



INVITATION TO TENDER

SINGLE-PARTY FRAMEWORK AGREEMENT

Establishment of Framework Agreement	The Establishment of a Single-Member Framework Agreement for the provision of a Financial Management Solution for Enterprise Irelands Regional Enterprise Development Fund & Border Enterprise Development Fund (REDF/BEDF) - DeMinimis State Aid Recording
Enterprise Ireland Ref.	2025/017
Procedure	Open National
eTenders Resource ID	7159014
Issue Date	09/12/2025
Closing Date for Queries	19/12/2025 @ 12 noon (Irish Time)
Submission of Queries	Via the messaging portal on eTenders on www.etenders.gov.ie

**Closing Date / Time For receipt
of Tenders**

12/01/2026

@ 12 noon (Irish Time)

Please note that information relating to this Invitation to Tender Document, including clarifications and changes, will be published on the Irish Government Procurement Opportunities Portal (www.etenders.gov.ie). Registration is free of charge and there is no charge for documents. Please note that Enterprise Ireland cannot accept responsibility for information relayed (or not relayed) via third parties.

Please note that, in responding to this Tender, you must use the Tender Response Document(s) (TRD) and upload these as a ZIP FILE to protect the integrity of the file names

1	General Information.....	7
1.1	Disclaimer.....	7
1.2	Small and Medium Enterprise participation	7
1.3	Use of Tender Response Document.....	8
1.4	Summary	8
2	About Enterprise Ireland.....	9
3	Scope of the Framework Agreement	10
3.1	Type of Framework Agreement.....	10
3.2	Numbers Admitted to the Framework Agreement	10
3.3	Duration of the Framework Agreement	10
3.4	Estimated Value of the Framework Agreement.....	10
3.5	Use of the Framework Agreement	11
4	Detailed Scope of the Framework Agreement	11
4.1	Background / context to Requirement.....	11
4.2	Specification of Requirements	12
4.2.1	System Functionality Requirements.....	12
4.2.2	Service Support Requirements	16
4.2.3	Ongoing System Support & Maintenance	17
	Tenderers must demonstrate how the proposed SaaS Financial Management Solution will be maintained and supported throughout the contract period. Tenderers Must provide details of their proposed.....	17
	Maintenance Policy & Procedures	17
	• Describe your approach to system maintenance, including scheduled updates, patch management, and security fixes.....	17

• Provide details of your release cycle and how updates are communicated to clients.....	17
Service Level Agreements (SLAs).....	17
• Outline guaranteed response and resolution times for incidents.	17
• Include uptime commitments.	17
Support Model	17
• Explain the support channels available (e.g., helpdesk, ticketing system, escalation process).....	17
Compliance & Certifications	17
• List any relevant certifications (e.g., ISO 27001, SOC 2) that demonstrate adherence to best practices in maintenance and security.....	17
Business Continuity & Disaster Recovery.....	17
• Describe your backup strategy, recovery time objectives (RTO), and recovery point objectives (RPO).....	17
4.3 Value and Duration of Framework.....	17
4.4 Quality and expertise of Resources	18
4.5 Contract Management	18
4.5.1 Contract Manager	18
4.5.2 Service Level Agreement.....	19
4.5.3 Minimum response times	21
4.5.4 Invoicing	21
4.6 Sustainability.....	21
4.7 Delivery Locations.....	22
4.8 Pricing.....	23
4.9 Award to Runner Up	23

4.10	Data Protection	23
5	Evaluation Criteria	24
5.1	Selection Criteria	24
5.1.1	General, Declarations and Financial Requirements	24
5.1.2	Previous Experience	27
5.2	Award Criteria	29
6	INSTRUCTIONS TO TENDERERS	33
6.1	Submission of Tenders	33
6.1.1	Accessing documents	33
6.1.2	Submitting your Response	34
6.2	Query Process for Framework and Contract Terms and Conditions	34
6.3	Sufficiency & Accuracy of Tender	35
6.4	Tender Documents - Ambiguity, Discrepancy, Error, Omission	35
6.5	Qualification of Tenders and Referential Bids	35
6.6	Extension of Tender Period	35
6.7	Modifications to Tenders prior to the Closing Date for Receipt of Tenders	36
6.8	European Single Procurement Document (ESPD)	36
6.9	Form of Tender	36
6.10	Cost of Preparation of Tender	36
6.11	Tender Validity Period	36
6.12	Currency and Prompt Payments	36
6.13	Confidentiality	37
6.14	Conflict of Interest	37
6.15	Freedom of Information Acts	37

6.16	Data Protection Legislation	38
6.17	Transfer of Data outside the European Economic Area (EEA)	38
6.18	Service Audit.....	39
6.19	Tax Clearance Certificate.....	39
6.20	Withholding Tax	40
6.21	Irish Legislation and Law.....	40
6.22	Clarification of Tenders	40
6.23	Correction of Errors.....	40
6.24	Change in the Composition of a Tender.....	41
6.25	Interference and Inducement to Purchase	41
6.26	Notification of Tender Evaluations.....	41
6.27	Policy on Personal Debriefings	42
6.28	Award to Runner-up.....	42
6.29	Right to Award to More than One Supplier	42
6.30	Replacement Personnel.....	42
6.31	Copyright	42
6.32	Brand Names, etc.	43
	Appendix 1 - Framework Agreement	30
	Appendix 2 – Call-Off Terms and Conditions	31
	Appendix 3 – Data Processing Agreement	39

1 General Information

1.1 Disclaimer

This document issued herewith (“the Document”) is for information only and does not constitute, and shall not be interpreted as, an offer for sale, prospectus, or the basis of a contract.

Tenderers are recommended to read the documents thoroughly. While all reasonable steps have been taken to ensure that the information set out in the Document is accurate and up to date, no representation or warranty, express or implied, is or will be made or given in relation to the accuracy or the completeness of any information contained in the Document or otherwise provided by or on behalf of Enterprise Ireland (in writing or otherwise) to any interested party or its advisers. No responsibility or liability for any loss or damage arising as a result of reliance on these documents, or for the information contained in these documents or for any omission is or will be accepted by Enterprise Ireland or by any of its officers, employees, agents or professional advisers. No officer, employee, agent, or professional adviser of the company has any authority to give or make any representation or warranty, express or implied, in relation to such information. Enterprise Ireland's officers, employees, agents and professional advisers expressly disclaim any and all liability arising out of such documentation or information and any errors or omissions in or from the documents and information.

Enterprise Ireland reserves the right to discontinue the procurement process at any time.

1.2 Small and Medium Enterprise participation

It is the policy of the Contracting Authority to promote participation by Small and Medium Enterprises (SMEs) on a fair and equal basis.

All firms are encouraged to explore the possibilities of forming relationships with SMEs or other enterprises to meet the financial, economic or technical capacity requirements of the competition and/or deliverables under the framework agreement/contracts, if required.

Tenderers are reminded that they may rely on the resources of other entities to establish the requirements on condition that they can prove to the satisfaction of the Contracting Authority that they will have these resources at their disposal when necessary.

Tenderers may include individuals, partnerships, limited companies, groupings or any combination of the foregoing with or without legal personality.

If the tender is from a grouping / consortium / joint venture, tenderers must ensure that all the relevant information is provided and where necessary, provide the information requested separately for each party. Relevant information relates to where a tenderer is relying on the resources to qualify (e.g. turnover, personnel, previous experience) and / or to deliver contracts. The grouping / consortium / joint venture must appoint a single point of contact who will assume overall responsibility for delivery, and who is authorised to sign the framework agreement / contract on behalf of all consortia members. The Enterprise Ireland will not act as an arbitrator between members of a grouping / consortium / joint venture.

1.3 Use of Tender Response Document

Please note that information relating to this Request for Tender, including clarifications and changes, will be published on the Irish Government Procurement Opportunities Portal www.etenders.gov.ie. Registration is free of charge and there is no charge for documents. Please note that the Enterprise Ireland accepts no responsibility for information relayed (or not relayed) via third parties.

The Enterprise Ireland has provided a Tender Response Document uploaded separately on eTenders for tenderers to use in preparing their response to this tender. This document and format must be used, failure to use the Tender Response Document issued may result in your elimination from the competition.

1.4 Summary

Enterprise Ireland:	Enterprise Ireland
Title	REDF/BEDF Financial Management Solution (FMS) - DeMinimis State Aid Recording
Nature of Requirement	Services
Procedure:	Open Procedure
Stage in procedure:	This is a single stage tender procedure whereby all interested parties may tender, but only those meeting the selection criteria (financial and technical capacity) will be deemed eligible for evaluation against the award criteria.

2 About Enterprise Ireland

Enterprise Ireland (hereinafter referred to as the “Enterprise Ireland”) is the authority responsible for this procurement.

Enterprise Ireland is the government organisation responsible for the development and growth of Irish enterprises in world markets. We work in partnership with Irish enterprises to help them start, grow, innovate and win export sales in global markets. In this way, we support sustainable economic growth, regional development and secure employment. By 2024, we aim to reach €30 billion in total exports, as well as R&D expenditure within Enterprise Ireland-supported client companies to reach €1.4 billion spend.

As a major capital investor, we invest in the most innovative Irish companies through all stages of their growth and connect them to international customers across multiple industries. With 40 offices worldwide, our teams of industry experts consult with international business to understand and solve their business needs. One of Enterprise Ireland’s strategic ambitions is to provide a world class digital experience to our client company portfolio, as well as international buyers. This involves a redesign & redevelopment of our digital shop window to these key audiences. Our ambition is to reduce & simplify the content and messaging on our digital estate to improve the user experience for our new corporate website.

Further information is available at our corporate website www.enterprise-ireland.com

3 Scope of the Framework Agreement

3.1 Type of Framework Agreement

The Enterprise Ireland proposes to engage in a competitive process for the establishment of a single-party framework agreement. A framework agreement constitutes a means of establishing overall terms and conditions in accordance with which, during the specified duration, individual contracts may or may not be awarded.

It is emphasised that a framework agreement constitutes no guarantee to purchase a specific quantity of supplies or services from a particular economic operator. Indeed, Enterprise Ireland reserves the right to operate outside of the framework agreement at its discretion, particularly should it become apparent that doing so would offer greater value for money. Notwithstanding the foregoing, the framework agreement approach has been adopted in order to leverage efficiencies and maximise cost savings over the duration of the framework.

