote or difficult-to-reach locations, the

Contracting Authority will also establish a panel of Small and Medium Enterprises (SMEs) for the provision of additional Technical Support Services in the designated sub-regions, if required. The Contracting Authority will liaise with the main contractor in the event that it does not have sufficient capacity to provide support in a specific remote/hard to reach area, and may assign the support task to a panel member instead. The main contractor will be required to engage with such panel members, as appropriate, to ensure adequate geographical coverage. However, the administration of the panel of SME's and the allocation of work shall be the responsibility of the Contracting Authority. To be clear, the panel of SMEs for the provision of additional Technical Support Services is a separate procurement competition and is outside the scope of this competition.

Testing will be administered in schools across the Republic of Ireland. The testing dates vary for each study and the approximate testing windows are listed in the table below. For a Main Study (MS) it is possible that 4 or more schools in a region will test on any given day and a sufficient number of Technical Support personnel must be available to cover these schools simultaneously.

As Suppliers will be awarded one single national contract, Tenderers must ensure that sufficient numbers of staff (including subcontractors) are available for testing in multiple regions on any given day of the test window. Please note that, where testing windows for projects overlap, there can be no overlap of technical support staff across projects as each project requires dedicated support resources.

Tenderers are required to complete and submit a Tender Response Document ("TRD") for this tender as per requirements as set out in part 5.6 of this RFT. Tenderers should note that it is a **mandatory requirement** of this Competition for Tenderers to complete the TRD provided as a separate attachment to this RFT. The TRD must be submitted in accordance with the submission requirements in paragraph 5.6.1 of this RFT and must address all of the requirements of this RFT.

***Note:** Paragraph 5.2.1 of this RFT sets out the information that tenderers are required to supply. Prospective Tenderers should note that the TRD document also provides a complete list of all the information that tenderers will have to supply, and sets out the structure they must follow when providing this information. As well as being the tender response document, the TRD is also intended to be an easy-to-follow, step-by-step guide to compiling the information required for this procurement. As such, it is recommended that the TRD be read in conjunction with this RFT document.*

The award of Service Contracts under this Framework Agreement shall be made in accordance with the rules set out 5.3 of this RFT and Section 5 of the Framework Agreement contained at Appendix 5 of this RFT.

This public procurement competition will be conducted in accordance with the open procedure under the European Union (Award of Public Authority Contracts) Regulations 2016 (Statutory Instrument 284 of 2016).

The framework contract will be issued for an initial term of three years ("the Term").

Any contract that may result from the SRFT Mini-Competitions (the "Services Contract") will be issued for a term of up to four years.

This public procurement competition (the "Competition") will be conducted in accordance with the open procedure under the European Union (Award of Public Authority Contracts) Regulations 2016 (Statutory Instrument 284 of 2016) (the "Regulations"). Any Framework Agreement that may result from this Competition will be issued for a term of [3 years]. ("the Term").

The Contracting Authority reserves the right to extend the Term for a period or periods of up to 12 months with a maximum of 1 such extension on the same terms and conditions, subject to the Contracting Authority's obligations at law.

The following entities, (each a 'Framework Client') may award (or 'call off') Service Contracts (each a 'Contract') under the Framework Agreement to cover specific trials:

1. The Contracting Authority
2. Entities which fall under the auspices of the Contracting Authority

Any Contract that may be awarded under the Framework Agreement will be issued for a term of up to four years.

The Framework Agreement will operate using the Direct Award Method. One successful Tenderer will be appointed to the Framework Agreement.

The Contracting Authority estimates that the average total expenditure on the Services to be covered by the proposed Framework to be approximately as much as €740,000 excl VAT in total over its full lifespan. These figures are indicative only and the Contracting Authority is not committed to any given level of expenditure on these Services.

Contracting Authority policy seeks to encourage participation on a fair and equal basis by Small and Medium Enterprises ("SMEs") in this Competition. SMEs that believe the scope of this Competition is beyond their technical or business capacity are encouraged, subject to paragraph 5.5, to explore the possibilities of forming relationships with other SMEs or with larger enterprises. Through such relationships they can participate and contribute to the successful implementation of any services Contract that may result from this Competition and therefore increase their social and economic benefits.

Larger enterprises are also encouraged, subject to paragraph 5.5, to consider the practical ways that SMEs can be included in their proposals to maximise the social and economic benefits of any services Contracts that may result from this Competition.

Part 2: Overview of the Contracting Authority

2.1. Mission

The mission of the Educational Research Centre (ERC) is to enhance learning outcomes for all students through high-quality research and the development of effective assessment tools that will support better learning and inform policy.

As a foundational statement, our mission reflects the ERC's commitment to advancing knowledge, conducting rigorous research, and generating insights that contribute to the continuous improvement of education systems and outcomes.

2.2. Vision

ERC's vision is to optimise educational outcomes for the next generation by supporting schools, teachers, parents and all involved in policy/curriculum development to better understand and guide the learning journey. By working with key national and international partners, we aim to contribute significantly to educational planning for individual students, inform national education policy and add to the global body of knowledge in education.

ERC's aim is to be a leading force in shaping evidence based educational practices, informing policy decisions, and supporting schools and educators both in Ireland and globally. We are committed to making a lasting impact on education, improving outcomes for all learners.

2.3. Values

As a public body, it is important to the ERC that our funding Department (the Department of Education and Youth) and stakeholders have confidence in our ability to conduct our work while maintaining the highest levels of integrity and objectivity. Our values enable stakeholder to have this confidence. These values collectively guide the ERC in fulfilling its mission for the benefit of students, educators, and the broader education sector. We have identified the following values which will guide how we work during the period 2025-2030.

Quality	We are committed to excellence. We ensure that our research is thorough, accurate and reliable.
Impact	We aim to make a real difference with our research. We want our work to support policy makers and inform public debate.
Independence	We conduct research and report findings with integrity, impartiality, and without undue influence, ensuring the credibility and trustworthiness of our work.
Respect	We value different perspectives, cultures and backgrounds, and treat everyone with dignity, kindness and consideration in an inclusive and respectful environment.
Teamwork	We collaborate with others, fostering a culture of open communication and mutual support in our work.

2.4. Organisation Governing

The ERC is a public body, under the aegis of the Department of Education and Youth. As the primary policy maker in the sector and funder of the ERC, the Minister for Education and Youth and her Department set the policy framework within which the ERC operates. The other aegis bodies of the Department (including the National Council for Special Education, the Teaching Council, the National Council for Curriculum and Assessment and the State Examinations Commission) and those involved in creating and shaping educational policy and the curriculum are key partners in ERC research projects. In addition, those involved in teaching (e.g. educators, teacher and school leaders), those who are learning (e.g. students) and their parents/guardians, and those involved in the monitoring and evaluation of the education system (e.g. our staff and other researchers) are key stakeholders in delivering our research projects and assessment support services.

2.5. Statutory Functions

The ERC was established as a designated statutory body of the Department of Education under Section 54 of the Education Act (1998) on 9 September 2015 (S.I. no. 392 of 2015 and S.I. No. 309 of 2017).

The Establishment Order (SI 392 of 2015) draws a distinction between two objectives of the Centre:

- Provide an assessment support service to schools and centres for education that will enable them to fulfil their obligations under Section 9 of the Education Act 1988; and
- Conduct independent research on all aspects of education and at all levels of the education system including educational research that will inform policy making and the improvement of educational standards.

Part 3: Requirements and Specifications

Tenderers must address each of the issues and requirements in this part of the RFT and submit a detailed description in each case which demonstrates how these issues and requirements will be dealt with / met and their approach to the proposed delivery of the Services. A mere affirmative statement by the Tenderer that it can/will do so or a reiteration of the tender requirements is NOT sufficient in this regard.

Introduction

The Educational Research Centre (ERC) is located on St Patrick's Campus, Dublin City University, Drumcondra, in Dublin. Established in 1966, the Centre works at all levels of the education system, from pre-school to third level. Further information can be found at www.erc.ie. The Centre is a statutory body of the Department of Education and Youth (DEY) under Section 54 of the Education Act (1998). Part of the ERC's remit is to manage studies such as TIMSS, PIRLS, PISA, NAMER and other studies such as TGD on behalf of the Department of Education and Youth. These studies are currently delivered online or may be delivered online during the period covered by this Framework, generating a requirement for the ERC to source technical support to help deliver the testing in schools for these studies.

The ERC is currently running two separate tenders in parallel, one for the provision of laptops and one for technical support services. As outlined in the introduction to this RFT, there are a number of Field Trial (FT) and Main Study (MS) projects scheduled over the 2026–2029-year period.

Scope of this Procurement

Overview of various ERC Testing Projects:

TIMSS (Trends in International Mathematics and Science Study) is carried out under the auspices of the International Association for the Evaluation of Educational Achievement (IEA). It assesses the mathematical and scientific skills of students at Fourth and Eighth grades (Fourth Class and Second Year in Ireland). More than 65 countries worldwide participate in TIMSS, which takes place every four years. In Ireland, TIMSS is implemented by the Educational Research Centre on behalf of, and with support from, the Department of Education and Youth. The next TIMSS Field Trial will take place in spring 2026 and will involve approximately 40 primary schools (Grade 4/G4/Fourth Class) and 30 post-primary schools (Grade 8/G8/Second Year) in Ireland. The Main Study will take place in spring 2027 and is likely to involve approximately 300 schools across both grade levels (150 primary schools and 150 post-primary school). In each school, up to two classes are selected at random to participate in the digital assessment.

National Assessment of Mathematics and English Reading (NAMER) is a study of pupil achievement in Mathematics and English reading conducted in Irish primary schools at Second and Sixth class. The purpose is to assess pupil achievement in relation to the Irish primary school curriculum. The next cycle of NAMER (i.e., Field Trial in 2027, and Main Study in 2028) may include a subsample of schools (or classes within schools) who take part in the assessment digitally. The number of schools in the Main Study will depend on decisions yet to be communicated by the Department of Education and Youth. The number of schools for the Field Trial (Spring 2027) will not be more than 40.

PIRLS (Progress in International Reading Literacy Study) is an assessment of reading literacy at Fourth grade (Fourth class in Ireland) under the auspices of the International Association for the Evaluation of Educational Achievement (IEA). More than 50 countries worldwide participate in PIRLS, which takes place every five years. In Ireland, PIRLS is implemented by the Educational Research Centre on behalf of, and with support from, the Department of Education and Youth. In Ireland, the next PIRLS Main Study will take place in spring 2026 and will likely involve approximately 155 primary schools with a digital administration component. In each school, up to three classes are selected at random to participate in the digital assessment.

PISA (Programme for International Student Assessment) is a project of the Organisation for Economic Co-operation and Development (OECD), and it assesses the extent to which 15- and 16-year-olds around the world have acquired knowledge and skills that are considered essential for full participation in society. PISA is implemented by the ERC on behalf of, and with support from, the Department of Education and Youth.

In each cycle, PISA assesses students' knowledge and skills in science, maths, reading, as well as an innovative domain. PISA is a skills-based, rather than curriculum-based, assessment. The next cycle of the study will be administered in 2029 in approximately 180 schools; the field trial will take place one year earlier in 2028.

TGD (Triail Ghaeilge Dhroim Conrach (Drumcondra Irish Test)) is a standardised test of Irish reading and listening that is being developed for students in English- and Irish-medium schools. The tests will be standardised on paper first and then a pilot and standardisation study will be carried out of the digital version of these tests. At this time, it is not possible to be accurate about the precise needs of the project in terms of the software requirements, or the volume of laptops needed.

For each study, it is expected that assessments will be delivered online, with the option of an offline mode for schools with connectivity difficulties. It is also expected that a combination of schools' own devices and laptops hired by the Contracting Authority will be used for testing. The current plan is that schools will use their own IT equipment and connectivity in schools, or where there are insufficient devices in a school or connectivity issues, devices hired by the ERC will be used.

Timelines

The numbers in the table below are an estimate.

Schedule of ERC Studies 2026-2029

Year	Project	Expected Testing Window	No. of Testing Days (Approx.)	No. of Schools Sampled (Approx.)
2026	PIRLS Main Study	March–April 2026	25	155
2026	TIMSS Field Trial	February–April 2026	G4 (Fourth Class)– ~15 G8 (Second year)– ~15	G4 (Fourth Class) – 40 G8 (Second Year) – 30

2027	TIMSS Main Study	March–April 2027	G4 – ~25 G8 – ~25	G4 – 150 G8 – 150
2027	NAMER Field Trial	March–April 2027	15–20	40
2027	TGD Field Trial (TBC)	October– November 2027	20	40
2028	NAMER Main Study	March–May 2028	25–30	150
2028	PISA Field Trial	March–April 2028	~30	55
2028	TGD Main Study (TBC)	April–May 2028	30	200
2029	PISA Main Study	March–April 2029	~50	180

Note:

The schedule above is based on the information currently available and for the purposes of this RFT, suppliers are asked to consider the following points that may change the table above at any stage during the RFT process or during any subsequent contract.

1. Some planned projects may not proceed based on approval status or changes mandated by the Department of Education and Youth or other international bodies such as the IEA or the OECD.
2. Projects may be added to the scheduled if new additional tests are introduced or where a new requirement is mandated by the Department of Education and Youth.
3. Changes in the timelines may occur for other reasons that may affect schools' ability to participate in testing, e.g. delays to National Assessments or international studies due to changes to testing windows at short notice as happened during snowstorms in recent years, etc.

