



## Single-Party Framework Agreement Terms and Conditions

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| <b>For the Provision of:</b>  |  |
| <b>Contracting Authority:</b>   |  |
| <b>Framework Member:</b>  |  |
| <b>Date:</b>  |  |
| <p><b>This document is an indication of the form of agreement which the Contracting Authority intends to conclude with the successful Economic Operator arising from this competitive process. Economic Operators are not required to submit a signed copy of these terms as part of their tender but are required to indicate any objections which they may have to these terms in the body of their tender.</b></p> |  |

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## Subject to contract / contract denied

THIS FRAMEWORK AGREEMENT is made on [insert date]

Framework Agreement with a Framework Member in a Single-Party Framework for [insert description of Supplies/Services]

### BETWEEN:

- (1) [CLIENT NAME], having its offices at [address] (the "Client" which expression includes its successors and permitted assigns and anybody to whom its functions are transferred under Applicable Law) of the one part; and
- (2) [FRAMEWORK MEMBER], a company established under [insert detail] law with company registration number [insert detail] and its registered address at [insert detail] (hereinafter referred to as the "Framework Member" which expression includes its successors and permitted assigns) of the other part,

### RECITALS

#### (A) Notice and Award Procedure

The Client has conducted a tender competition in accordance with Directive \*2014/24/EU and Irish Regulations SI 284 of 2016 and all applicable procurement rules for the establishment of a framework agreement (within the meaning of the aforesaid directive) with a single economic Framework Member. The tender competition under the [insert detail] procedure was advertised in the Official Journal of the European Union on [insert date] with a reference number of [e.g. YEAR/S xxx-yyyyy] [and/or was published on the eTenders website on [insert date] with a reference number [insert RFT number]](the 'Contract Notice').

#### (B) Appointment

Following evaluation of tenders received in accordance with the Request for Tender, the Client wishes to appoint the Framework Member to this Framework Agreement to provide Supplies/Services, if instructed to do so from time to time by the Client, subject to and in accordance with the terms and conditions of this Framework Agreement.

#### (C) Purpose

This Framework Agreement sets out, amongst others, the award procedure for contracts which may be required by the Client, the main terms and conditions for any Call-Off Contract, and the obligations of the Framework Member during and after the Framework Period.

NOW IT IS HEREBY AGREED as follows:

## 1 Definitions and Interpretation

1.1 In this Framework Agreement the following terms have the meaning given to them below:

**"Applicable Law"** means any law applicable in the State and includes without limitation, common law, statute, statutory instrument, proclamation, byelaw, directive, decision, regulation, rule, order, notice, code of practice, code of conduct, rule of court, instruments, or delegated or subordinate legislation;

**“Call-Off Contract”** means the legally binding agreement (made pursuant to the scope and provisions of this Framework Agreement) for the provision of **Supplies/Services** between the Client and the Framework Member for which the Framework Member has submitted, and the Client has accepted, a **Tender or Supplementary Tender**.

**“Call-Off Contract Terms and Conditions”** means the general terms and conditions which will apply to any Call-Off Contract, and which are set out at Schedule 11, including any future amendment thereto or redraft thereof;

**“Call-Off Order”** means the document set out in Schedule 6 (including any future amendment thereto or redraft thereof) issued by the Client to the Framework Member in accordance with the procedure set out in Clause (6.4) instructing the Framework Member to provide **Supplies/Services**;

**“Commencement Date”** means **[insert date]**;

**“Conflict of Interest”** means any actual or potential conflict of interest (including any relationship, filial or otherwise, or any interest, whether arising through personal, company or professional association, or current or prospective contractual obligations) which the Framework Member or any of its Personnel may have including, without prejudice to the generality of the foregoing, any actual or potential conflict relating to any aspects of (i) this Framework Agreement; (ii) the **Supplies/Services**, (iii) a Call-Off Contract, (iv) the Client, (v) any stakeholders or other parties having an interest in this framework agreement, and/or (vi) any Framework Member or tenderer in any way connected with this framework agreement or any the **Supplies/Services**.

**“Contract”** means a contract which falls within the scope of this Framework Agreement and for which the Client conducts a Competitive Procedure under the terms of this Agreement;

**“CPI Index”** means the Consumer Price Index as published by the Central Statistics Office in Ireland;

**“Directive 2014/23/EU”** means the European Directive transposed into Irish law on 18th May 2017 under SI203 European Union (Award of Concession Contracts) Regulations 2017.

**“Framework Agreement”** means this Agreement, including the Recitals to, and Schedules of, this Agreement;

**“Framework Member”** means the Economic Operator appointed to this framework agreement.

**“Framework Period”** means the period set out in Clause (4.1);

**“Request for Tender”** means the document issued by the Client on **[insert date]**, together with any clarifications, additions or amendments issued by the Client, as evidenced in Schedule 13;

**“Party”** means the Client and/or the Framework Member;

**“Personnel”** means all persons employed by the Framework Member together with the Framework Member's servants, agents and suppliers of any tier used in the performance of its obligations under this Framework Agreement or a Call-Off Contract;

**“Request for Supplementary Tender”** means the document set out in Schedule 7 hereof (including any future amendment thereto or redraft thereof) issued by the Client to the Framework Member in accordance with the procedure set out in Clause (6.5) requesting a Supplementary Tender from the Framework Member for the provision of **Supplies/Services**;

**“Services”** means any of the services falling within the scope set out in Clause (5.1);

**“Sub-Consultant”** means the legal person identified in Schedule 10 or any authorised replacement in accordance with Clause (7.5.2);

**“Sub-Consultant Collateral Warranty”** means the warranty which the Client may require the Framework Member to procure from its Sub-Consultant in accordance with Clause (7.5.5) and which is set out in Schedule 12, including any future amendment thereto or redraft thereof;

**“Supplementary Tender”** means the written submission by the Framework Member in response to a Request for Supplementary Tender; and

**“Supplies”** means any of the supplies falling within the scope set out in Clause (5.1); and

**“Tender”** means the submission by the Framework Member in response to the Request for Tender, together with any clarifications, additions or amendments accepted by the Client, as evidenced in Schedule 14.

**1.2** In this Framework Agreement, unless where otherwise specified:

1.2.1 headings are included for ease of reference only and shall not affect the construction of this Framework Agreement;

1.2.2 references in this Framework Agreement to any Clause or Schedule without further designation shall be construed as a reference to the Clause or Schedule to this Framework Agreement so numbered;

1.2.3 references to any person shall include natural persons and partnerships, firms and other incorporated bodies and all other legal persons of whatever kind and however constituted and their successors and permitted assigns or transferees;

1.2.4 references to any statute, enactment, order, regulation or other legislative instrument shall be construed as a reference to the statute, enactment, order, regulation or instrument as amended, unless specifically indicated otherwise;

1.2.5 references to a day mean a calendar day;

1.2.6 references to a month mean a calendar month;

1.2.7 any phrase introduced by the terms “including”, “include”, “in particular” or any similar expression shall be construed as illustrative and shall not limit the sense of the words preceding those terms;

**1.3** To the extent that any specific term or condition in a Call-Off Contract or **Sub-Consultant Collateral Warranty** is inconsistent or conflicts with any term or condition of this Framework Agreement, the relevant term or condition in the Call-Off Contract Terms and Conditions or **Sub-Consultant Collateral Warranty** shall prevail.

