

Single party framework agreement for the Supply, Delivery, Commission and Maintenance of Emergency Generators to Local Authorities across the Republic of Ireland.

Appendix 3: DRAFT TERMS AND CONDITIONS OF THE FRAMEWORK AGREEMENT

The following terms are those intended to be signed with the successful tenderer(s) arising from this competition. Tenderers are not requested to sign these terms as part of their tender submission.

DRAFT TERMS AND CONDITIONS OF THE FRAMEWORK AGREEMENT Single Party Framework Agreement for the Provision of [XXXX] Parties (1) Carlow County Council and any of its Affiliates (Hereinafter referred to as the 'Contracting Authority') (2) [insert service provider name] (the "Framework Operator" or "Operator")

1.0 Background

The Contracting Authority has conducted a tender competition for the establishment of a Single Party Framework Agreement for the provision of [XXXX] The tender competition was advertised via eTenders on [insert date of contract notice]. The open procedure was used and an Invitation to Tender was issued with a tender submission deadline of [insert date] in the Official Journal of the European Union. Following evaluation of its Tender against the published award criteria, the Framework Operator is now appointed as the single operator under this Framework Agreement.

2.0 Definitions

"Affiliate" means any entity that directly or indirectly controls, is controlled by, or is under common control with another entity;

"Business Day" means a day (except Saturday or Sunday) on which banks in Ireland are generally open for business;

"Contract" means a contract falling within the advertised scope of this Framework Agreement, which is awarded to the Operator, constituting a defined and agreed piece of work to be performed by the Operator;

'Commencement Date" means [insert date];

"Confidential Information" means any information of a confidential or proprietary nature, including (but not limited to) any material information concerning any matters affecting or relating to the business of either Party

"Data Protection Legislation" means all laws relating to the processing of personal data, privacy and security, including, without limitation, the EU Data Protection Directive 95/46/EC, the Irish Data Protection Acts, 1988 to 2018 (as may be amended from time to time), the European Communities (Electronic Communications Networks and Services) (Privacy and Electronic Communications) Regulations 2011 (S.I. No 336 of 2011) and the General Data Protection Regulations (EU) 2016/679 ("GDPR") together with equivalent legislation of any other applicable jurisdiction, delegated legislation of other national data protection legislation, and all other applicable law, regulations and approved codes of conduct, certifications, seals or marks in any relevant jurisdiction relating to the processing of personal data including the opinions, guidance, advice, directions, orders and codes of practice

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issued or approved by a data supervisory authority or the Article 29 Working Party or the European Data Protection Board, in each case as amended, supplemented or substituted from time to time;

"Extended Term" shall have the meaning ascribed to it in clause 4.0;

"Framework Agreement" means these terms and conditions, including the Schedules hereto;

"Framework Term" means the period in years set out in clause 4.0 including the Initial Term and any Extended Term;

"Invitation to Tender" means the tender document issued by the Contracting Authority on [insert place of advertisement].

"Initial Term" shall have the meaning ascribed to it in clause 4.0;

"IPR" means all intellectual property rights including without limitation patents, (including utility models and inventions), trade marks (including service marks, trade names and business names), design rights, copyright and related rights (including rights in respect of software), internet designations (including domain names), moral rights and database rights, (whether or not any of these is registered and including any application for registration of any such rights), know-how, Confidential Information and trade secrets for the full term of such rights and including any extension to or renewal of the terms of such rights and all rights or forms of protection of a similar nature or having similar effect to any of these which may exist anywhere in the world.

"Price" means the amount in Euro chargeable by the Framework Operator in respect of any Item, or any Services purchased by the Contracting Authority which are, except where agreed in writing by the Contracting Authority, inclusive of all costs of administration, packaging, delivery, insurance, transportation, taxes, tariffs, customs charges and all other costs and expenses.