Regions

In order to deliver technical support across various studies, the country will be divided into a number of regions. The exact composition and number of regions will not be confirmed until study participants have been identified. This is because sampling of schools will vary from one study to another and will also differ from the Field Trial to the Main Study within any given study. However, for the purposes of this tender, we have set out 6 indicative regions below:

- Region 1: Dublin City, South Dublin, Kildare
- Region 2: Dublin Fingal, Louth, Offaly, Westmeath & Meath
- Region 3: Dun Laoghaire / Rathdown, Wicklow, Carlow, Kilkenny, Laois, Wexford.
- Region 4: Cork City & County, Kerry, Waterford City & County
- Region 5: Clare, Tipperary, Galway City & County, Limerick City & County
- Region 6: Donegal, Leitrim, Mayo, Cavan, Longford, Monaghan, Roscommon & Sligo.

While not exhaustive, remote locations may include rural areas in counties such as Cork, Kerry, Donegal, Galway, and Mayo. The map below provides an indicative guide to the six regions:.



Note re the composition of regions:

- Please note there may be a requirement to move a small number of schools from one region to another in order to maintain a reasonable balance of schools/classrooms across regions.
- There will be variation in the number of schools being tested in each region and in the number of students tested within each school, depending on the project and depending on the stage of the study cycle (Field Trial / Main Study). During the Field Trial stage, fewer schools are selected so there may be fewer regions used or some regions that have few or no schools for this stage of the project. The precise number of schools tested per region/per study, and the specific location of those schools depends on the specific samples drawn for that study/cycle and will generally not be known by ERC until several months prior to the administration of the study/cycle. We can anticipate that for a Main Study (MS) it is possible that 4 or more schools in a region with many sampled schools will test on any given day and a sufficient number of Technical Support personnel must be available to cover these schools simultaneously. These are our best estimates of Technical

Support required subject to confirmation of when the final sample of schools is known. There may also be late changes to the composition of the study sample if schools have to drop out or be added due to unusual unforeseen circumstances. The ERC will work with the Tenderers on a case-by-case basis to find solutions in individual schools as needed.

The Contracting Authority intends to award a single contract to one successful tenderer (the “Main Contractor”) to manage and deliver the required services nationally. To ensure access to specialised local expertise, the Main Contractor will be required to resource delivery across all six regions, which may be achieved through a combination of:

- In-house resources
- Appointed subcontractors
- A panel of approved sub-regional suppliers (SMEs) that will be established by the Contracting Authority as part of a separate competition. Panel members may be engaged by the Contracting Authority to deliver services in designated sub-regions that the Main Contractor lacks capacity in.

To be clear, the successful tenderer must provide Technical Support Services nationally, across all six regions, including remote and geographically challenging areas. The successful tenderer must have the capacity to service all regional population centres to the greatest extent possible, using subcontracted regional support personnel where necessary. The panel of approved sub-regional suppliers managed by the Contracting Authority shall only be used where the successful tender lacks capacity.

Panel of Sub-Regional Suppliers

Small and Medium Enterprises across Ireland that meet the criteria for technical support services will be able to apply to join the panel on an ongoing basis over the term of this contract. The rates for technical support staff will be fixed. These will be listed on the ERC website. An application form will be listed on the ERC site also. The ERC will be responsible for managing the panel, managing applications to the panel and allocating work that the Main Contractor is not in a position to take on. A list will be updated on the ERC website at least annually reflecting the current panel members.

Contractor’s Role and Responsibilities:

Test administration will be carried out by teachers, or by test administration staff employed by the Contracting Authority. It is expected that a combination of schools’ own devices and laptops hired by the Contracting Authority will be used. A test administrator is responsible for the running of each session, introducing students to the task and monitoring students during the session.

All Technical Support staff dispatched to schools must be Garda Vetted, have demonstrable technical expertise, and must have attended the Contracting Authority training session specific to each study/project cycle. All Technical support staff are required to:

1. Receive delivery of laptops, carry out testing to assess their functionality (including testing of software encryption), and confirm that all laptop batteries can hold sufficient charge. Liaise with the Contracting Authority and/or the laptop provider to confirm checks and take delivery of any replacement laptops needed.

2. Liaise with schools (and any additional personnel attending to support testing, where relevant) in accordance with ERC procedures in advance of testing to arrange set-up times and location
3. Ensure laptops are fully charged and transport the laptops to schools, and set-up computers (i.e., turn on device, connect mouse and charger, launch software, connect to Wi-Fi or network, as required) and testing rooms (often in classrooms) as per the guidelines that will be provided by the ERC. The Technical Support Teams responsibility is to include sufficient tape, cable covers and minimum 4 long extension leads per session (2/3 parallel sessions per school), a minimum of 5 plug adapters. The Technical Support team's must ensure that all cabling and power connections are installed in compliance with health and safety requirements, including the secure management and protection of wires and power cables.
4. Provide technical assistance and troubleshooting during the assessment (records of any technical issues must be noted using forms provided).
5. For offline testing, copy and upload student data after the student assessment is complete. This is a core aspect of the Technical Support role**.
6. Work with Test Administrators to track which laptops are assigned to each student for each test session. It is the responsibility of Technical Support staff to maintain an inventory of each student whose data is contained on each laptop and/or USB (where required). Technical support staff are responsible for the security (including access to encryption codes/passwords) of each laptop and USB key (where required) assigned to them for the duration of the project. In the event of a data breach, it is critical that the Contracting Authority knows which data subject(s) have been affected in order to follow the necessary steps as required by the law**.
7. Notify the Contracting Authority once the data has been successfully uploaded to the servers and provide information on the number of files uploaded to the Project Team on a daily basis using the forms provided.
8. After the assessment is complete, Technical Support staff must ensure that the laptops are correctly switched off, pack them up and transport them back to the Technical Support location for secure storage and re-charging.
9. For offline testing, conduct back-up data harvest after all testing has concluded**.
10. Carry out final checks on laptop functionality post-testing and report faults to ERC. Facilitate secure transfer of laptops to laptop suppliers. The laptop supplier will be responsible for the collection of the laptops from the technical support supplier and for the comprehensive wiping of all personal data from laptops at the end of the project.
11. All personnel must always communicate and behave in a professional manner when liaising with schools.

**** The data will contain personal data and all due care must be given to ensure data security as required under Data Protection Laws (including the GDPR and all local Data Protection Laws) and clauses detailed in Appendix 6, Schedule A, section 25, Data Protection and Security as appropriate.**

The total time in schools is about 6 hours per visit, dependent on set-up and pack-up timings. Set-up usually takes up to an hour, and the assessment takes about three and a half hours, so the working day will likely be 8.00am to 2.00pm (note that school start and break times vary). Technical support personnel are required to be available and remain at test sessions at all times, in order to quickly rectify any technical issues that may arise with the laptops or the testing software.

Depending on the project and the study cycle, and depending on the number of students sampled, two or more classes within a school may be testing on the same morning. The sessions are run in parallel, usually in separate classrooms. Depending on the requirements of each school, it is expected that one Technical Support staff member will be required per school and would move between the test sessions, as required.

Garda Vetting:

All Technical Support personnel must have obtained Garda vetting prior to testing. The Contracting Authority will seek evidence of Garda Vetting at the training sessions for each study. The successful bidder will be required to confirm and supply the Garda Vetting information of all staff members who will be working on ERC projects, including Subcontractors and contingency staff who would cover any last-minute illness or absences.

As part of their Tender submission, each Tenderer must confirm that they will seek vetting information in a timely manner for all staff on the project, if awarded the contract. This is an essential condition for the project, and the contract will be withdrawn if vetting is not pursued and granted for sufficient numbers of personnel to work on the study.

As the vetting process can be lengthy, if not already in place, it would be advisable for the successful bidder to commence the vetting information gathering process for all relevant staff at the very latest at commencement of the standstill period. The supplier must provide a contact that will coordinate all their staff vetting and ensure that it is completed on time in full.

Note: Costs associated with obtaining Garda Vetting for staff and subcontractors are not reimbursable by the Contracting Authority.

Health and Safety Requirements

All Technical Support staff must adhere to school protocols and fully cooperate with all health and safety guidance and procedures in place at the time of testing.

Guidance on health and safety requirements (for example, confirming school visits) will be provided at Technical Support training.

Data Protection:

In respect of any personal data provided by the Contracting Authority and processed by the successful bidder as part of the Services, the successful bidder shall be the Processor and the Contracting Authority shall be the Controller, as such terms are defined in the Data Protection Laws.

As part of the tender process bidders will be required to provide details of technical and organisational measures in place to comply with GDPR and any other relevant Data Protection Laws.

Technical Support supplier(s) and personnel must also adhere to TIMSS, PISA and PIRLS guidelines on data protection at all times and ensure the protection of the data collected throughout the project. Guidelines and procedures on ensuring data protection will be provided at Technical Support training. The same requirement will apply to any new additional tests introduced during the tenure of the contract.

As the assessment materials are confidential, each Technical Support person will also be required to sign a confidentiality agreement protecting the test content and the data collected during the project.

Note re: TIMSS: Due to the scale of the TIMSS project, testing for TIMSS Grade 4 (primary schools) and TIMSS Grade 8 (post-primary schools) is the equivalent of having testing periods for two separate projects running simultaneously and will need to be staffed accordingly. For the Field Trial, a requirement of one Technical Support person will be required in each Region at each grade (i.e., 1 Technical Support person to cover G4/primary schools and 1 to cover G8/post-primary schools as both primary and post-primary schools are testing at the same time). For the Main Study, a sufficient number of Technical Support personnel (e.g., 1-3 depending on the number of sampled schools per region) will be needed at each grade to facilitate simultaneous testing of multiple primary and post-primary schools on any given day.

Communication & Risk Management

Failure to complete a successful testing phase puts the entire project at risk. Two of the key components required to complete a successful testing phase for a project are:

- a) the provision of laptops to the participating schools, and
- b) the delivery of technical support services before, during and after the testing window for each study.

Given the importance of testing to the overall delivery of the project, it is expected that suppliers selected from these RFT processes will work closely and cooperatively with the ERC Teams, the selected schools and their representatives to support pupils' and students' test experiences.

Clear and timely communication between the various stakeholders is critical to this process and therefore, to the overall project. Supplier(s) selected based on responses submitted to this RFT are expected to have good communication processes in place and be able to effectively communicate with all the relevant stakeholders as the project requires, including communicating updates/clarification to training to Technical Support staff/subcontractors in a timely manner.

Communication is even more critical where two or more suppliers respond to this RFT as a consortium.

The ability of suppliers to identify, communicate and resolve potential risks is also an important requirement.

All suppliers responding to this RFT are required to outline their approach to communication and their approach to risk management to support the delivery of services required as part of this RFT.

For each study, the complete list of dates and locations will be available to the tenderer in the period ahead of testing. Please note, the dates are subject to changes due to the requirement to accommodate the greatest availability of students in schools. The ERC typically does not know the location of specific schools that are selected for each study until approximately 6 months before the planned testing window.

Project management and communication procedures, along with contingency plans will be negotiated with the successful supplier(s).

Costing:

Tenders should provide costing (ex-VAT) in accordance with the format provided in Appendix 1 – Pricing Schedule, based on the required number of Technical Support staff members per region, for each project, with VAT rates where appropriate:

1. Labour, covering pre-testing laptop checks, set-up, pack-up, in-test support, secure data storage, post-testing checks, and final data harvest.
2. One Technical Support staff member will support each school (note, one Technical Support staff member to cover all the testing sessions in each school).
3. To include sufficient tape, cable covers and minimum 4 long extension leads per session (2/3 parallel sessions per school), a minimum of 5 plug adapters. It is the Technical Support team's responsibility to meet health and safety requirements for cabling and securing of all wires and power cables. When factoring in the items required, please consider the possible limitations of the testing spaces, for example, there may only one plug socket in a classroom. Please note in the tender the ability to provide sufficient tape, covers, extension leads and adaptors for testing in schools, and compliance with health and safety requirements for this task. Please note if laptops are charged it will reduce the need for extra extension cabling on setup.
4. Laptops will be delivered from the laptop supplier to the Technical Support Company's regional office.
5. Once delivered, the Technical Support Company is responsible for the testing of the laptops and software checks.
6. After testing, the Technical Support Company will carry out testing on the laptops and will do a final data gathering sweep.
7. Laptops will be collected by the laptop supplier from the Technical Support Company once post-testing procedures have been followed.

Expenses:

- Travel expenses will be calculated from a mutually agreed base, Technical Support Company's regional office, prior to the start of the study.
- Travel costs of €0.50 per kilometre will be reimbursed.
- Travel expense claims will be limited to one reimbursed journey per school regardless of how many Technical Support staff members attend.
- The Contracting Authority will not provide subsistence for meals or accommodation.

