



Single-Operator Framework Agreement Terms and Conditions

for the Provision of:	
Single Party Framework Agreement for Waterways Ireland's Hydrometric Measurement Network & Associated Services	
PARTIES	
Contracting Authority:	Waterways Ireland
Service Provider:	
Date:	
Note: This document is an indication of the form of agreement which Waterways Ireland 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.	

Subject to contract / contract denied

Framework Agreement with a Framework Member in a Single-Operator Framework for Waterways Ireland's Hydrometric Measurement Network & Associated Services

THIS FRAMEWORK AGREEMENT is dated _____.

BETWEEN:

- (1) **Waterways Ireland** whose address is at 2 Sligo Road, Enniskillen, Co. Fermanagh, BT74 7JY (the "Contracting Authority" or "Waterways Ireland" or "WI"); and
- (2) **[Insert successful Tenderer's full name]** whose principal place of business is at **[address]** (the "Supplier" or "Service Provider")

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

RECITALS:

- (A) By Request for Tender dated **[insert date of RFT]** advertised in the supplement to the Official Journal of the European Union, OJEU Notice Number **[insert OJEU Notice Number]** the Contracting Authority invited tenders for appointment to a single party framework for the Waterway's Ireland's hydrometric measurement network and associated services (the "RFT") (which document is attached hereto in **Appendix A**). References to the RFT shall include the Scope of Service issued therewith and any clarification issued by the Contracting Authority and same are attached hereto in **Appendix B** and **Appendix C** respectively.
- (B) The Supplier submitted a response dated **[Date of Tender]** to the RFT which is attached hereto in **Appendix D** (the "Submission"). References to the Submission shall include any clarifications issued by the Supplier and same are attached hereto in **Appendix E**.
- (C) The Supplier hereby accepts its appointment to provide Services in accordance with this Framework Agreement as ordered by the Contracting Authority.

ARTICLES:

It is hereby agreed as follows:

1. The Supplier agrees to provide Services to the Contracting Authority under Orders entered into on a non-exclusive basis in accordance with the terms of the Framework Agreement and each relevant Order.
2. The Contracting Authority agrees to pay the Supplier in accordance with the terms of this Framework Agreement and any relevant Order.
3. The Parties agree that no Services (or any part thereof) are to be provided unless an Order is entered into between the Parties in accordance with the terms of the Framework Agreement.
4. Nothing in the Framework Agreement shall oblige the Contracting Authority to enter into any Order or issue any Order Form or otherwise order any particular Services from the Supplier. Furthermore, nothing herein shall entitle the Supplier to be consulted in respect of, or awarded any Order during, the Framework Period.
5. The following documents form (and are to be read and construed as part of) the Framework Agreement:
 - (a) this Agreement;
 - (b) the Appendices; and
 - (c) the Schedules.
6. The documents forming part of this Framework Agreement are to be read as a whole. In the case of any discrepancy, conflict of wording, or other inconsistency the documents shall be read and construed in the following order of priority:
 - (a) this Framework Agreement;
 - (b) **Schedule 1 to Schedule 5** attached hereto;
 - (c) any clarifications to the RFT (**Appendix C**)
 - (d) the Scope of Service (**Appendix B**)
 - (e) the RFT (to the extent not contained in the foregoing) (**Appendix A**);
 - (f) the Submission (**Appendix D**) and any clarifications issued by the Supplier in respect of same (**Appendix E**);
 - (g) GDPR Addendum (**Schedule 6**);

- (h) Order Form (**Schedule 7**); and
- (i) Any other document which is part of the Framework.

7. This Framework Agreement may be executed in any number of counterparts, each of which will be deemed to be an original and all of which constitute one and the same instrument. Transmission of an executed counterpart (but for the avoidance of doubt not just a signature page) by email (in PDF, JPEG or other agreed format) shall take effect as the transmission of an executed "wet-ink" counterpart of this agreement.