"Request for Supplementary Tender" means a document issued by the Contracting Authority at any point during the Framework Term requesting a proposal for the provision of Goods or Services;

"Supplementary Tender" means the written submission of the Framework Operator in response to a Request for Supplementary Tender;

"Tender" means the submission of the Framework Operator in response to the Invitation to Tender together with any clarifications, additions or amendments accepted by the Contracting Authority;

"Tender Documentation" means the Invitation to Tender, any Request for Supplementary Tender, any Supplementary Tender and the Tender; "

3.0 Appointment of Framework Operator

In consideration of payment by the Contracting Authority of good and valuable consideration, receipt of which is hereby acknowledged, the Framework Operator accepts its appointment under the terms and conditions of this Framework Agreement.

Appointment to this Framework Agreement does not entitle the Operator to be consulted in respect of, or awarded, any Contract during the Framework Term. The Contracting Authority may at its sole discretion choose not to enter into any Contracts falling within the scope of this Framework Agreement, or to terminate the Framework Agreement in accordance with clause 17.0.

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While this Framework Agreement will, in general, form the basis for the award of Contracts falling within the scope set out in clause 5.0 during the Framework Term, the Contracting Authority may at its sole discretion decide to carry out a separate Contract award procedure for Contracts falling within the specified scope. In this event, the Contracting Authority shall not afford any advantage to the Framework Operator.

4.0 Term of Framework Agreement

The Framework Agreement shall commence from the Commencement Date, unless terminated earlier in accordance with clause 17.0 (Termination of Appointment) or this clause, and this Framework Agreement shall continue for a period of [X years] ("Initial Term"). During the Term as set out in Schedule 1 this Framework Agreement shall automatically extend for one year ("Extended Term") at the end of the Initial Term and at the end of each Extended Term up to a maximum of the ("X years the Maximum Framework Term"). The Parties may agree in writing, not later than 90 days before the end of the Initial term or the relevant Extended Term, to terminate this Framework Agreement at the end of the Initial Term or the relevant Extended Term, as the case may be.

5.0 Scope of Framework Agreement

This Framework Agreement relates to the provision of the Goods or Services, as described in the Specification document. Award of Contracts under this Framework Agreement may be awarded either on foot of the Invitation to Tender or by consultation with the Framework Operator and a Request for Supplementary Tender in accordance with the procedure set out in clause 6.0. The terms of this Framework Agreement shall take precedence over any Contracts awarded under the Framework Agreement. The Contracting Authority confirms that the period of any contracts awarded under the Framework Agreement may extend beyond the date of expiry of the agreement.

6.0 Procedure for Supplementary Tenders

In general, it is envisioned that the majority of work required under this Framework Agreement will be directly awarded on foot of the Invitation to Tender document. From time-to-time, however, in accordance with Article 33.3 of Directive 2014/24/EU, the Contracting Authority may elect to issue a Request for Supplementary Tender during the Framework Term, in accordance with the following procedure. It is emphasised that Supplementary Tenders will be sought solely in respect of work falling under the advertised scope of the Framework Agreement.

- a) The Contracting Authority will issue a Request for Supplementary Tender to the Framework Operator in writing, specifying which award criteria will apply in respect of the Supplementary Tender.
- b) The Contracting Authority shall specify the scope of the Supplementary Tender, and in particular whether the applicable terms and fees will be determined by reference to the Tender or, where relevant, the Supplementary Tender.
- c) The Contracting Authority shall fix a deadline for the receipt of the Supplementary Tender taking into account the complexity of the Contract and the time needed to prepare an appropriate proposal.
- d) Following evaluation of the Supplementary Tender, the Contracting Authority shall determine whether it meets the minimum requirements under the stated award criteria and whether a Contract will be awarded.
- e) The Contracting Authority shall not be responsible for any costs incurred by the Framework Operator in the preparation of a Supplementary Tender, including related site visits.

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- f) The Contracting Authority shall not be obliged to award any Contract on foot of a Request for Supplementary Tender and may terminate the award procedure at any time at its sole discretion.

When the Contracting Authority has made an award decision, the Contracting Authority will issue a notification in writing to the Framework Operator.

7.0 Conditions for Award of Contracts

Award of any Contract under the Framework Agreement may be subject to the application of a Service Level Agreement, to include agreed key performance indicators, response times, escalation procedures and penalties. The Framework Operator shall facilitate, upon request, the drafting and implementation of such Service Level Agreement.