Tenders must include the following information:

1. Quotes for each Region (1, 2, 3, 4, 5 and 6).
2. Rates for the Tenderer's employed staff **and** rates for regional field support subcontractors.
3. Tenderer's availability to attend one training day. **It is mandatory for all Technical Support persons who will be working on the project (both full and part-time, including subcontractors and anyone providing cover) to attend the training day.** Training may take place in person at the Educational Research Centre, DCU St Patrick's Campus, Drumcondra, or at a regional location.
4. Confirmation that all technical support personnel, including subcontractors have/will have obtained Garda Vetting by the training date, and that vetting information will be provided to the Contracting Authority to have on file for the duration of the project. The quotation should note the understanding that obtaining vetting and providing the Contracting Authority with letters of vetting for personnel is an essential condition of the awarding of the contract.
5. Confirmation that all technical support personnel deployed will have a high degree of confidence in working with computers, that is, demonstrated familiarity with handling large numbers of laptops, and undertaking troubleshooting procedures.
6. A high degree of flexibility in working arrangements during testing periods, since dates of testing could be subject to change at short notice.
7. A good working knowledge of English is required. While not essential, a working knowledge of Irish among at least some staff members is preferred. For schools in Gaelige-speaking communities, the ability to assign bilingual staff will be considered an advantage.

8. Capacity for all staff assigned to schools to transport a set laptops in cases or boxes, external mice, extension leads and cables, to and from schools (including the transport of laptops and equipment from the Technical Support vehicle into the school i.e. on laptop trolleys, or in cases or boxes) and take responsibility for their security during the testing period (please note insurance cover is provided by the Contracting Authority, but is subject to certain conditions).
9. Availability to arrive at 8.00am (or earlier, as the start time is typically one hour before school opens) in locations throughout Ireland including some rural locations (adherence to the arrival time is crucial for successful test administration).
10. An outline of any specific geographic areas within the region(s) identified where your staff are available or in close proximity, and where offices are located.
11. Quotes should propose solutions for:
 - a. Response data transfer from a folder location on up to 65 laptops per staff per day to an online server, following instructions that the ERC will supply. The process must be sufficient and secure and a good Internet connection is required.
 - b. Secure student response data storage throughout testing – for some or all studies, laptops and USB keys provided will contain encrypted student data that must be kept secure at all times.
12. An additional requirement for which evidence should be supplied (where applicable), is experience in working in a post-primary school environment, e.g., providing technical support and troubleshooting.

9. Notes:

The nature of this work may change at the discretion of the Contracting Authority. The Contracting Authority reserves the right to cancel the projected work.

Operation of the framework

This framework will operate on a cascade basis. This means, the highest ranked tenderer will be awarded the work to support the trials. Up to two additional tenderers, should they pass all the criteria will be appointed to the framework in ranked order.

In the event that the highest ranked tenderer is unable to support a trial or has fallen below the performance level required in the course of delivering a trial, the contracting authority retains the right to move to the next highest ranked tenderer. This process can be repeated, should the conditions present, to the final ranked tenderer.

Part 4: Selection and Award Criteria

4.1. Compliant Tenders

4.1 Only those Tenderers who have:

- (a) Submitted compliant Tenders pursuant to paragraph 5.2 below, and
- (b) Declared by way of eESPD that either:
 - (i) no mandatory grounds for exclusion of the Tenderer pursuant to Regulation 57 of the Regulations apply to them, or
 - (ii) in circumstances where any mandatory exclusion grounds apply to the Tenderer (and where the Tenderer is not precluded from doing so under Regulation 57(17) of the Regulations), that it can provide evidence to the effect that measures taken by it are sufficient to demonstrate its reliability despite the existence of any such relevant exclusion ground, and
- (c) Declared by way of eESPD that they satisfy the selection criteria in this Competition as set out in part 4.2 below (the “Selection Criteria”), will be evaluated in accordance with the Award Criteria at part 4.3 below.

However, please note that the Contracting Authority also reserves the right to exclude from evaluation a Tenderer to whom a discretionary ground for exclusion pursuant to Regulation 57 of the Regulations applies.

Tenderers should note that where a Tenderer is relying on the capacity of other entities (for example, Subcontractors) for the purposes of fulfilling any of the Selection Criteria in part 4.2 below it must ensure that each such entity:

- (i) completes and submits a separate eESPD in respect of each such entity; and
- (ii) when requested by the Contracting Authority, submit proof, to the satisfaction of the Contracting Authority, that each such entity will place the necessary resources at the disposal of the Tenderer.

Where a Tenderer (Prime Contractor) intends to subcontract any share of any services Contract to a Subcontractor, but is not relying on the capacity of such Subcontractor for the purposes of fulfilling any of the Selection Criteria in part 4.2 below, it must ensure that each such Subcontractor submits a separate eESPD in respect of such Subcontractor completing those sections of the eESPD which are specified in section 2.D of the eESPD for this Competition.

The Contracting Authority may decide to examine Tenders before verifying the absence of exclusion grounds in Regulation 57 of the Regulations (the “Exclusion Grounds”) and the fulfilment of the Selection Criteria.

However, notwithstanding anything to the contrary in this part 4.1, the Contracting Authority reserves the right to ask Tenderers at any moment during the Competition to submit any or all of the following for the purposes of verification of the status of the Tenderer (including the Prime Contractor and any Subcontractor):

- (i) a Declaration in the form attached at Appendix 5;

(ii) evidence to the effect that measures taken by the entity concerned are sufficient to demonstrate its reliability despite the existence of a relevant Exclusion Ground; and

(iii) in the case of the Prime Contractor and any Subcontractor on whose capacity the Prime Contractor relies, all or any of the supporting documents specified at paragraph 4.2 below.

If a Tenderer does not, upon request by the Contracting Authority, provide evidence which is considered by the Contracting Authority as sufficient to demonstrate (i) its fulfilment of the Selection Criteria (or any one of them) in accordance with this RFT and (ii) the absence of Exclusion Grounds, or its reliability despite the existence of a relevant Exclusion Ground, it shall be excluded from further participation in this Competition.

If a Tenderer does not, upon request by the Contracting Authority, provide evidence which is considered by the Contracting Authority as sufficient to demonstrate (i) the fulfilment by any Subcontractor on whose capacity the Prime Contractor relies of the Selection Criteria (or any one of them) in accordance with this RFT and (ii) the absence of Exclusion Grounds in respect of any Subcontractor, or the reliability of any Subcontractor despite the existence of a relevant Exclusion Ground, it shall be excluded from further participation in this Competition *unless* it replaces the Subcontractor with one which meets all relevant requirements of this RFT.

4.2. Selection criteria

4.2 Tenderers will either pass OR fail each of the Selection Criteria in this part 4.2. A Tenderer who fails a selection criterion will be excluded from participating in this Competition.

4.2.A Economic and Financial Standing

Tenderers must declare by way of ESPD that they satisfy the financial and economic standing requirement(s) set out below and that they are able, upon request and without delay, to provide the supporting documentation specified below to the Contracting Authority in each case.

1. Tenderers have a current Tax Clearance Certificate and will provide evidence to this effect on contract award.
2. Tenderers will be compliant with their social security and revenue obligations for the duration of any contract awarded.
3. Tenderers shall provide evidence about the insurance policies specified in section 5.20.
4. Tenderers meet the minimum turnover requirement of **€1,000,000** over each of the last three financial years and will provide evidence from their auditors to this effect. Firms can combine to achieve the minimum turnover however the prime contractor must have a turnover equal to €750,000 in each of the three years.

Tenderers must provide the supporting documentation specified above without delay when requested by the Contracting Authority. However, where the Tenderer is unable, for a valid reason, to provide the specified documentation, the Tenderer must inform the Contracting Authority of the valid reason as to why the documentation cannot be supplied and, if the Contracting Authority considers the reason given to be valid, provide such other suitable alternative documentation to prove, to the satisfaction of the Contracting Authority, their economic and financial capacity.

4.2.B Technical and Professional Ability

Tenderers must declare by way of eESPD that they satisfy the technical and professional requirement(s) set out below and that they are able, upon request and without delay, to provide the supporting documentation specified below to the Contracting Authority in each case.

Tenderers must address each of the selection criteria and sub-criteria below in the Tender Response Document

Workforce Capacity And Organisation	Tenderers must confirm that they have access to the appropriate resources and skills to deliver the required services described in part 3 of this RFT: • Provide an organisation chart clearly defining roles and responsibilities (identify employees and sub-contractors).	Pass/Fail
Previous Experience	Tenderers must demonstrate the successful delivery of at least three comparable contracts (in scale, nature, quality and complexity) delivered during the three previous years. • Describe in detail, the services provided and outline the extent to which each project is comparable to the requirements set out in part 3. For each example, please also include; ○ Details about how the Tenderer engaged with the client to determine and deliver their requirements. If subcontractors were utilised, please include a description of how they were appointed and managed.	Pass/Fail
Quality Assurance	Tenderers must demonstrate that adequate measures are in place to ensure the delivery of a quality service – to include Quality Management Systems and any formal Project Management Frameworks used to deliver the services: • Describe the Tenderer’s policy and systems for quality assurance. • If third-party certified, provide details.	Pass/Fail

4.3. Award criteria

4.3.1 The services contract will be awarded on the basis of the most economically advantageous tender(s) in accordance with the following criteria laid out in the table below. Attention should be paid to minimum qualifying thresholds for responses.

Guidance about the qualitative award criteria is provided in part 3.

No.	Award Criterion	Details	Maximum available marks	Minimum qualifying threshold
1.	Understanding of the requirements	Please demonstrate you understand the objectives and specific requirements of this tender by addressing the following: a) The key risks and challenges you foresee in delivering the services. b) How will you address the technical, logistical, and quality requirements outlined by ERC? c) Your understanding of the criticality of meeting ERC testing deadlines, with robust mechanisms for monitoring progress and resolving risks. d) How will your solution align with ERC's social objectives (e.g. engagement with local education and STEM initiatives, such as school outreach, work experience placements, promoting careers in technology and sustainability).	100	60
2.	i) Approach to Delivering the Service Requirements	Your intended approach to delivering the Technical Support Services in line with ERC's requirements. Your response should include the following. a) A clear and structured plan for delivery across all regions, including logistics, personnel deployment, data security and contingency planning. b) Proposals for managing multiple concurrent projects across regions, without compromising service standards and ensuring continuity of service in the event of changes to testing schedules. c) Your processes to ensure continued resource capacity and service consistency in the event of	200	140

	increased service demand (should additional test be introduced). d) An outline the management team responsible for delivering the requirements of this contract, their roles and tangible experience. e) Contingency Measures – Evidence of backup resources and procedures to ensure continuity in the event that a Technical Support (TS) staff member becomes unavailable. Proposed approach to managing and Liaising with the ERC on Garda Vetting to ensure all relevant personnel are approved in advance of project start dates. Evaluation will consider: a) Process & Timeliness – A clear, detailed process for obtaining Garda Vetting, including realistic turnaround times aligned with project schedules. b) Contingency Measures – Evidence of backup resources and procedures to ensure that Garda Vetting has been pre-emptively arranged for substitute personnel, enabling continuity of service in the event that a Technical Support (TS) staff member becomes unavailable. c) Coordination & Responsibility – Identification of a named contact responsible for coordinating all Garda Vetting activities/information gathering, with demonstrated capacity to manage the process effectively. d) Proven Capability – Demonstrated ability to achieve Garda Vetting within proposed timeframes on previous projects (where applicable).			
	ii) Garda Vetting Management		100	70
3.	Contract Management	Your proposed contract governance model, including how you will: Track and report contract performance, including KPIs and SLAs?	150	90

		• Manage risk, escalations and resolution of issues? • Ensure compliance with regulatory and contractual obligations over the contract term? • Develop and maintain effective engagement and communication strategies with ERC and Contracting Authority's. Including your approach to contract reviews, providing feedback and proposing continuous improvement opportunities. • How performance or non-compliance issues involving your personnel (employees and sub-contractors) will be addressed.		
4.	Data and security	Describe your intended plans for managing the following. • Data transfer arrangements, including your process for uploading data to a secure server on a rolling basis and as needed. • What protocols will be in place to detect and respond to data breaches or cyber security incidents? • Your approach to ensuring secure transportation and storage of laptops and peripherals during the contract period. Please include your proposals regarding the types/capacity of vehicles used for transport and the details of day and overnight storage locations (please describe the locations & security)	100	70
5.	Green Fleet and Sustainable Travel	Marks will be awarded for a clear plan to increase the proportion of service-related travel undertaken by electric/zero-emission vehicles over the framework term. A phased approach is acceptable, with minimum targets of: • Year 1 – 30% • Year 2 – 50% • Year 4 – 80%	50	

		Tenderers should state their targets, outline how they will be achieved and monitored.		
6.	Price	Complete the pricing submission	300	0
Total			1000	0

Qualitative award criteria will be assessed first and then only those Tenders that score a mark equal to or in excess of the minimum qualifying threshold (as shown in the tables above) for the award criteria **1-5** will proceed to be evaluated under award criterion **6 Lifecycle cost**.

Tenderers which fail to achieve the minimum qualifying thresholds will result in the Tenderer being eliminated from the competition and no further evaluation of its Tender will be carried out. Also in such circumstances, the Tenderer's Pricing Schedule will not be evaluated.

Scoring of the qualitative award criteria will be based on an assessment of the information provided by Tenderers and each response element will be awarded marks using the following scoring methodology.