3.2 Numbers Admitted to the Framework Agreement

The framework agreement will be established as a single-party framework agreement with one member, subject to that number meeting the minimum criteria and rules. Where there is a tie break for the last position on the framework, Enterprise Ireland reserves the right to admit all those tied on a score into the framework. In addition, where the score between the last framework member and the first unsuccessful tenderer is within a one per cent (1%) margin, Enterprise Ireland reserves the right to admit that firm into the framework also notwithstanding that the numbers admitted to the framework agreement will exceed the number stated.

3.3 Duration of the Framework Agreement

Each framework agreement will be for a maximum period of four (4) years.

For the avoidance of doubt, Enterprise Ireland confirms that the period of any contracts awarded under the framework agreement may extend beyond the date of expiry of the agreement.

3.4 Estimated Value of the Framework Agreement

It is envisaged that expenditure under this framework agreement will fall within the range of €180,000 to €200,000 excluding VAT.)

It is emphasised, however, that these figures are provided strictly for indicative purposes only as there is no guaranteed expenditure under the framework agreement.

3.5 Use of the Framework Agreement

Enterprise Ireland will use the framework agreement as and when requirements within their scope arises. However, there is no obligation upon Enterprise Ireland to make use of the framework agreement. Notwithstanding this fact, the framework agreements may be terminated in accordance with the framework agreement terms and conditions, a draft version which is appended to the tender document.

4 Detailed Scope of the Framework Agreement

4.1 Background / context to Requirement

Since 2017, Enterprise Ireland has approved regional enterprise development funding through a variety of schemes. These schemes provided funding to co-finance collaborative, innovative projects to develop and support the enterprise ecosystem across all regions of the country. This funding supports the Government priority of balanced and strong regional economic development. Enterprise Ireland has approved funding to 68 development projects through the Regional Enterprise Development Fund (2017-2020) and 11 projects under the Border Enterprise Development Fund (2020). These projects support capital expenditure on building construction and other equipment which will be utilised by enterprises in their initial stage of development, along with staffing and other operational supports. Examples of projects funded under these schemes include: the [RDI Hub in Killorglin](#), the [Portershed in Galway](#), the [Guinness Enterprise Centre \(GEC\) in Dublin](#) and [FutureCast in Manorhamilton](#).

These projects are required to adhere to a number of funding guidelines and regulations to comply with EU rules around State Aid. In this regard, the funded project (Intermediary) needs to confirm that the value of the funding received has been passed on to their clients (Beneficiaries) in the form of De Minimis grant offers. The Intermediary project (e.g. Enterprise Centre/ Innovation Hub/ Training Centre) is also required to confirm that Beneficiaries have sufficient available De Minimis balances to accept these grants (from their maximum available De Minimis Grant amount of €300,000 within a rolling 3-year period). If the Beneficiary has no balance available, then they are invoiced in full (market rate = no state aid), while if they do have available balance they can avail of service at a reduced rate and that deduction can be passed on as a De Minimis Grant.

This sub-process is carried out by the Intermediary funded project, and the solution needs to provide the facility for them to record details against their Beneficiary accounts on an FMS to meet the regulatory and auditing requirements.

The Intermediary project will need to record and track data on the client for several years after the project has received the final payment (up to 15 years), and are required to demonstrate that pass-through has occurred in compliance with document retention for auditing purposes, so this is an important element for Enterprise Ireland.

The table below outlines the main requirements (from a systems and contract requirements) for end-users of the programme. Predominantly, the requirement centres around the '**Sales Ledger**' functionality. As well as the requirements below, it should be a clean, simple, and easy to use interface for the end user.

4.2 Specification of Requirements

To provide clarity for respondents, Enterprise Ireland has split the requirements into two sections – **System Requirements** and **Contract Management Requirements**. Respondents should adhere to the detail in both sections of their response document.

4.2.1 System Functionality Requirements

The technical requirements for the solution are detailed in the table below. As a minimum your proposed solution must include as a minimum the following functionality. Failure to address these items will result in a tender submission not being considered at evaluation stage.

Requirement	Detail
Online Solution	Online access to platform, no software installation required. Software must support grant reporting as per Financial Reporting Standard - FRS102 , preferably as performance related grants. (FRS102 -This a single financial reporting standard that applies to the financial statements of entities that are not applying adopted IFRS, FRS 101 or FRS 105)
Manage Client Accounts	The facility to create and edit customer accounts with all relevant details related to the account. There is a preference from an auditing perspective not to delete accounts.
User Licences	80 user licences Are required with a ratio of two licences per project/offering existing

	platform with two licences per project. Respondents should price their licences based on these existing figures.
Invoice Production	End Users must have the ability to produce invoices easily. The facility to apply customised details to invoices e.g., DeMinimis statement and branding/logo features are essential.
DeMinimis Transfers	Knowledge of De Minimis of essential. Declaration of DeMinimis balance needs to be accounted for in the solution to record this important element. The De Minimis transfers applied to the invoice must be equal or less than Invoice value. This is known as De Minimis Pass Through (DMPT). Cumulative DMPT transfers applied also need to be equal or less than the De Minimis balance declared by the customer.
Product/Services Listing	This includes the recording of market value benchmark/breakdowns which are required for calculating the pass on discount.
Reporting Requirements	There are several reports required which will be reported for auditing purposes and the entity using the system must be able to produce a report(s) of – • Interactions across their service offering at a client level.

	• Produce an 'x' monthly report across all funding/invoices produced. • Provide a report for all discounted balances across their service and at a client level. • There may be other reports that Enterprise Ireland may need to furnish internally and externally, so respondents should demonstrate their ad-hoc reporting capabilities in responses.
Receipt Centre	The solution must provide for the facility to integrate with external systems e.g., EventBrite for details of attendance (attendee receipts) at networking or training events be required to recorded on the platform. If respondents can demonstrate their capability in their response, this will be reviewed accordingly.
Transactions	All transactions in Euro (option to support other currencies GBP, USD)
Onboarding of end users	Enterprise Ireland seeks respondents to outline in their proposal response how they propose for end users to be catered for. For example, will a specific email or notification be sent to new projects based on information received from the REDF/BEDF Team to onboard a project?
Support	The support of end-users will be very important for the delivery of the service and respondents should outline their proposed support model in their response. The solution should be web (ticketing) email or phone support for users.

Hosting Locations	All data entered on the platform <u>must</u> be stored and processed within the European Economic Area (EEA) . All solutions must have an industry standard back-up solution in place for its offering.
Security	Platform must demonstrate appropriate security features regarding the access to data and the transmission of data while using the platform
SSO/MFA Authentication	As per Enterprise Ireland Security measures, all respondents must have a or are working towards a SSO/MFA solution for its product offering.
Timelines	The project team would like to see a solution in place as soon as possible and respondents should outline in their quotation their timelines via a high-level project plan and approach for delivery of the solution.
Export of Data	On completion of the lifetime of the project, Enterprise Ireland will need to export the data from the FMS which can be interrogated for auditing purposes. Respondents should outline how their solution can meet this need.
Data Migration	Respondents should also outline their proposed migrations plans (with costs) for their proposed solution. The current data has circa 30 projects created as accounts on the current FMS to record data.
Archiving	Based on EU Regulations specific to Regional Enterprise Development Fund (REDF), records of funded projects require to be maintained for

	up to 15years post project completion, so any solution must allow for an archive option.
--	--

4.2.2 Service Support Requirements

The contract management requirements and definitions are outlined in the table below.

Requirement	Detail
Manage Client Accounts	The successful service provider will be required to create and edit customer accounts with all relevant details related to the account. There is a need from an auditing perspective not to delete accounts. The solution must provide for multiple accounts provided per project (users & their accountants).
Onboarding of end users	Enterprise Ireland seeks respondents to outline in their proposal response how they propose for end users to be catered for. For example, will a specific email or notification be sent to new projects based on information received from the REDF/BEDF Team. All parties will need to record the on-boarding of users.
Support	The support of end-users will be very important for the delivery of the service and respondents should outline their proposed support model in their response. The solution should be web (ticketing) email or phone support for users.
Training Support	Respondents should demonstrate their ability to deliver both face to face (F2F) and online

	training support to projects as part of their solution and tender response. Previous experience at training delivery in an nationwide setting would be desirable.
--	---

4.2.3 Ongoing System Support & Maintenance

Tenderers must demonstrate how the proposed SaaS Financial Management Solution will be maintained and supported throughout the contract period. Tenderers Must provide details of their proposed

Maintenance Policy & Procedures

- Describe your approach to system maintenance, including scheduled updates, patch management, and security fixes.
- Provide details of your release cycle and how updates are communicated to clients.

Service Level Agreements (SLAs)

- Outline guaranteed response and resolution times for incidents.
- Include uptime commitments.

Support Model

- Explain the support channels available (e.g., helpdesk, ticketing system, escalation process).

Compliance & Certifications

- List any relevant certifications (e.g., ISO 27001, SOC 2) that demonstrate adherence to best practices in maintenance and security.

Business Continuity & Disaster Recovery

- Describe your backup strategy, recovery time objectives (RTO), and recovery point objectives (RPO).

4.3 Value and Duration of Framework

The estimated value of the Framework will be **€180,000 - €200,000** and will be initially for four years with the possibility to extend for 1 additional year with a maximum of 2 such extensions.

4.4 Quality and expertise of Resources

Tenderers must submit CVs (not to exceed two (2) A4 pages and using the format in the TRD) for each resource proposed, clearly setting out their individual roles and responsibilities. Please complete the CV tables in the Tender Response Document.

Enterprise Ireland will be assessing the experience of the resource(s) in terms of coverage of the service requirements. Tenderers who can demonstrate greater relevant experience and expertise to the services sought are likely to score higher marks.

Tenderers should note that, as set out in the contract documents, the proposed resource(s) will be required to deliver the services, having regard to the nature of the particular call-off, although Enterprise Ireland reserves the right to seek additional personnel in any call-off contract.

Tenderers should note that Framework Members may, at call off stage, be permitted to supplement their resources with a Consultant/Specialist(s) where, in their opinion, there is a requirement to do so given the nature of the requirements under the call-off. The Consultant / Specialist(s) will be assessed as part of the call off competition. Rates for any agreed supplementary resources must be in line with the rates submitted for the resource types in the Form of Tender where applicable.

The resources proposed will be Key Personnel as set out in Clause 8.2 of the Framework Agreement in the RFT Appendix 1.

