



Framework Agreement for the Provision of Visualization Services for Transport Related Projects

Agreement

THIS FRAMEWORK AGREEMENT is made on [] **BETWEEN:**

*The National Transport
Authority (the “Authority”)*

The National Transport Authority, acting on its own behalf
and on behalf of:

- Bus Éireann;
- Carlow County Council;
- Cavan County Council;
- Cork City Council;
- Cork County Council;
- Clare County Council;
- Donegal County Council;
- Dublin Bus;
- Dublin City Council;
- Dún Laoghaire/ Rathdown County Council;
- Fingal County Council;
- Galway City Council;
- Galway County Council;
- Go Ahead Ireland;
- Irish Rail;
- Kerry County Council;
- Kildare County Council;
- Kilkenny County Council;
- Laois County Council;
- Limerick City & County Council;
- Leitrim County Council;
- Longford County Council;
- Louth County Council;
- Mayo County Council;
- Meath County Council;
- Monaghan County Council;
- National Road Authority, T/A Transport Infrastructure Ireland (TII);
- Offaly County Council;
- Roscommon County Council;
- South Dublin County Council;
- Sligo County Council;
- Tipperary County Council;
- Waterford City & County Council;
- Waterways Ireland;
- Westmeath County Council;
- Wexford County Council; and
- Wicklow County Council.

(each a “Client” and collectively referred to as the “Clients”).

*Principal office of the
National Transport
Authority*

Haymarket House
Smithfield
Dublin 7
D07 CF98

AND

The Service Provider:

*Registered office of the
Service Provider:*

Whereas

- A. The Authority and the listed Clients require the Provision of Visualization Services in relation to transport projects spanning from cycling and walking schemes to larger scale Bus and Rail projects (included in Schedule 1) and have decided to procure the services under a multi-supplier framework agreement;
- B. The National Transport Authority has published a notice in the Official Journal of the European Union seeking tenders for the provision of those services.
- C. The Service Provider has submitted a tender; and
- D. After considering tenders received, the Authority has selected the Service Provider to be a party to this multi-supplier framework agreement (this “**Agreement**” which, for the avoidance of doubt, includes the Framework Rules and the Schedules) together with a number of other operators (each a “**Participant**”).

THE AUTHORITY AND THE SERVICE PROVIDER AGREE as follows:

1. Framework

- 1.1 In consideration of the payment by the National Transport Authority of the sum of €1 (receipt of which is hereby acknowledged) and other good and valuable consideration, the Service Provider hereby agrees to supply the services described in Schedule 1 hereto and any ancillary services that may be reasonably inferred therefrom (the “**Services**”), if and when required by a Client to do so, in accordance with the terms and conditions of this Agreement.
- 1.2 If, during the **Framework Period** defined in the attached Framework Rules, a Client has a requirement for Services, it may procure the Services by awarding contracts (**Call-Off Contracts**) according to the attached Framework Rules. A Client may also procure the services in other ways and does not guarantee that any services will be procured under this agreement. Nothing in this Agreement shall create an exclusive relationship between the Authority or any Client and the Service Provider for the provision of the Services.
- 1.3 From time to time, the Authority, its agent or assistant may carry out a review of the performance of the Service Provider. The Service Provider shall provide any information required for this review. The Authority may take any action it considers appropriate on foot of this review, including notifying the Service Provider that it is no longer considered suitable for the provision of Services under this Agreement.

2. Call-Off Contracts

- 2.1 If the Service Provider is selected for any services according to the attached Framework Rules, the Client and the Service Provider agree to enter into a Call-Off Contract in the terms established under this agreement.
- 2.2 Call-Off Contracts will be on the terms of the Standard Conditions of Engagement for Consultancy Services (Technical), as completed by the Client and the Service Provider according to the attached Framework Rules. The version of the GCCC Standard Conditions of Engagement for Consultancy Services (Technical) applying, shall be the version recommended for use on the website of the Department of Public Expenditure and Reform (<http://constructionprocurement.gov.ie/>) current at the date of execution of the relevant Call-Off Contract.

- 2.3 Call-Off Contracts awarded within the Framework Period may be for services that continue after that period.
- 2.4 The award of any Call-Off Contract shall, without prejudice to the Framework Rules, be subject to satisfaction by the Service Provider of the following conditions precedent:
- 2.4.1 confirmation that the insurances required under the Call-Off Contract are in place; and;
- 2.4.2 provision of evidence satisfactory that the Service Provider holds a Tax Clearance Certificate in accordance with Clause 4 of this Agreement.
- 2.4.3 where requested by the Authority, confirmation that the Key Personnel will be carrying out the Services.

These conditions precedent are for the sole benefit of the Clients and may be expressly waived by the Clients in writing at their absolute discretion.

3. Communications

- 3.1 Notices or communications given pursuant to this Agreement must be in writing and may be given by hand, ordinary pre-paid post, registered post, facsimile or electronic mail and shall be sufficiently given if sent to the person and at the address, facsimile number or electronic mail address set out in this Clause 3.
- 3.1.1 Any notice or other communication shall be presumed (unless the contrary is proved) to have been duly given if signed by or on behalf of a duly authorised officer of the party giving the notice and:
- 3.1.2 if delivered by hand, at the time of delivery to the addressee or its duly authorised agent;
- 3.1.3 if sent by pre-paid post, four (4) days after posting if addressed to the party to whom such notice is to be given at the address set forth for such party in this Framework Agreement;
- 3.1.4 if transmitted by fax or electronic means, on the date that is electronically recorded by the transmission.
- 3.2 The Service Provider's contact person for communications or notices with the Authority for the purposes of this Agreement is:

<i>Name of Service Provider's contact person</i>			
<i>Address</i>			
<i>Telephone</i>		<i>Mobile phone</i>	
<i>Fax</i>		<i>Email</i>	

If that person (or any subsequent replacement) is no longer able to fulfil the role, the Service Provider must promptly appoint a replacement, who must be a director or senior manager of the Service Provider, and notify the Authority of the new contact person.