Scoring Methodology (Qualitative)

Weighting	Meaning
91% - 100%	Excellent response with very few or no weaknesses exceeds requirements, and provides comprehensive, detailed, 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. <u>A response achieving this score shall be eliminated.</u>
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. <u>A response achieving this score shall be eliminated.</u>
0%	Response completely fails to address the criterion under consideration. <u>A response achieving this score shall be eliminated.</u>

The cost element of the award criteria will be assessed on the basis of lowest total cost.

- Tenderers are required to complete the Pricing Schedule in the TRD, from which the **Total Cost** is calculated.

- All prices quoted must be inclusive of all costs (excluding travel expenses and subsistence), expressed in Euro only, but exclusive of VAT.
- The lowest Total Cost tendered will receive maximum marks (200 Marks), the formula used will be as follows:

Scoring Methodology (Cost)

$$\text{Cost Score} = \frac{\text{Lowest Total Cost submitted}}{\text{Total Cost under evaluation}} \times \text{Maximum Number of Marks Available}$$

4.4. Presentation of proposals

4.4.1 Tenderers may be required to make **an in-person** presentation of the proposal contained in their Tender. The Contracting Authority will not be responsible for the cost of such presentations (in accordance with paragraph 5.8). **Performance at presentations will NOT be evaluated.**

4.5. Standstill period

4.5.1 In circumstances where the European Communities (Public Authorities' Contracts) (Review Procedures) Regulations 2010 (Statutory Instrument 130 of 2010), as amended by the European Communities (Public Authorities' Contracts) (Review Procedures) (Amendment) Regulations 2015 (Statutory Instrument 192 of 2015) apply, no contract can or will be executed or take effect until at least fourteen (14) calendar days after the day on which the Tenderers have been sent a notice informing them of the result of this Competition (the "Standstill Period") if such notice is sent by electronic means. The Standstill Period shall be sixteen (16) calendar days if such notice is sent by other means. The preferred bidder will be notified of the decision of the Contracting Authority and of the expiry date of the Standstill Period.

4.5.2 Tenderers should note that the Contracting Authority may, when notifying Tenderers of the results of this Competition, include the scores obtained by the Tenderer concerned and the scores obtained by the preferred bidder in respect of each award criterion assessed by the Contracting Authority.

4.6 Return of signed contracts

4.6.1 The successful Tenderer(s) must sign and return the Framework Agreement(s) in duplicate to the Contracting Authority no later than seven [7] calendar days from the date of expiry of the Standstill Period unless notified otherwise in writing by the Contracting Authority. A signed Framework Agreement returned by the successful Tenderer(s) is not binding on the Contracting Authority until the Contracting Authority has signed the Framework Agreement in accordance with paragraph 5.1.2 above.

4.6.2 Where the signed Framework Agreement has not been received by the Contracting Authority within the period as specified at paragraph .6.1 then the Contracting Authority may proceed to offer

a Framework Agreement to the next highest-ranked Tenderer in accordance with paragraph 4.6.1 above.

Part 5: Instructions to Tenderers

5.1. Important Notices

5.1.1 While every effort has been made to provide comprehensive and accurate information in all notices and documents prepared for the purposes of this Competition, the Contracting Authority does not accept any liability or provide any express or implied warranty in respect of any such information. Tenderers must form their own conclusions about the solution needed to meet the requirements set out in this RFT and may wish to consult their legal advisers.

5.1.2 The Contracting Authority does not bind itself to accept the lowest priced or any Tender.

This RFT does not constitute an offer or commitment to enter into a Framework Agreement and/or a Contract. The conclusion of a Framework Agreement with a Framework Member does not guarantee the award of services Contract.

No enforceable commitment of any kind will exist unless and until a formal written Framework Agreement has been executed by or on behalf of the Contracting Authority

No contractual rights in relation to the Contracting Authority will exist unless and until a formal written services Contract has been executed by or on behalf of the Contracting Authority.

Any notification of preferred bidder status by the Contracting Authority shall not give rise to any enforceable rights by the Tenderer.

The Contracting Authority may cancel this Competition or, for the avoidance of doubt, any individual Lot at any time prior to a formal written Framework Agreement being executed by or on behalf of the Contracting Authority.

The award of a Framework Agreement or a services Contract under the Framework Agreement does not confer exclusivity on the successful Tenderer(s).

Tenderers should note that neither the Contracting Authority nor any Framework Client shall be under any obligation to purchase any minimum value of services under any Framework Agreement.

5.1.3 This RFT supersedes and replaces any and all previous documentation, communications and correspondence between the Contracting Authority and Tenderers, and Tenderers should place no reliance on such previous documentation and correspondence.

5.1.4 In this clause 5.1.4, "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 Commission or other supervisory authority for data protection in Ireland from time to time.

The Contracting Authority will be a Data Controller (where Data Controller has the meaning given under the Data Protection Laws) in respect of any Personal Data (where Personal Data has the meaning given under the Data Protection Laws) required to be provided by the Tenderer in response to this RFT.

The Tenderer, as Data Controller in respect of any Personal Data provided by it in its Tender, is required to confirm in the statement required under paragraph 5.4 below that all Data Subjects (where Data Subject has the meaning given under the Data Protection Laws) whose Personal Data is provided by the Tenderer have consented to the processing of such Personal Data by the Tenderer, the Contracting Authority, the Evaluation Team and the supplier of the etenders.gov.ie website, for the purposes of the participation of the Tenderer in this Competition or that the Tenderer otherwise has a legal basis for providing such Personal Data to the Contracting Authority for the purposes of its participation in this Competition .

5.2. Compliant Tenders

5.2.1 If a Tenderer fails to comply in any respect with the requirements of this paragraph 5.2.1, the Contracting Authority reserves the right to reject the Tenderer's Tender as non-compliant or, without prejudice to this right and subject to its obligations at law, to take any other action it considers appropriate including but not limited to:

- seeking written clarification from the Tenderer;
- seeking further information from the Tenderer; or
- waiving a requirement, which in the Contracting Authority's view, is non-material or procedural.

Tenderers are required:

(a) To complete and submit with their Tender the electronic version of the European Single Procurement Document ("[eESPD](#)"). Alternatively, Tenderers may submit an eESPD which has already been used in a previous procurement procedure PROVIDED THAT they confirm that:

- (i) the information contained in it continues to be correct; and
- (ii) they satisfy the Selection Criteria for this Competition as set out at part 4.2 above.

(b) To submit all documentation which this RFT requires to be submitted with their Tender;

(c) To follow the format of this RFT and respond to each element by completing the Tender Response Document (TRD);

(d) To conform to and comply with all instructions and requirements set out in this RFT;

(e) To submit the statement required under paragraph 5.4 below; and

(f) Not to alter or edit this RFT in any way.

5.2.2 Without prejudice to the generality of paragraphs 5.2.1, failure to comply with paragraph 5.6.1, 5.6.2 or 5.6.3 below will render the Tender non-compliant and it will be rejected.

5.3 Services Contract

5.3.1 The award of Services Contracts under a Framework Agreement shall be made in accordance with the rules set out in the Framework Agreement at Appendix 5 to this RFT.

5.3.2 Tenderers should also note the terms and conditions of the Services Contract set out at Appendix 6 to this RFT.

5.3.3 Tenderers are required to confirm their acceptance of the terms and conditions of the Framework Agreement at Appendix 6 to this RFT and the Services Contract at Appendix 7 and 8 to this RFT by signing the Tenderer's Statement at Appendix 2. Tenderers may not amend the Framework Agreement or the Services Contracts.

5.4 Acceptance of RFT Requirements

Each Tenderer is required to accept the provisions of this RFT. ALL TENDERERS MUST RETURN, with their Tender, a scanned signed copy of the Tenderer's Statement, as set out in Appendix 3, printed on the Tenderer's letterhead (where available). The Contracting Authority must be able to read the scanned signature of the Tenderer. If possible, please sign documents using blue or black ink. If the Contracting Authority cannot read the scanned signature, Tenderers may be requested to re-submit. Tenderers may not amend the Tenderer's Statement.

5.5 Consortia and Prime/Subcontractors

Where a group of undertakings (in whatever form and regardless of the legal relationship between them) come together to submit a Tender in response to this RFT, the Contracting Authority will deal with all matters relating to this Competition through a single nominated entity authorised to represent all members of the group of undertakings. The Tenderer must provide details of all members of the group of undertakings and their role in the Tender and clearly set out the contact details including name, title, telephone number, postal address, facsimile number and e-mail address of the nominated entity authorised to represent the Tenderer and to whom all communications shall be directed and accepted until this Competition has been completed or terminated. Correspondence from any other person will NOT be accepted, acknowledged or responded to.

Prior to and as a condition of award of any Services Contract, the successful Tenderer shall be required to designate a single entity who will carry overall responsibility for the Services Contract (the "Prime Contractor"), irrespective of whether or not tasks are to be performed by a subcontractor or other consortium member (the "Subcontractor").

5.6 Tender Submission Requirements

5.6.1 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 (as defined in paragraph 5.6.2). Tenderers should take into account the fact that upload speeds vary. Tenderers should also acquaint themselves with any maximum file sizes for the documents sent to the electronic post box.

5.6.2 Tenders must be received not later than **13th of October at 10:00** (the "Tender Deadline"). Tenders that are received late WILL NOT be considered in this Competition.

5.6.3 Tenders must be submitted in English.

5.6.4 Subject to paragraph 5.14, each Tenderer is limited to submitting one Tender in its own capacity and one Tender as part of a consortium/group of undertakings under this RFT for each Lot.

5.6.5 All Tenders submitted in soft copy must be compiled such that they can be read immediately using for example, PDF readers. The Contracting Authority is not responsible for corruption in electronic documents. Tenderers must ensure electronic documents are not corrupt.

5.7. Queries and Clarifications

5.7.1 All queries relating to any aspect of this Competition or of this RFT must be directed to the messaging facility on www.etenders.gov.ie. Queries will be accepted no later than **26th September 2025 at 17:00pm** unless otherwise published by the Contracting Authority. For the avoidance of doubt, Tenderers may not contact the Contracting Authority directly regarding any aspect of this Competition.

5.7.2 All responses to queries will be issued by the Contracting Authority via the messaging facility on www.etenders.gov.ie. Where appropriate, queries may be amalgamated. Tenderers should note that the Contracting Authority will not respond to individual Tenderers privately.

5.7.3 The Contracting Authority reserves the right to issue or seek written clarifications.

4.7.4 The Contracting Authority reserves the right at any time before the Tender Deadline, to update or amend the information contained in this document and/or to extend the Tender Deadline. Participating Tenderers will be informed of any such amendment or extension through the eTenders website.

5.7.5 Tenderers should ensure that they register their interest in this Competition, by clicking on the “Accept” button on www.etenders.gov.ie, in order to receive all responses to queries and other updates in relation to this Competition.

5.8. Tendering Costs

5.8.1 All costs and expenses incurred by Tenderers relating to their participation in this Competition including, but not being limited to, site visits, field trials, demonstrations and/or presentations shall be borne by and are a matter for discharge by the Tenderers exclusively.

5.9. Confidentiality

5.9.1 All documentation, data, statistics, drawings, information, patterns, samples or material disclosed or furnished by the Contracting Authority to Tenderers during the course of this Competition:

- (a) are furnished for the sole purpose of replying to this RFT only;
- (b) may not be used, communicated, reproduced or published for any other purpose without the prior written permission of the Contracting Authority;
- (c) shall be treated as confidential by the Tenderer and by any third parties (including subcontractors) engaged or consulted by the Tenderer; and
- (d) must be returned immediately to the Contracting Authority upon cancellation or completion of this Competition if so requested by the Contracting Authority.

5.10. Pricing

5.10.1 All Tenderers must complete the Pricing Schedule in the Pricing Response.

5.10.2 All prices quoted must be all-inclusive (i.e. including but not being limited to shipping, packaging, delivery, ancillary costs and all other costs/expenses), be expressed in Euro only and exclusive of VAT. The VAT rate(s) where applicable should be indicated separately.

5.10.3 Tenderers must confirm that all prices quoted in the Tender will remain valid for the term of the framework commencing from the Tender Deadline.

5.10.4 Any currency variations occurring over the term of the Services Contract shall be borne by the Tenderer.

5.10.5 Payments for Services provided pursuant to this RFT shall be subject to and made in accordance with the Services Contract at Appendix 6 of this RFT.

5.11. Environmental, Social and Labour Law

5.11.1 In the performance of any services Contract awarded, the successful Tenderers and their Subcontractors (if any), shall be required to comply with all applicable 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 or by international, environmental, social and labour law listed in Schedule 7 of the Regulations.

5.11.2 Tenderers shall be required to include an undertaking to comply fully with the provisions of Council Directive 2001/23/EC of 12 March 2001 on the approximation of the laws of the Member States relating to the safeguarding of employees' rights in the event of transfers of undertakings, business or parts of undertakings or business and as implemented in Irish law by Statutory Instrument No. 131 of 2003, the European Communities (Protection of Employees on Transfer of Undertakings) Regulations 2003 and to indemnify the Contracting Authority for any claim arising or loss or costs incurred as a result of its failure or incapacity to fulfil its obligations under the said Directive and Statutory Instrument.