## 2 Appointment of Framework Member

In consideration of payment by the Framework Member of good and valuable consideration, receipt of which is hereby acknowledged, the Framework Member accepts its appointment subject to the terms and conditions of this Framework Agreement.

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, or having awarded a contract under the framework agreement, the Contracting Authority reserves the right to invite the next highest scoring tenderer to join the framework agreement, deliver the contract as appropriate to the circumstances pertaining to the framework.

## 3 Non-Exclusivity

3.1 The Framework Member acknowledges that, in entering this Framework Agreement, no form of exclusivity or volume guarantee has been granted by the Client for **Supplies/Services** from the Framework Member and that the Client is at all times entitled to enter into other contracts and agreements with other Economic Operators for the provision of any or all **Supplies/Services**, which are the same as or similar to the **Supplies/Services**. In the event of the latter the Client shall observe all applicable public procurement rules and shall not afford any advantage to the Framework Member.

## 4 Period of Framework Agreement

- 4.1 This Framework Agreement shall take effect on the Commencement Date and expire **[words]** **([number])** **[years/months]** thereafter unless terminated earlier in accordance with these terms and conditions or extended in accordance with Clause (4.2).
- 4.2 The Client reserves the option to extend the period described in Clause (4.1) by a further **[words]** **([number])** **[years/months]** at any time prior to the expiry of the Framework Agreement by giving notice to the Framework Member.
- 4.3 For the avoidance of any doubt, the term of a Call-Off Contract may extend beyond the date of expiry of the agreement.

## 5 Scope of Framework Agreement

- 5.1 This Framework Agreement relates to the provision of **[insert description of Supplies/Services from published contract notice including initial contract / other contracts likely to arise over the life of the framework agreement]**.
- 5.2 The scope of **Supplies/Services** which may be awarded under this framework includes:
- 5.2.1 The initial contract as described in the Request for Tender, upon which the Framework Member will be chosen, due to the fact that the initial contract is representative of the framework as a whole.
- 5.2.2 Additional Call-Off Contracts within the scope of the Framework Agreement may comprise some or all elements of the **Supplies/Services** as described in the detailed specification, being additional requirements, which may arise.
- 5.3 The maximum value of the framework over the life of the framework is in the range of **[insert value]** to **[insert value]**. It should be emphasised that this value is not a guarantee of any spend over the life of the Framework Agreement.

## 6 Procedure for the Award of Call-Off Contracts

- 6.1 As and when the Client decides to source **Supplies/Services** through this Framework Agreement, then it may award a Call-Off Contract to the Framework Member based on the Tender in accordance with the procedure set out in Clause (6.4) or, alternatively, on a Supplementary Tender received in accordance with the procedure set out in Clause (6.5).
- 6.2 When awarding a Call-Off Contract, the Parties shall not make any substantial amendments to the terms laid down in this Framework Agreement.
- 6.3 On each occasion that a Call-Off Contract is awarded to the Framework Member pursuant to this Clause (6), the Client and the Framework Member shall enter into a contract in accordance with the Call-Off Contract Terms and Conditions.
- 6.4 Procedure for the award of a Call-Off Contract based on the Tender.
  - 6.4.1 Where all the terms necessary for the performance of a Call-Off Contract are included in this Framework Agreement, the Client may issue a Call-Off Order to the Framework Member at any time during the Framework Period.
  - 6.4.2 The Client will complete a Call-Off Order indicating the scope and term of the Call-Off Contract to be awarded subject to the terms set out in Clause (7). The Client shall fix a deadline for the receipt of confirmation by the Framework Member of its acceptance of the Call-Off Order.
  - 6.4.3 The Client will issue the Call-Off Order by email to the Framework Member to the address given in or notified under Clause (13).
  - 6.4.4 The Framework Member shall inform the Client by email within the stipulated time limit for reply of whether it accepts the Call-Off Order. Upon receipt of this acceptance, the Client will enter into the Call-Off Contract with the Framework Member.
  - 6.4.5 The Framework Member acknowledges that the Client shall not be obliged to award any Call-Off Contract pursuant to this Clause (6.4) and that the Client may terminate the award procedure at any time at its sole discretion.
- 6.5 Procedure for the award of a Call-Off Contract based on a Supplementary Tender
  - 6.5.1 Where not all the terms necessary for the performance of a Call-Off Contract are included in this Framework Agreement, the Client may issue a Request for Supplementary Tender to the Framework Member at any time during the Framework Period.
  - 6.5.2 The Client will complete a Request for Supplementary Tender indicating the scope and term of the Call-Off Contract to be awarded and such other terms and conditions as the Client may set out in accordance with Schedule 7.
  - 6.5.3 The Client shall fix a deadline for the receipt of the Supplementary Tender taking into account the complexity of the scope of requirements and the time needed by the Framework Member to prepare an appropriate Supplementary Tender.
  - 6.5.4 The Client will issue the Request for Supplementary Tender by email to the Framework Member to the address given in or notified under Clause (13).
  - 6.5.5 The Framework Member shall submit a Supplementary Tender by email within the stipulated time limit for reply. The Supplementary Tender shall comply with the requirements of the Request for Supplementary Tender and the terms set out in Clause (7).

- 6.5.6 Upon receipt of the Supplementary Tender, the Client will consider whether it is satisfied with the proposals for the provision of **Supplies/Services** required and with the cost proposed. If the Client is satisfied and decides that it wishes to enter into a Call-Off Contract with the Framework Member, it will enter into the Call-Off Contract with the Framework Member. If the Client is not satisfied, it may, at its sole discretion, consult with the Framework Member in respect of its Supplementary Tender, or choose to procure the **Supplies/Services** required in another way.
- 6.5.7 The Framework Member acknowledges that the Client shall not be obliged to award any Call-Off Contract in response to a Supplementary Tender and that the Client may terminate the award procedure at any time at its sole discretion.
- 6.5.8 The Client shall not be responsible for any costs incurred by the Framework Member **or any Sub-Consultant** in the preparation of a Supplementary Tender or any related site visits.

## 7 Fixed Terms for Call-Off Contracts

7.1 The terms contained in this Clause (7) shall apply to the award of any Call-Off Contract. Failure by the Framework Member to meet its obligations under this Clause (7) shall be considered a material breach of this Framework Agreement for the purposes of Clause (9.2.1).