4.5 Contract Management

4.5.1 Contract Manager

Enterprise Ireland requires tenderers to nominate a contract manager who will act as the main point of contact for the duration of the contract. This person shall have the authority to deal with all matters in relation to the contract and be responsible for the satisfactory delivery of the services required.

The duties of the dedicated account manager and/or their deputy will include the following:

- Be responsible for contract management.
- Build and maintain a good working relationship with Enterprise Ireland.
- Be responsible for the satisfactory delivery of the solutions and services set down in this ITT.
- Be responsible for day-to-day liaison with Enterprise Ireland.

- Act as the main point of contact for the duration of the framework.
- Have the authority to deal with all matters in relation to the framework
- Be available to Enterprise Ireland between the hours of 9.00 -17.00 Monday to Friday or the nominated deputy account manager if they are unavailable
- Provide regular status reports as agreed with Enterprise Ireland setting out the status of all ongoing contracts.
- Provide regular management and performance reports as agreed with the Enterprise Ireland.
- Meet as and when required to undertake reviews of the operation of the framework, the relationship and their participation on it as a framework member.
- Deal with disputes, complaints or concerns that cannot be adequately resolved.
- Proactively discuss with Enterprise Ireland ways of improving efficiency regarding service delivery in general and providing suggestions for improvement and cost savings.

Tenderers must also appoint a deputy account manager who will have the skills, expertise and experience to carry out the above duties in the absence of the dedicated account manager.

4.5.2 Service Level Agreement

The Framework Member will be required to enter into a Service Level Agreement (SLA) with Enterprise Ireland. The final content of the SLA will be agreed with the Framework Members within three months of the establishment of the framework agreement.

Tender Response Requirements:

Tenderers are required to provide a proposed draft SLA for Enterprise Ireland which will describe in detail how they propose to provide a high-quality Financial Management Solution (FMS) service to Enterprise Ireland and should address the execution, performance, monitoring and delivery of the services required.

At a minimum, the proposed SLA should address the following aspects of service delivery:

- Quarterly or regular management reports that may include such information as statistics, data on ongoing monitoring, tracking, commentary and analytics on overall performance or individual call-off contracts and recruitment campaigns
- Key Performance Indicators information (KPI's) that will be measured and reported on to include the content, nature and frequency of reporting, these will be agreed between the parties prior to completion of the SLA. An example of these is

- Number of active users/month
- Number of users trained/year
- Number of technical queries / year (Tenderers should confirm the capability of their platform to record this data.)
- Contract Management – overall management of contract
- Service Credits for non-performance of agreed service levels
- Communication Plan and Escalation Procedures
- Formal Complaints Procedure
- Provide an overview of an Exit Management Plan for activities and information transfer involved for execution at the conclusion of this framework. The Exit Management Plan might include a list of tasks and timelines for execution including appropriate solutions for the ready access, supply and transfer of relevant data, information, and collateral, if any, to Enterprise Ireland on the conclusion of the framework.

The draft SLA provided should also:

- provide a sample of proposed quarterly or regular management reports to Enterprise Ireland;
- set out your methodology for communicating with other relevant stakeholders within Enterprise Ireland including the Finance Department;
- include your approach to urgent queries (see minimum response times required in the table at section 4.5.3 below).

Tenders will be scored on the level of confidence their proposals give Enterprise Ireland that a high-quality service will be delivered (whilst at a minimum meeting the minimum response times outlined in section 4.5.3 below). The more confidence Enterprise Ireland has that the proposals will deliver a high-quality service, the higher the Tender is likely to score.

Tenderers must limit their response to six (6) A4 pages

NOTE: Tenderers will note that all account management activities set out above will be non-billable (i.e., Enterprise Ireland will not pay separately for account management activities). Enterprise Ireland will nominate authorised staff to liaise with the successful Framework Member(s) and delegate as required.

4.5.3 Minimum response times

Enterprise Ireland requires a flexible and responsive service from its service providers. In general, the following minimum response times are expected:

Task	Minimum Response Time
Acknowledge e-mail/phone call	Same working day if received before noon, and on the morning of the next working day if received in the afternoon.
Respond to straightforward queries	1 - 2 working days
Respond to urgent queries	24 hours
Facilitate meeting request	2 working days
Respond to complex queries	5 - 7 working days

In relation to meetings, Tenderers should note that meetings will be held either virtually or in person. In the event that meetings are held in person they will be held at Enterprise Ireland's premises (to be advised to the Framework Member in advance).

No expenses in respect of travel time and mileage will be payable. Invoices must reflect working hours and timesheets must be accurately maintained and produced promptly upon request by Enterprise Ireland.

4.5.4 Invoicing

Invoices shall be submitted by the successful tenderer(s) on the basis of the agreed terms and conditions. All official invoices must quote a valid Enterprise Ireland purchase order number. All invoices which do not quote the relevant order number(s) will be returned to the supplier.

4.6 Sustainability

As part of Enterprise Ireland's strategic agenda, sustainability planning and wider Environmental, Social and Governance (ESG) considerations (incl. social impact strategy) is

supported. For the purpose of business obligations (e.g. regulatory requirements), competitive advantages (e.g. meeting/exceeding customer and consumer and other stakeholder expectations) and corporate responsibility (e.g. minimising the environmental impact of business activities, maximising social impact within and beyond the business and ensuring good governance and longevity), it is important to Enterprise Ireland that it considers the sustainability of its own business activities and wider ESG standards.

Tenderers, in their response, should provide information on the proposed ESG initiatives for the provision of expert cyber security consultancy services, as follows:

Description of the measures and steps that Tenderers will implement for the term of the Framework Agreement which will promote environmental sustainability and reduce any harmful impact on the environment associated with delivering the Services.

Description of initiatives which support the circular economy that Tenderers will carry out for the term of the Framework Agreement. These must be specific to the Services.

Description of the measures and steps that Tenderers will implement for the term of the Framework Agreement which will promote social impact/inclusion associated with delivering the Services.

Tenderers should clearly outline how these initiatives will be monitored and measured in terms of their impact. Any relevant organisational policies/standards should also be referenced. detail the content and guidance that will be provided to participants regarding sustainability and wider ESG.

Tenders will be scored under Award Criterion: Proposals on the incorporation of Environmentally Sustainable and/or Social Considerations into the delivery of the Services on the relevance of the proposed ESG initiatives to the Services and on the level of confidence their proposals give Enterprise Ireland that these ESG initiatives will be successfully implemented during the Project.

4.7 Delivery Locations

Delivery is required to Enterprise Ireland, East Point Business Park, The Plaza, Dublin 3 D03 E5R6 unless otherwise advised and nationwide to EI funded regional projects.

4.8 Pricing

The maximum price chargeable in respect of all items contracted for the initial four years (4) years of the framework shall be set out in the Form of Tender in the Tender Response Document (TRD) submitted as part of the tender response. All prices quoted must be exclusive of VAT. Costs must be stated in Euro.

Thereafter prices will only be considered for review in consultation with Enterprise Ireland, any increases will not exceed inflation as per CPI.

4.9 Award to Runner Up

If for any reason, it is not possible to admit to the framework agreement one or more of the tenderers invited following the conclusion of this competitive process, Enterprise Ireland reserves the right to invite the next highest scoring tenderer(s) to join the framework agreement as appropriate, at any time during the tender validity period.

If, following the award of any call-off contract under this framework agreement, the Framework Member cannot, for whatever reason, deliver the required services to the satisfaction of Enterprise Ireland; the Enterprise Ireland reserves the right to award the contract to the next highest-ranked tenderer emerging from the process at any time during the contract tender validity period.

4.10 Data Protection

Where the service being tendered for includes processing Personal Data as part of the service delivery, Tenderers are required to enter into a Data Processing Agreement with Enterprise Ireland (Appendix 3). The Data Processing Agreement (DPA) includes Appendix 1 Data Processing Annex that Enterprise Ireland requires successful tenderers to implement to ensure processing will be compliant with Data Protection Laws and ensure the protection of the rights of the data subject.

The Data Processing Agreement is contained in Appendix 3. tenderers should familiarise themselves with the entire agreement and its obligations. **In particular attention is drawn to [Technical and organisational measures/Annex I Data Processing Annex] a copy of which is in the TRD, Section 4, and must be completed and returned as part of the tender response.**

5 Evaluation Criteria

5.1 Selection Criteria

Enterprise Ireland is using the OPEN procedure for the establishment of this framework agreement, therefore, while all interested parties may submit a tender, only those demonstrating that they have the required level of financial and technical capacity will have their tender considered. In order to demonstrate a tenderers' qualifications, tenderers are required to provide the information set out below in the Tender Response Document (TRD) which is based on a self-declaration model, however tenderers are required to provide the minimum information required.

5.1.1 General, Declarations and Financial Requirements

Tenderers are required to complete the Tender Response Document (TRD) which is published as a separate document. The criteria and rules outlined below are assessed on a pass/fail basis. Failure to comply with the requirements will result in the tender being considered inadmissible.

General Information

Tenderers must complete the general information section on the tendering organisation – company name, address and contact details for the individual responsible for this tender and company overview as well as information on sub-contractors and consortium members if applicable.

Declarations

Tenderers must Complete and sign the following Declarations in the Tender Response Document:

- a) Art. 57 of Directive 2014/24/EU as implemented by Regulation SI 284 of May 2016;
- b) Compliance with relevant statutory obligations. Where tenderers are established and operating outside of the jurisdiction of supply, compliance with equivalent legislation as applicable in the country of establishment / operation is required. This includes the Children First Act (2015)
- c) Article 5K Declaration regarding the EU regulation 2022/576 on restrictive measures in the Context of Russian Actions in the Ukraine.

d) Data Protection & Security

Financial and Economic Standing	
Tax	Confirmation that the tenderer / all parties associated with the tenderer are fully tax compliant. Please refer to the tax rules contained in the Tender Response Document.
Financial Standing	For the purposes of Tender submission, completing the declaration in the TRD is all that is required to be submitted in respect of this selection criterion.
	(a) Confirmation of financial standing ensuring the tendering party has the financial capacity to pay its debts identified on the current statement of assets and liabilities as being the debts as they fall due. (b) Confirmation that the tendering party turnover exceeded €200,000 per annum
	For the purposes of Tender submission, completing the declaration in the TRD is all that is required to be submitted in respect of this selection criterion. The supporting documentation which will be required for verification of the TRD declaration is certificates of turnover from the Tenderer's auditors or accountants, as the case may be, or other suitable alternative documentation satisfactory to Enterprise Ireland.
Insurance	Confirmation of the following insurances being in place:
Insurance Type	
Required Value €	
Employer's Liability (where applicable – see notes below)	
€13 million	
Public Liability	
€6.5 million	
Product Liability	
€6.5 million	
Professional Indemnity	
€1 million	

Cyber Liability

€5 million

For the purposes of Tender submission, completing the declaration in the TRD is all that is required to be submitted in respect of this selection criterion.