5.11.3 The Protection of Employees (Temporary Agency Work) Act 2012 (the "2012 Act") provides that an Agency Worker (as defined in the 2012 Act) is entitled to the same basic working and employment conditions as those which apply to employees recruited directly by the Hirer (as defined in the 2012 Act) to do the same or a similar job. Where the provision of the services will involve the provision to the Contracting Authority of Agency Workers (within the meaning of the 2012 Act), Tenderers should ensure that they consider their obligations under the 2012 Act when pricing their Tender. The Contracting Authority shall have no liability for any increase in salaries that may be payable as a result of the application of the 2012 Act to the provision of the services.

5.12. Publicity

No publicity regarding this Competition or any services Contract pursuant to this Competition is permitted unless and until the Contracting Authority has given its prior written consent to the relevant communication.

5.13. Registerable interest

Any Registrable Interest involving any Tenderer or Subcontractor and the Contracting Authority, members of the Government, members of the Oireachtas, or employees and officers of the Contracting Authority and their relatives must be fully disclosed in the Tender or, in the event of this information only coming to the notice of the Tenderer or Subcontractor after the submission of a Tender, must be communicated to the Contracting Authority immediately upon such information becoming known to the Tenderer or Subcontractor.

The terms “Registrable Interest” and “Relative” shall be interpreted as per Section 2 of the Ethics in Public Office Acts 1995 and 2001, copies of which are available at www.irishstatutebook.ie. The Contracting Authority will, at its absolute discretion, decide on the appropriate course of action, which may in appropriate circumstances include eliminating a Tenderer from this Competition or terminating any services Contract entered into by a Tenderer.

5.14. Anti-competitive conduct

Tenderers’ attention is drawn to the Competition Act 2002 (as amended, the “2002 Act”). The 2002 Act makes it a criminal offence for Tenderers to collude on prices or terms in a public procurement competition.

5.15. Industry terms used in this RFT

Where reference is made to a particular item, source, process, trademark, or type in this RFT then all such references are to be given the meaning generally understood in the relevant industry and operational environment.

5.16. Freedom of Information

5.16.1 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.

5.16.2 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 the specific sections of their Tender containing such information and specify the reasons for its confidentiality or commercial sensitivity. For the avoidance of doubt Tenderers may not assert confidentiality or commercial sensitivity over the entire Tender but must clearly identify the specific section containing such information. If Tenderers do not identify information as confidential or commercially sensitive, it is liable to be released in response to a request under the above legislation without further notice to or consultation with the Tenderer. The Contracting Authority will, where possible, consult with Tenderers about confidential or commercially sensitive information so identified before making its decision on a request received. The Contracting Authority accepts no liability whatsoever in respect of any information provided which is subsequently released (irrespective of notification) or in respect of any consequential damage suffered as a result of such obligations.

5.17. Tax Clearance

It will be a condition of any Framework Agreement or services Contract pursuant to this Competition that the successful Tenderer(s) shall, for the term of such contract(s), comply with all applicable EU and domestic tax laws. Tenderers are referred to www.revenue.ie for further information. Prior to the

award of any Framework Agreement or services Contract arising out of this Competition, the successful 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 Contracting Authority. By supplying these numbers the successful Tenderer acknowledges and agrees that the Contracting Authority has the permission of the successful Tenderer to verify its tax cleared position online.

5.18. Conflicts of interest

~~Any conflict of interest or potential conflict of interest on the part of a Tenderer, Subcontractor or individual employee(s) or agent(s) of a Tenderer or Subcontractor(s) must be fully disclosed to the Contracting Authority as soon as the conflict or potential conflict is or becomes apparent. In the event of any actual or potential conflict of interest, the Contracting Authority may invite Tenderers to propose means by which the conflict of interest might be removed. The Contracting Authority will, at its absolute discretion, decide on the appropriate course of action, which may in appropriate circumstances include eliminating a Tenderer from this Competition or any Mini-Competition or terminating any Framework Agreement or services Contract entered into by a Tenderer.~~

5.18 Withdrawal from this competition

Tenderers are required to notify the Contracting Authority immediately via the e-tenders website, if at any stage they decide to withdraw from this Competition.

5.19. Site visit

5.19.1 There will be no site visit facilitated for this tender.

5.20 Insurance

5.20.1 The successful Tenderer shall be required to hold the following insurances for the term of the services Contract:

Type of Insurance Indemnity Limit	
Employer's Liability	€12.7 million limit for any one claim or series of claims arising out of a single occurrence
Public Liability	€6.5 million limit for any one claim or series of claims arising out of a single occurrence
Product Liability	€500,000 limit for any one claim or series of claims arising out of a single occurrence
Cyber Liability	€1 million limit in the aggregate per insurance year.

5.20.2 By signing the Tenderer's Statement at Appendix 3, Tenderers confirm that, if awarded a services Contract under this Competition, (i) they will, from the Effective Date of the services Contract (as defined in the services Contract), obtain and hold the types and levels of insurance as specified at paragraph 5.20.1, (ii) the territorial limits and jurisdiction of its insurance policies include the Republic of Ireland and (iii) they are not aware of any exclusions, restrictions, conditions or warranties or, in the case of policies with an aggregate limit of indemnity, any outstanding claims, which could have a material adverse impact on the level of coverage specified above. A formal confirmation from the Tenderer's insurance company or broker to this effect will be requested from the successful Tenderer(s) prior to the award of (and shall be a condition of) any services Contract.

5.20.3 The successful Tenderer will, during the term of the services Contract, be required to:

- (a) immediately advise the Contracting Authority of any material change to its insured status;
- (b) produce proof of current premiums paid upon request;

(c) produce valid certificates of insurance upon request

Appendix 1: Pricing Schedule

Refer to pricing template included with this tender.

Appendix 2: Tenderer's Statement

Tenderers are required to complete the Tenderer's Statement contained in the Tender Response Document that accompanies this RFT.

[Tenderers shall complete and return the following form of Tenderers' Statement printed on the Tenderers' headed notepaper and signed by the Tenderer.]

TENDERERS' STATEMENT

TO: Educational Research Centre (the "Contracting Authority").

RE: Request for Tenders for **Framework Agreement for** Provision of Technical Support Services for the delivery of computer based testing. Having examined your Request for Tenders (the "RFT") including the Instructions to Tenderers, the Selection and Award Criteria, the Requirements and Specifications, and the Terms and Conditions of the Framework Agreement and the services Contract, we hereby agree and declare the following:

1. We understand the nature and extent of the services required to be delivered as described in Requirements and Specifications at part 3 of the RFT.
2. We accept all of the Terms and Conditions of the RFT, the services Contract, and the Confidentiality Agreement and agree, if awarded a services Contract, to execute the services Contract at Appendix 6 to the RFT and the Confidentiality Agreement at Appendix 7 to the RFT.
3. We accept all the Selection and Award Criteria as set out in Part 4 of the RFT.
4. We agree to supply the Contracting Authority with the services in accordance with the RFT and our Tender.
5. We agree that, if awarded any services Contract we shall, in the performance of such contract, comply with all applicable obligations in the field of environmental, social and labour law.
6. We confirm that we have complied with all requirements as set out at Part 5 of the RFT.
7. We confirm that all prices quoted in our Tender will remain valid for the period of time, commencing from the Tender Deadline, specified at paragraph 5.10.3 of the RFT.
8. We shall, if awarded any services Contract under the RFT, have in place on the Effective Date of the services Contract all insurances (if any) as required by paragraph 5.20.1 of the RFT.
9. We confirm that all Data Subjects whose Personal Data is provided in our Tender have consented to the processing of such Personal Data by us, the Contracting Authority, the Evaluation Team and the supplier of the etenders.gov.ie website, for the purposes of our participation in this Competition or that we otherwise have a legal basis for providing such Personal Data to the Contracting Authority for the purposes of our participation in this Competition and that we will provide evidence of such consent and / or legal basis to the Contracting Authority upon request.

Signed: (Authorised Signatory)	
Print Name in Block Capitals:	Click here and insert name
Position:	Click here and insert details
Company:	Click here and insert details
Registered Office Address:	Click here and insert address
	Click here and insert address
Date:	Click here and insert date

Appendix 3: Electronic European Single Procurement Document (eESPD)

Tenderers must submit a valid electronic European Single Procurement Document (eESPD). Registered suppliers on [etenders.gov.ie](https://www.etenders.gov.ie) (the electronic platform through which tenderers must submit their tenders for this competition) can complete and submit an eESPD using the tools available on that platform. Further information on registering and using the eTenders platform can be found here:

<https://www.etenders.gov.ie/epps/home.do>

Appendix 4: Declaration as to Personal Circumstances of Tenderer

The Declaration as to Personal Circumstances of Tenderer is contained in this Appendix. **It does not have to be completed by tenderers at this stage of the procurement.**

The Contracting Authority may request tenderers to submit it at a later stage of the procurement (at preferred Tenderer stage of the evaluation). If this declaration is requested by the Contracting Authority, it should be completed and signed by the Tenderer, and witnessed by a Solicitor or a Commissioner for Oaths.

RE: Framework Agreement for Provision of Technical Support Services for the delivery of computer based testing

NAME: Education Research Centre

ADDRESS: DCU St Patrick's College Campus, Drumcondra, Dublin 9, D09 AN2F

I, **[insert name of Declarant]**, having been duly authorised by **[insert name of entity]** sincerely declare that **[insert name of entity]** itself or any person who has is a member of the administrative, management or supervisory body of **[insert name of entity]** or has powers of representation, decision or control in **[insert name of entity]**:

- a) Has never been the subject of a conviction for participation in a criminal organisation, as defined in Article 2 of Council Framework Decision 2008/841/JHA.
- b) Has never been the subject of a conviction for corruption, as defined in Article 3 of the Convention on the fight against corruption involving officials of the European Communities or officials of Member States of the European Union and Article 2(1) of Council Framework Decision 2003/568/JHA as well as corruption as defined in the national law of the Contracting Authority or **[insert name of entity]**.
- c) Has never been the subject of a conviction for fraud within the meaning of Article 1 of the Convention on the protection of the European Communities' financial interests.
- d) Has never been the subject of a conviction for terrorist offences or offences linked to terrorist activities, as defined in Articles 1 and 3 of Council Framework Decision 2002/475/JHA respectively, or for inciting or aiding or abetting or attempting to commit an offence, as referred to in Article 4 of that Framework Decision.
- e) Has never been the subject of a conviction for money laundering or terrorist financing, as defined in Article 1 of Directive 2005/60/EC of the European Parliament and of the Council.
- f) Has never been the subject of a conviction for child labour and other forms of trafficking in human beings as defined in Article 2 of Directive 2011/36/EU of the European Parliament and of the Council.
- g) Is not in breach and has not breached its obligations relating to the payment of taxes or social security contributions
- h) Has, in the performance of all public contracts, complied with applicable obligations in the field of environmental, social and labour law that apply at the place where the works are carried out or the services provided, that have been established by EU law, national law, collective agreements or 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).
- i) Is not bankrupt or the subject of insolvency or winding-up proceedings, its assets are not being administered by a liquidator or by the court, it is not in an arrangement with creditors, its business

activities are not suspended nor is it in any analogous situation arising from a similar procedure under national laws and regulations.

- j) Is not guilty of grave professional misconduct.
- k) Has not entered into agreements with other economic operators aimed at distorting competition.
- l) Is not aware of any conflict of interest due to its participation in the Competition;
- m) That the preparation of the Tender was carried out independently;
- n) Has not had any prior involvement in the preparation of the Competition;
- o) Has not shown significant or persistent deficiencies in the performance of a substantive requirement under a prior public contract, a prior contract with a contracting entity, or a prior concession contract, which led to early termination of that prior contract, damages or other comparable sanctions.
- p) Is not guilty of serious misrepresentation in supplying the information required for the verification of the absence of grounds for exclusion or the fulfilment of the Selection Criteria for this Competition and did not withhold such information and did not fail or is not able to submit supporting documents in respect of this Competition as required under Regulation 59 of the European Union (Award of Public Authority Contracts) Regulations 2016 (Statutory Instrument 284 of 2016).
- q) Has not undertaken to unduly influence the decision-making process of the Contracting Authority in respect of the Competition, or obtain confidential information that may confer upon it undue advantages in respect of the Competition; or negligently provided misleading information that may have a material influence on decisions concerning exclusion, selection or award.

I understand and acknowledge that the provision of inaccurate or misleading information in this declaration may lead to my business/firm/company/partnership being excluded from participation in this or future tenders, and I make this solemn declaration conscientiously believing the same to be true and by virtue of the Statutory Declarations Act, 1938. This declaration is made for the benefit of the Contracting Authority

Signature of Declarant

Name of Declarant in print or block capitals

Declared before me by _____ who is personally known to me
(or who is identified to me by _____ who is personally known to me)
at _____ this _____ day of _____ 20__

Signed (Practising Solicitor / Commissioner for Oaths)

Appendix 5: Framework Agreement

NOTE: Tenderers are NOT REQUIRED TO COMPLETE the Framework Agreement at this time. This is the Framework Agreement that the Contracting Authority will put in place with successful Tenderers. Certain articles may only be finalised following this competition.