### 7.2 Personnel

7.2.1 The Personnel assigned by the Framework Member to deliver any Call-Off Contract shall be those identified in its Tender and evidenced in Schedule 3 or Supplementary Tender, or other Personnel of equivalent qualifications, skills and expertise approved by the Client in accordance with Clause (7.2.2).

7.2.2 The Framework Member shall only be permitted to replace or supplement a Personnel member identified in Schedule 3 if:

- (a) so, requested by the Client pursuant to Clause (8.11); or
- (b) necessary to do so due to that person's death, illness, or incapacity; or
- (c) due to the departure of the member of the Personnel from the employment of the Framework Member.

In such cases the Framework Member shall submit to the Client details of the proposed replacement or additional Personnel and, subject to the Client's consent (which shall not be unreasonably withheld or delayed), shall so replace or supplement the Personnel identified in Schedule 3 as appropriate. The Client shall be entitled to reject a proposed Personnel member on the ground, inter alia, that he does not have equivalent qualifications, or skills, or expertise as the Personnel being replaced.

7.2.3 The Framework Member shall ensure that the rates of pay and conditions of employment of the Personnel comply with all Applicable Law.

### 7.3 Maximum Rates

7.3.1 The maximum rates chargeable by the Framework Member under a Call-Off Contract shall be those identified in its Tender and evidenced in Schedule 2.

7.3.2 The maximum rates described in Clause (7.3.1) will be fixed for the duration of the Framework Period.

7.3.3 The maximum rates described in Clause (7.3.1) will be fixed for the initial twelve (12) months of the Framework Period and will be adjusted for inflation thereafter on each annual anniversary of the Commencement Date in accordance with the CPI Index.

7.3.4 Notwithstanding Clause (7.3.2), the Client may elect to enter into consultations with the Framework Member to adjust the maximum rates described in Clause (7.3.1) as a result of increases or decreases that occur in wages or expenses, or material prices invoiced as part of a Call-Off Contract or are made by Law.

7.3.5 The Client may seek, or the Framework Member may offer, lower rates at any time during the Framework Period. In particular, where the Framework Member is offering **Supplies/Services**, which are the same as or similar to the **Supplies/Services**, generally in the open market at a lower rate than the maximum rates described in Clause (7.3.1), the Client may request adjustment of Schedule 2 to reflect this.

### 7.4 Service Level Agreement

Contracts under this framework agreement may be subject to the application of a Service Level Agreement which will outline the Key Performance Indicators applicable to the contract. The applicable Service Level Agreement is contained in Schedule 8 including any future amendment or redraft thereof.

## 7.5 Sub-Consultant

- 7.5.1 The Sub-Consultant assigned by the Framework Member to deliver any Call-Off Contract shall be that identified in its Tender and evidenced in Schedule 10 or Supplementary Tender, or other Sub-Consultant approved by the Client in accordance with Clause (7.5.2).
- 7.5.2 The Framework Member will not replace a Sub-Consultant without the prior written consent of the Client. The Client shall be entitled to instruct the Framework Member to replace any Sub-Consultant if the Client believes (acting reasonably) that the Sub-Consultant is incompetent or fails to perform its obligations in respect of any Call-Off Contract to the satisfaction of the Client. Any such replacement shall be of comparable qualifications and expertise as the incumbent Sub-Consultant and shall have the legal capacity and credit status to enter into and meet the obligations of any Call-Off Contract as they fall due.
- 7.5.3 The Framework Member shall ensure that the Tender, or the Supplementary Tender, includes, distinguishes between and clearly particularises the **Supplies/Services** to be provided by the Sub-Consultant.
- 7.5.4 During the performance of a Call-Off Contract, the Framework Member shall be responsible to the Client for the management and supervision of the Sub-Consultant and for the acts and omissions of the Sub-Consultant as if they were its own.
- 7.5.5 The Framework Member acknowledges and agrees that the Client may require the Framework Member, as a condition of, or pre-condition to the award of, a Call-Off Contract to promptly execute under seal and deliver a Sub-Consultant Collateral Warranty from any or all of its Sub-Consultants of any tier proposed to deliver **Supplies/Services** under a Call-Off Contract.

## **8 Obligations of Framework Member**

### **8.1 Insurances**

- 8.1.1 As and from the Commencement Date, the Framework Member is required to procure and maintain the forms and levels of insurance set out in Schedule 4. This may be subject to revision during the Framework Period, in which case the Client shall notify the Framework Member of the revised requirements and allow thirty (30) days for the provision of evidence that the required policies are in place.
- 8.1.2 Where the forms and/or levels of insurance required in respect of individual Call-Off Contracts are different to those set out in Schedule 4, the Client shall notify the Framework Member of the required changes in the relevant Request for Supplementary Tender or at the earliest opportunity.
- 8.1.3 The insurance required under Clause (8.1.1) and/or (8.1.2) shall be written by reputable and well-established insurers approved by the Client (whose approval shall not be unreasonably withheld or delayed).
- 8.1.4 At any time during the Framework Period, the Framework Member shall produce to the Client, on request, copies of all insurance policies referred to in this Clause (8.1) or a broker's verification of insurance to demonstrate that the appropriate cover is in place, together with receipts or other evidence of payment of the latest premiums due under those policies.
- 8.1.5 Where the insurance policies held by the Framework Member in accordance with Schedule 4 are due to lapse prior to the end of the Framework Period, it shall be the responsibility of the Framework Member to ensure that the said insurance policies are renewed and that the insurance details are notified to the Client.
- 8.1.6 If, for whatever reason, the Framework Member fails to give effect to and maintain in effect the insurances required by this Framework Agreement then the Client may make alternative arrangements to protect its interests and may recover the costs of such arrangements from the Framework Member.

### **8.2 Tax Compliance**

The Framework Member shall, and shall procure that any Sub-Consultant of any tier shall, for the term of any Call-Off Contract, comply with all EU and domestic taxation law and requirements, and possess and maintain valid Tax Clearance status as confirmed by the Revenue Commissioners of Ireland.

### **8.3 Changes to Declaration**

The Framework Member shall retain a copy of its signed Declaration under Article 57 of Directive 2014/24/EU as set out in Schedule 5. If at any point during the Framework Period or during the lifetime of a Call-Off Contract the Framework Member becomes aware of circumstances that might affect the validity of any of the statements in its Declaration, it shall notify the Client in writing of such circumstances at the earliest possible opportunity.

If at any point during the Framework Period or during the lifetime of a Call-Off Contract the Client becomes aware of circumstances that might affect the validity of any of the statements in the Declaration, it reserves the right to seek further information and/or terminate the Framework Agreement and/or Call-Off Contract.