8.0 Use of Framework by Local Authorities

1. The Parties acknowledge and agree that this Framework Agreement has been established by Carlow County Council for use by all Local Authorities within the State.
2. For the purposes of this Framework Agreement, any such Local Authority may act as a **Contracting Authority** and may, at its discretion, procure Goods (and any related services) under the terms of this Framework Agreement by entering into a call-off contract with the Contractor.
3. Each call-off contract shall constitute a separate binding agreement between the Contractor and the relevant Local Authority acting as Contracting Authority, and the Contractor shall perform its obligations accordingly.
4. The Contractor acknowledges that the Client shall have no liability or responsibility in respect of any call-off contract entered into by another Local Authority.

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9.0 Pricing

The maximum Price chargeable in respect of all Items contracted during Initial Term of the Framework Term shall be that set out in the Form of Tender or Pricing Schedules submitted as part of the Tender appended at Schedule 1 of this Framework Agreement. It is anticipated that the costs will be fixed for a 12-month period. Following the expiry of this twelve month period the maximum Price chargeable will be adjusted for inflation on each annual anniversary of the Commencement Date of the framework. This adjustment shall be in accordance (whether positive or negative) with the Consumer Price Index.

The Contracting Authority may seek, or the Framework Operator may offer, a lower Price at any time during the Framework Term. In particular, where a given Item or Service is being offered to other purchasers at a lower Price, the Contracting Authority may request adjustment of the Pricing Schedules or Form of Tender to reflect this. The Contracting Authority may reject any aspect of a Supplementary Tender on the grounds that the Price offered is not acceptable.

The Contracting Authority operates in accordance with the European Communities (Late Payment in Commercial Transaction) Regulations 2012.

10.0 Personnel

The personnel assigned by the Framework Operator to deliver any Contract shall be those identified in its Tender or Supplementary Tender, or other personnel of equivalent or greater qualifications, skills, professional expertise and experience who are expressly approved by the Contracting Authority.

11.0 Obligations of Framework Operator

The Framework Operator is required to inform the Contracting Authority of any conflict of interest of which it becomes aware during the period of the Framework Agreement. Any registrable interest involving the Framework Operator and the Contracting Authority or employees of the Contracting Authority or their relatives must be communicated to the Contracting Authority immediately. The terms 'registrable interest' and 'relative' shall be interpreted as per Section 2 and the Second Schedule of the Ethics in Public Office Act, 1995.

The Framework Operator is required to maintain, as a minimum, the forms of insurance set out in Section 6 – Selection Criteria. This may be subject to revision during the Framework Term, in which case the Contracting Authority shall notify the Framework Operator of the revised requirements and allow thirty (30) days for the provision of evidence that the required policies are in place.

The levels of insurance required in respect of individual Contracts may vary, in which case the Contracting Authority shall notify the Framework Operator of the required levels of insurances in the relevant Request for Supplementary Tender or at the earliest opportunity.

The Framework Operator shall maintain in its possession a valid Tax Clearance Certificate issued by the Irish Revenue Commissioners throughout the Framework Term and for the duration of any Contract.

The Framework Operator shall retain a copy of its signed Declaration under Article 57 of Directive 2014/24/EU. If at any point during the Framework Term or during the lifetime of a Contract the Operator becomes aware of circumstances that might affect the validity of any of the statements in

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its Declaration, it shall notify the Contracting Authority in writing of such circumstances at the earliest possible opportunity.

The Framework Operator shall not give, provide or offer to any staff or agent of the Contracting Authority a loan, fee, reward, gift, advantage, benefit or other payment during the Framework Term 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 Framework Agreement or any Contract.

The Framework Operator shall not assign the benefit of its appointment under this Framework Agreement, or under any Contract, or any part thereof without the written permission of the Contracting Authority.