Framework Agreement Provision of Technical Support Services for the delivery of computer based testing **for the Educational Research Centre] for**

THIS FRAMEWORK AGREEMENT IS MADE ON THE [date e.g. 2nd] day of [month] 20 [year]:
("the Framework Agreement")

BETWEEN:

[Insert Contracting Authority Name and Address] ("the Contracting Authority"); and **[Insert name of Framework Member]** whose principal place of business is at **[Address]** ("the Framework Member") (each a "Party" and together the "Parties")

Whereas:

2. By Request for Tenders advertised in the supplement to the Official Journal of the European Union, OJEU Notice Number [] of [] and entitled "[]" ("the RFT") the Contracting Authority invited economic operators ("Tenderers") to participate in a framework agreement for the provision of the services described in Appendix 1 of the RFT (the "Services"). References to the RFT shall include any clarifications in relation to the RFT issued by the Contracting Authority via the messaging facility on www.etenders.gov.ie between [insert date] and [insert date] (the "RFT Clarifications"). The RFT (including the RFT Clarifications) is hereby incorporated by reference into this Framework Agreement.
3. The Framework Member submitted a response to the RFT dated [insert date of tender] ("the Submission"). References to the Submission shall include any clarifications issued in writing by the Framework Member to the Contracting Authority between [insert date] and [insert date] (the "Submission Clarifications"). The Submission (including the Submission Clarifications) is hereby incorporated by reference into this Framework Agreement.
4. The Framework Member was appointed to the framework as a result of the evaluation of its Submission in accordance with the RFT.

It is Hereby Agreed as Follows:

1. Definitions and Interpretation

"Commencement Date" means [];

"Contract" means a contract which is awarded in accordance with this Framework Agreement

"Services Contract" means the template contract attached at Appendix 6 to the RFT;

"Framework Term" means the period set out in Clause 5.5 of this Framework Agreement;

“Month” means a calendar month;

“Prime Contractor” has the meaning set out in paragraph 5.5 of the RFT;

“Subcontractor” has the meaning set out in 5.5 of the RFT;

2. Appointment of Framework Member, Scope and Term of the Framework Agreement

- 2.1. In consideration of payment by the Contracting Authority of the sum of €2.00, the receipt of which is hereby acknowledged by the Framework Member, the Framework Member accepts its appointment under the provisions of this Framework Agreement.
- 2.2. This Framework Agreement does not entitle the Framework Member to be consulted in respect of, or awarded any Contract during the Framework Term. The Framework Client(s) may at its or their sole discretion choose not to enter into any Contract pursuant to this Framework Agreement.
- 2.3. The Contracting Authority does not give any guarantee and/or warrant the actual value of any services and/or number of Contracts (if any) which may be procured in connection with this Framework Agreement and the Parties acknowledge that the Framework Client(s) are not bound to enter into any Contract or other arrangement with the Framework Member as a result of entering into this Framework Agreement. Without prejudice to the foregoing the Framework Member hereby acknowledges that the Contracting Authority intends (but shall be under no obligation) to promote the Framework Agreement and to encourage use of the Framework Agreement by the Framework Client(s) and the Framework Member may be required to provide reasonable assistance in this respect.
- 2.4. This Framework Agreement does not confer exclusivity on any Framework Member. The Framework Clients may at their sole discretion opt to carry out a separate contract award procedure for contracts falling within the scope of this Framework Agreement. In this event, the Framework Client(s) shall observe all obligations at law and shall not afford any advantage to the Framework Member.
- 2.5. This Framework Agreement shall take effect on the Commencement Date and expire in 4 years thereafter (“the Framework Term”) unless terminated earlier in accordance with this Framework Agreement.
- 2.6. The Contracting Authority reserves the right, at its discretion and subject to its obligations at law, to extend the Framework Term for a period or periods of up to **24 months** with a maximum of 2 of such extensions on the same terms and conditions.
- 2.7. The Framework Member agrees that any information relating to this Framework Agreement and/or the performance of this Framework Agreement may be passed by the Framework Clients to the Contracting Authority and that the Contracting Authority may use this information in relation to the provision of the Services and in the analysis and reporting of spend data including the preparation and publishing of reports.

3. Framework Agreement Management Provisions

- 3.1. The Framework Member hereby agrees and undertakes to comply with the Framework Agreement management provisions as set out in this Framework Agreement or as may be notified in writing by the Contracting Authority to the Framework Member from time to time.

4. Services Contract

- 4.1 This Framework Agreement relates to the provision of the Services.

- 4.2 Where the Framework Member is awarded a Contract further to the procedure set out in accordance with clauses 5 and 6, it shall provide the services to the Framework Client(s) in accordance with the Services Contract. Subject to the provisions of this Framework Agreement and to the satisfaction of any pre-conditions to the award of a Services Contract, the successful Framework Member shall be required to enter into the Services Contract with the Framework Client.

5. Procedure for the Award of Supplementary Tenders

- 5.1. Direct award of contracts is not included for [insert details]
- 5.2. On each occasion that Contracting Authority proposes to award a Contract under this Framework Agreement”, the Contracting Authority shall issue (by electronic means) a Specification or Supplementary Request for Tenders (“SRFT”) to the Framework Member in accordance with the following procedure:
- 5.2.1. The Specification/SRFT shall set out:
- the scope and term of the Contract to be awarded;
 - any additional conditions (if any) that will apply to the Contract in addition to the terms and conditions of the Services Agreement.
 - the scope and term of the Contract to be awarded;
 - the relevant Award Criteria;
 - the deadline (date and time) for the receipt of the Response to the Specification/SRFT (“Response”)
 - the type of service(s) required;
 - the Pricing Matrix that will apply;
 - any additional conditions (if any) that will apply to the Contract to be awarded in addition to the terms and conditions of the Contract at Appendix 6 of the RFT.
- 5.2.2. All Responses to the SRFT must be submitted via e-mail, hardcopy or any other means deemed appropriate by the Framework Client.
- 5.2.3. Any clarifications issued by the Contracting Authority, as applicable, in relation to a SRFT will be communicated via e-mail or hardcopy.
- 5.2.4. The Contracting Authority may award a Contract following an evaluation of the Responses based on the award criteria set out in Clause 6.2 below.
- 5.2.5. The Contracting Authority and the Framework Client reserve the right to issue or seek written clarifications.

6. Award Criteria

- 6.1. Contracts under this Framework Agreement shall be awarded in accordance with the procedure for supplementary tenders set out in Section 5 and in accordance with the criteria set out in this Section 6.
- 6.2. The Framework Member, on award of a Contract by a Framework Client agrees to execute and comply with the terms and conditions of the Services Contract.
- 6.3. The award criteria for Direct Award of Contracts shall be:

Award Criteria – Services SRFTs	Weighting (range)
Cost	20% to 80%
Suitability, Expertise, Experience, Resources	20% to 80%

The Framework Client may use sub-criteria as part of their assessment. Any sub-criteria will be consistent with the range of weightings identified above.

- 6.4. The Daily Rate Card charges submitted for by a Framework Member in their response to the RFT cannot be exceeded in their response to any Direct Award undertaken under the Framework Agreement. The rates may be reduced in response to a Specification/SRFT but not increased
- 6.5. The Framework Client will require the Framework Member to supply up-to-date evidence as set out in paragraph 4.3.2(a) of the RFT. Where the Framework Member cannot provide up-to-date evidence to demonstrate that each entity concerned meets the Selection Criteria and the compliance requirements specified at paragraph 4.1(b) and (c) of the RFT then the Contracting Authority will withdraw the offer of the Contract .
- 6.6. No enforceable commitment of any kind, contractual or otherwise will exist unless and until a formal written Contract has been executed by or on behalf of the Framework Client.
- 6.7. The Framework Client may cancel a Direct Award at any time prior to a Contract being executed by it. Any notification of preferred bidder status by a Framework Client shall not give rise to any enforceable rights by the Tenderer.

7. Applicable Law and Jurisdiction

- 7.1 This Framework Agreement and any Contract(s) awarded under it will be subject to the laws of Ireland and to the exclusive jurisdiction of the Irish courts.

8. Compliance with laws

- 8.1 The Framework Member shall comply with all applicable laws relating to the discharge of its obligations under this Framework Agreement and any and all Contract(s).
- 8.2 Each Framework Member will be solely responsible in law for the employment, remuneration, taxes, immigration, visa and work permits or other authorisations appropriate

to the work carried out for, or on behalf of a Contracting Authority and/or Framework Clients. The Contracting Authority and/or Framework Clients reserve the right to seek confirmation that the relevant legal requirements are being met.

9. Tax clearance

- 9.1 The Framework Member shall comply with all EU and domestic taxation laws and requirements including but not being limited to Circular 43/2006 issued by the Department of Finance. This Circular and further information is available at www.finance.gov.ie and www.ros.ie.
- 9.2 Prior to the award of any Contract, the Framework Member shall promptly supply its Tax Clearance Access Number and Tax Reference Number to facilitate online verification of their tax status by the Contracting Authority or any Framework Client. By supplying these numbers the Framework Member acknowledges and agrees that the Contracting Authority has the permission of the successful Tenderer to verify its tax cleared position online. Where relevant, the provisions of this paragraph 9.2 apply equally to Subcontractors.

10. Anti Competitive Conduct

- 10.1 Without prejudice to the generality of clause 8.1, the Framework Member shall comply with the Competition Act 2002 (as amended, the “2002 Act”). The 2002 Act makes it a criminal offence for tenderers to collude on prices or terms in a public procurement competition.

11. Conflicts of Interest

- 11.1 Any actual or potential conflict of interest on the part of a Framework Member (including for the purposes of this clause 11 any employee(s), supplier(s) agents or Subcontractor(s)) (a “Conflict”) must be fully disclosed to the Contracting Authority and any relevant Framework Client(s) immediately in writing as soon as the Conflict becomes apparent to the Framework Member. In the event of any Conflict, the Contracting Authority and / or the Framework Client(s) may invite the Framework Member to propose means by which the Conflict might be removed. The Contracting Authority and / or the Framework Client(s) will, in their absolute discretion, decide on the appropriate course of action.

11.2 Where a Framework Member receives a Request for Supplementary Tender from the Contracting Authority and/or Framework Clients and is aware that there is a conflict of interest in respect of the Services being sought, whether the conflict concerns the Framework Member, an individual employee, sub- contractor or other, the Framework Member is obliged to disclose the conflict of interest immediately to the Contracting Authority and/or Framework Clients and is obliged to decline from submitting a Response to the Request for Supplementary Tender.

12. Registerable Interest

- 12.1 Any registerable interest involving a Framework Member and the Contracting Authority, any Framework Client, member of the Government, member of the Oireachtas (Parliament), or employees of the Contracting Authorities and/or divisions/agencies under the aegis of the relevant Ministers, and their relatives, must be fully disclosed in any Response. In the event of this information only coming to the notice of a Framework Member after the submission of a Response, it must be communicated to the Contracting Authority and / or Framework Client(s) immediately upon such information becoming known. The terms ‘registerable interest’ and ‘relative’ shall be interpreted as per Section

13. Confidentiality

- 13.1 All communications between the Contracting Authority or any Framework Client(s) and the Framework Member must be treated as being strictly confidential. The Framework Member undertakes to comply with all reasonable directions of the Contracting Authority and any Framework Client with regard to the use and application of all and any confidential information and shall comply with the Confidentiality Agreement(s) executed by the Framework Member pursuant to clause 13.2 below. All of the Framework Member's employees and personnel, including Subcontractors and their employees and personnel, who provide the services may be required, at the absolute discretion of the Contracting Authority and/or the Framework Client(s), to sign a confidentiality agreement in a format as determined by the Contracting Authority and/or the Framework Client(s).
- 13.2 The Framework Member shall execute a Confidentiality Agreement in the form set out at Appendix 8 to the RFT.
- 13.3 No publicity regarding this Framework Agreement or Contract pursuant to this Framework Agreement is permitted unless and until the Contracting Authority and any relevant Framework Client(s) has given their prior written consent to the relevant communication.

14. Notices

- 14.1 Any notice or other written communication to be given under this Framework 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 14.
- 14.2 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.

15. Gifts

- 15.1 The Framework Member shall not offer, give or agree to give to any person holding an office in the Contracting Authority or any Framework Client, any gift or consideration of any kind as an inducement or reward in relation to the obtaining or execution of any Contract. In the event of any breach of this clause 15.1, the Contracting Authority and the Framework Client(s) may terminate this Framework Agreement and any existing Contract(s) respectively and recover from the Framework Member any loss resulting from any such termination.

16. Costs and Expenses of Framework Agreement

- 16.1 All costs and expenses incurred by the Framework Member relating to its participation in this Framework Agreement and in any Mini-Competition or direct award shall be borne solely by the Framework Member. Neither the Contracting Authority nor any Framework Client shall have any responsibility or liability for any costs or expenses of whatsoever nature incurred by the Framework Member in this regard.