### **8.4 Confidentiality/Freedom of Information**

- 1.3.1 The Framework Member must not disclose to anyone information that the Client notifies the Framework Member is confidential except as necessary to perform the Framework Member's obligations under this Framework Agreement or a Call-Off Contract or to comply with the law.
- 1.3.2 The Framework Member undertakes to comply with all reasonable directions of the Client with regard to the use and application of all and any confidential information and shall comply with the Confidentiality Agreement as set out in Schedule 9.
- 1.3.3 The Framework Member acknowledges that the Client is subject to the Freedom of Information Act 2014, as amended. In the event of the Client receiving a request for information related to this Framework Agreement, the Client shall consult with the Framework Member in respect of the request. The Framework Member shall identify any information that is not to be disclosed on grounds of commercial sensitivity and shall state the reasons for this sensitivity. The Client will consult the Framework Member about this commercially sensitive information before making a decision on any Freedom of Information request received. The final decision on disclosure rests with the Office of the Information Commissioner and ultimately, the Irish courts.
- 1.3.4 Within fourteen (14) days of the date of expiry of this Framework Agreement or of termination pursuant to Clause (9), the Framework Member shall return to the Client any data and confidential information belonging to the Client in the Framework Member's possession, power or control, either in its then current format or in a format nominated by the Client (in which event the Client will reimburse the Framework Member reasonable data conversion expenses), together with all training manuals and other related documentation, and any other information and all copies thereof owned by the Client, save that it may keep one copy of any such data or information for a period of up to twelve (12) months to comply with its obligations under this Framework Agreement, or such period as is necessary for such compliance.
- 1.3.5 The terms of this Clause (8.4) are perpetual, and this Clause (8.4) survives the expiry or termination of this Framework Agreement.

## 8.5 Data Protection

The Framework Member shall comply with its obligations under the Data Protection Act 2018, as amended and all regulations made thereunder, in the collection and storage of data pursuant to the provision of **Supplies/Services** under this Framework Agreement.

## 8.6 Conflict of Interest

- 8.6.1 The Framework Member confirms that it has carried out a conflicts of interest check and is satisfied that it has no Conflict of Interest in relation to the **Supplies/Services** and its obligations undertaken under this Framework Agreement.
- 8.6.2 The Framework Member hereby undertakes to advise the Client forthwith should any actual or potential Conflict of Interest arise during the Framework Period and to comply with the Client's directions in respect thereof.

## 8.7 Registratable Interests

Any registrable interest involving the Framework Member (and any Sub-Consultant or agent as the case may be) and the Client, the Ceann Comhairle (Speaker), or any member of the Government, or any member of the Oireachtas, or their relatives must be fully disclosed to the Client immediately upon such information becoming known to the Framework Member (or any Sub-Consultant or agent as the case may be) and to comply with the Client's directions in respect thereof, to the satisfaction of the Client. The terms "registrable interest" and "relative" shall be interpreted as per the Standards in Public Office Act 2001, as amended.

## 8.8 Corrupt Gifts and Inducements

8.8.1 The Framework Member shall not give, provide or offer to any staff or agent of the Client any gift or consideration or commission of any kind as an inducement or reward for doing or forbearing to do or for having done or forborne to do any action in relation to the obtaining or execution of this Framework Agreement or any Call-Off Contract.

8.8.2 Any breach of this Clause (8.8) or the commission of any offence by the Framework Member, any subcontractor, agent or employee under the Prevention of Corruption Act 2018, as amended, shall entitle the Client to terminate this Framework Agreement forthwith and to recover the amount of any loss resulting from such cancellation, including but not limited to recovery from the Framework Member of the amount or value of any such gift, consideration or commission.

## 8.9 Audit

The Framework Member shall keep and maintain until a minimum of six (6) years after the expiry of the Framework Period, full and proper records and all documents relating to the performance of its obligations under this Framework Agreement and shall allow the Client and any auditors access to such records.

## 8.10 Publicity

Unless otherwise directed by the Client, the Framework Member shall not make any press announcements or publicise this Framework Agreement in any way without the Client's prior written consent.

## 8.11 Performance Review

8.11.1 The Client and Framework Member shall liaise on a regular basis to address any issues arising which may impact on the performance of this Agreement and/or a Call-Off Contract to agree milestones, compliance schedules and operational protocols as required by the Client from time to time. If requested in writing by the Client, the Framework Member shall meet formally with the Client to report on progress and shall comply with all written directions of the Client.

8.11.2 The Framework Member agrees to:

- (a) liaise with and keep the Client fully informed of any matter which might affect the observance and performance of the Framework Member's obligations, including the timescale of completion of the key components of the **Supplies/Services**;
- (b) comply with the reporting arrangements and protocols required by the Client from time to time; and
- (c) comply with all reasonable directions of the Client.

- 8.12 Failure by the Framework Member to meet its obligations under this Clause (8) shall be considered a material breach of this Framework Agreement for the purposes of Clause (9.2.1).

## **9 Termination of Framework Agreement**

- 9.1 Subject to the provisions of Clause (9.2), this Framework Agreement, or the provision of any part thereof, may be terminated by the Client at any time during the Framework Period by serving **three (3) months** written notice to the Framework Member.
- 9.2 This Framework Agreement may also be terminated by the Framework Member at any time during the Framework Period by serving **six (6) months** written notice to the Client.
- 9.3 The Client shall have the right (in addition to any other rights which it has at law) to terminate this Framework Agreement forthwith and without liability for compensation or damages on the happening of any of the following events:
- 9.3.1 if the Framework Member commits any material breach of any provision of this Framework Agreement or of a Call-Off Contract and if such breach is capable of being remedied, fails to remedy such breach to the reasonable satisfaction of the Client within fourteen (14) days of the notice given by the Client requiring the Framework Member to do so; or
  - 9.3.2 if the Framework Member becomes insolvent, becomes bankrupt, is wound up, commences winding up, has a receiving order made against it, makes any arrangement with its creditors generally or takes or suffers any similar action as a result of debt, or an event having an equivalent effect; or
  - 9.3.3 if any event analogous to those contemplated in Clause (9.3.2) occurs to the Framework Member within the laws of any other jurisdiction; or
  - 9.3.4 in circumstances where the Client becomes aware of that any of the excluding circumstances listed in Article 57 of Directive 2014/24/EU apply to the Framework Member; or
  - 9.3.5 if any representation made by the Framework Member in connection with this Framework Agreement or a Call-Off Contract shall in the opinion of the Client, acting reasonably, prove to be untrue or incorrect in a material respect as of the date when made; or
  - 9.3.6 the cumulative value of all Call-Off Contracts exceeds, or is close to exceeding, the amount set out in Clause (5.2).
- 9.4 Neither Party shall be entitled to any additional amounts or compensation in the event that this Framework Agreement is terminated in accordance with this Clause (9).