12.0 Confidentiality

- (a) Each Party may be given access to Confidential Information from the other Party in order to perform its obligations under this Framework Agreement. A Party's Confidential Information shall not be deemed to include information that: is or becomes publicly known other than through any act or omission of the receiving Party; was in the other Party's lawful possession before the disclosure; is lawfully disclosed to the receiving Party by a third party without restriction on disclosure.
- (b) Subject to clause 12.0 (d), each Party shall hold the other's Confidential Information in confidence and not make the other's Confidential Information available to any third party or use the other's Confidential Information for any purpose other than the implementation of this Framework Agreement.
- (c) Each Party shall take all reasonable steps to ensure that the other's Confidential Information to which it has access is not disclosed or distributed by its employees or agents in violation of the terms of this Framework Agreement.
- (d) A Party may disclose Confidential Information to the extent such Confidential Information is required to be disclosed by law, by any governmental or other regulatory authority or by a court or other authority of competent jurisdiction, provided that, to the extent it is legally permitted to do so, it gives the other Party as much notice of such disclosure as possible and, where notice of disclosure is not prohibited and is given in accordance with this clause 12.0 (d), it takes into account the reasonable requests of the other Party in relation to the content of such disclosure.
- (e) Neither Party shall be responsible for any loss, destruction, alteration or disclosure of Confidential Information caused by any third party.
- (f) The Operator acknowledges that details of the Services, and the results of any performance tests of the Services, constitute the Contracting Authority's Confidential Information.
- (g) No Party shall make, or permit any person to make, any public announcement concerning this Framework Agreement or refer to this Framework Agreement in any publicity or advertising material without the prior written consent of the other Party, except as required by law, any governmental or regulatory authority (including, without limitation, any relevant securities exchange), any court or other authority of competent jurisdiction.
- (h) Each Party shall notify the other Party if any of its staff connected with the provision or receipt of the Services become aware of any unauthorised disclosure of any

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Confidential Information and shall afford reasonable assistance to the other Party, in connection with any enforcement proceedings which that other Party may elect to bring against any person.

- (i) The Operator shall, promptly (and in any event within 7 days of the termination or expiry of this Contract), deliver up to the Contracting Authority all documents and other materials in the possession, custody or control of the Operator that bear or incorporate any part of the Contracting Authority's Confidential Information.
- (j) Subject to clause 12.0 (k) each of the Parties agrees to hold Confidential Information received, provided or obtained arising from their participation in this Framework Agreement and shall not disclose same to any third party except to its employees, officers or professional advisers for the purposes of carrying out obligations under the Framework Agreement, or as may be required by law.
- (k) This Framework Agreement is subject to the provisions of the Freedom of Information Act 2014. In the event either Party receiving a request for information related to this Framework Agreement or any Contract, that Party shall consult with the other Party in respect of the request. The other Party shall identify any information that is not to be disclosed on grounds of commercial sensitivity and shall state the reasons for this sensitivity. The Party will consult the other Party about this commercially sensitive information before making a decision on any Freedom of Information request received. The final decision on disclosure rests with the Office of the Information Commissioner and ultimately, the courts.
- (l) The Contracting Authority accepts no liability whatsoever in respect of any information provided which is subsequently released or in respect of any consequential damage suffered as a result of such obligations.
- (m) The above provisions of this clause 12.0 shall survive termination of this Framework Agreement, however arising.

13.0 Intellectual Property

- (a) All IPRs in any Items produced for the purposes of this Framework Agreement shall vest in the Contracting Authority and the Operator so acknowledges and confirms.
- (b) The Contracting Authority and its licensors shall retain ownership of all the Contracting Authority's IPRs.
- (c) To the extent that any IPRs do not vest in the Contracting Authority pursuant to clause 13.0 (a) the Operator grants the Contracting Authority a perpetual fully paid-up, worldwide, non-exclusive, transferable, royalty-free, sub-licensable licence to copy and modify the Operator's IPRs for the purpose of receiving and using the Services.
- (d) The Operator shall indemnify the Contracting Authority against all liabilities, costs, expenses, damages and losses (including but not limited to any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and legal costs (calculated on a full indemnity basis) and all other reasonable professional costs and expenses) suffered or incurred by the Contracting Authority arising out of or in connection with any claim brought against the Contracting Authority for actual or alleged infringement of a third party's rights (including any IPRs) arising out of, or in connection with, the receipt, use or onward supply of the Services by the Contracting Authority and its licensees and sublicensees. This clause 13.0 (d) shall survive termination of the Contract.