- 3.3 The Authority's contact person for notices or communications with the Service Provider for the purposes of this Agreement is:

<i>Name of Authority's contact person</i>			
<i>Address</i>	Haymarket House Smithfield Dublin 7 D07 CF98		
<i>Telephone</i>	[To be inserted]	<i>Mobil e phone</i>	N/A
<i>Fax</i>	N/A	<i>email</i>	

Either party may change these details by five (5) days' notice to the other.

- 3.4 Any notice given under or in connection with this Agreement must be in English. All other documents provided under or in connection with this Agreement must be:

- in English, or
- if not in English, and if so required by the Authority, accompanied by a certified English translation and, in this case, the English translation will prevail unless the document is a constitutional, statutory or other official document.

4. Tax Clearance Certificate

At all times during the Framework Period and until final payment has been made under any Call-Off Contract, the Service Provider shall, continue to hold a valid tax clearance certificate issued by the Revenue Commissioners or alternatively enable the Authority to obtain online certification from the Revenue Commissioners that the Service Provider or any sub-service provider is in possession of a tax clearance certificate.

5. Key Personnel

- 5.1 The Key Personnel are those persons listed in Schedule 2. Subject to clause 5.2 the Service Provider shall ensure that Key Personnel are available to perform the Services and any required Call Off Services until expiry or termination of the Framework Agreement or the completion of the Call-Off Services (whichever is later). In seeking a proposal in respect of particular Call Off Services, the Authority may require the Service Provider to confirm that some or all of the Key Personnel will provide such Call Off Services.
- 5.2 The Key Personnel may be removed in accordance with clause 5.3. It is also recognised that Key Personnel may cease to be employed by or contracted to the Service Provider, may be taken ill, may be injured or may take statutory leave. Other than in these scenarios, the Key Personnel may only be removed by the Service Provider in advance of the expiry or termination of the Framework Period or the completion of the Call-Off Services (whichever is later) with the prior written consent of the Authority. In all cases the Key

Personnel (whether removed in accordance with this clause 5.2 or otherwise) must be replaced with an employee, servant or agent of equal or higher ability. Prior to the removal of any Key Personnel in accordance with this clause, the Service Provider shall (where possible in advance of any such removal) furnish the Authority with a copy of the proposed replacement's curriculum vitae and all details required to enable the Authority to satisfy itself that the employee, servant or agent is appropriately qualified to provide the Services or the Call-Off Services as appropriate. The Authority may, acting reasonably, reject the proposed replacement where, in the reasonable opinion of the Authority, the proposed replacement is not of equal or higher ability, in which case the Service Provider shall put forward another candidate.

- 5.3 If at any time during the term of this Framework Agreement or any Call Off Contract the Authority reasonably determines that any employees, servants or agents of the Service Provider are not suitable for the provision of the Services or Call-Off Services, it shall notify the Service Provider of its decision and the Service Provider shall immediately remove the said person(s) from the Services or Call-Off Services and replace him/her in accordance with the procedures set out in clause 5.2. The Service Provider shall indemnify and keep indemnified the Authority from any Employee Liabilities that may result from such action or that relate to the removal of that person from the Services or Call-Off Service(s).

Where a member of the Key Personnel is temporarily absent, the Service Provider shall provide at no additional expense to the Clients a replacement of equivalent competence and experience to that of the person whom they are required to replace.

- 5.4 The Service Provider may not validly sub-contract performance of any of the Services without the prior written consent of the Client. The Client reserves the right to approve the form of any proposed sub-contract before consent is given. Where the Client consents to any sub-contracting of performance of any Call-Off Contract, such consent may be conditional upon the Service Provider supplying the Client with a validly executed collateral warranty in a form acceptable to the Client at its sole discretion. The Service Provider shall be responsible for the acts and omissions of any sub-contractors as if they were its own.

6. Confidentiality

- 6.1 In this Clause 6, "Confidential Information" means all information and knowledge received by a party (the "Receiving Party") in the course of the Services or in connection with this Agreement or any Call-Off Contract which is the property of the other party (the "Disclosing Party") or is in the control or possession of the Disclosing Party (whether or not the subject of a separate non-disclosure or confidentiality agreement between the Disclosing Party and any third party), whether verbal, written or existing, stored or communicated in any form or medium, together with all copies thereof, however and whenever made, and includes data, documents, reports, analysis, tests, specifications, charts, plans, drawings, models, ideas, schemes, correspondence, communications, lists, manuals, computer programs, software, technology, techniques, methods, processes, services, routines, systems, procedures, practices, operations, modes of operation, apparatus, equipment, business opportunities, financial information, and/or

know-how and trade or other secrets, but excluding:

- a) information or knowledge which is or hereafter becomes part of the public domain through no fault of the Receiving Party or its personnel;
 - b) information or knowledge which is, legally and as a matter of right, in the Receiving Party's possession as of the date of this Agreement and not the subject of another non-disclosure or confidentiality agreement between the Disclosing Party and the Receiving Party;
 - c) information or knowledge which has been or is hereafter furnished or made known to the Receiving Party, legally and as a matter of right, by third parties without any restriction on use or disclosure; and
 - d) information or knowledge which is bona fide independently developed by the Receiving Party provided that such information or knowledge has been developed entirely without reference to, or consideration of, the information or knowledge of the Disclosing Party.
- 6.2 The parties agree and acknowledge that they will keep, and will ensure that their personnel shall keep, Confidential Information confidential, and shall not at any time for any reason whatsoever disclose or permit Confidential Information to be disclosed to any third party except as permitted hereunder to enable them to carry out their duties and obligations under the Agreement.
- 6.3 The parties shall procure that each of their employees, its professional advisers, auditors, bankers and any other personnel having access to Confidential Information shall be subject to the same obligations as set out in this Clause 6 with respect to Confidential Information and shall enter into a suitable confidentiality agreement in a form approved by the Client or, insofar as that is not reasonably practicable, they shall take all reasonable steps to ensure that their personnel and employees are made aware of and perform such obligations.
- 6.4 The Service Provider agrees and acknowledges that it and its Personnel are subject to, and to the extent applicable shall comply with, Section 38 of the Dublin Transport Authority Act 2008.
- 6.5 The Receiving Party shall ensure that a Recipient is made aware of and complies with the Receiving Party's obligations of confidentiality under this Agreement as if the Recipient was a party to this Agreement.
- 6.6 The Service Provider's obligations under this Clause are perpetual and this Clause survives termination of the Agreement.

7. Termination

- 7.1 The Authority may, without affecting any Client's other rights or remedies, terminate this Agreement with the Service Provider by written notice to the Service Provider if any of the following occurs:
- 7.1.1 the Service Provider commits a material breach of any term or condition of this Agreement or fails to perform any obligation or responsibility hereunder, and if such breach is capable of being remedied, fails to remedy the breach within thirty (30) days of the notice given by the National Transport Authority requiring the Service Provider to do so;

7.1.2 the Service Provider persistently fails to perform, in the opinion of the Authority (acting reasonably), elements of the Services to a standard that the Authority would expect of a service provider regularly undertaking services of the type contemplated by this Agreement, or following a review of performance under Clause 1.3 the Authority considers that the Service Provider is no longer suitable for the provision of the Services, or the Service Provider conducts itself, or if anyone engaged by the Service Provider conducts itself, in a manner which the Authority considers to be incompatible with the performance of the Services;

7.1.3 any of the Service Provider's warranties in Clause 9 are or become untrue, or any representation made by the Service Provider in connection with this Agreement shall in the opinion of the Authority prove to be untrue or incorrect in a material respect as of the date when made;

7.1.4 any of the following insolvency events occur:

- (a) a petition for the appointment of a liquidator to the Service Provider is presented and is not dismissed within ten (10) working days of presentation;
- (b) any meeting of the creditors of the Service Provider is convened or held;
- (c) any arrangement or composition with or for the benefit of its creditors (including any compromises or arrangements entered into under Chapter 1 (Schemes of Arrangement) Part 9 of the Companies Act 2014 are proposed or entered into by or in respect of the Service Provider;
- (d) a supervisor, receiver, administrator, administrative receiver, trustee or encumbrancer takes possession of or is appointed over the Service Provider or any of its assets, or any distress, execution or other process is levied or enforced, and not discharged within ten (10) working days, on the Service Provider or any of its assets;
- (e) the Service Provider ceases or threatens to cease carrying on business, or is, or is regarded by law or by a court to be, or declares itself to be, insolvent or unable to pay its debts as they fall due;
- (f) a petition is presented to appoint an examiner to the Service Provider, or an order is made appointing an examiner to the Service Provider;
- (g) the Service Provider becomes bankrupt;
- (h) the Service Provider becomes insolvent or is unable to pay its debts as they fall due or the Service Provider stops or threatens to stop making payments generally or declares or threatens to declare a moratorium with respect to all or any part of its debts or enters into any composition or other arrangement with its creditors generally;
- (i) the Service Provider is struck off the register of companies;
- (j) in the case of a Service Provider which is a partnership, any action is taken by its partners or any other person for the dissolution of the Service Provider;
- (k) in the case of a Service Provider which is a partnership, the partnership expires or is dissolved;
- (l) any event similar to the above insolvency events occurs in respect of

the Service Provider in any jurisdiction in which it is incorporated or has a place of business;

- 7.1.5 the Authority reasonably believes that any of the events mentioned in sub-Clause 7.1.4 or any analogous event is about to occur in relation to the Service Provider in any jurisdiction and notifies the Service Provider accordingly;
 - 7.1.6 the Service Provider has committed any fraudulent act or any criminal activity or is guilty in the opinion of the Authority of gross negligence in the performance of this Agreement or a Call-Off Contract;
 - 7.1.7 any representation made by the Service Provider in connection with this Agreement shall in the opinion of the National Transport Authority prove to be untrue or incorrect in a material respect as of the date when made;
 - 7.1.8 the Service Provider has committed any fraudulent act or any criminal activity or is guilty of gross negligence in the performance of this Agreement or a Call-Off Contract;
 - 7.1.9 the Authority exercises its rights under Clause 13.5 of this Agreement;
 - 7.1.10 without prejudice to the foregoing, the Service Provider has breached Clause 6 or 13;
 - 7.1.11 if a Call-Off Contract with the Service Provider is terminated; or
 - 7.1.12 without cause, by giving three months' notice.
- 7.2 If the Service Provider is more than one person, and if any of the events set out in Clause 7.1 occur in respect of any of them, the National Transport Authority may either:
- (a) terminate this Agreement with the Service Provider (and, at its discretion, with the other Participants) or
 - (b) terminate the obligation under Clause 2.1 of the person concerned and the other members of the Service Provider shall remain liable to perform the Service Provider's obligations.
- 7.3 The Agreement may be terminated by the Authority immediately in writing where:
- (a) In the reasonable opinion of the Authority, the Agreement has been subject to substantial modification, which would require a new procurement procedure pursuant to Article 72 of Directive 2014/24/EU and/or Regulation 72 of the European Union (Award of Public Authority Contracts) Regulations 2016; or
 - (b) the Service Provider has, at the time of the award of the Agreement, been in one of the situations referred to in Article 57(1) of Directive 2014/24/EU of the European Parliament and of the Council, and/ or Regulation 57(1) or (2) of the European Union (Award of Public Authority Contracts) Regulations 2016 and should therefore have been excluded from the procurement procedure for this Agreement; or
 - (c) the Agreement should not have been awarded to the Service Provider in view of a serious infringement of the obligations under the Treaties governing the European Union and/or Directive 2014/24/EU and/or the European Union (Award of Public Authority