## **10 Consequences of Termination and Expiry**

- 10.1 Termination or expiry of this Framework Agreement shall not cause any Call-Off Contract to terminate automatically. For the avoidance of doubt, all Call-Off Contracts shall remain in force unless and until they are terminated or expire in accordance with their own terms or unless the notice of termination terminating this Framework Agreement states that it is also to constitute notice terminating all Call-Off Contracts between the Client and the Framework Member.
- 10.2 The Framework Member shall have no claim against the Client for any loss of profit, loss of contracts or other economic losses and/or expenses or for any indirect, economic, or consequential loss suffered or incurred as a result of the termination of this Framework Agreement pursuant to Clause (9).

- 10.3 Termination or expiry of this Framework Agreement shall not affect any antecedent and accrued rights, obligation or liabilities of either Party, nor shall it affect any provision of this Framework Agreement that is expressly or by implication intended to come into or continue in force on or after such termination or expiry.

## **11 Transfer and Sub-Contracting**

- 11.1 This Framework Agreement is personal to the Framework Member and the Framework Member shall not assign, novate or otherwise dispose of this Framework Agreement or any part thereof without the previous consent in writing of the Client. Notwithstanding the provisions of Clause (7.5), the Framework Member shall not be entitled to sub-contract any of its rights or obligations under this Framework Agreement without the prior written consent of the Client. Such consent shall not be unreasonably withheld.
- 11.2 The Client shall be entitled to assign, novate or otherwise dispose of its rights and obligations under this Framework Agreement or any part thereof to any other body (including any private sector body) which substantially performs any of the functions that previously had been performed by the Client provided that such assignment, novation or disposals shall not increase the burden of the Framework Member's obligations under this Framework Agreement.
- 11.3 Failure by the Framework Member to meet its obligations under Clause (11.1) shall be considered a material breach of this Framework Agreement for the purposes of Clause (9.2.1).

## **12 General**

### **12.1 Amendments**

This Framework Agreement may only be amended by a document in writing signed by authorised representatives of each Party.

### **12.2 Waiver**

No failure or delay by either Party to exercise any right, power or remedy shall operate as a waiver of it, nor shall any partial exercise preclude further exercise of same or some other right, power or remedy.

### **12.3 Severability**

If any term or provision herein is found to be invalid, unlawful or unenforceable, then such term or provision shall be deemed severed from the Framework Agreement and all other terms and provisions shall remain in full force and effect.

### **12.4 Force Majeure**

- 12.4.1 If through no fault of a Party, its performance has been affected or delayed by force majeure, such Party shall be at no liability to the other providing the performances are recommenced as soon as possible after such force majeure has ceased to operate.
- 12.4.2 If however, force majeure causes a delay or failure in performance for a period longer than seven (7) days, the Client shall have the right to terminate this Framework Agreement by seven (7) days' notice in writing.

12.4.3 Force majeure shall mean an occurrence beyond the control and without the fault or negligence of the Party affected in which it is unable to prevent or provide against by the exercise of reasonable diligence including but not limited to acts of God or the public enemy, expropriation or confiscation of facilities, government intervention, war, hostilities, rebellion, terrorist activities, local or national emergency, sabotage or riots, floods, or unusually severe weather conditions which could not be reasonably anticipated, fires, explosions, or other catastrophe, national or district strikes or other concerted acts of workmen or other similar occurrences other than strikes or concerted acts of the Framework Member's workforce.

12.5 Public Procurement

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

**13 Notices**

13.1 The address, email address, facsimile and telephone numbers of the Parties for the purpose of the giving of notices under this Framework Agreement are as follows:

For the Client:

|               |                 |
|---------------|-----------------|
| Contact Name: | [insert detail] |
| Address:      | [insert detail] |
| E-mail:       | [insert detail] |
| Phone:        | [insert detail] |

For the Framework Member:

|               |                 |
|---------------|-----------------|
| Contact Name: | [insert detail] |
| Address:      | [insert detail] |
| E-mail:       | [insert detail] |
| Phone:        | [insert detail] |

- 13.2 Any notice or other communication whether required or permitted to be given by one Party to the other shall be in writing and shall be deemed to have been duly given if signed by or on behalf of a duly authorised officer of the Party giving the notice and:
- a) if delivered, at the time of delivery to the addressee or its duly authorised agent;
  - b) if sent by pre-paid post, four (4) days after posting if addressed to the Party to whom such notice is to be given at the address set forth for such Party in this Framework Agreement (or such other address as is from time to time notified to the other Party);
  - c) if transmitted by fax or electronic means on receipt of 'read receipt' or equivalent.
- 13.3 All notices to the Client or the Framework Member from the other Party under this Framework Agreement or the relevant Call-Off Contract shall be in writing and sent to the appropriate address set out above.
- 13.4 All notices, documents and communications provided under this Framework Agreement or the relevant Call-Off Contract shall be in the English or Irish language.
- 13.5 Any Party may, by notice to the other in compliance with this Clause (13) change the contact details set out at Clause (13.1).

## **14 Resolution of Disputes**

- 14.1 Any dispute or difference of any kind whatsoever which arises or occurs between the Parties or their respective assigns in relation to anything or matter arising under, out of, or in connection with this Framework Agreement shall, in the first instance, be referred to a Mediator to be appointed by agreement between the parties and, in the absence of agreement within five (5) working-days of the receipt by one Party of a written notice to concur in the appointment of a Mediator, by the Chairman of the Chartered Institute of Arbitrators Irish Branch.
- 14.2 In the event that the dispute or difference is not resolved within fifteen (15) working-days of the appointment of the Mediator, the dispute or difference shall be referred to an Arbitrator to be agreed between the Parties and, in default of agreement within ten (10) working-days of the receipt by one Party of a written notice to concur in the appointment of an Arbitrator, by the Chairman of the Chartered Institute of Arbitrators Irish Branch, such arbitration to be governed by the Arbitration Act 2010 as amended or replaced and shall be conducted in accordance with the Model Law as defined in the Arbitration Act 2010. The Arbitrator shall have no connection with the Mediator or Mediation Proceedings unless both Parties have otherwise consented in writing.

## **15 Jurisdiction**

The Client and the Framework Member accept the exclusive jurisdiction of the Irish courts, subject to the provisions of Clause (14), and agree that this Framework Agreement is to be governed by and construed according to the laws of Ireland.

**IN WITNESS** whereof the parties hereto have executed this Framework Agreement the day and year first herein **WRITTEN**.