Executed as a deed by [●] acting by
....., an authorised
signatory, in the presence of:



.....
Signatory

Signature of Witness

Name, Address and occupation of Witness:

Executed as a deed by [●] acting by
....., a director, in the
presence of:



.....
Signatory

Signature of Witness

Name, Address and occupation of Witness:

Appendix A

Request for Tender

Appendix B

Scope of Service

Appendix C

WI Clarifications to RFT

Appendix D

Supplier's Submission

Appendix E

Clarifications to Supplier's Submission

SCHEDULE 1

TERMS AND CONDITIONS

1. DEFINITIONS AND INTERPRETATION

1.1. As used in this Framework Agreement and any Order entered into in accordance with this Framework Agreement the following capitalised terms shall have the meanings provided below unless the context otherwise requires:

"Achieved KPI" means the standard of performance actually achieved by the Supplier in the provision of Services in respect of any relevant KPI during any measurement period (calculated and expressed in the same way as the relevant KPI is calculated and expressed).

"Affected Employees" means those employees in respect of whom the Regulations may be deemed to apply in connection with the Framework Agreement.

"Amount Due" means:

(a) Where **Schedule 2 – Construction Works** is applicable to an Order:

(i) in relation to a Due Date for an interim payment:

(a) the amount set out in an applicable Pay Less Notice;

(b) in the absence of a Pay Less Notice the amount calculated by the Contracting Authority in accordance with clause 4.2 of **Schedule 2 – Construction Works** and set out in an applicable Interim Payment Certificate; or

(c) in the absence of a Pay Less Notice and an Interim Payment Certificate the amount calculated in accordance with clause 4.2 **Schedule 2 – Construction Works** to the extent set out in an applicable Payment Notice or Payment Application,

or

(ii) in relation to a Due Date for a final payment;

(a) the amount set out in an applicable Pay Less Notice;

(b) in the absence of a Pay Less Notice the amount of the final payment as set out in clause 4.10 of **Schedule 2 – Construction Works** as calculated by the Contracting Authority and set out in an applicable Final Certificate; or

(c) in the absence of a Pay Less Notice and Final Certificate the amount for the final payment as set out in clause 4.10 of **Schedule 2 – Construction Works** to the extent set out in an applicable Payment Notice or Payment Application,

or

- (b) Where **Schedule 2 – Construction Works** is not applicable to an Order the amount (or proportion) of the Price validly invoiced by the Supplier in accordance with the Framework Agreement and the relevant Order and not disputed by the Contracting Authority.

“Applicable Law” means any of the following, to the extent that it applies to a Party, or any Personnel of a Party, performance of the Framework Agreement or the provision of Services: (a) any statute, regulation, by-law, ordinance, or subordinate legislation in force from time to time; (b) the common law and the law of equity; (c) any binding court order, judgement or decree; (d) any applicable industry code, guidelines, policy or standard; (e) any taxes, customs, duties, tariffs, levies, licences or restrictions to trade; and (f) any applicable guidance, direction, policy, rule or order that is given by a regulatory body, in any jurisdiction applicable to the Framework Agreement.

“Backwards Compatible” means all features, outputs, and functions previously performed and/or supported by Software (prior to any change), including all features outputs and functions available through inter-operating, inter-working and/or inter-managing with third party equipment, software, products or services, will remain available in the same way and with the same outputs and fully accessible in the same way and through the same inputs with the replacement or exchanged version. An element of Software will only be said to be “Backward Compatible” when it is able to seamlessly take the place of the installed version by inter-working, interfacing, inter-operating and inter-managing with all other equipment, software, products or services.

“Confidential Information” means all confidential and proprietary information, including without limitation, inventions, trade secrets, specifications, designs, data, databases, protocols, know-how and any improvements, modifications, derivations, or compilations thereto and other proprietary information relating to the processes, services and business of the Contracting Authority and the term Confidential Information also includes: (i) any notes, analyses, compilations, memoranda or other documents prepared by the Supplier which contain, reflect or are based upon, in whole or in part, any confidential information furnished by or on behalf of the Contracting Authority; and (ii) information transferred orally, visually, electronically or by any other means.

“Contracting Authority Data” means all records, information and data concerning employees, contractors, sites, business, operations or finances of the Contracting Authority or otherwise relating to Services including, without limitation, any personal data relating to the staff, customers or other suppliers of the Contracting Authority, documents, text, drawings, diagrams, images or sounds (together with any database made up of any of those), embodied in any medium, that are supplied directly or indirectly to the Supplier pursuant to or in connection with this Framework Agreement and/or any Order. Contracting Authority Data includes Contracting Authority Personal Data as defined in clause 13.12.