Notes re Employer's Liability:

#1 Sole traders with no employees are not required to have this insurance.

#2 In the case of certain jurisdictions, alternative insurance arrangements exist (i.e. Government schemes)

#3 The nearest currency equivalents may be accepted depending on the level of cover

5.1.2 Previous Experience

Tenderers are required to provide information on the following in the Tender Response Document. The criteria and rules outlined below are assessed on a pass/fail basis. Failure to comply with the requirements will result in the tender being considered inadmissible.

Satisfactory Previous Experience

Tenderers must demonstrate to the satisfaction of the Enterprise Ireland that they have the experience necessary to supply the Services if their Tender is successful. In order to demonstrate that the Tenderer meets this criterion each Tenderer must submit by completing the TRD with its Tender:

Details of **three (3) reference contracts** relating to delivery for public or private sector clients which demonstrate, to the satisfaction of the Enterprise Ireland, the Tenderer's experience in successfully delivering Financial Management Solutions demonstrating the specific requirements set out at below. Each reference contract must relate to services delivered **within the 36 months prior to the deadline for submission of Tenders**. Reference contracts outside this timeframe will not be considered

(A) **Each** reference contract must demonstrate:

- (i) A seamless, easy to use online platform to support the requirements.
- (ii) The capability for end-users to add client account details, produce invoices and report across accounts created.
- (iii) Allow for the export of data for reporting purposes and **must** also provide for an archiving process based on EU Regulations.
- (iv) End User Support to Projects utilising the solution.
- (v) Provide Training to end users of the platform.

(B) At least **one** of the three reference contracts **must** demonstrate experience of working with:

- (i) Small Medium Enterprises (SME's) & Not for Profit Designated Activity Companies & Companies Limited by Guarantee (DAC's/CLG's) who are involved with EU funded projects.
- (ii) Familiarity and an understanding of State Aid and specifically experience of liaising with recipients of funds which involve Grant & State Aid Experience.

- (iii) Knowledge of (and experience with) De Minimis mechanisms with respect to EU Funds and the pass-through of aid via DeMinimis.

Tenderers must use the table format in the TRD for their answers and must respond to each element of the table.

In completing the table for each reference project, Tenderers must provide sufficient information to allow Enterprise Ireland to evaluate whether all of the requirements at above have been met and whether the services have been successfully delivered.

Tenderers will note that they are to provide contact details for referees for each reference project. Enterprise Ireland has the right to contact the referees to verify the information being provided, without further reference to the Tenderer. It is the responsibility of Tenderers to satisfy themselves that the nominated contact person is in a position to provide a reference if contacted by Enterprise Ireland. Tenderers should note that Enterprise Ireland may at its discretion contact all referees or referees for the successful Tenderers only.

Enterprise Ireland may require supporting documentation to verify the details provided by the Tenderer and Tenderers must provide such supporting information without delay when requested by Enterprise Ireland. However, where the Tenderer is unable, for a valid reason, to provide the requested documentation, the Tenderer must inform Enterprise Ireland of the reason as to why the documentation cannot be supplied and, if Enterprise Ireland considers the reason given to be valid, provide such other suitable alternative documentation to prove, to the satisfaction of Enterprise Ireland, that they have the required capacity to deliver the services.

5.2 Award Criteria

Membership of the Framework Agreement, for Tenderers not otherwise eliminated from the Competition, will be determined by the score that the Tender receives when assessed against the award criteria. Tenderers should ensure that they have submitted sufficient relevant information to allow their tenders to be assessed under each of the award criteria set out below.

The framework will be awarded on the basis of the most economically advantageous compliant tender taking into account the following award criteria and weightings.

	Criteria	Weighting	Maximum Score	Minimum Score Required 60%
A	Cost	30%	3,000	1,800
Tenderers are required to outline their cost proposal in the TRD by completing and signing the Form of Tender and completing the separate Pricing Schedule (excel sheet) Cost will be assessed as set out in Note 2 below				
B	System Functionality	20%	2,000	1,200
Tenderers must clearly describe in their TRD the quality of their proposed system and resources which are referred to in Section 4.2.1 of the ITT. Respondents will be weighted accordingly for their responses against the requirements outlined in the section above.				
C	Service Delivery	10%	1,000	600
Tenderers must clearly describe in their TRD how they will deliver the services described in section 4.2.2 of the ITT.				
D	Quality & Expertise of Team	10%	1,000	600

Tenderers must clearly describe in the TRD Section 4.2 the quality of their proposed resources and are referred to Section 4.4 of the ITT

E	Understanding of and capability with State Aid, Grants Function and DeMinimis Pass Through regulations.	10%	1,000	600
----------	--	------------	--------------	------------

Tenderers must demonstrate their in-depth understanding of and capability in dealing with State Aid Principles with respect to EU funds, regulations and of DeMinimis Pass Through (DMPT). In-depth capability in supporting state aid reporting is essential. Please outline experience in submission of the TRD and refer to Section 4.1 of this ITT.

F	Contract Management	5%	500	300
----------	----------------------------	-----------	------------	------------

Tenderers must clearly describe in their TRD how they will manage contracts awarded under the framework and are referred to Section 4.5 of the ITT.

G	Ongoing System Support & Maintenance	10%	1,000	600
----------	---	------------	--------------	------------

Tenderers must clearly describe in their TRD how they will provide Ongoing System Support & Maintenance under the framework and are referred to Section 4.2.3 of the ITT.

H	Sustainability	5%	500	300
----------	-----------------------	-----------	------------	------------

Tenderers must clearly describe in their TRD

- Measures and steps that Tenderers will implement for the term of the Framework Agreement which will promote environmental sustainability and reduce any harmful impact on the environment associated with delivering the Services.
- initiatives which support the circular economy that Tenderers will carry out for the term of the Framework Agreement. These must be specific to the Services.
- Description of the measures and steps that Tenderers will implement for the term of the Framework Agreement which will promote social impact/inclusion associated with delivering the Services.

Respondents must demonstrate how they support and implement environmental and sustainable efficiencies in their practices and in the delivery of Services. Such measures may include but may not be limited to:

(i) prevention or minimisation of waste

- (ii) use of recycled products and recycling facilities
- (iii) energy conservation in buildings and use of equipment
- (iv) minimising storage requirements and use of paperless office solutions
- (v) providing alternatives to one-use disposable products

Are referred to in **Section 4.6** of this ITT.

Tenderers must use the tender Response Document (TRD) uploaded separately with this ITT to www.etenders.gov.ie for their responses to the award criteria set out below.

NOTE 1: Tenderers should note that they must achieve a minimum rating of **60%** for each of the individual qualitative criteria (B – XX) in order to avoid elimination from the competition.

Qualitative criteria will be scored using the following baseline scoring system:

100%	Outstanding
90%- 99%	Excellent
80%-89%	Very Good
70% - 79%	Good
60% - 69%	Acceptable
Less than 60%	Unacceptable

Marks between the baselines outlined above can be awarded where responses so merit additional marks.

NOTE 2: Please note that in relation to **criterion (A)**, tenders will be scored in inverse

proportion to the maximum score, which will be allocated to the lowest cost valid tender not previously eliminated on qualitative grounds.

NOTE 3: Tenderers should ensure in their tenders that they provide detailed information in respect of all aspects of the award criteria as stated above. This will enable the awarding authority to assess fully the extent of their offers.

NOTE 4: Establishment of the frameworks may be subject to attendance at a clarification and verification meeting. It would be essential that the key personnel assigned to this framework should be available and present at this meeting.

NOTE 5: Tenderers should note that Enterprise Ireland reserves the right to confirm that the financial and technical capacity of the tenderer is valid and unchanged prior to the award of any contract.

6 INSTRUCTIONS TO TENDERERS

6.1 Submission of Tenders

Enterprise Ireland is using the postbox facility on eTenders, and tender responses must be submitted electronically via the eTenders postbox facility on www.etenders.gov.ie only. Only tenders submitted to the electronic postbox will be accepted. Tenders submitted by any other means (including but not limited to by email, post or hand delivery) will **not** be accepted.

Tenderers must ensure that they give themselves enough time to upload and submit all required documentation before the closing date/time noting the use of the new eTenders platform. Tenderers should consider the fact that upload speeds vary. In order to submit a response to the electronic post-box, please note that you must ensure you have submitted the response completely. It is advisable to familiarise yourself with the new platform prior to the closing date.

Below we provide an overview of the key steps. Please note that Enterprise Ireland take no responsibility for these steps being the totality of the steps required as different processes may require different actions.

If in doubt, please ensure you contact the eTenders helpdesk as follows:

Email: irish-eproc-helpdesk@eurodyn.com

Phone: +353-818001459

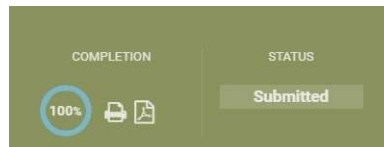
6.1.1 Accessing documents

It is important to note that you must ensure you **ASSOCIATE** your company with this competition in the first instance. To do this you must do the following:

- (a) Log-in to the system
- (b) Locate the competition using the Advanced Search by Enterprise Ireland or Resource ID
- (c) Click on the hyperlink for the competition which will bring you to the CfT Workspace
- (d) In the Show CfT Menu for the competition click on the “Expression of Interest” in the drop down menu
- (e) Complete the “Association with the CfT” tab.
- (f) This will then provide you with a link to “Tender” under the Show CfT Menu

6.1.2 Submitting your Response

In responding to a competition without an electronic ESPD, a number of steps are required. The final step involves clicking on a Submit button and receiving the following status:



If you do not receive a message similar to above, you have not submitted your response.

Please note that the screen may say **OFFLINE**, this is a technical feature of eTenders and does not mean you cannot submit. Also please note you may see the percentage field also saying 100% before you submit, this still requires you to go through the submit button.

Please upload your response as a **ZIP FILE** to protect the integrity of the file names.

It is the responsibility of the Tenderer to ensure that their tender is complete and is uploaded in accordance with the instructions provided on eTenders prior to the deadline as per the front page.