**SIGNED** for and on behalf of **[INSERT NAME OF CLIENT]** by:

\_\_\_\_\_

A duly authorised representative

in the presence of:

\_\_\_\_\_

Witness to Signature

\_\_\_\_\_

Witness' address

\_\_\_\_\_

Witness' occupation

**SIGNED for and on behalf of [INSERT FULL LEGAL NAME OF THE FRAMEWORK MEMBER]**

**Or**

**GIVEN under the COMMON SEAL of [INSERT FULL LEGAL NAME OF THE FRAMEWORK MEMBER]**

\_\_\_\_\_

Director

\_\_\_\_\_

Person duly authorised

in the presence of:

\_\_\_\_\_

Witness to Signature

\_\_\_\_\_

Witness' address

---

Witness' occupation

**Schedule 1 – Framework Scope of Supplies/Services**

## Schedule 2 – Rates

## Schedule 3 – Personnel

## Schedule 4 – Insurances

| COVER   | Minimum cover each and every claim | Permitted deductible each and every occurrence | Period   |
|---|------------------------------------|--|--|
| Annually renewable Professional Indemnity policy, against liability for losses due to professional negligence                               | [insert detail]                    | [insert detail]                                | From start to completion of the Services and a further period of [insert detail] following completion of the Service |
| Public Liability for death, personal injury [except EL, next type]; loss of, damage to, property; with indemnity to the Client as principal | [insert detail]                    | [insert detail]                                | From start to completion of the <b>Supplies/Services.</b>  |
| Employers' Liability for death, injury, to employees  | [insert detail]                    | [insert detail]                                | From start to completion of the <b>Supplies/Services.</b>  |
|   |                                    |  |  |

## Schedule 5 – Article 57 of Dir 2014/24/EU (Declaration)

## Schedule 6 – Call-Off Order

### CALL-OFF ORDER

By email only to [Framework Member's email address]

|   |  |
|---|--|
| <b>Client:</b>                                    | [name]   |
| <b>Order under Framework Agreement entitled:</b>  | Single-Party Framework Agreement for [xxx] of [date] |
| <b>Date of Order:</b>                             | [date]   |
| <b>Deadline for Response by Framework Member:</b> | [date & time] by email to [xxx]                      |

Dear Framework Member,

Pursuant to **Clause (6)** of the Framework Agreement, the Client proposes to award a Call-Off Contract to you in respect of the following **Supplies/Services**:

**(i) Scope of **Supplies/Services** Required**

The Client requires [xxx]

**(ii) Fixed Terms for Call-Off Contracts**

In accordance with **Clause (7)** of the Framework Agreement, the following terms will apply to the Call-Off Contract:

[xxx]

**(iii) Call- Off Contract Terms and Conditions**

In accordance with **Clause (6.3)** of the Framework Agreement, if the Framework Member accepts this Call-Off Order, the Client and the Framework Member shall enter into a Call-Off Contract in accordance with the terms and conditions set out in Schedule 11 of the Framework Agreement, **with the following amendments:**

[xxx]

The Framework Member is hereby invited to inform the Client by email to **[insert address]** no later than **[date & time]** of whether it accepts the Call-Off Order.

If you have any queries on the above, please do not hesitate to contact me.

Yours sincerely,

**[contact]**

On behalf of the **Client**

## Schedule 7 – Request for Supplementary Tender

### REQUEST FOR SUPPLEMENTARY TENDER

By email only to [Framework Member's email address]

|  |  |
|--|--|
| <b>Client:</b>                                       | [name]   |
| <b>Request under Framework Agreement entitled:</b>   | Single-Party Framework Agreement for [xxx] of [date] |
| <b>Date of Request:</b>                              | [date]   |
| <b>Deadline for Receipt of Supplementary Tender:</b> | [date & time] by email to [xxx]                      |

Dear Framework Member,

Pursuant to **Clause (6)** of the Framework Agreement, you are hereby invited to submit a Supplementary Tender in respect of the following **Supplies/Services**:

**(i) Scope of **Supplies/Services** Required**

|                           |
|---------------------------|
| The Client requires [xxx] |
|---------------------------|

**(ii) Supplementary Information Required from the Framework Member**

The Framework Member is hereby invited to supplement its Tender by providing the following information in respect of delivery of the **Supplies/Services** required under this Request:

1. Availability of Personnel,
2. Delivery Timeframe (in days),
3. Facilities and Services required from the Client, and
4. Fixed Cost.

**NB:** The Supplementary Tender must comply with the requirements of this Request for Supplementary Tender and the provisions of **Clause (7)** of the Framework Agreement (Fixed Terms for Call-Off Contracts).

**(iii) Call-Off Contract and Conditions**

In accordance with **Clause (6.3)** of the Framework Agreement, if the Client accepts the Supplementary Tender submitted in response to this Request, the Client and the Framework Member shall enter into a contract in accordance with the Call-Off Contract Terms and Conditions set out in Schedule 11 of the Framework Agreement, **with the following amendments:**

[xxx]

A Supplementary Tender must be submitted by email to **[address]** no later than **[date & time]**.

If you have any queries on the above, please do not hesitate to contact me.

Yours sincerely,

**[contact]**

On behalf of the **Client**

## Schedule 8 – Service Level Agreement

[insert from Tender]

## Schedule 9 – Confidentiality Agreement

**THIS AGREEMENT** is made on [date]

### **BETWEEN:**

- (1) **[CLIENT NAME]**, having its offices at [address] (for the purposes of this Agreement referred to as the "**Client**" which expression includes its successors and permitted assigns and anybody to whom its functions are transferred under Applicable Law) of the one part; and
- (2) **[FRAMEWORK MEMBER NAME]**, a company with its registered address at [insert] (for the purposes of this Agreement referred to as the "**Framework Member**" which expression includes its successors and permitted assigns) of the other part,

### **WHEREAS**

(A) In this Agreement:

- (a) the "**Framework**" means the Framework Agreement dated [ • ] made between the Client and the Framework Member for [insert title of framework agreement as indicated in the published contract notice] (the "**Supplies**" / "**Services**")
- (b) other capitalised terms shall have the meaning attributed to them in the Framework save where indicated otherwise.

(B) Pursuant to the Framework, the Client may award a Call-Off Contract to the Framework Member for the provision of **Supplies/Services**.

(C) For the purposes of the delivery of **Supplies/Services** under a Call-Off Contract, certain confidential information will be disclosed or supplied either by the Client or by the Framework Member to the other party.

**NOW IT IS HEREBY AGREED** in consideration of the sum of €2 (the receipt of which is hereby acknowledged by the Framework Member) as follows:

1. For the purpose of this agreement "**confidential information**" shall mean such technical and/or commercial information, including but not limited to any documents, drawings, sketches or designs, materials, samples or prototypes disclosed or supplied either by the Client or by the Framework Member to the other party in any format, and which at the time of its disclosure or supply is identified as confidential or proprietary. Oral information which is confidential or proprietary shall be recorded in writing by the disclosing party within thirty (30) days after disclosure, and the resulting document shall specifically state the date of disclosure and designate the information as confidential or proprietary.
2. This Agreement shall be effective as of the Commencement Date of the Framework and shall thereafter continue until the expiry of a period of **ten (10) years** following the termination or expiry of the last Call-Off Contract awarded under the Framework.
3. The Client and the Framework Member each undertake to treat any and all confidential information as confidential, to use it solely for the purpose of the **Supplies/Services**, not to disclose it to any third party, and not to make it publicly available or accessible in any way, except with the prior written consent of the disclosing party.