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14.0 Data Protection

14.1 All terms in this clause 14.0 (Data Protection) including "data controller", "data processor", "data protection impact assessment", "data subject", "data subject request", "data supervisory authority", "processing", "personal data" and "personal data breach" have the meaning given to them in the GDPR.

14.2 With respect to the rights and obligations of each Party under this Framework Agreement, the Parties agree that, to the extent the Contracting Authority is the data controller, and the Operator is the data processor of the personal data, the provisions of this clause 14.2 apply. The particulars of the processing are set out in Schedule 6.

14.2.1 Both Parties shall comply with all applicable requirements of the Data Protection Legislation. This clause 14.2 is in addition to, and does not relieve, remove or replace, a Party's obligations under the Data Protection Legislation.

14.2.2 To the extent that the performance of the Services by the Operator involve the processing of personal data, the Operator agrees and warrants that:

- (a) it shall only process personal data for the purposes of performing this Framework Agreement in accordance with the written instructions of the Contracting Authority or as otherwise notified by the Contracting Authority to the Operator from time to time;
- (b) it shall ensure that persons authorised to process personal data are subject to obligations of confidentiality, no less strict than the provisions of clause 12, in relation to such personal data;
- (c) it complies with and will continue to comply with its obligations as a data processor and its obligations in respect of personal data under this Framework Agreement;
- (d) it will not do or permit anything to be done which might cause the Contracting Authority to be in breach of the Data Protection Legislation;
- (e) as personal data are confidential in nature, it shall, unless otherwise directed in writing by the Contracting Authority;
- (f) process personal data on behalf of the Contracting Authority exclusively for the performance of the Services and the provisions of this Framework Agreement but for no other purposes whatsoever;
- (g) take reasonable steps to ensure that neither the Operator nor any of its employees, agents or temporary contractors or any sub processor (where permitted) alter, copy, store, publish, disclose or divulge personal data except as necessary for the performance by the Operator of its obligations under this Framework Agreement or as directed in writing to do so by the Contracting Authority;
- (h) ensure (and procure that its employees, agents and temporary contractors and any sub-processor ensure) that the processing of personal data takes place exclusively in the EEA or in a jurisdiction or territory providing "adequate" data protection as approved by the European Commission in a decision taken in accordance with Article 45 of the GDPR and that no transfer or access to or other processing of personal data to/from any other jurisdiction or territory occurs or is permitted without the prior written and explicit authorisation of the Contracting Authority (in each case) and then

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only in a manner which is compliant with Data Protection Legislation applicable to the Contracting Authority;

- (i) assist the Contracting Authority as reasonably required in a timely manner where the Contracting Authority conducts a data protection impact assessment and, where necessary, assist the Contracting Authority with any prior consultations, investigations or audits conducted by a data supervisory authority or any other applicable regulatory authority to the extent necessary (including, without limitation, the preparation or provision of supporting documentation to be submitted to the relevant data supervisory authority); and
- (j) immediately and without undue delay (but in any event within 24 hours of becoming aware of it) notify the Contracting Authority in writing of any suspected, potential or actual data incidents, including any suspected, alleged, potential or actual unauthorised disclosure, loss, destruction, compromise, damage, alteration, access or theft of personal data or any incident or set of events which may give rise to a personal data breach.

14.2.3 The Operator shall (and shall procure that its employees, agents and/or temporary contractors and any sub-processor (where permitted) shall)

- (a) promptly notify and assist the Contracting Authority in relation to any legally binding request for disclosure of personal data by a law enforcement or other applicable authority unless otherwise prohibited by the applicable laws and regulations;
- (b) promptly notify and assist the Contracting Authority in fulfilling its obligations to all data subject requests by notifying the Contracting Authority about any data subject requests received directly from, or rights exercised by, data subjects without responding to that request;
- (c) assist the Contracting Authority in taking any actions deemed necessary or appropriate to deal with complaints or allegations of or in connection with a failure to comply with the Data Protection Legislation; and
- (d) promptly notify the Contracting Authority prior to carrying out any instruction from the Contracting Authority if, in the Operator's opinion, such instruction is likely to result in processing that is in breach of the Data Protection Legislation;
- (e) upon giving the Operator reasonable notice, allow the Contracting Authority to carry out an audit or inspection in relation to the processing of personal data by the Operator in order to satisfy itself that the Operator is complying with the Data Protection Legislation in respect of the Services.