DO NOT CLICK “PROCEED WITHOUT ASSOCIATION” – IN DOING SO WE WILL NOT BE ABLE TO TRACK YOUR INTEREST OR COMMUNICATE WITH YOU ABOUT THE COMPETITION AND YOU WILL NOT BE ABLE TO SUBMIT A TENDER RESPONSE.

6.2 Query Process for Framework and Contract Terms and Conditions

Please refer to the Framework Agreement (Appendix 1) and the Call Off Terms and Conditions (Appendix 2). It is intended that these terms and conditions will be finalised (with minor amendments, if necessary) during this Query process and responses to such queries will be broadcast on eTenders to all tendering parties. To this end, tenderers should use the query process set out at (b) above to highlight any clauses that they may wish to discuss. Any proposed amendment should be described in clear detail. It will be at Enterprise Ireland’s sole discretion to modify the Framework and Contract Terms and Conditions. Enterprise Ireland will not be in a position to subsequently discuss any proposed amendments during the tender assessment process and at framework / contract award stage.

6.3 Sufficiency & Accuracy of Tender

Tenderers will be deemed to have examined all the documents submitted and by their own independent observations and enquiries will be held to have fully informed themselves as to the nature and extent of the requirements of the tender.

Tenderers are cautioned to check the accuracy of their tender prior to submission. A tender found containing any clerical errors or omissions may, at the sole discretion of Enterprise Ireland, be referred back to the tenderer for correction. Any subsequent adjustment(s) must be confirmed in writing.

Enterprise Ireland reserves the right to disqualify incomplete tenders.

6.4 Tender Documents - Ambiguity, Discrepancy, Error, Omission

If you consider that you are missing any documents which would prevent you from submitting a comprehensive tender, please email the contact detailed above as soon as possible.

Tenderers shall immediately notify Enterprise Ireland via the messaging tool on etenders should they become aware of any ambiguity, discrepancy, error or omission in the Tender Documents. Enterprise Ireland will, upon receipt of such notification, issue a clarification via eTenders in respect of any such ambiguity, discrepancy, error or omission. Such clarification shall then form part of the Tender Documents.

Enterprise Ireland reserves the right at any time before the Tender Deadline, to update or amend the information contained in this document. Participating Tenderers will be informed of any such amendment or extension through the eTenders website.

6.5 Qualification of Tenders and Referential Bids

Please note that qualifications to a Tender may be considered a counter offer and may render the tender invalid. Tenders made by reference to other tenders are not valid and cannot be considered.

6.6 Extension of Tender Period

Enterprise Ireland reserves the right, at its sole discretion, to extend the closing date for receipt of tenders by giving notice in writing to all parties who have expressed an interest in the notice via eTenders before the original closing date.

6.7 Modifications to Tenders prior to the Closing Date for Receipt of Tenders

Modifications to Tenders will be accepted in the form of supplementary information and/or addenda, provided they are submitted via the e-Tenders Postbox facility before the closing date and time for receipt of tenders and clearly marked as part of the tender. Any modifications received after the closing time or outside of the eTenders Postbox facility will not be considered.

6.8 European Single Procurement Document (ESPD)

We will accept an ESPD if Tenderers wish to submit for this competition PROVIDED THAT they confirm: (i) the information contained in it continues to be correct and (ii) they satisfy the Selection Criteria for this Competition as set out in 5.1

6.9 Form of Tender

Tenderers are required to complete, sign and return the Form of Tender set out as an Appendix to this Invitation to Tender. Failure to sign the Form of Tender, or to complete it in the required format, will result in rejection of the tender.

6.10 Cost of Preparation of Tender

Enterprise Ireland will not be liable for any costs, charges or expenses incurred by tenderers in the preparation of proposals or any associated efforts. It is the responsibility of the tenderer to ensure that they are fully aware and understand the requirements as laid down in this document. Tenderers will be responsible for any costs incurred by them in the event of their being required to attend clarification or other meetings or make a presentation of their proposals.

6.11 Tender Validity Period

To allow sufficient time for Tender assessment a Tender Validity period of 12 months is required, this period commencing on the closing date by which the Tenders are to be returned.

6.12 Currency and Prompt Payments

The currency and invoices in which all prices and rates shall be tendered, and which payments under the contract will be paid, shall be Euro (€). All prices and rates quoted should be exclusive of Value Added Tax (VAT).

Payments will be as agreed with the successful tenderer and method of payment used by Enterprise Ireland is normally Electronic Funds Transfer (EFT).

Enterprise Ireland adheres to prompt payment legislation and other administrative requirements. In support of this, Enterprise Ireland has signed up to the Prompt Payment Code (PPC). As a signatory of the PPC, the Enterprise Ireland encourages all lead suppliers to endeavour to sign up to the Prompt Payment Code. Full details can be found at <http://www.promptpayment.ie/>

Enterprise Ireland also operates in accordance with the European Communities Late Payment in Commercial Transactions Regulations 2012.

6.13 Confidentiality

The distribution of the tender documents is for the sole purpose of obtaining offers. The distribution does not grant permission or licence to use the documents for any other purpose. Tenderers are required to treat the details of all documents supplied in connection with the tender process as private and confidential.

6.14 Conflict of Interest

Any conflict of interest involving a tenderer (or tenderers in the event of a consortium bid) must be fully disclosed to Enterprise Ireland. Any registrable interest involving the tenderer and Enterprise Ireland or employees of Enterprise Ireland or their relatives must be fully disclosed in the tender submission or should be communicated to Enterprise Ireland immediately upon such information becoming known to the tenderer, in the event of this information only coming to their notice after the submission of a bid and prior to the award of the contract. The terms 'registrable interest' and 'relative' shall be interpreted as per Section 2 of the Ethics in Public Office Act, 1995. Failure to disclose a conflict of interest may disqualify a tenderer or invalidate an award of contract, depending on when the conflict of interest comes to light.

6.15 Freedom of Information Acts

Tenderers are asked to consider if any of the information supplied by them in response to this request for tenders should not be disclosed because of its sensitivity. If this is the case, tenderers should specify the information that is sensitive and the reasons for its sensitivity. Enterprise Ireland cannot guarantee that any information provided by tenderers, either in response to this tender or in the course of any contract awarded as a result thereof, will not be released pursuant to the Enterprise Ireland's obligations under law, including the Freedom of Information Act 2014, EU and Irish Government Procurement Procedures or in response to questions, debates or other parliamentary procedures in or of the Oireachtas (the Irish Parliament). Enterprise Ireland 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 disclosure.

6.16 Data Protection Legislation

“Data Protection Laws” means all applicable national and EU data protection laws, regulations and guidelines including but not limited to Regulation (EU) 2016/679 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (the “**General Data Protection Regulation**”), the Data Protection Act, 2018 and any guidelines and codes of practice issued by the Data Protection Commission or other supervisory authority for data protection in Ireland from time to time.

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

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

6.17 Transfer of Data outside the European Economic Area (EEA)

It is the intention of Enterprise Ireland that no data gathered on behalf or entered by the Enterprise Ireland can be stored or processed outside of the European Economic Area (EEA) for the duration of the contract. Tenderers need to clearly state where, geographically, the data is stored and processed, backup/DR data included and confirm that no data is stored or processed outside of the EEA.

In the event that the data needs to be stored and/or processed outside of the EEA, tenderers are asked to specify if an adequacy decision (https://ec.europa.eu/info/law/law-topic/data-protection/data-transfers-outside-eu/adequacy-protection-personal-data-non-eu-countries_en) exists in relation to the non-EU country where they intend data storage and/or processing to be carried out.

In the event of a post Brexit situation where the United Kingdom (UK) is outside the EEA and storage and processing of the Enterprise Ireland's data is intended to be carried out with the UK, a Standard Contractual Clause (https://ec.europa.eu/info/law/law-topic/data-protection/data-transfers-outside-eu/model-contracts-transfer-personal-data-third-countries_en) will be required between the Enterprise Ireland and successful tenderer. Tenderers must confirm that they are willing engage with the Enterprise Ireland on putting this measure in place if the situation applies.

6.18 Service Audit

Enterprise Ireland reserves the right to undertake a service audit to validate and verify performance against the agreed contract terms. This service audit may be carried out by Enterprise Ireland or a third party on their behalf. In tendering, tenderers agree to facilitate such audits.

6.19 Tax Clearance Certificate

It will be a condition of award of contract that the successful tenderer(s) shall, for the term of such contract(s), comply with all EU and domestic tax laws. This applies to both Irish Resident suppliers and Non-Resident suppliers. Tenderers are referred to www.revenue.ie for further information.

Prior to the award of any contract arising out of this competition, the successful Tenderer shall be required to supply its Tax Clearance Access Number and Tax Reference Number to facilitate online verification of their tax status by Enterprise Ireland or to provide a copy of their Tax Clearance Certificate (where applicable).

By supplying these numbers, the successful Tenderer, acknowledges and agrees that Enterprise Ireland has the permission of the successful tenderer to verify its tax cleared position online.

6.20 Withholding Tax

Where applicable, relevant payments shall be subject to Irish 'Professional Services Withholding Tax' at the prevailing rate (currently at 20%) as laid down by the Revenue Commissioners in Ireland. Non-residents may be able to reclaim such deducted Tax from the Office of the Revenue Commissioners in Ireland, International Claims Section located currently at Government Buildings, Nenagh, Co. Tipperary, Ireland (Tel: +353-67-63400).

6.21 Irish Legislation and Law

Tenderers should be aware that national legislation applies in other matters such as Employment, Working Hours, Official Secrets, Data Protection and Health and Safety. Tenderers must have regard to statutory terms relating to minimum pay and to legally binding industrial or sectoral agreements in Enterprise Ireland tenders and in delivering contracts awarded to them.

The contract[s] awarded on foot of this tender process will be governed by Irish law.

6.22 Clarification of Tenders

Enterprise Ireland is entitled, but not obliged, to seek clarification of tenders in the course of the evaluation process. No change in the price or substance of the Tender shall be sought, offered or permitted. To assist in finalising the tender evaluation, selected tenderers may be invited to attend clarification meetings with Enterprise Ireland.

6.23 Correction of Errors

Detailed pricing of all tenders will be examined for errors that might alter the tender pricing as determined from the figures on the tender. In general, the following approach will be applied to manifest errors:

- Where there is a discrepancy between amounts in figures and words the amount in words shall apply.
- Where there is a discrepancy between the unit price and the total amount derived from the multiplication of the unit price and the quantity, the unit price as quoted will normally govern.