“Construction Contract” has the meaning given to the term “construction contract” in:

- (a) section 1(1) and 1(2) of Construction Contracts Act 2013 (“**CCA**”) enacted in Ireland; or
- (b) article 3 of the Construction Contracts (Northern Ireland) Order 1997, as amended, (the

“**CC(NI)O**”) enacted in Northern Ireland,

to the extent the CCA or the CC(NI)O apply to an Order.

“**Data Protection Legislation**” means the Data Protection Act 2018 enacted in Ireland and/or the Data Protection Act 2018 enacted in the United Kingdom insofar either or each are applicable to either Party and/or the Framework Agreement.

“**Deliverables**” means all Goods, Materials, data, material, and deliverables to be developed and/or delivered by the Supplier in connection with Services or as set out in the Framework Agreement and/or an Order.

“**Delivery Date**” means any date or deadline for performance of the Supplier’s obligations specified in the Order including;

- (a) any date or period of time by or within which the Supplier is to provide Services; and/or
- (b) any date by which the Supplier is deliver Deliverables to the Contracting Authority.

“**Equipment**” means all equipment and materials of the Supplier necessary for or used in the provision of Services.

“**Final Date for Payment**” means:

- (a) Where **Schedule 2 – Construction Works** is applicable to an Order the date 30 days after each Due Date; or
- (b) Where **Schedule 2 – Construction Works** is not applicable to an Order the date 30 days after receipt of a valid invoice from the Supplier in accordance with clauses 9.2 and 9.3.

“**Goods**” means the goods, devices and other physical material set out in any applicable Order to be supplied by the Supplier to the Contracting Authority or maintained by the Supplier in providing Services.

“**Health and Safety Legislation**” means the Safety Health and Welfare at Work Act 2005 enacted in Ireland and/or the Health and Safety at Work (Northern Ireland) Order 1978, as amended, enacted in Northern Ireland insofar either or each are applicable.

“**Insolvent**” means any of the following in relation to a Party (or any analogous event in a jurisdiction other than the Republic of Ireland):

- (a) becomes the subject of a bankruptcy order or becomes insolvent;
- (b) makes any arrangement or composition with or assignment for the benefit of its creditors;
- (c) goes into examinership, receivership or liquidation, either voluntary (otherwise than for reconstruction or amalgamation) or compulsory;
- (d) ceases to trade or operate;
- (e) owns any assets that are material to the operations of all or substantially all of its business that are the subject of any form of seizure or have a receiver or administrator appointed over them; or
- (f) a notice is given, a petition issued, a resolution passed or any other step is taken to commence any of the procedures listed above in the jurisdiction of that other Party.

"IPR" means any and all of the following arising in any jurisdiction in the world: all patent rights, trademarks and trademark rights, trade names and trade name rights, service marks and service mark rights, service names and service name rights, brand names, copyrights and copyright rights, trade dress, business and product names, logos, slogans, trade secrets, industrial models, utility models, design models, design rights, rights in confidential information, know-how, rights in the nature of unfair competition rights and rights to sue for passing off and all pending applications for and registrations of patents, trademarks, service marks, and copyrights together with all connected and similar or analogous rights for the full term thereof.

"Key Personnel" means the Supplier's Personnel which are identified and specified as such in **Appendix D – Supplier's Submission** and/or any Order.

"KPI" means the key performance indicators and standards of performance required from the Supplier as specified in any of the Appendices or an Order.

"Late Payment Legislation" means the European Communities (Late Payment in Commercial Transactions) Regulations 2012 enacted in Ireland and/or the Late Payment of Commercial Debts (Interest) Act 1998 enacted in the United Kingdom insofar either or each are applicable.

"Maintenance Services" means services for the maintenance or repair of Goods.

"Materials" means all reports, data manuals, drawings, specifications and/or other materials (including without limitation all and any audio or audio visual recordings, transcripts, books, papers, records, notes, illustrations, photographs, diagrams or software) produced or required to be produced for the purposes of the Framework Agreement and/or any Order.

"Order" means an order entered into between the Parties for Services in accordance with the provisions of clause 5 and as set out in an Order Form signed by the Parties, incorporating the Framework Agreement (other than clause 5) and the relevant Special Conditions and any other documents appended thereto or referred to in such Order Form.

"Order Form" means a document setting out the details of an Order in the form set out in **Schedule 7 – Order Form** or a form which contains all such information anticipated by the form set out in **Schedule 7 – Order Form** and is otherwise agreed between the Parties.