17. Termination

- 17.1 This Framework Agreement may be terminated by the Contracting Authority, without liability for compensation or damages, by serving three (3) months written notice to the Framework Member.
- 17.2 The Contracting Authority shall have the right (in addition to its rights under clause 17.1 and any other rights which it has at law) to terminate this Framework Agreement immediately and without liability for compensation or damages on the happening of any of the following events:
- 17.2.1 if the Framework Member commits any serious breach or a series of breaches of any provision of this Framework Agreement and fails to remedy such breach(es) to the reasonable satisfaction of the Contracting Authority, (if the breach(es) are capable of remedy), within 30 days after receipt of a request in writing from the Contracting Authority. Without prejudice to the generality of the foregoing, a failure to comply with the Framework Agreement management provisions as set out in Annex 1 to this Framework Agreement shall be deemed to be a serious breach of this Framework Agreement;
- 17.2.2 if the Framework Member commits any serious breach or a series of breaches of any Contract awarded pursuant to this Framework Agreement and fails to remedy such breach(es) to the reasonable satisfaction of the Contracting Authority and the Framework Client(s), within 30 days after a receipt of a request in writing from the Contracting Authority or any Framework Client.
- 17.2.3 if the Framework Member becomes insolvent, becomes bankrupt, is wound up, enters into examinership, commences 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 effect;
- 17.2.4 in circumstances where the Contracting Authority becomes aware that any of the exclusion grounds listed in Regulation 57 of the European Union (Award of Public Authority Contracts) Regulations 2016 (Statutory Instrument 284 of 2016) apply to the Framework Member;
- 17.2.5 in circumstances where the Contracting Authority becomes aware of any conflict of interest on the part of the Framework Member which cannot, in the opinion of the Contracting Authority, be removed by other means; and
- 17.2.6 in circumstances where the Contracting Authority becomes aware of any registrable interest on the part of the Framework Member.
- 17.3 Subject to clause 17.2.2, the termination of a Contract awarded under this Framework Agreement does not affect the validity of this Framework Agreement.
- 17.4 Termination of this Framework Agreement shall not affect any antecedent and accrued rights, obligations or liabilities of either Party, nor shall it affect any provision of this Framework Agreement which is expressly or by implication intended to come into or continue in force on or after such termination.

18. Freedom of Information

- 18.1 The Framework Member acknowledges that the Contracting Authority is subject to the Freedom of Information Act 2014 and the European Communities (Access to Information on the Environment) Regulations 2007 to 2014. Information furnished to the Contracting Authority by the Framework Member may be released pursuant to the Contracting Authority's statutory obligations. If the Framework Member considers that any of the

information supplied by it to the Contracting Authority under this Framework Agreement or any Contract should not be disclosed because of its sensitivity it should, when providing the information, indicate this and specify the reason for its sensitivity. The Contracting Authority will consult the Framework Member about this sensitive information before making a decision on any request received under the above legislation. The Contracting Authority accepts no liability whatsoever in respect of any information provided which is subsequently released (irrespective of notification) or in respect of any consequential damage suffered as a result of such obligations.

19. Dispute Resolution

- 19.1 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.
- 19.2 The Dispute shall be referred as soon as practicable to **[Insert details]** within the Contractor and to **[Insert details]** **o within the Contracting Authority** respectively.
- 19.3 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.
- 19.4 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 to act, apply to CEDR Ireland to appoint a mediator.
- 19.5 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.
- 19.6 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.
- 19.7 For the avoidance of doubt, the obligations of the Parties under this Agreement shall not cease, or be suspended or delayed by the reference of a dispute to mediation. The Contractor shall comply fully with the requirements of the Agreement at all times.
- 19.8 If, and to the extent that, any Dispute has not been settled pursuant to the mediation within 30 days of the commencement of the mediation, either party may apply to the Irish courts at any time thereafter.

IN WITNESS WHEREOF this Framework Agreement has been executed by the Parties hereto as of the date first above written.

SIGNED by _____, being an Officer so authorised by the CONTRACTING AUTHORITY in the presence of: _____ Witness	SIGNED by _____, being an Officer so authorised by the FRAMEWORK MEMBER in the presence of: _____ Witness
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Appendix 6: Services Contract

NOTE: Tenderers are NOT REQUIRED TO COMPLETE the Services Contract at this time. This is the Services Contract that the Contracting Authority/Framework Client will put in place for individual contracts awarded under the Framework Agreement (see Appendix 5). Certain articles and schedules shall only be finalised during contract discussions between both parties.

[Insert Name of the Contracting Authority]

and

[Insert successful Tenderer's full legal name]

AGREEMENT

Relating to the provision of Services

THIS AGREEMENT IS MADE ON THE [DATE E.G. 2ND] DAY OF [MONTH] 20 [YEAR] BETWEEN:

[Client's name], of [Client's address] ("the Client"); and [insert Contractor's full legal name], of [address] ("the Contractor") (each a "Party" and together "the Parties").

WHEREAS:

1. By Request for Applications to Participate entitled "[redacted]" advertised in the supplement to the Official Journal of the European Union, OJEU Notice Number [redacted] of [redacted] ("the RFT") the Contracting Authority invited economic operators to participate in a Framework Agreement for the provision of the Services described in Part 3 of the RFT (the "Services"). References to the RFT shall include any clarifications issued by the Contracting Authority via the messaging facility on www.etenders.gov.ie (the "Electronic Platform") between [insert date] and [insert date] (the "RFT Clarifications"). The RFT (including the RFT Clarifications) is hereby incorporated by reference into this Agreement.
2. The Contractor submitted a response to the RFT dated [insert date of Response to the RFT] ("the Response to the RFT"). References to the Response to the RFT shall include any clarifications issued by the Contractor in writing via the Electronic Platform to the Contracting Authority between [insert date] and [insert date] (the "Response to the RFT Clarifications"). The Response to the RFT (including the Response to the RFT Clarifications) is hereby incorporated by reference into this Agreement.
3. The Contracting Authority and the Contractor entered into a Framework Agreement on [insert date of Framework Agreement] (the "Framework Agreement"). The Framework Agreement is incorporated by reference into this Agreement.
4. In accordance with the Framework Agreement, by way of Supplementary Request for Tenders dated [insert date of SRFT] ("the SRFT"), the Client invited responses from all Framework Members for the provision of the Services set out in the SRFT. References to the SRFT shall include any clarifications issued by the Client via the messaging facility on the Electronic Platform between [insert date] and [insert date] (the "SRFT Clarifications"). The SRFT (including the SRFT Clarifications) is hereby incorporated by reference into this Agreement.
5. The Contractor submitted a response to the SRFT dated the [Date of Response to the SRFT] (the "Response to the SRFT"). References to the Response to the SRFT shall include any clarifications issued by the Contractor in writing via the Electronic Platform to the Contracting Authority between [insert date] and [insert date] (the "Response to the SRFT Clarifications"). The Response to the SRFT (including the Response to the SRFT Clarifications) is hereby incorporated by reference into this Agreement.

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 RFT;
 - iii. The SRFT
 - iv. The Response to the RFT.
 - v. The Response to the SRFT.
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 SRFT and the Response to the SRFT ("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 and address of the contracting authority]** the Contractor's Contact is **[Contractor contact name]** of **[Contractor contact address]**. 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").

Delete and replace with "Not Used" if not applicable:

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

5. Unless otherwise specified herein, a defined term used in this Agreement shall have the same meaning as assigned to it in the SRFT.
6. Headings are included for ease of reference only and shall not affect the construction of this Agreement.
7. Unless the context requires otherwise, words in the singular may include the plural and vice versa.
8. 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.
9. In the event that any ambiguity or question of intent or interpretation arises in relation to this Agreement, this Agreement shall be construed as if drafted jointly by the Parties and no presumption or burden of proof shall arise favouring or disfavouring any Party by virtue of the authorship of any of the provisions of this Agreement.

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

Schedule A: Terms and Conditions

1. Contractor's Obligations

- A. The Contractor undertakes to act with due care, skill 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 shall require its agents and Subcontractors to exercise due care, skill 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 SRFT, 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 good 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 Response to the SRFT hereby assumes liability for its Subcontractors 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.
- 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 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 [insert reporting recipient name] and that [insert reporting recipient name] 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 indemnified from and against any claim arising or loss or costs incurred as a result of its failure or incapacity to fulfil its obligation under the said TUPE Regulations.

2. Key Personnel

The Contractor undertakes and acknowledges that it is responsible for ensuring that all key personnel as specified in the Response to the SRFT ("Key Personnel"), assigned by it to provide the Services shall be available for the Term of this Agreement. The Contractor acknowledges that the Key Personnel are essential to the proper provision of the Services to the Client. In the event that any of the Key Personnel assigned by the Contractor to provide the Services under this Agreement becomes unable to provide the Services for whatever reason then, the Contractor acknowledges and undertakes that it shall immediately notify the Client in writing of the inability of any Key Personnel and replace that person with a person of equivalent experience and expertise ("Replacement Personnel"). The Contractor shall provide to the Client such details as the Client may reasonably require in writing regarding any Replacement Personnel. The Client shall have absolute discretion as to the suitability of any proposed Replacement Personnel.

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.
- B. Discharge of the Charges is subject to:
 - 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 disallowed;
 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 14 calendar days of receipt of invoice. In circumstances where no queries are raised within the said 14 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; and
 4. The Client being in possession of the Contractor's current Tax Clearance Certificate. The Contractor shall comply with all applicable 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 Parties may agree to 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.
- 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

- G. 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. *Delete and replace with "Not Used" if not applicable:*

it has inspected the Client's premises, lands and facilities before submitting its Response to the SRFT and has made appropriate enquiries so as to be satisfied in relation to all matters connected with the performance of its obligations under this Agreement;

9. it retains and shall maintain for the Term insurances for the nature and amount specified in the SRFT. 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; and
10. the Client shall be under no obligation to purchase any minimum number or value of 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 to comply with all reasonable directions of the Client with regard thereto which may include termination of this Agreement.

5. Remedies

Prior to publication please ensure to insert amounts/figures where applicable. When finished, delete these instructions.

- A. The Contractor shall be liable for and shall indemnify the Client for and in respect of all and any losses, claims, demands, damages or expenses which the Client may suffer due to and arising directly as a result of the negligence, act or omission, breach of contract, breach of duty, insolvency, recklessness, bad faith, wilful default or fraud of the Contractor, its employees, Subcontractors or agents or any of them or as a result of the Contractor's failure

to exercise skill, care and diligence as outlined in clause 1. The terms of this clause 5A shall survive termination of this Agreement for any reason.

- B. Save in respect of fraud (including fraudulent misrepresentation), personal injury or death or in respect of the Contractor's indemnity under clause 6(G), neither Party will be liable for any indirect losses (including loss of profit, loss of revenue, loss of goodwill, indirectly arising damages, costs and expenses) of any kind whatsoever and howsoever arising even if such Party has been advised of their possibility.
- 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.
- E. *Delete and replace with "Not Used" if not applicable:*

Save in respect of fraud, personal injury or death or in respect of the Contractor's indemnity under clause 6(G) (for which no limit applies), the limit of the Contractor's aggregate liability to the Client under this Agreement whatsoever and howsoever arising shall not under any circumstances exceed [insert amount – e.g.: [number]] per cent of the Charges paid or projected to be paid (whichever is higher) under this Agreement] regardless of the number of claims.

- 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:

[Insert] ("the Retention Amount") which Retention Amount shall not at any given time exceed [number] 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. *You must select one or the other of either G or H. Delete and replace with "Not Used" if not applicable:* 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. *You must select one or the other of either G or H. Delete and replace with "Not Used" if not applicable:*

Without prejudice to any general right to damages under this Agreement where the Contractor does not provide the Services within delivery dates or lead times in accordance with this Agreement, the Client may, at his discretion, deduct [insert amount] per week/day, or part thereof, for each week/day of late delivery as liquidated damages up to a maximum amount of [insert amount] (the "Liquidated Damages Threshold").

Where the Liquidated Damages Threshold is met or exceeded (being that delivery continues not to be performed after the Liquidated Damages Threshold is met), the Client shall be entitled to:

1. claim any remedy available to it (whether under this Agreement or otherwise) for loss or damage incurred or suffered by it after the end of the Liquidated Damages Period; and
2. without prejudice to sub-clause (1), the Client shall be entitled to terminate the Agreement with immediate effect by giving notice in writing to the Contractor

6. Intellectual Property

- A. Intellectual Property Rights ("IPR") means all patents and patent rights, trademarks and trademark rights, trade names and trade name rights, service marks and service mark rights, service names and service name rights, brand names, copyrights and copyright rights, trade dress, business and product names, logos, slogans, trade secrets, industrial models, utility models, design models, designs, rights in confidential information, know-how, rights in the nature of unfair competition rights and rights to sue for passing off, and all pending applications for and registrations of patents, trademarks, service marks, and copyrights together with all connected and similar or analogous rights in any country or jurisdiction for the full term thereof.
- B. Pre-existing IPR means all IPR existing prior to the date of this Agreement and all IPR in any materials, acquired or developed by or for Contractor or Client independently of this Agreement, and any IPR in Contractor's standard hardware and software products or modifications or updates to such products.
- C. All IPR title and interest in all reports, data manuals and/or other materials (other than software) (including without limitation all and any audio or audio visual recordings, transcripts, books, papers, records, notes, illustrations, photographs, diagrams) produced for the purposes of this Agreement (collectively "the Materials") (or any part or parts thereof) shall vest in the Client and the Contractor so acknowledges and confirms. For the avoidance of doubt the Contractor hereby assigns all Intellectual Property Rights, title and interest in the Materials (including by way of present assignment of future copyright) to the extent that any such Intellectual Property Rights title or interest may be deemed by law to reside in it in the Materials to the Client absolutely.
- D. The Client grants to the Contractor a royalty-free non-exclusive licence to use the Client's Pre-existing IPR for the Term to the extent necessary to enable the Contractor to fulfil its obligations under this Agreement. Save as expressly set out in this clause 6 all Pre-Existing IPR shall remain the sole property of the party who owned, acquired or developed such intellectual property.
- E. The Contractor shall waive or procure a waiver of any moral rights subsisting in copyright produced under or in performance of this Agreement.
- F. Nothing in this Agreement shall prohibit or be deemed to prohibit the Contractor from providing services similar to the Services to any party other than the Parties hereto. In no event shall the Contractor be precluded from independently developing for itself, or for others, materials which are competitive with, or similar to, the Services and to use its general knowledge, skills and experience, and any ideas, concepts, know-how, formats, templates, methodologies and techniques that are acquired or used in the course of providing the Services.
- G. The Contractor shall ensure that all and any necessary consents and/or licences for any software, instrument, modality or methodology are obtained and in place before use for the

purposes of this Agreement (to include but not be limited to ensuring that the Client shall be vested with all necessary rights so as to enable the Client to enjoy the benefit of the Services for its business purposes). The Contractor hereby indemnifies the Client and shall keep and hold the Client harmless from and in respect of all and any losses (whether direct, indirect or consequential) liability, damages, claims, costs or expenses which arise by reason of any breach of third party Intellectual Property Rights in so far as any such rights are used for the purposes of this Agreement.