14.2.4 The Operator agrees that, having regard to the state of the art and the costs of implementation and the nature, scope context and purposes of processing as well as the risk of varying likelihood and severity for the rights and freedoms of the data subjects, the Operator shall implement appropriate security, technical and organisational measures to ensure a level of security appropriate to the then current risk to personal data, including access controls, confidentiality requests, technical and organisational controls, and back-ups. Upon the Contracting Authority's request, the Operator shall provide to the Contracting Authority a written description of the security, technical and organisational measures employed by the Operator under this

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clause 14.2.

14.2.5 The Operator shall not subcontract its processing obligations performed on behalf of the Contracting Authority under this Framework Agreement to a sub-processor without the prior written consent of the Contracting Authority. The Contracting Authority shall have the right to object on reasonable grounds to the use or replacement of any sub-processor within fourteen (14) days of the Operator notifying the Contracting Authority of the change. Where the Contracting Authority objects to the use of the proposed sub processor, the Operator shall use reasonable endeavours to find an alternative solution to enable the Contracting Authority to continue to use the Services and shall ensure that no personal data is processed by any unauthorised sub-processor until such time as an acceptable solution is put in place. In the event that no alternative solution can be arranged to the Contracting Authority's satisfaction, the Contracting Authority shall have the right to terminate the Framework Agreement, relevant Contract or part or all of the Services. Any authorised sub-processor shall be engaged under a binding written contract containing the same data protection obligations as apply to the Operator under the Framework Agreement.

14.2.6 On termination or expiry of this Framework Agreement, return or delete, at the election of the Contracting Authority, all Contracting Authority personal data and all copies, save to the extent the Operator is required by European Union or European Union member state law to retain Contracting Authority personal data.

14.3 With respect to the rights and obligations of each Party under this Framework Agreement, the Parties agree that, to the extent that both the Contracting Authority and the Operator are independent controllers of the personal data, the provisions of this clause 14.3 shall apply.

14.3.1 Any personal data shared under this Framework Agreement will be processed only as necessary in order to provide the Services.

14.3.2 The Operator shall:

- (a) comply with all obligations as required under Data Protection Legislation;
- (b) ensure that transfers of personal data to an appointed sub-processor are subject to written contractual obligations concerning personal (including obligations of confidentiality) which are no less onerous than those imposed by this Framework Agreement; and
- (c) at the written direction of the Contracting Authority, delete or return personal data shared under this Framework Agreement and copies thereof to the Contracting Authority on termination of this Framework Agreement unless required by law to store the personal data.

15.0 Review Meetings

15.1 The Contracting Authority and the Framework Operator shall liaise on a regular basis to address any issues arising that may impact on the performance of this Framework Agreement and/or a

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Contract to agree milestones, compliance schedules and operational protocols as required by the Contracting Authority from time-to-time.

15.2 Without prejudice to the provisions of clauses 17.1 or 19.0, if at any time during the Framework Term any event or circumstance, including (but not limited to) a change of law, regulation or taxation causes any delay in the delivery of the Services or Items, or otherwise negatively impacts the performance by the Operator of the Framework Agreement or any Contract, the Contracting Authority may by written notice to the Operator require the Operator to enter into good faith negotiations with a view to agreeing an amendment to the Framework Agreement or the relevant Contract to address and alleviate any such impact. Each Party shall conduct such negotiations in good faith and in accordance with any timelines agreed between the Parties.

15.3 In the event that an amendment to the Framework Agreement or relevant Contract is not agreed in writing between the Parties within sixty (60) days' following the date of the written notice to enter into negotiations referred to in clause 15.2, the Contracting Authority shall be entitled to terminate the Framework Agreement or relevant Contract on written notice to the Operator immediately and without liability.

16.0 Conflict

If there is an inconsistency between any of the provisions of this Framework Agreement and the provisions of the Tender Documentation or any Contract, the provisions of this Framework Agreement shall prevail.