The amount stated in the tender form will be adjusted by Enterprise Ireland in accordance with the above procedure and, with the agreement of the tenderer, shall be considered as binding upon the tenderer. Without prejudice to the above, a tenderer not accepting the correction of their tender as outlined may have their tender rejected.

6.24 Change in the Composition of a Tender

Enterprise Ireland reserves the right, but is not obliged, to disqualify any Tenderer that makes any change to its composition after submission of a Tender.

6.25 Interference and Inducement to Purchase

Any effort by the tenderer to unduly influence Enterprise Ireland, relevant agency personnel or any other relevant persons or bodies in the process of examination, clarification, evaluation and comparison of tenders and in decisions concerning the Award of Contract shall have their tender rejected. In accordance with Section 38 of the Ethics in Public Office Act 1995 any money, gift or other consideration from a person holding or seeking to obtain a contract will be deemed to have been paid or given corruptly unless the contrary is proved.

6.26 Notification of Tender Evaluations

All tenderers will be informed of the outcome of their proposals following tender evaluation and any necessary clarifications. Potential outcomes can be:

- a)** Letter of Intent of award of contract.
- b)** Letter of Regret.

In the case of EU value contracts, the following information will be provided in the Letter of Regret – name of successful tenderer designate; the applicable standstill period; scores of tenderer and that of successful tender; features and characteristics of winning tender where they scored higher marks in specific criteria. Enterprise Ireland will undertake not to award the contract for a period of at least 14 (or whatever period is stated in the notification letters) days from the date of notification of unsuccessful tenderers ('standstill period').

Following the award of contract or the conclusion of framework agreement an award notice will be despatched to the Official Journal of the European Union announcing the results of the competition no later than 30 days afterwards. It should be noted that it is standard practice

for Enterprise Ireland to include the price of the winning tender or the range of prices of tenders received in the publication of the award notice as required under European procurement rules.

6.27 Policy on Personal Debriefings

Based on the provision of the information to unsuccessful tenderers as outlined above and due to resourcing constraints, Enterprise Ireland will not be offering individual debriefing meetings to unsuccessful bidders.

6.28 Award to Runner-up

If for any reason it is not possible to award the contract to the designated successful tenderer emerging from this competitive process, or if having awarded the contract, Enterprise Ireland considers that the successful tenderer has not met its obligations, Enterprise Ireland reserves the right during the tender validity period to award the contract to the next highest scoring tenderer on the basis of the terms advertised without re-opening the competition. This shall be without prejudice to the right of Enterprise Ireland to cancel this competitive process and/or initiate a new contract award procedure at its sole discretion. Note: if Enterprise Ireland is awarding a framework agreement the same procedure will apply.

6.29 Right to Award to More than One Supplier

Enterprise Ireland reserves the right to award the contract to more than one supplier where it considers that none of the tenders meet the full scope of requirements. On that basis award to more than one tenderer will only occur where the components / related costs can be separately assessed.

6.30 Replacement Personnel

Notification must be sent in writing as soon as possible to Enterprise Ireland on any proposed change of nominated personnel, such change to be subject to the written approval of Enterprise Ireland. Replacement personnel must be of equal or better standing than the existing personnel in terms of qualifications and experience.

6.31 Copyright

Enterprise Ireland will have copyright ownership of any material developed for use by Enterprise Ireland under the terms of this tender. The service provider may have a non-exclusive licence to use such material but only for its own purposes (to be agreed with the successful tenderer)

6.32 Brand Names, etc.

Please note in relation to this tender document; where reference is made to a particular make, source, process, trademark, type or patent, that this is not to be regarded as a de facto requirement. In all such cases it should be understood that the reference in question is accompanied by the words "or equivalent".

APPENDIX 1 - FRAMEWORK AGREEMENT

Note to Tenderers: Please see pdf documents as follows:

Appendix 1 – Framework Agreement' which is a multi-operator framework agreement

These have been uploaded separately to eTenders (**Resource ID: xxxxxx**)

APPENDIX 2 – CALL-OFF TERMS AND CONDITIONS

WHEREAS:-

The following terms and conditions shall, unless otherwise agreed to in writing by Enterprise Ireland, apply to all purchases of services by Enterprise Ireland:-

The following terms and conditions shall, unless otherwise agreed to in writing by Enterprise Ireland, apply to all purchases of services by Enterprise Ireland:-

Definitions:

“Framework Agreement” means the Framework Agreement entered into between Enterprise Ireland and the Seller, dated **xx Xxxx 2023**, for the provision of [insert title of Framework Agreement], including the Recitals to, and Schedules of, the Framework Agreement;

"Seller" means [insert framework member name] of [insert framework member address]

IT IS AGREED:-

1 PURCHASE

- 1.1** The Seller shall provide, and Enterprise Ireland shall receive the services, as set out in Appendix 1 – Statement of Work, on the execution by Enterprise Ireland of a purchase order or contract for the price agreed and shown thereon.
- 1.2** Services supplied to Enterprise Ireland shall be deemed to be supplied on these terms and conditions and no purported variation of these terms and conditions shall be valid unless specifically agreed by Enterprise Ireland.

- 1.3** Enterprise Ireland will not accept responsibility for any order which is not on an official order form and fully signed by an authorised officer.

2 APPLICABILITY AND LAW

These terms and conditions shall be governed and construed by the laws of Ireland and the parties agree to submit to the exclusive jurisdiction of the Irish Courts.

3 PAYMENT

- 3.1** In consideration of the provision of services, Enterprise Ireland shall pay Seller in accordance with agreed prices and rates ("charges") as stated in the Purchase Order.

3.2 Invoice and Monthly Statement

- 3.2.1** Seller shall issue an invoice for each individual Purchase Order.
- 3.2.2** The invoice shall be sent directly to Accounts Payable in the Finance Department Enterprise Ireland or e-mailed to accounts.payable@enterprise-ireland.com quoting the Purchase Order number
- 3.2.3** The supplier name on the invoice must be the same as on the Purchase Order.
- 3.2.4** The invoice quantity, value and currency must be the same as on the Purchase Order.
- 3.2.5** The description on the invoice must reasonably match that on the Purchase Order.
- 3.2.6** Invoices received without a Purchase Order will be returned. A single monthly statement shall be submitted by Seller within three (3) working days of month end. This statement shall include a breakdown showing all individual invoice charges for the month.

3.3 Tax Clearance Certificates

Where cumulative payments exceed €10,000 (including VAT), in a 12-month rolling period, a valid Tax Clearance Certificate from Irish Revenue must be submitted to Enterprise Ireland. This applies to both Irish Resident suppliers and Non-Resident suppliers.

3.4 Professional Services Withholding Tax

Where professional Services are provided to Enterprise Ireland, the payment for such services are liable to Professional Services Withholding Tax (PSWT) at 20%. An F45 will be issued in receipt of the deduction. The PSWT deducted can be re-claimed from the Irish Revenue. This applies to both Irish Resident suppliers and Non-Resident suppliers.

3.5 E-Day Bank Details for Payment

3.6.1 Enterprise Ireland (like all Irish Public Bodies) no longer sends cheques to businesses in Ireland.

3.6.2 To receive payment for your supply to Enterprise Ireland the business bank details must be submitted to accounts.payable@enterprise-ireland.com

3.7 Late Payments

3.7.1 Enterprise Ireland is bound by the **Late Payment in Commercial Transactions Regulations 2012**.

3.7.2 All public sector bodies must pay invoices within 30 days of receipt of invoice (invoice must be received by Accounts Payable, Finance, Enterprise Ireland) or the services, whichever is the later.

3.7.3 After 30 days, interest and compensation is automatically applied to monies outstanding, if the invoice is correct and there are no outstanding queries in relation to it.

3.7.4 Invoices/delivery shall be queried by Enterprise Ireland within 10 working days of receipt in writing.

3.7.5 The rate of interest payable under this sub-clause shall be ECB main re-financing rate plus 8 percentage points.

3.7.6 Any queries on invoices should be addressed to accounts.payable@enterprise-ireland.com.

4 INDEPENDENT CONTRACTOR

4.1 Seller is an independent contractor and neither it nor its sub-contractors or its or their employees or agents are the sub-contractor, agent or employee of Enterprise Ireland, and they shall not hold themselves out to be so.

4.2 Seller shall comply with all applicable laws, ordinances, statutes, orders, rules and regulations of any governmental authority having jurisdiction (hereafter "Laws") and shall, unless otherwise stipulated, obtain and pay for all licences and permits necessary for the provision of services in accordance with such Laws.

5 WARRANTY

5.1 Seller hereby warrants its power to enter into contracts and that it has obtained all necessary approvals to do so.

6 INDEMNITY

6.1 If notified promptly in writing of any action brought against Enterprise Ireland based upon a claim that any services provided by Seller infringes any patent, trade mark, copyright or other intellectual property right, the Seller shall if called upon to do so by Enterprise Ireland defend such action at its expense and pay any costs and damages awarded and any expenses incurred by Enterprise Ireland in connection with the claim (including legal and other expert fees). If so called upon, Seller shall have sole control of the defence of any such action and all negotiations for its settlement or compromise.

7 LIMITATION OF LIABILITY

7.1 In no event will Enterprise Ireland's total liability for damages and actions based on contract or tort arising out of or in connection with a Purchase Order exceed the amount remaining due under that Purchase Order.

7.2 In no event shall Enterprise Ireland be liable for any indirect or consequential loss suffered by Seller.

8 FREEDOM OF INFORMATION

Please note Enterprise Ireland is subject to the Freedom of Information Act 2014. The following extract may be relevant to this Purchase Order:

A record in the possession of a service provider shall, if and in so far as it relates to the service, be deemed for the purposes of this Act to be held by the FOI body, and there shall be deemed to be included in the contract for the service a provision that the service provider shall, if so requested by the FOI body for the purposes of this Act, give the record to the FOI body for retention by it for such period as is reasonable in the particular circumstances.

9 CONFIDENTIALITY

Save as provided for by law, including the Freedom of Information Act 2014, both parties agree to maintain in confidence and not disclose, reproduce, copy any materials, documentation or specification which are provided to the other hereunder. Both parties shall take all reasonable steps to ensure that its employees, agents, Sub-contractors are bound by the same obligation.