4. The obligations set out in Clause (3) shall not apply with respect to any confidential information which:
  - 4.1 the receiving party can prove has been known to the receiving party prior to the time of its receipt pursuant to this Agreement; or
  - 4.2 is in the public domain at the time of disclosure or thereafter enters the public domain without breach of the terms of this Agreement on the part of the receiving party; or
  - 4.3 the receiving party can prove becomes known to the receiving party through disclosure by sources other than the disclosing party, having a right to disclose such information; or
  - 4.4 the receiving party can prove has been developed independently by an employee of the receiving party who has not had access to any of the confidential information of the disclosing party.
5. Unless it is necessary for the purpose stated in this Agreement and provided that any disclosed confidential information or any copy thereof is made accessible only to such representatives who have a need to know, the receiving party shall not, without the prior written consent of the disclosing party, copy or reproduce any item or document supplied to the receiving party - being or containing in whole or in part confidential information. The receiving party shall return such item or document and any copies thereof at the supplying party's request, and at the latest on termination of this Agreement. This shall not apply to copies of electronically exchanged confidential information made as a matter-of-routine information technology back-up, and to confidential information or copies thereof which must be stored by the receiving party according to mandatory law, provided that such confidentiality information or copies thereof shall be subject to an indefinite confidentiality obligation.
6. All confidential information shall remain the exclusive property of the disclosing party as well as all patent, copyright, trade secret, trademark and other intellectual property rights therein. No license or conveyance of any such rights to the receiving party is granted or implied under this Agreement. No commercial obligation on the part of either party is intended or undertaken. The parties agree that any confidential information is made available "as is" and that no warranties of any kind are granted or implied with respect to the quality of confidential information, including but not limited to, its fitness for any purpose, non-infringement of third-party rights, accuracy, completeness or correctness.
7. The party receiving confidential information including materials, samples, prototypes or similar items, in any format, shall not analyse it, chemically, by reverse engineering, or otherwise, in order to determine the identity and/or properties of its components. To the extent that such items have not been destroyed or used during evaluation tests and unless there is no other agreement between the Client and the Framework Member, they shall be returned to the supplying party upon request, and at the latest on termination or expiry of the Framework or any Call-Off Contract awarded thereunder, whichever is later.

8. The Framework Member acknowledges that the Client is subject to the Freedom of Information Acts 2014, as amended. In the event of the Client receiving a request for information related to the Framework or a Call-Off Contract, the Client shall consult with the Framework Member in respect of the request. The Framework Member shall identify any information that is not to be disclosed on grounds of commercial sensitivity and shall state the reasons for this sensitivity. The Client will consult the Framework Member about this commercially sensitive information before making a decision on any Freedom of Information request received. The final decision on disclosure rests with the Office of the Information Commissioner and ultimately, the courts.
9. Ancillary agreements, amendments or additions hereto must be made in writing.
10. This Agreement shall be construed and interpreted by the laws of Ireland and the Irish courts shall have exclusive jurisdiction.
11. If any provisions of this agreement are invalid or unenforceable, the validity of the remaining provisions shall not be affected. The parties shall replace the invalid or unenforceable provision by a valid and enforceable provision that will meet the purpose of the invalid or unenforceable provision as closely as possible.

.....

Signed on behalf of the Client Date

.....

Signed on behalf of the Framework Members Date

**Schedule 10 – Sub-Consultants**

| <b>Sub-Consultant Name</b> | <b>Address and Contact Details</b> | <b>Service to be delivered</b> |
|----------------------------|------------------------------------|--------------------------------|
|                            |                                    |                                |
|                            |                                    |                                |
|                            |                                    |                                |
|                            |                                    |                                |
|                            |                                    |                                |
|                            |                                    |                                |
|                            |                                    |                                |

## Schedule 11 – Call-Off Contract Terms and Conditions

The Call-Off Contract Terms and Conditions shall be those agreed by the parties together with any amendments approved by the parties from time to time.

[Insert Terms]

## Schedule 12 - Sub-Consultant Collateral Warranty

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

### BETWEEN:

- (1) **[CLIENT NAME]**, having its offices at [address] (for the purposes of this Agreement referred to as the "**Client**" which expression includes its successors and permitted assigns and anybody to whom its functions are transferred under Applicable Law) of the one part, and
- (2) **[SUB-CONSULTANT NAME]**, a company established under [ • ] law with company registration number [insert] and its registered address at [insert] (for the purposes of this Agreement referred to as the "**Sub-Consultant**" which expression includes its successors and permitted assigns) of the other part,

### WHEREAS

(A) In this Agreement:

- (a) the "**Appointment**" means the sub-consultancy agreement dated [ • ] made between [insert name of Consultant] (the "**Consultant**") and the Sub-Consultant;
- (b) other capitalised terms shall have the meanings attributed to them in the Appointment save where indicated otherwise.

(B) By the Appointment, the Consultant has appointed the Sub-Consultant to provide certain supplies (the "**Supplies**")/professional services (the "**Services**").

**NOW IT IS HEREBY AGREED** as follows:

1. The Sub-Consultant hereby:

- 1.1 warrants to and undertakes with the Client that it has exercised and will continue to exercise all reasonable skill, care and diligence in the performance of its obligations and duties pursuant to the Appointment and has not broken and shall not break any express or implied term of the Appointment.
- 1.2 binds itself to the Client in all respects as if the Client had appointed the Sub-Consultant to act prior to the commencement of any work by the Sub-Consultant to the extent that the Client shall be entitled to enforce all remedies against the Sub-Consultant by virtue of any breach by the Sub-Consultant of its obligations pursuant to the Appointment;
- 1.3 warrants to and undertakes with the Client that the Sub-Consultant shall take out and maintain,
  - 1.3.1 professional indemnity insurance for [ • ] years after the date the service is provided under a Consultant's contract with a limit of indemnity of not less than €[ • ] for each and every claim or series of claims (subject to reasonable adjustment of cover for any exceptional increases in insurance market rates) arising out of the same originating cause with a maximum excess of €[ • ] or such other amount as is acceptable to the Client;
  - 1.3.2 public liability insurance for bodily injury to, disease or death of any person (other than an employee of the Sub-Consultant) or loss of or damage to property resulting from a negligent act or omission of the Sub-Consultant with a limit of indemnity of not less than €[ • ] for each and every claim or series of claims arising from the same occurrence with a maximum excess of €[ • ] until completion of the Services or earlier termination of the Appointment.