Contracts) Regulations 2016, which infringement has been declared by the Court of Justice of the European Union in a procedure under Article 258 of the Treaty on the Functioning of the European Union.

- 7.4 The Service Provider hereby agrees that on any termination in accordance with the provisions of Clause 7.1, 7.2, or 7.3 the benefit of any sub-contract in respect of the Services shall stand assigned to the Client, with effect from the date of any claim to such assignment from the Client to the Service Provider.
- 7.5 The Service Provider hereby agrees that on any termination in accordance with the provisions of Clause 7.1 or 7.2, the benefit of any sub-contract and/or engagement of site staff shall stand assigned to the Client, or its nominee, with effect from the date of any claim to such assignment from the Client to the Service Provider.
- 7.6 Without prejudice to Clause 7.7, each party's further rights and obligations under this Agreement cease immediately on termination of this Agreement, but termination does not affect a party's accrued rights and obligations at the date of termination. Notwithstanding termination of this Agreement, the provisions of this Agreement shall continue to bind each party insofar as and for as long as may be necessary to give effect to their respective rights and obligations hereunder.
- 7.7 If, upon termination of the Agreement in accordance with the provisions of Clause 7.1, 7.2 or 7.3, the Service Provider has not completed Services under a Call-Off Contract which it has been awarded, the Client may at its discretion:
 - (a) terminate the Call-Off Contract in accordance with the provisions of the Call-Off Contract; or
 - (b) require the Service Provider to continue providing the relevant Services in accordance with the provisions of the Call-Off Contract, the Client's direction(s), and/or any amendment to the Call-Off Contract unless and until the Client terminates the call-Off Contract or the relevant Services are completed.
- 7.8 For the avoidance of doubt, in the event of a termination, the Service Provider shall not be entitled to any compensation or other relief whatsoever or howsoever arising. However, nothing in this Clause 7.8 shall prejudice the rights of the parties under any Call-Off Contract between them.
- 7.9 The Authority shall not be obliged, by virtue of the termination of this Framework Agreement, to terminate the corresponding agreements between it and the other Participants, which agreements may continue in full force and effect.
- 7.10 The provisions of this Clause 7 are and shall be without prejudice to any other rights or remedies which the Authority may have.

8. Limitation on liability

- 8.1 Neither the National Transport Authority nor any of the Clients shall have any liability to the Service Provider for any indirect or consequential loss, any loss of profit, loss of contract, loss of business, or loss of or damage to reputation or goodwill or special damages whatsoever that may be suffered by the Service Provider in connection with this Agreement or as a result of any act or omission by any of the Clients with respect to this Agreement. This does not affect the liability of either party under any Call-Off Contract.
- 8.2 Save in respect of death or personal injury caused by the negligence of either party, breach of this Agreement or any Call-Off contract by virtue of fraud or

wilful default, or breach of any Intellectual Property Rights by the Service Provider, each party's liability for any claim whether in contract, tort (including negligence) or otherwise, for any loss or damage, arising out of or in connection with this Agreement or any Call-Off Contract shall in no case exceed 200% of sums paid and payable by the Authority or the Clients under this Agreement or any Call-Off Contract in respect of any event or series of connected events in the aggregate.

- 8.3 In no event shall the Service Provider be liable, under this Agreement or any Call-Off Contract, for special, incidental, indirect or consequential damages.

9. Representations and warranties

- 9.1 The Service Provider represents, warrants and undertakes to each Client that:

- 9.1.1. it has all necessary power and authority to execute, deliver and perform its obligations under this Agreement and each Call-Off Contract;
- 9.1.2. the execution, delivery and performance by it of this and each Call-Off Contract has been duly and validly performed and authorised by all necessary action on its part;
- 9.1.3. each of the obligations of the Service Provider under this Agreement and each Call-Off Contract constitute or will constitute legally binding obligations enforceable against it in accordance with its terms, except as enforcement may be limited by any relevant bankruptcy, insolvency, administration or similar laws affecting creditors' rights generally;
- 9.1.4. all consents, licences, approvals and authorisations required in connection with the entry into, performance, validity and enforceability of this Agreement and each Call-Off Contract which may be issued pursuant to this Agreement have been obtained and are in full force and effect;
- 9.1.5. all information supplied by the Service Provider in the Service Provider's tender, or in connection with the negotiation of this Agreement, or in connection with any Call-Off Contract, is true and accurate in all respects at the date of execution of this Agreement, save as otherwise disclosed in writing to the Authority and acknowledged in writing by the Authority prior to the execution of this Agreement, and there are no other facts or matters of which the Service Provider is aware, after due and careful enquiry, the omission of which would have made or would make any such statement or information contained therein misleading, inaccurate or untrue in any material respect, and all expressions of expectation, intention, belief and opinion contained therein were honestly made on reasonable grounds after due and careful enquiry;
- 9.1.6. if the Service Provider is a partnership, each partner comprising the Service Provider shall be jointly and severally liable to the Client and jointly and severally obliged to comply with and perform the obligations of the Service Provider pursuant to this Agreement;
- 9.1.7. it will provide the Services required under any Call-Off Contract diligently and in good time and with all resources as reasonably required;
- 9.1.8. that it is not aware of any material facts or circumstances that have not been disclosed to the Authority and which might, if disclosed, materially