At the request of the Client for and in respect of any such breach, the Contractor shall at its expense and option:

1. (i) procure the necessary rights for the Client to continue use;
2. (ii) replace the relevant deliverable with a non-infringing equivalent;
3. (iii) replace the relevant deliverable to make it non-infringing while giving equivalent performance; or
4. (iv) if the Contractor cannot obtain the remedies in (i), (ii) or (iii) above, it may direct the return of the deliverable and refund to the Client Charges paid for such deliverable less a reasonable amount for the Client's use of the deliverable up to the time of return, provided such reasonable amount is due to the owner of the said deliverable, TOGETHER with all losses (whether direct, indirect or consequential) thereby accruing to the Client as a result of the breach.

- H. Upon the termination of this Agreement for whatever reason, the Contractor shall immediately deliver up to the Client all the Materials prepared up to the date of termination. The provisions of this clause 6 will survive the expiration or termination of this Agreement for any reason.

7. Confidentiality

- A. Each of the Parties to this Agreement agrees to hold 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 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 7 to the RFT ("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. The Contracting Authority accepts no liability whatsoever in respect of any information provided which is subsequently released (irrespective of notification) or in respect of any consequential damage suffered as a result of such obligations.
- E. The terms of this clause 7 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 [insert number] calendar days either Party 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.

9. Termination

- A. This Agreement may be terminated by the Client, without liability for compensation or damages, by serving [insert period of time months] written notice to the Contractor. This Agreement may be terminated by the Contractor, without liability for compensation or damages, by serving [insert period of time months] written notice to the Client.
- 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 becomes insolvent, becomes bankrupt, enters into examinership, is wound up, commences 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 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 the Client becomes aware that any of the exclusion grounds set out in Regulation 57 of the Regulations apply to the Contractor.
- 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. 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 provision of the Services upon expiry of the Term or earlier termination of this Agreement for whatever cause.

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 records 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.

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 Client contact] within the Client respectively.
- C. If the Dispute has not been resolved within fifteen (7) 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 to act, apply to Mediators' Institute of 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, the obligations of the Parties under this Agreement shall not cease, or be suspended or delayed by the reference of a dispute to mediation. The Contractor shall comply fully with the requirements of the Agreement at all times.

12. Governing Law, Choice of Jurisdiction and Execution

- A. This Agreement 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 disputes arising out of or in connection with this Agreement.
- 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 and Subcontract

- A. Subject to a Party's obligations at law, any assignment to a third party or other transfer of a Party's rights or obligations under this Agreement (the "Assignment") requires the prior written consent of the other Party. Prior to any such Assignment, the assignee will be obliged to sign an undertaking to comply with all obligations under this Agreement. Any attempted Assignment not complied with in the manner prescribed herein shall be null and void.
- B. Subject to a Party's obligations at law, any sub-contract of a Party's rights or obligations under this Agreement requires the prior written consent of the other Party, such consent not to be unreasonably withheld or delayed. Any attempted subcontract not complied with in the manner prescribed herein shall be null and void.

15. Entire Agreement

This Agreement 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.

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 conflicts in relation to the Services and its obligations undertaken under this Agreement. The Contractor hereby undertakes to notify the Client immediately should any conflict or potential 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.
- 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 Criminal Justice (Corruption Offences) Act 2018 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

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 that relate to the scope of the Services as set out in the RFT, SRFT and associated documents.
- B. The change control procedures set out in this Schedule will apply to all changes irrespective of whether the Contractor or the Client proposes the change.
- C. A change control notice ("Change Control Notice") shall be prepared for all change requests. The Change Control Notice will provide an outline description of the change requested, the rationale for the change, the effect that the change will have on the Services (where known) and an estimate of the effort and cost required to prepare an impact assessment ("Impact Assessment").
- D. All Change Control Notices proposing changes to this Agreement must be submitted for review to the other Party's Contact.
- E. The Parties must indicate their acceptance or rejection of the change control request and/or Impact Assessment within a reasonable timeframe of its completion and Tender Response for review, subject to a maximum of twenty (20) calendar days or such other period agreed between the Parties.
- F. On approval of an Impact Assessment, this Agreement and/or the Schedules should be updated and revised as appropriate and in writing.

- G. In the event that either Party rejects the Impact Assessment, the change(s) shall not take place and the Parties shall continue to perform their obligations under this Agreement.
- H. The Contractor and the Client will agree a reasonable charge in advance for investigating each proposed variation and preparing each estimate, whether or not the variation is implemented. If the Client's request for any variation is subsequently withdrawn but results in a delay in the performance of the Services then the Contractor will not be liable for such delay and will be entitled to an extension of time equal to not less than the period of the delay.

25. Data Protection and Security

- A. 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 Commission 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;

- B. The Contractor shall comply with all applicable requirements of the Data Protection Laws.
- C. 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.
- D. 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;

1. 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);
 2. the data subject has enforceable rights and effective legal remedies;
 3. 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
 4. The Contractor complies with reasonable instructions notified to it in advance by the Client with respect to the processing of the Personal Data;
- E. 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).
- F. 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.
- G. 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.
- H. 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.
- I. The Contractor shall permit the Client, the Office of 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.
- J. The Contractor shall fully comply with, and implement policies which are communicated or notified to the Contractor by the Client from time to time.

- K. 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.
- L. 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] 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.
- M. (IF YOU ARE NOT CONSENTING TO A THIRD PARTY PROCESSOR – DELETE IF NOT IN USE)
The Client does not consent to the Contractor appointing any third party processor of Personal Data under this agreement

(OR IF USING A THIRD PARTY PROCESSOR – DELETE IF NOT IN USE)

the Client consents to the Contractor appointing [insert third-party processor] as a third-party processor of Personal Data under this Agreement. The Contractor confirms that it has entered or (as the case may be) will enter into a written agreement incorporating terms which are substantially similar to those set out in this clause 25 as between the Client and the Contractor, the Contractor shall remain fully liable for all acts or omissions of any third-party processor appointed by it pursuant to this clause 25.

- N. 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.
- O. The provisions of this clause 25 shall survive termination and or expiry of this Agreement for any reason.

26. Additional Condition(s)

[Delete and replace with "Not Used" if not applicable:

This is a free text area to allow the Client to include any additional conditions to the Contract, for example a price review clause. Such additional conditions can be set out here by the Client]

- A. The Contractor shall ensure that, in performing this Agreement they shall not do or omit to do anything, which may cause a material adverse impact to the brand, goodwill, reputation and/or business of the Client or its trademark.
- B. The Contractor confirms that their business shall not involve any political activity on the Client's premises. In this regard, activities to promote a political cause are only permitted if the cause:
1. Relates directly to the advancement of the Client's stated mission;
 2. Does not promote a political party or candidate; and
 3. Is not contrary to its Byelaws or its governing acts.
- C. The Client may terminate this Agreement with immediate effect by written notice to the Contractor if there is any material adverse publicity relating to the Contractor which, in the Client's reasonable opinion, has caused or is likely to cause a materially adverse impact to the brand, goodwill, business and/or reputation of the Client.

- D. This Agreement may be executed in any number of counterparts, each of which, when executed and delivered, shall be an original, and all the counterparts together shall constitute one and the same instrument. The parties acknowledge and agree that this Agreement may be signed by any form of e-signature. Any such e-signature shall be considered and agreed to have the same force and effect as an original signature.

Schedule B: Services: The Specification

The Contractor shall provide the following Services to the Client:

The Services provided under this Contract are those set out in Part 3 of the RFT and in **[Insert number of Appendix]** of the SRFT.

Schedule C: Charges

The Charges provided under this Contract are those set out by the Contractor in **[Insert number of Appendix]** of their Response to the SRFT, subject to the criteria set out by the Client in **[Insert Number of Appendix (same as above)]** of the SRFT and any clarifications issued by the Client as part of the SRFT.

Schedule D: Service Levels

The Contractor agrees to provide the following Services Levels to the Client:

The Services Levels to be provided under this Contract are those set out in Appendix 1 of the RFT and in **[Insert number of Appendix]** of the SRFT.

Schedule E: Data Protection

[complete when completing the contract]

Processing, Personal Data and Data Subjects

Processing by the Contractor

1.1 Subject matter of processing

1.2 Nature of processing

1.3 Purpose of processing

1.4 Duration of the processing

Types of personal data

Categories of data subject

Appendix 7: Confidentiality Agreement

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

[insert Client's full legal name], of [insert clients registered address] ("the Client"); and [insert Contractor's full legal name], of [address] ("the Contractor") (each a "Party" and together "the Parties").

WHEREAS

N. 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 Part 3 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.

O. For the purposes of the Competition and any subsequent contract awarded thereunder (if any) ("the Contract"), certain 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 them 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, audio- recorded or otherwise including any copy or copies thereof and whether scientific, commercial, financial, technical, operational or otherwise) relating to the Contracting Authority, the supply of **Services** under the Contract and all and any information supplied or made available to the Contractor (to include employees, agents, Subcontractors and other suppliers) for the purposes of the Contract(s) including personal data within the meaning of the Data Protection Laws; and

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

3. For the purposes of this Agreement "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 Commission or other supervisory authority for data protection in Ireland from time to time

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

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

4.2 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.

5. 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).

6. The Contractor undertakes:

6.1 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 the Data Protection Laws);

6.2 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;

6.3 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.

7. The Contractor shall not obtain any proprietary interest or any other interest whatsoever in the Confidential Information furnished to them by the Contracting Authority and the Contractor so acknowledges and confirms.
8. 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.
9. 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.
10. 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.
11. A. In this Agreement, the following terms shall have the meanings respectively ascribed to them:

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

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

“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;

- B. The Contractor shall comply with all applicable requirements of the Data Protection Laws.
- C. 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 Confidential Information which is Personal Data. Schedule A 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.
- D. Without prejudice to the generality of clause 10(B), the Contractor shall, in relation to any Confidential Information which is Personal Data:-

(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;
- N. 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).
- O. 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.
- P. 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.
- Q. 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.
- R. The Contractor shall permit the Client, the Office of 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.
- S. The Contractor shall fully comply with, and implement policies which are communicated or notified to the Contractor by the Client from time to time.
- T. The Contractor shall maintain complete and accurate records and information to demonstrate its compliance with this clause 11 and allow for inspections and contribute to any audits by the Client or the Client's designated auditor.
- U. 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 daily 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.

(IF YOU ARE NOT CONSENTING TO A THIRD PARTY PROCESSOR - DELETE IF NOT IN USE)

M. The Client does not consent to the Contractor appointing any third party processor of Personal Data under this agreement

(OR IF USING A THIRD PARTY PROCESSOR - DELETE IF NOT IN USE)

the Client consents to the Contractor appointing [insert third-party processor] as a third- party processor of Personal Data under this Agreement. The Contractor confirms that it has entered or (as the case may be) will enter into a written agreement incorporating terms which are substantially similar to those set out in this clause 11 as between the Client and the Contractor, the Contractor shall remain fully liable for all acts or omissions of any third- party processor appointed by it pursuant to this clause 11.

N. Save for clauses 11B, 11C, 11D(4) and 11E, all the obligations on the Contractor in this clause 11 relating to the processing of Personal Data shall apply to the processing of all Confidential Information.

Signed for and on behalf of the Contracting Authority _____ Being a duly authorised officer	Signed for and on behalf of the Contractor _____
Witness	Witness

Schedule A to the Confidentiality Agreement: Data Protection

[complete when completing the confidentiality agreement]

Processing, Personal Data and Data Subjects

Processing by the Contractor

- 1.1 Subject matter of processing**
- 1.2 Nature of processing**
- 1.3 Purpose of processing**
- 1.4 Duration of the processing**

Types of personal data

Categories of data subject

End of Document