- 1.3.3 employer's liability insurance for bodily injury to, disease or death of employees of the Sub-Consultant arising out of or in the course of their employment in connection with the Consultant's contract with a limit of indemnity of not less than €[ • ] for each and every claim or series of claims arising from the same occurrence with a maximum excess of €[ • ] until completion of the **Supplies/Services** or earlier termination of the Appointment.
  - 1.4 The insurance required under **Clause (1.3)** shall be written by reputable and well-established insurers approved by the Client (whose approval shall not be unreasonably withheld or delayed).
  - 1.5 As and when reasonably requested by the Client, the Sub-Consultant shall produce for inspection documentary evidence that the insurance required by **Clause (1.3)** has been taken out and is being maintained as so required.
  - 1.6 If the Sub-Consultant shall at any time fail to take out or maintain the insurance required under **Clause (1.3)**, the Client may take out and maintain such insurance in the Sub-Consultant's name, and the Sub-Consultant shall pay to the Client the amount of all costs and expenses properly incurred by the Client in so doing. The Sub-Consultant shall notify the Client immediately on becoming aware of the cancellation or non-renewal or material reduction in the scope of cover provided by the insurances as set out above in **Clause (1.3)**.
  - 1.7 Any public liability insurance policy shall include an indemnity to principals clause specifically indemnifying the Client. The policy shall not include terms or conditions to the effect that the Sub-Consultant must discharge any liability before being able to recover from the insurers.
  - 1.8 The Sub-Consultant shall be liable to pay the full amount of any deductibles or excess amounts payable under the policies of insurance referred to above in the event of a claim under any of the policies.
2. The copyright in any documents produced by the Sub-Consultant in connection with any **Supplies/Services** (the "Documents") shall remain vested in the Sub-Consultant but the Client shall have a perpetual non-exclusive irrevocable and assignable royalty free licence to reproduce, copy and use the Documents for all purposes connected with the **Supplies/Services** and to future related **Supplies/Services**.
  - 2.1 The Client shall be entitled (at its own cost) to full and proper copies of the Documents in the possession or control of the Sub-Consultant and the Sub-Consultant will not claim copyright or a lien in respect of them against the Client.
  - 2.2 The licence granted to the Client under this Collateral Agreement shall include a right for the Client to grant sub-licences.
3. The Sub-Consultant hereby undertakes and warrants to the Client that it has not and will not specify for use materials or substances which are not in accordance with current European Standards and Codes of Practice insofar as they may be applicable or any materials or substances known to be deleterious to health or safety or the durability or suitability of any such project in the particular circumstances in which the same is used.
4. The benefit of this Collateral Agreement and/or any of the present or future rights interests and benefits of the Client hereunder may be assigned on six occasions without the consent of the Sub-Consultant. The Client shall give the Sub-Consultant prompt notice of any such assignment provided always that the giving of such notice shall not be a precondition to the effectiveness of any assignment.

5. Any notice provided for in accordance with this Collateral Agreement shall be deemed to be duly given if delivered by hand or sent by registered post to the party named therein at the address of such party shown in this Collateral Agreement or such other address as such party may by notice in writing nominate for the purpose of service and if sent by registered post or delivered by hand shall be deemed to have been received when delivered.
6. The Sub-Consultant will, if so required by notice in writing given by the Client, accept the instruction of the Client or the Client's nominee to the exclusion of the Consultant in respect of the carrying out and completion of any **Supplies/Services** upon the terms and conditions of the Appointment (whereupon all the rights and obligations of the Consultant under the Appointment shall thereafter be performed and exercisable by the Client or its nominee). The Sub-Consultant shall not be in breach of the Appointment by complying with the obligations imposed on it by this Clause.
7. The Sub-Consultant will not without first giving the Client not less than twenty one (21) days prior notice in writing exercise any right it may have to determine its employment under the Appointment or to treat the same as having been repudiated by the Consultant or to discontinue or suspend the performance of any duties to be performed by the Sub-Consultant pursuant thereto. The Sub-Consultant's right to determine its employment under the Appointment, to treat the same as having been repudiated or to suspend or to discontinue performance shall cease if within twenty one days of receipt of such notice the Client shall give notice in writing to the Sub-Consultant requiring the Sub-Consultant to accept the instruction of the Client or its nominee to the exclusion of the Consultant in respect of the carrying out and completion of the **Supplies/Services** upon the terms and conditions of the Appointment (whereupon all the rights and obligations of the "Consultant" under the Appointment shall thereafter be performed and exercisable by the Client or its nominee).
8. This Agreement shall be governed by, and construed in accordance with, the laws of Ireland and the parties, subject to **Clause (9)**, irrevocably submit to the jurisdiction of the Irish Courts.
9. Dispute Resolution
  - 9.1 Any dispute or difference of any kind whatsoever which arises or occurs between the parties to this Collateral Agreement or their respective assigns in relation to anything or matter arising under, out of, or in connection with this Collateral Agreement shall, in the first instance, be referred to a Mediator to be appointed by agreement between the parties and, in the absence of agreement within five (5) working-days of the receipt by one Party of a written notice to concur in the appointment of a Mediator, by the Chairman of the Chartered Institute of Arbitrators Irish Branch.
  - 9.2 In the event that the dispute or difference is not resolved within fifteen (15) working-days of the appointment of the Mediator, the dispute or difference shall be referred to an Arbitrator to be agreed between the parties and, in default of agreement within ten (10) working-days of the receipt by one Party of a written notice to concur in the appointment of an Arbitrator, by the Chairman of the Chartered Institute of Arbitrators Irish Branch, such arbitration to be governed by the Arbitration Act 2010 as amended or replaced and shall be conducted in accordance with the Model Law as defined in the Arbitration Act 2010. The Arbitrator shall have no connection with the Mediator or Mediation Proceedings unless both parties have otherwise consented in writing.

**IN WITNESS WHEREOF** the parties have affixed their Seals the day and date first hereinbefore written.

**SIGNED** for and on behalf of **[INSERT NAME OF CLIENT]** by:

\_\_\_\_\_  
A duly authorised representative

in the presence of:

\_\_\_\_\_  
Witness to Signature

\_\_\_\_\_  
Witness' address

\_\_\_\_\_  
Witness' occupation

**SIGNED, SEALED AND DELIVERED** by **[SUB-CONSULTANT]**

in the presence of:

\_\_\_\_\_  
Director

\_\_\_\_\_  
Person duly authorised

in the presence of:

\_\_\_\_\_  
Witness to Signature

\_\_\_\_\_  
Witness' address

\_\_\_\_\_  
Witness' occupation

## Schedule 13 – Request for Tender

## Schedule 14 – Tender Submission