adversely affect the decision of a prudent person considering whether or not to enter into this Contract with the Service Provider; and

9.1.9. That all services undertaken or to be undertaken under a Call-Off Contract, shall incorporate all of the relevant aspects of the proposals, methodology and approach set out in the Quality Submission attached as Schedule 4, except where such incorporation would be incompatible with the requirements of the particular Call-Off Contract.

9.2 The representations and warranties of the Service Provider in this Clause 9.2 shall survive the execution of this Agreement and shall be deemed to be repeated on the date of execution of any Call-Off Contract with respect to the facts and circumstances existing at that time, as if made at that time.

10. Rates

The Service Provider agrees that the fee rates to be used in Call-Off Contracts entered into with the Service Provider, shall not exceed the hourly rates set out in Schedule 2.

The hourly rates set out in Schedule 2:

- (a) are fixed for the period up to the second anniversary of the date of execution of this Framework Agreement (the “Framework Date”) and shall not before that date be subject to any price adjustment or escalation formula to reflect variations in currency, exchange rates, taxation, the cost of labour, materials, overheads and any other expense; and
- (b) following the second anniversary of the Framework Date and on each subsequent anniversary of the Framework Date (a “Readjustment Date”), shall be adjusted by the percentage increase or decrease (if any) of the Index figure current at the Readjustment Date compared with the Index figure on the previous Readjustment Date, or, in the case of the first readjustment, compared with the Index figure on the Framework Date. (“Index” is defined as the Consumer Price Index (all items) of Ireland published from time to time by the Central Statistics Office). Between Readjustment Dates, the hourly rates as adjusted will be fixed for the year following the Readjustment Date and shall not be subject to any further price adjustment or escalation formula to reflect variations in currency, exchange rates, taxation, the cost of labour, materials, overheads and any other expense until the next Readjustment Date.

11. This Agreement

- 11.1 The National Transport Authority shall be entitled to assign or novate this Agreement (together with all rights and remedies under it for breach of this Agreement). The Service Provider shall not without the prior written consent of the National Transport Authority assign or novate this Agreement.
- 11.2 This Agreement supersedes any previous agreements between the Clients and the Service Provider relating to the subject matter of this Agreement. Neither the Clients nor the Service Provider has relied on any agreement, understanding, or statement that is not written or referred to in this Agreement.
- 11.3 This Agreement can only be amended in writing, and signed by or on behalf of the parties’ authorised representatives.
- 11.4 This Agreement shall be governed and construed in accordance with the laws of Ireland.

- 11.5 The failure of a party to enforce any provision of this Agreement, or any delay in enforcing any such provision, will not change any party's rights or obligations, nor will a waiver of any breach of this Agreement be a waiver of any other breach or of the provision breached. Except where this Agreement provides otherwise, the rights, powers, privileges and remedies of each Client provided in this Agreement are cumulative and not exclusive of any rights, powers, privileges or remedies it would otherwise be entitled to under common law or statute.
- 11.6 Where the Service Provider comprises a firm or partnership or one or more persons, the liability of the proprietors, and/or partners and/or such persons shall be joint and several. Any reference to the Service Provider in this Agreement shall, where required by the context, include a reference to any such proprietor, partner or person (as appropriate).
- 11.7 Each of the provisions of this Agreement is severable and if any provision of this Agreement is held by any court or other competent authority to be illegal, void or unenforceable in whole or in part, the legality, validity and enforceability of the remaining provisions of this Agreement shall not be affected or impaired thereby.
- 11.8 No provision of this Agreement creates a partnership between the parties or makes a party the agent of the other party for any purpose. A party has no authority or power to bind, to contract in the name of, or to create a liability for, the other party in any way or for any purpose.
- 11.9 For the avoidance of doubt, in providing any Services the Service Provider is not acting as an employment agency, within the meaning of the Employment Agency Act 1971 and the Protection of Employment (Temporary Agency Workers) Act 2012.
- 11.10 This Agreement (including its Schedules) together with any document expressly referenced therein (which for the avoidance of doubt shall include Call-Off Contracts as may be entered into), contains the entire agreement between the parties with respect to its subject matter, supersedes all previous agreements and understandings between the parties with respect to its subject matter, and may not be modified except in accordance with Clause 11.3.
- 11.11 This Call-Off Contract may be executed in any number of counterparts and by different parties hereto on separate counterparts, each of which, when executed and delivered, shall constitute one and the same instrument.