17.0 Termination of Appointment

17.1 Without prejudice to any other rights or remedies to which it may be entitled, the Contracting Authority shall be entitled to terminate the appointment of the Framework Operator forthwith and without liability by giving three (3) months written notice to the Operator or if

17.1.1 The Operator commits a material breach of any term or condition of this Framework Agreement, or a Contract concluded under the Framework Agreement;

17.1.2 The Operator fails to perform any obligation or responsibility under this Framework Agreement or a Contract concluded under the Framework Agreement either at all or to a standard that the Contracting Authority, acting reasonably, considers satisfactory and, if such breach is capable of being remedied, fails to remedy the breach within fourteen (14) days of notice given by the Contracting Authority requiring the Operator to do so;

17.1.3 The Operator's performance of an obligation under a Contract is not in accordance with the terms of this Framework Agreement, including its Schedules, or any agreed Service Level Agreement, or fails to meet any standard prescribed by law

17.1.4 Any person employed by the Operator or acting on its behalf offers or appears to offer a corrupt gift or inducement, whether with or without the knowledge of the Operator;

17.1.5 The Operator convenes a meeting for the purposes of, or proposes to enter into any arrangement or composition for the benefit of its creditors

17.1.6 The Operator ceases or threatens to cease to carry on business or takes or suffers any analogous action under any applicable law

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17.1.7 The Operator is unable to pay its debts within the meaning of Section 570 of the Companies Act, 2014 or any analogous provision of law

17.1.8 An order is made, or an effective resolution is passed for the winding up of the Operator's company other than for the purpose of a restructuring the terms of which have been agreed by the Contracting Authority

17.1.9 A petition is presented, or an order is made or a resolution passed, or any analogous proceedings or action is taken for the appointment of an examiner, administrator, receiver, trustee or any similar officer over the Operator's company

17.1.10 An encumbrancer takes possession, or a receiver is appointed, of any of the property or assets of the Operator;

17.1.11 The Contracting Authority reasonably believes that any of the events mentioned above is about to occur in relation to the Operator and notifies the Operator

17.1.12 The Operator has committed any fraudulent act or any criminal activity or is guilty of gross negligence in the performance of this Framework Agreement or the relevant Contract;

17.1.13 Any representation made by the Operator in connection with this Framework Agreement or a Contract shall in the opinion of the Contracting Authority prove to be untrue or incorrect in a material respect as of the date when made;

17.1.14 Any event analogous to those contemplated in clauses 17.1.5 through 17.1.12 occurs to the Operator within the laws of any other jurisdiction.

17.2 The Framework Operator shall not be entitled to any additional amounts or compensation and will have no claim for damages or otherwise against the Contracting Authority as a result of the termination of its appointment in accordance with this clause.

18.0 General

Nothing in this Framework Agreement shall prevent the Contracting Authority from complying with its obligations under public procurement legislation. If necessary, this Framework Agreement and any Contract concluded hereunder may be abridged, modified, or amended without penalty to the Contracting Authority so as to enable it to comply with the said obligations.

19.0 Force Majeure

Neither Party shall be in breach of this Framework Agreement nor liable for delay in performing, or failure to perform, any of its obligations under this Framework Agreement if such delay or failure result from events, circumstances or causes beyond its reasonable control. In such circumstances the time for performance shall be extended by a period equivalent to the period during which performance of the obligation has been delayed or failed to be performed. If the period of delay or non-performance continues for 3 weeks, the Party not affected may terminate this Framework Agreement by giving 30 days' written notice to the affected Party

20.0 Severance

If any provision or part-provision of the Framework Agreement is or becomes invalid, illegal or unenforceable, it shall be deemed modified to the minimum extent necessary to make it valid, legal and enforceable. If such modification is not possible, the relevant provision or partprovision shall be

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deemed deleted. Any modification to or deletion of a provision or part provision under this clause shall not affect the validity and enforceability of the Framework Agreement.

If any provision or part-provision of this Framework Agreement is invalid, illegal or unenforceable, the Parties shall negotiate in good faith to amend such provision so that, as amended, it is legal, valid and enforceable, and, to the greatest extent possible, achieves the intended commercial result of the original provision.