10 FORCE MAJEURE

Neither party will be liable for failure or delay in the performance of its obligations under a Purchase Order due to causes beyond its control including but not limited to strikes, wars, revolutions, fires, floods, explosions, earthquakes or governmental regulations.

11 ASSIGNMENT

Seller shall not assign a Purchase Order or any part thereof without Enterprise Ireland's prior written approval.

12 SUB-CONTRACTING

- 12.1** Seller shall not sub-contract all or any part of its obligations under a Purchase Order without Enterprise Ireland's prior written approval. No such approval shall create any contractual relationship between Enterprise Ireland and any sub-contractor.
- 12.2** Seller shall be fully responsible for those elements performed by its sub-contractors and for the acts and omissions of all its sub-contractors to the same extent as it is for the acts and omissions of persons directly employed by it.

13 NOTICES

- 13.1** Any demand, notice or communication shall be deemed to have been duly served:-
 - 13.1.1** If delivered by hand, when left at the proper address for service (except that where such delivery is not on a working day, service shall be deemed to occur on the next following working day).
 - 13.1.2** If given or made by prepaid post, two working days after being posted.
- 13.2** Any demand notice or communication shall be made in writing to the recipient at its registered offices, or in the case of Enterprise Ireland, East Point Business Park , Dublin 3 , Ireland (or such other address as may be notified in writing from time to time) marked for the attention of the Purchasing Manager, Enterprise Ireland.

14 WAIVER

- 14.1** Failure to exercise or delay in exercising on the part of either party any right, power or privilege of that party under a Purchase Order shall not in any circumstances operate as a waiver thereof nor shall any single or partial exercise of any right, power or privilege in any circumstances preclude any other or further exercise thereof or the exercise of any other right, power or privilege.

- 14.2** Any waiver of a breach of any of the terms hereof or of any default hereunder shall not be deemed a waiver of any subsequent breach or default and shall in no way affect the other terms of a Purchase Order.

15 HEADINGS

The headings to the clauses of these terms and conditions shall not affect the construction of the clauses.

16 SEVERABILITY

If any part of a Purchase Order is found by a court of competent jurisdiction or other competent authority to be invalid, unlawful or unenforceable, then such part shall be severed from the remainder of the Purchase Order which will continue to be valid and enforceable to the fullest extent permitted by law.

17 CANCELLATION

- 17.1** Enterprise Ireland may cancel an order in whole or in part at any time by written or electronic notice in the event that the Seller:

17.1.1 fails to comply with any term or condition of the order including but not limited to delivery terms; or

17.1.2 is subject to a receiver, liquidator or other similar officer being appointed over any or all of its property or assets; or files a voluntary petition in bankruptcy; or

17.1.3 voluntarily ceases trading

18 INSURANCE

If Seller's work involves operations by Seller on Enterprise Ireland's premises or at any of Enterprise Ireland's customers or at any place where Enterprise Ireland conducts operations, the Seller shall take all necessary precautions to prevent the occurrence

of any injury to persons or property during the progress of such work and except to the extent that such injury is due solely and directly to Enterprise Ireland's negligence, the Seller shall indemnify Enterprise Ireland against all loss which may result in any way from any act or omission of Seller, its employees, servants, agents or sub-contractors and Seller shall maintain such public liability, personal injury and property damage and employer's liability and compensation insurance as will protect Enterprise Ireland from said risks and shall produce evidence of such insurance upon request by Enterprise Ireland.

19 Data Protection

- 19.1** Seller shall comply with all applicable data protection law including but not limited to the General Data Protection Regulation 2016 (the GDPR), the Data Protection Act 2018 and any other national implementing legislation ("**Data Protection Law**").
- 19.2** In this clause 19, the terms "personal data", "processor", "controller", "data subject", supervisory authority", "personal data breach" and "processing" have the meaning given to those terms in Data Protection Law. "Sub-processors" shall mean other processors that are used by Seller to process personal data.
- 19.3** To the extent that Enterprise Ireland acts as a controller and Supplier acts as a processor, and the provision of the goods or services requires Supplier to process personal data relating to Enterprise Ireland's clients, employees, officers and/or other persons, at Enterprise Ireland's request or under Enterprise Ireland's instructions, Seller shall comply with its obligations as processor under this clause 19.
- 19.4** The subject-matter and duration of the processing, the nature and purpose of the processing, the type of personal data, the categories of data subjects and Enterprise Ireland's obligations and rights as controller are as provided in the applicable agreement between Enterprise Ireland and Seller and/or further to written or oral instructions that Seller receives from Enterprise Ireland. ¹
- 19.5** In processing personal data that Enterprise Ireland provides to Seller, Seller warrants and represents that Seller is, and shall be for so long as Seller processes any such data, fully compliant with the Data Protection Law and Seller agrees:

- 19.5.1** To only process the personal data on Enterprise Ireland's documented instructions, unless Seller is required to do so by EU or Irish law. Seller shall inform Enterprise Ireland of that legal obligation before processing, unless that law prohibits such information on important grounds of public interest.
- 19.5.2** Not to transfer the personal data to a recipient outside the EEA, without Enterprise Ireland's prior written consent, unless the transfer is subject to the terms of a contract incorporating the standard contractual clauses in the form adopted by the European Commission; the recipient is in a country the subject of an adequacy decision by the European Commission; or the transfer is to the US to an entity that is a certified member of the EU-US Privacy Shield scheme.
- 19.5.3** To impose a duty of confidentiality on any staff and subcontractors of Seller, where applicable, with access to the personal data.
- 19.5.4** To implement technical and organisational security measures appropriate to the risks of processing the personal data, including pseudonymisation and encryption of personal data; the ability to ensure the ongoing confidentiality, integrity, availability and resilience of processing systems and services; the ability to restore the availability and access to personal data in a timely manner in the event of a physical or technical incident, and a process for regularly testing, assessing and evaluating the effectiveness of security measures.
- 19.5.5** Not to engage another processor without Enterprise Ireland's prior specific or general written authorisation. In the case of general written authorisation, Seller shall inform Enterprise Ireland of any intended changes concerning the addition or replacement of other processors, thereby giving Enterprise Ireland the opportunity to object to such changes.
- 19.5.6** To require any sub-processor that Seller engages to process the personal data on Enterprise Ireland's behalf, to adhere to the same obligations that Seller undertakes in these terms and conditions, to ensure such processing meets the requirements of the Data Protection Law, and Seller will remain fully liable for any breach by a sub-processor of its obligations in relation to the processing of the personal data.

- 19.5.7** Insofar as possible, and taking into account the nature of the processing, assist Enterprise Ireland by appropriate technical and organisational measures to fulfil Enterprise Ireland's obligation to respond to individuals' requests to exercise their rights to transparent information, access, rectification, erasure, restriction of processing, objection and portability under Data Protection Law.
- 19.5.8** Taking into account the nature of the processing and the information available to Seller, assist Enterprise Ireland in ensuring compliance with its obligations under Data Protection Law in regard to data security; data breach notification to the supervisory authority and to individuals; carrying out Data Protection Impact Assessments and related consultations with supervisory authorities.
- 19.5.9** At Enterprise Ireland's request, delete or return all the personal data to Enterprise Ireland after the end of the provision of Seller's goods or services, and delete existing copies unless EU or Member State law requires storage of that personal data.
- 19.5.10** Make available to Enterprise Ireland all information necessary to demonstrate compliance with the obligations laid down in Article 28 of the GDPR, and allow for and contribute to audits, including inspections, conducted by Enterprise Ireland or another auditor mandated by Enterprise Ireland.
- 19.5.11** Immediately inform Enterprise Ireland if, in Seller's opinion, an instruction of Enterprise Ireland infringes Data Protection Law.

On behalf of the Seller

Name:

(Block letters)

Position:

Signature:

Date:

Witnessed by:

(signature)

Witness name:

(Block letters)

On behalf of Enterprise Ireland

Name:

(Block letters)

Position:

Signature:

Date:

Witnessed by:

(signature)

Witness name:

(Block letters)

APPENDIX 1 – Statement of Work

Note to Tenderers: Details of the Call-Off Contract services will be inserted here prior to issuing for signing

APPENDIX 3 – DATA PROCESSING AGREEMENT



ENTERPRISE IRELAND LIMITED

and

[INSERT SUPPLIER NAME]

DATA PROCESSING AGREEMENT

THIS DATA PROCESSING AGREEMENT is made on **[insert date]**

BETWEEN:

(1) **ENTERPRISE IRELAND** with Principal Office at The Plaza, Eastpoint Business Park, Dublin 3 (**EI**); and

(2) **[.]** (**the Supplier**) having its registered office at **[.....]**.

(each a **Party** and together the **Parties**).

BACKGROUND:

(A) The Supplier is **[insert description of the Supplier's business activities]**.

(B) The Supplier is providing the Services to EI pursuant to a framework agreement for **[insert title of framework agreement]** dated **[insert date of agreement]** (the “**Services Agreement**”).

(C) In the course of providing the Services to EI pursuant to the Services Agreement, the Supplier will process Personal Data on behalf of EI. The Supplier agrees to comply with the following provisions with respect to any Personal Data processed on behalf of EI.

AGREED TERMS:

1 DEFINITIONS AND INTERPRETATION

1.1 In this Agreement the following expressions will have the following meanings unless expressly stated to the contrary:

Commencement Date means **[.]**;

Confidential Information means any information, that relates to the business, affairs, operations, customers, processes, budgets, pricing policies, product information, strategies, developments, trade secrets, know-how, methods, technology, technical data, personnel and suppliers of the disclosing party, and any other information clearly designated by a Party as being confidential to it (whether or not it is marked

"confidential"), or which ought reasonably be considered to be confidential, or other matters connected with the Services;

Controller Data means all Personal Data and Confidential Information that may be supplied to the Processor by or on behalf of the Controller pursuant to the Services Agreement or produced or obtained by the Processor wholly or partly at the Controller's expense;

Data Controller, Data Processor, Data Subject, Personal Data, Processing and Prior Consultation shall have the meanings ascribed to them under Data Protection Law;

Data Processing Annex means Annex 1 to this Agreement;

Data Protection Law means (i) Data Protection Acts 1988 to 2018 in Ireland (as amended or replaced); (ii) to the extent applicable, the data protection and information privacy laws of another jurisdiction; (iii) the General Data Protection Regulation (EU) 2016/679 (**GDPR**); (iv) any subsequent re-enactment, replacement or amendment of such laws; and (v) any guidance issued by the Irish Data Protection Commission (or replacement Irish supervisory authority);

Data Security Breach means any known potential or actual breach of the Data Controller's minimum information security requirements, or any obligations or duties owed by the Data Processor to the Data Controller relating to the confidentiality, integrity or availability of Confidential Information or Personal Data;

Group means of a party means in relation to a party, that party, any subsidiary or holding company of that party, and any subsidiary of a holding company of that party,

'holding company' and 'subsidiary' having the meanings given to them in sections 7 and 8 of the Companies Act 2014 (Ireland);

Losses means all direct, indirect or economic loss (including loss of profits), liability, damage, injury, claim, action, demand, expense (including legal and other professional services expenses on a full indemnity basis) or proceedings awarded against, suffered, incurred or paid by the Controller;

Personnel means (i) the officers, employees, agents and contractors (including Subcontractors) of a Party and the members of its Group; and (ii) the officers, employees, contractors and agents of the contractors (including Subcontractors) of that Party and the members of its Group;

Regulator means any regulator or regulatory body (including the Office of the Data Protection Commissioner and its successor) to which the Data Controller is subject from time to time or whose consent, approval or authority is required so that the Data Controller can lawfully carry on its business; and

Services mean the services to be delivered by or on behalf of the Data Processor under the Services Agreement.