12. Dispute Resolution

Any disputes which arise between the parties under, out of or in connection with this Agreement or the subject matter of this Agreement (each a "**Dispute**") shall be dealt with as follows:

- 12.1 Either party may give to the other written notice (a "Notice of Dispute") that a Dispute has arisen.
- 12.2 Any Dispute shall in the first instance be subject to negotiation in good faith between the senior management of both parties in an attempt to settle the Dispute.
- 12.3 If after 30 working days from the date of the Notice of Dispute, such negotiations prove unsuccessful, either party shall be entitled to refer the Dispute to mediation in accordance with the International Centre for Dispute Resolution ("CEDR") procedures then in force. The mediation process will be commenced by service by one party on the other of a written notice that the issue is to be referred to mediation (the "Mediation Notice"), but in the event that the parties are unable

to agree a mediator within ten (10) working days of the Mediation Notice, the parties shall accept a mediator nominated by CEDR. Each party shall bear its own costs in respect of the mediation.

- 12.4 If settlement of the Dispute is not reached under the mediation procedure referred to under clause 12.3 above, then, subject to clause 25, if the Service Provider, the Authority, or both, wish to proceed with resolution of the Dispute, the Authority shall determine at its absolute discretion whether the Dispute is to be resolved by way of proceedings filed in the Irish Courts or by way of arbitration in accordance with clause 12.5 below. The Authority's choice as to the manner of resolving the Dispute shall be final and the Service Provider shall abide by the Authority's choice.
- 12.5 If neither party has notified the other party within thirty (30) working days of the conclusion of the mediation that they wish to proceed with resolution of the dispute then neither party shall have any right or entitlement to pursue the dispute further.
- 12.6 Where the Authority has chosen that the Dispute shall be resolved by arbitration, such arbitration shall be in accordance with the Arbitration Procedure published by Engineers Ireland (save that any reference to the President of Engineers Ireland therein shall be construed as a reference to the Chair for the time being of the Chartered Institute of Arbitrators (Irish Branch)). The place of any such arbitration shall be in Ireland and the law of such arbitration shall be Irish Law. The Arbitrator shall be determined by agreement of the parties or, failing agreement, shall be nominated on the request of either party by the Chair for the time being of the Chartered Institute of Arbitrators (Irish Branch). Every reference shall be deemed to be a submission to arbitration within the meaning of the Arbitration Act 2010 or any act amending or replacing that Act. Provided always that if the Dispute to be referred to arbitration under this Agreement raises issues which are substantially the same as, or connected with, issues raised in a related dispute between the Authority and any third party and if such related dispute has already been referred for determination to an arbitrator or any court the parties agree that the Dispute shall be referred to such arbitrator or such court and that such arbitrator shall have power to make such directions and all necessary awards in the same way as if the procedure in the High Court as to the joining of one or more co-defendants or third parties was available to the parties hereto and to such arbitrator.
- 12.7 Subject to the above provisions of this clause 12, the parties submit to the jurisdiction of the Irish courts to settle any Dispute. Nothing in this clause 12 shall restrict either party's freedom to commence legal proceedings where such proceedings are required urgently including to preserve any legal right or remedy, to protect any intellectual property rights or rights in Confidential Information or to otherwise prevent irreparable harm.

13. Conflict of Interest

- 13.1 The Service Provider agrees and acknowledges that:
- (a) it and its Personnel are subject to, and to the extent applicable shall comply with, Section 37 of the Dublin Transport Act 2008;
 - (b) without prejudice to the generality of 13.1(a), shall ensure that no conflict of interest arises in respect of its performance of the Services under this Agreement; and
 - (c) It shall disclose to the Client, within 48 (forty-eight) hours of it coming to its attention, any conflict of interest or potential conflict of interest

which it, any of its affiliates, Associated Companies, or any of its Agreed Sub-Contractors may have in performing the Services.

- 13.2 In the event of any conflict or potential conflict of interest arising, the Service Provider agrees and acknowledges that it is a matter for the Client to decide the appropriate action to be taken (including termination of contract) in accordance with Section 37 of the Dublin Transport Act 2008 and the terms of this Agreement.
- 13.3 Without prejudice to the generality of this Clause 13, if the Client is of the view that a conflict of interest has arisen or is likely to arise in relation to particular Services, the Client may determine that the Service Provider should not be invited to participate in a procedure for the award of a Call-Off Contract in respect of such Services. In such a case the Client may obtain the provision of the Services by any other means which it deems appropriate.
- 13.4 The Client reserves the right to terminate any Call-Off Contract where the Client has determined that there is a conflict of interest, and/or to take any other step which the Client considers appropriate at its discretion, and the Service Provider shall comply with the instruction of the Client in this regard.
- 13.5 Where the Authority is of the view that the conflict of interest is such that the Service Provider is unlikely to be in a position to provide any further Services in accordance with this Agreement, the Authority may terminate this Agreement with immediate effect by written notice to the Service Provider.
- 13.6 The Service Provider shall be responsible for the observance of this Clause 13 by each of its personnel and any sub-Service Providers.
- 13.7 This Clause survives the termination of the Agreement.

14. Change Control

- 14.1 Where either party (the “**Requesting Party**”) wishes to make a change to the terms of this Agreement including, without limitation, any change to:
 - (a) the Services;
- the procedure in this Clause 14 shall apply.
- 14.2 The Requesting Party must make all change requests via a request form (a “**Change Request Form**”) which shall include, as a minimum, the following details:
 - (a) description of the requirements for the change;
 - (b) comparison of the new requirements with the existing requirements;
 - (c) reasons for the change, including a high level description of the proposed business impact;
 - (d) timeframe for completion of the change.
 - 14.3 The other party shall consider the contents of such Change Request Form and shall provide a response to the Requesting Party detailing the impact of the proposed change on such other party and/or the Services.
 - 14.4 Any change to this Agreement shall be agreed in writing.