21.0 Counterparts

This Framework Agreement may be executed in any number of counterparts, each of which when executed shall constitute a duplicate original, but all the counterparts shall together constitute the one Framework Agreement. Each of the Parties to this Framework Agreement confirms that this Framework Agreement is validly executed by their duly authorised officers.

22.0 Notices

Any notice or other document to be given under this Framework Agreement or any relevant Contract shall be in writing and shall be deemed to have been duly given if left at or sent: by hand; or delivered by personal delivery, registered post or reputable commercial courier (e.g. FedEx); or electronic mail, together with personal delivery, registered post or reputable commercial courier (e.g. FedEx). The address, e-mail address, facsimile and telephone numbers of the Parties for the purpose of the giving of notices under this Framework Agreement are as follows:

For the Contracting Authority:

Address: [XXX]

Email: [XXX]

For the Framework Operator

Address: [XXX]

Email: [XXX]

Notices sent by personal delivery, registered post or reputable commercial courier (e.g. FedEx), shall be deemed given when actually received or, if earlier, three (3) Business Days after the deposit with a reputable commercial courier. Notices sent by electronic mail, where such is an expressly agreed and established means of communication between the Parties, shall be deemed to be served on the day of transmission if transmitted before 4pm in a Business Day but otherwise on the next Business Day. In all other cases, notices and other communications will be deemed to have been served on the Business Day they are actually received. All notices, documents and communications provided under this Framework Agreement, or the relevant Contract shall be in the English language.

23.0 Governing Law, Choice of Jurisdiction and Execution

This Framework Agreement and any dispute in relation to its subject matter or formation (including any non-contractual disputes or claims) 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 or claims arising out of or in connection with this Framework Agreement, its subject matter or formation (including non-contractual disputes or claims).

**Single party framework agreement for the Supply, Delivery,
Commission and Maintenance of Emergency Generators to
Local Authorities across the Republic of Ireland.**

IN WITNESS whereof the Parties hereto have executed this Framework Agreement the day and year first herein WRITTEN SIGNATURES SIGNED for and on behalf of Framework Operator by:

Signed: _____

Date: _____

Witnessed by: _____

SIGNED for and on behalf of the Contracting Authority by:

Signed: _____

Date: _____

Witnessed by: _____

Single party framework agreement for the Supply, Delivery, Commission and Maintenance of Emergency Generators to Local Authorities across the Republic of Ireland.

Schedule 1 – Pricing / Term / Form of Tender

[insert Pricing Form of Tender]

[insert Term]

Schedule 2 – Forms and Levels of Insurance

[insert Forms and Levels of Insurance]

Schedule 3 – Declaration under Article 57 of Directive 2014/24/EU

[insert Declaration under Article 57 of Directive 2014/24/EU]

Schedule 4 – Specification of Supplies

The supplies shall include but are not limited to:

[Contracting Authority to provide list of Supplies expected to be provided]¹

Schedule 5 – Service Level Agreement

[N/a]

¹ To be confirmed.

Single party framework agreement for the Supply, Delivery, Commission and Maintenance of Emergency Generators to Local Authorities across the Republic of Ireland.

Schedule 6 – Data Processing Details

[DETAILS TO BE INCLUDED AS REQUIRED WHERE THE SERVICE PROVIDER IS APPOINTED AS PROCESSOR ON BEHALF OF THE CONTRACTING AUTHORITY]

1. Subject-matter of processing:

[INSERT]

General description of contract and how personal data is used

2. Duration of the processing:

[INSERT]

A specific time frame, or the mechanism by which such time will be determined e.g. for the duration of the Framework Term

3. Nature and purpose of the processing:

[INSERT]

Reference to the definition of “processing” e.g. is data being collected, stored, accessed, structured etc. Why is it being processed e.g. contact details are processed in order to send email communications to individuals on a marketing list.

[INSERT ANY OTHER SPECIFIC RESTRICTIONS ON PROCESSING].]

Type of Personal Data:

[INSERT]

e.g. name, contact details, transaction history