2 DATA CONTROLLER AND DATA PROCESSOR

- 2.1** In order to provide the Services to EI, the Supplier will require certain Personal Data to be made available to it by EI.
- 2.2** The Parties acknowledge that for the purposes of Data Protection Law, EI is a Data Controller (the **Controller**) under the Services Agreement.
- 2.3** The Supplier is a Data Processor (the **Processor**) in respect of the Personal Data processed under the Services Agreement on behalf of the Controller. All right, title and interest in the Personal Data shall vest solely in the Controller and the Processor

shall not acquire any rights in the Personal Data, except as may be set out in this Agreement or the Services Agreement.

- 2.4 The rights and obligations of each party in connection with data processing activities are set out in clause 3 below.

3 DATA PROTECTION OBLIGATIONS

Obligations of the Controller

- 3.1 The Controller shall provide the Personal Data to the Processor together with such other information as the Processor may reasonably require in order for the Processor to provide the Services to the Controller.

Obligations of the Processor

- 3.2 **Instructions:** The Processor shall only, and shall procure that its Personnel only, Process the Personal Data to the extent necessary to perform its obligations in accordance with this Agreement, the Services Agreement and any other written instructions of the Controller, including those set out in the [Data Processing Annex](#), unless required to do so by Union or Member State law to which the Processor is subject and in such a case, the Processor shall inform the Controller of that legal requirement before processing, unless that law prohibits such information on important grounds of public interest.
- 3.3 **Disclosure to Third Parties:** The Processor shall not disclose the Controller Data to any third party without the prior written approval of the Controller.
- 3.4 **Data Transfers:** The Processor shall not transfer any of the Personal Data or other information relating to customers of the Controller to a country outside of the

European Economic Area except with the prior written consent of the Controller and in accordance with any terms the Controller may impose on such transfer.

- 3.5 Data Subject Rights:** The Processor agrees to assist the Controller in responding to requests by Data Subjects exercising their rights under Data Protection Law, within such timescales as may be specified by the Controller.
- 3.6 Assistance:** The Processor shall assist the Controller within timescales that allow the Controller to comply with its obligations pursuant to:
 - 3.6.1** Article 32 of the GDPR (Security);
 - 3.6.2** Articles 33 and 34 of the GDPR (Data Breach Notification);
 - 3.6.3** Article 35 of the GDPR (the conduct of Data Protection Impact Assessments); and
 - 3.6.4** Article 36 of the GDPR (Prior Consultation requests to Regulators in relation to Personal Data Processing under the Services Agreement).
- 3.7 Breach Notification:** The Processor will notify the Controller within twenty-four (24) hours of the Processor becoming aware of a Data Security Breach, and shall include in such notification, at least the applicable information referred to in Article 33(3) of the GDPR. The Processor shall not communicate with any Data Subject in respect of a Data Security Breach without the prior written consent of the Controller.
- 3.8 Restoration:** In the event that any of the Controller Data is corrupted or lost or sufficiently degraded as a result of the any negligence or default by the Processor or its Personnel so as to be unusable then, the Controller shall have the option to:
 - 3.8.1** require the Processor at its own expense to use best endeavours to restore or procure the restoration of the Controller Data and the Processor shall use best endeavours to do so as soon as possible; or
 - 3.8.2** itself restore or procure the restoration of the Controller Data and require the Processor to reimburse the Controller for any costs incurred in so doing.
- 3.9 Confidentiality:** The Processor will ensure that its Personnel who Process Personal Data under this Agreement and the Services Agreement are subject to obligations of confidentiality in relation to such Personal Data.
- 3.10 Security:** The Processor shall implement appropriate technical and organisational measures to assure a level of security appropriate to the risk to the security of Personal Data, in particular, from accidental or unlawful destruction, loss, alteration,

unauthorised, disclosure of or access to Personal Data including as appropriate:

- 3.10.1 the pseudonymisation and encryption of Personal Data;
 - 3.10.2 the ability to ensure the ongoing confidentiality, integrity and availability and resilience of the Processor's systems used for such Processing, the Personal Data and the Services;
 - 3.10.3 the ability to restore the availability and access to the Personal Data in the event of a physical or technical incident; and
 - 3.10.4 a process for regularly testing, assessing and evaluating the effectiveness of technical and organisational measures for ensuring the security of the processing.
- 3.11 The Processor shall notify the Controller of any material changes to the technical and organisational measures used by the Processor throughout the Term.
- 3.12 **Sub-Processing:** The Processor agrees that it shall not engage any third party to Process the Controller's Personal Data without the prior written consent of the Controller. The Processor shall inform the Controller of any intended changes concerning the addition or replacement of the other processors and shall not make any such changes without the prior written consent of the Controller.
- 3.13 If the Processor engages any third party to Process any of the Controller's Personal Data, the Processor shall impose on such third party, by means of a written contract, the same data protection obligations as set out in this Agreement and shall ensure that if any third party engaged by the Processor in turn engages another person to Process any Personal Data, the third party is required to comply with all of the obligations in respect of Processing of Personal Data that are imposed under this Agreement.
- 3.14 The Processor shall remain fully liable to the Controller for Processing by any third party as if the Processing was being conducted by the Processor and the limitations on liability agreed in clause.
- 3.15 **Demonstrating Compliance:** The Processor shall make available to the Controller all information necessary to demonstrate compliance with the obligations set out in Article 28 of the GDPR and allow for and contribute to audits, including inspections, conducted by EI or another auditor mandated by EI.
- 3.16 **Infringement:** The Processor will immediately inform the Controller if, in its opinion, an instruction given, or request made pursuant to the Services Agreement infringes Data Protection Law.
- 3.17 **Termination/Expiry:** On termination or expiry of the last call-off contract awarded under the Services Agreement (or at any other time on request by the Controller), the

Processor shall return or permanently erase, at the election of EI, all copies of Personal Data received and/or processed by it under the Services Agreement unless European Union or Member State law requires retention of the Personal Data.

- 3.18 The provisions of this clause shall survive the Term until the Processor has returned or destroyed all Personal Data.

Processor Indemnity

- 3.19 The Processor agrees to indemnify the Controller against any and all losses, costs, expenses (including legal expenses), damages, liabilities, demands, claims, fines, actions or proceedings which the Controller may suffer or incur arising out of any breach of this Agreement whether or not such losses were foreseeable at the time of the breach which occasioned them.

4 TERM AND TERMINATION

- 4.1 This Agreement shall come into force on the Commencement Date and shall, subject to the terms of clauses 3.17, 3.18 and 3.19, terminate on the termination or expiry of the last call off contract under the Services Agreement **(the Term)**.

5 GENERAL

- 5.1 **Counterparts:** this Agreement may be executed in any number of counterparts, each of which when executed and delivered shall constitute an original of this Agreement.
- 5.2 **Governing Law:** The formation, existence, construction, performance, validity and all aspects whatsoever of this Agreement or of any term of this Agreement will be governed by Irish law. The Parties irrevocably agree to submit to the exclusive jurisdiction of the courts of Ireland over any claim or matter arising under or in connection with this Agreement.
- 5.3 **Severability:** If any provision of this Agreement shall be held to be void or declared illegal, invalid or unenforceable for any reason whatsoever, such provision shall be divisible from this Agreement and shall be deemed to be deleted from this Agreement and the validity of the remaining provisions shall not be affected.

IN WITNESS whereof this Agreement has been duly executed by the parties to it on the date set out at the beginning of this Agreement.

Signed for and on behalf of **Enterprise Ireland** Signed for and on behalf of the **Supplier**

Signed _____ Signed _____

Duly authorised by **Enterprise Ireland** Duly authorised by the **Supplier**

Name _____ Name _____

Title _____ Title _____

Date _____ Date _____

ANNEX 1 (DATA PROCESSING ANNEX)

Description of the Personal Data Processing (Tenderers will complete this in the TRD as part of their tender response)	
Subject Matter	
Duration	[Duration of this Agreement/ the Services Agreement]
Nature & Purpose of the Processing	[E.g. use of client contact details to provide the Services]
Categories of Data Subjects	[E.g. EI clients, employees]
Types of Personal Data i.e. any information relating to an identified or identifiable person.	[E.g. names, addresses, financial details]
Subcontracting/Sub Processors	[Insert details of any subcontractors who will process personal data]
Data Transfers Outside EU – Location & Transfer Mechanism	[Identify any countries outside the EU to which data is transferred and the agreements covering the transfer]

	Sub-Processor	Services	Location & Transfer mechanism (if applicable)
			Standard Contractual Clauses/ Binding Corporate Rules
			Standard Contractual Clauses/ Binding Corporate Rules
			Standard Contractual Clauses /Binding Corporate Rules
			Standard Contractual Clauses/ Binding Corporate Rules
Data Protection & Security Measures	[Insert a description of the technical and organisational security measures regarding Data Protection Training & Awareness/Information Security, Access Controls, Data Retention & Deletion, Encryption, Breach Management, DSAR Management]		
Supplier DPO			
Other	[Insert details of any relevant certification as well as links to the company Data Protection Notice and Privacy Statement]		
Controller Rights and Obligations	The obligations and rights applicable to a Controller under Data Protection Law, including the matters specified in the Agreement.		