15. Non-Exclusivity

- 15.1 Each Client shall at all times be entitled to enter into separate contracts for the provision of any or all services that are the same as or similar to the Services,

with persons other than the Service Provider. Nothing in this Agreement shall create an exclusive relationship between any Client and the Service Provider for the provision of Services.

SIGNED by the Client and the Service Provider on the date at the top of this Agreement

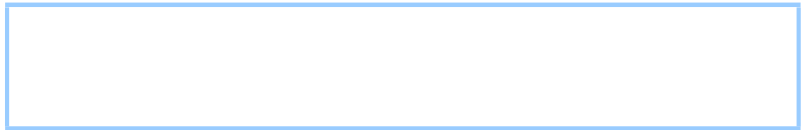
Signed on behalf of the Client:

*Signature of person
authorised to sign
contracts on behalf of the
Client:*

A large, empty rectangular box with a thin blue border, intended for the signature of the person authorized to sign on behalf of the Client.

Signed on behalf of the Service Provider:

*Signature of person
authorised to sign
contracts on behalf of the
Service Provider:*

A large, empty rectangular box with a thin blue border, intended for the signature of the person authorized to sign on behalf of the Service Provider.

Framework Rules

1. The Framework

The National Transport Authority acting on its own behalf and on behalf of

- Bus Éireann;
- Carlow County Council;
- Cavan County Council;
- Cork City Council;
- Cork County Council;
- Clare County Council;
- Donegal County Council;
- Dublin Bus;
- Dublin City Council;
- Dún Laoghaire/ Rathdown County Council;
- Fingal County Council;
- Galway City Council;
- Galway County Council;
- Go Ahead Ireland;
- Irish Rail;
- Kerry County Council;
- Kildare County Council;
- Kilkenny County Council;
- Laois County Council;
- Limerick City & County Council;
- Leitrim County Council;
- Longford County Council;
- Louth County Council;
- Mayo County Council;
- Meath County Council;
- Monaghan County Council;
- National Road Authority, T/A Transport Infrastructure Ireland (TII);
- Offaly County Council;
- Roscommon County Council;
- South Dublin County Council;
- Sligo County Council;
- Tipperary County Council;
- Waterford City & County Council;
- Waterways Ireland;
- Westmeath County Council;
- Wexford County Council; and
- Wicklow County Council.

(each a “Client” and collectively referred to as the “Clients”)

1.The Framework

1.1 The Authority has established a framework for the for the provision of visualization and related services in relation to transport projects spanning from cycling and walking schemes to larger scale Bus and Rail projects as more particularly described in Schedule 1 hereof.

1.2 The framework consists of a **Framework Agreement** between the National Transport Authority acting on its own behalf and on behalf of the other Clients and the Service Provider, as well as a number of other contractors. The Service Provider and such other contractors are the “**Participants**”. The Framework Agreement incorporates these rules.

1.3 If, during the period

starting on

[•]

and ending on

[•]

(the “**Framework Period**”), the Authority or any of the Clients require the Services, as described in Schedule 1 hereto, the Authority or any of the Clients may procure the Services by awarding **Call-Off Contract(s)** according to these rules. The Authority or any of the Clients may also procure the Services in other ways, and do not guarantee that any services will be procured under these rules.

2. Participants

2.1 The Participants in the Framework are listed below, in alphabetical order.

2.2 A Participant whose Framework Agreement has been terminated will no longer be considered a Participant under these rules.

3. Call-Off Contracts

3.1 When a Client decides that it may procure Services under these rules, the Client may at its discretion (and without prejudice to its right to obtain provision of the Services by other means) commence the Call-Off procedure described in this paragraph 2 (the “**Call-Off Procedure**”).

3.2 3.2.1 The Client shall commence the Call-Off Procedure by sending a written invitation to all Participants, inviting them to make a proposal for the relevant Services (to the extent that such Participants appear to the Authority to be capable of performing the Services required under the Call-Off Contract).

3.2.2 The invitation described in section 3.2.1 (the “**Invitation**”) above will be sent by via the eTenders platform, email or by post to each Participant’s current email address or postal address as given in or notified under the Agreement. The invitation will provide information as to the Services required under the Call-Off Contract, the time limit for responding to the invitation, to whom proposals are to be submitted, the criteria to be assessed (see further section 3.2.3 below) and other relevant information relating to the Call-Off Procedure (including the fee structure proposed by the Client).

3.2.3 The award criteria for Call-off Contracts awarded under the Call-Off Procedure will be as follows (with the range of weighting given in brackets):

- Quality (0% - 70%)
- Price (30% - 100%)

The above criteria are not listed in order of importance. The Authority may attach different weightings to them for different Call-off Contracts, depending on the service requirements, and will indicate the weightings and the items to be considered under the Quality criterion in the invitation to tender.

3.3 To be considered for a Call-Off Contract the Service Provider must have been invited to submit a proposal pursuant to paragraph 2.1, and must submit a proposal complying with such Invitation. In addition, the proposal must:

3.3.1 be consistent with the Service Provider’s quality submission set out in Schedule 5 of this Agreement; and

3.3.2 where the Client so specifies in the Invitation, must include the Key Personnel set out in Schedule 2 of this Agreement (subject always to clause 5 of the Agreement);

and

- 3.4 The Authority may seek clarification or further information or both from the Service Provider in relation to its proposal.

Schedule 1 of the Framework Agreement

The Services

1. Overview

This Section details the Services required of the Framework Participants. The list of service elements forming the Services are indicative only, are not exhaustive and are subject to change.

2. Scope

The scope of the Services that may be required pursuant to the Framework Agreement includes the Provision of Visualization Services and ancillary related services to the Authority and the listed clients in relation to transport projects spanning from cycling and walking schemes to larger scale Bus and Rail projects. The service categories include (but are not limited to) the following:

1. Photography;
2. Photomontages;
3. 3-D Visualization;
4. Illustrations/Collages;
5. Animation;
6. Schematic Mapping;
7. Artificial Intelligence (“AI”);
8. Any other services specific to the Framework Participant’s expertise, including those enhanced by emerging technologies

The extent of the scope of Services to be performed will be set out in the Call-Off Contracts which will be awarded following ‘call-off’ competitions conducted in accordance with the Framework Rules.

3. Specifications of Services of Framework Agreement

Service Category 1: Photography

Services to be provided under this category include, but are not limited to:

- A) Taking photography, terrestrial and elevated/aerial, to demonstrate the existing environment at project development sites, and in a manner that can then be used to overlay and illustrate proposed development.
- B) High- quality photography of various projects within the Greater Dublin Area, for inclusion in NTA publications

Service Category 2: Photomontages (Accurate Visual Representations)

Services to be provided under this category include, but are not limited to, such items as:

- a) Produce Quality and Accurate Photomontages for displaying on posters, brochures and on websites.
- b) Photomontages must be verified as accurate, according to best practice, as they may be submitted as part of planning applications and Environmental Impact Statements.
- c) Appropriate Professional photographic and surveying equipment must be used
- d) Each photomontages are to be accompanied by:
 - A photograph showing the current, unchanged view of the location depicted in the photomontage from the same viewing point as that of the photomontage (the existing photograph);
 - A copy of the existing photograph with the wire frame lines depicted so as to demonstrate the data from which the photomontage has been constructed. The wire frame overlay represents the existing surveyed elements which correspond with the same elements in the existing photograph;
 - A 2D plan showing the location of the camera and target point that corresponds to the same location the existing photograph was taken
 - Confirmation that accurate 2D/3D survey data has been used to prepare the photomontages: for depiction of existing buildings or existing elements as shown in the wire frame; and to establish an accurate camera location and RL of the camera
 - The camera type and field of view of the lens used for the purpose of the photograph in from which the photomontage has been derived
 - High quality rendering and illustration of various road user types, especially sustainable transport modes and schematic illustration; and
 - Software capability should include (at least) AutoCAD, 3ds-Max, Photoshop and InDesign.

Service Category 3: 3-D visualisations

The Services to be provided under this category include, but are not limited to, such items as:

- a) Produce high quality 3-D visualisations of typical transport infrastructure and layouts, for inclusion in guidance documents and presentations.
- b) The visualisations should be of a similar quality to those in the [Cycle Design Manual – published by National Transport Authority](#).

Service Category 4: Illustrations/Collages

The Services to be provided under this category include, but are not limited to:

- a. Produce 2D plans, sections etc. in consultation with the Authority, from concept sketches through to full presentation,
- b. Use of various range of techniques from basic illustration to fully rendered and photographic styles.
- c. Produce final high-quality illustrations of streetscapes and transport infrastructure

Service Category 5: Animation

The Services to be provided under this category include, but are not limited to:

- a) Produce high- quality video animations or “fly-through” of streetscapes and transport infrastructure based on computer-generated imagery.

Service Category 7: Artificial Intelligence

The Services to be provided under this category include, but are not limited to images that are entirely or partially created using machine learning models, such items as:

- a) The production of high-quality photorealistic generated images. Photorealistic images generated leveraging Artificial Intelligence (AI) options utilizing source material including but not limited to a blend of text prompts, technical drawings, preliminary or construction drawing, on-street royalty-free images, open-source mapping or similar inputs

Service Category 8: Framework Participant’s expertise, including those enhanced by emerging technologies

The Services to be provided under this category include, areas of the Framework Participant’s expertise related to visualisation services but not expressly provided for in the above service categories, such as those enhanced by emerging technologies.

SCHEDULE 2 OF THE FRAMEWORK AGREEMENT KEY PERSONNEL

*[To be inserted upon execution of the
Framework Agreement]*

<i>Personnel Grade Description</i>	<i>Maximum Hourly Rate (excl. VAT)</i>
Grade 1 - Framework Manager, Partner or Company Director or equivalent grade	
Grade 2 - Senior Consultant / Project Manager (10+ years' experience – Architect or Engineer or Graphic Designer)	
Grade 3 - Intermediate Consultant (7+ years' experience – Architect or Engineer or Graphic Designer)	
Grade 4 - Senior Technician (8+ years' experience – Architect or Engineering or Graphic Design Technician)	
Grade 5 - Graduate Consultant (Architect or Engineer or Graphic Designer)	

For the avoidance of doubt the Maximum Hourly Rates for an individual will include all ancillary costs, overheads and profit including, without limitation, such items as:

- salary payments inclusive of all pay related items;
- provision of all secretarial/administrative/clerical support;
- all equipment required in the performance of the services;
- office overheads;
- insurance;
- general office consumables;
- annual leave payments/sick leave payments;
- all travel and subsistence arrangements for attendance at meetings;
- postage/telephone/fax/email costs;
- internal photocopy and printing costs;
- general overheads, and
- profit.

All prices must be in Euros exclusive of VAT.

Schedule 3 of the Framework Agreement

Form of Call-Off Contract

Schedule 4 of the Framework Agreement

Quality Submission

[To be inserted]