"Order Period" means the term of an Order as set out in the relevant Order.

"Personnel" means a Party's employees, directors, agents, consultants, subcontractors, and suppliers.

"Pre-existing IPR" means all IPR existing prior to the date of this Framework Agreement and all IPR in any materials acquired or developed by or for the Supplier or the Contracting Authority independently of this Framework Agreement and any IPR in the Supplier's standard hardware and software products or modifications or updates to such products carried out outside of the performance of the Framework Agreement and/or any Order.

"Price" means the price payable by the Contracting Authority to the Supplier for the provision of Services, as set out and described in an Order. The Price shall be deemed inclusive of all costs

and expenses incurred by the Supplier in complying with all of its obligations under Framework Agreement and the relevant Order (including, but not limited to, all applicable taxes (other than VAT, which shall be separately shown), duties and levies and all packing, carriage, freight, shipping, insurance and delivery / removal costs).

“Purchase Order Number” means an identifying number assigned to each Order by the Contracting Authority.

“Rates” means the rates for the provision of the Services set out in **Appendix D – Supplier’s Submission**.

“Regulations” means the (i) European Communities (Protection of Employees' Rights on Transfer of Undertakings) Regulations 2003 (S.I. No. 131 of 2003) and/or (ii) Transfer of Undertakings (Protection of Employment) Regulations 2006 and the Service Provision Change (Protection of Employment) Regulations (Northern Ireland) 2006, insofar either or each are applicable.

“Services” means the tasks or services set out in **Appendices A - E** to be performance by or on behalf of the Supplier and which are ordered by the Contracting Authority and set out an Order together with any additional, ancillary or incidental activities or services as are reasonably necessary for the proper implementation, support and performance of such tasks or services. For the avoidance of doubt, Services include, but are not limited to, the Supplier supplying Goods, providing Construction Work, providing Software, or providing Deliverables.

“Software” means the software products and/or goods, including but not limited to graphical user interfaces, executables, database objects (tables, indexes, stored procedures and triggers), object code, source code, and reports for those software products and/or goods identified in an Order, any software provided by Seller as part of the Services or for use in connection with the Goods, and/or firmware or software embedded, included and/or incorporated in the Goods including all related documentation, and all additions, improvements, corrections and updates to Software.“

Special Conditions” means those conditions, if any, set out in or appended to an Order.

“Target KPI” means the minimum level of performance for a KPI which is required by the Contracting Authority.

“Variation” means a change to the Services set out in an Order including but not limited to a change to the quantity, quality or design of the Services or the sequence, time period(s) and/or dates, site, or location for provision of such Services.

“Web Hosting Services” means Services for the provision of a web-hosting platform as set out in **Appendix B – Scope of Service**.

“Working Days” means days which are not a Saturday, Sunday, a public holiday established under the Organisation of Working Time Act 1997 or Good Friday.

- 1.2. References to **Appendix A**, **Appendix B** and **Appendix D** shall be deemed to include a reference to any relevant clarifications thereto contained in **Appendix C** and **Appendix E** respectively.
- 1.3. References to “clauses” shall be deemed to references to clauses of this **Schedule 1 – Terms and Conditions** save where specified otherwise.

2. SCOPE OF FRAMEWORK AGREEMENT

- 2.1 This Framework Agreement governs the relationship between the Contracting Authority and the Supplier in respect of the provision of Services ordered by the Contracting Authority from the Supplier in accordance with this Framework Agreement.
- 2.2 The Contracting Authority appoints the Supplier to provide Services and the Supplier shall be eligible to receive Orders for such Services from the Contracting Authority during the Framework Period.
- 2.3 The Contracting Authority may at its absolute discretion and from time to time issue an Order during the Framework Period in accordance with the provisions of clause 5. However, for the avoidance of doubt, the Framework Agreement will not give rise to any obligation on the part of the Contracting Authority to (i) issue an Order Form to the Supplier; or (ii) obtain Services from or make payment to the Supplier unless a valid Order is entered into in accordance with clause 5.7.
- 2.4 Each Order shall constitute and be construed as a separate contract that is applicable only to Services identified in that Order, even though such Order incorporates and makes reference to the Framework Agreement.
- 2.5 The Supplier acknowledges that in entering into the Framework Agreement no form of exclusivity or value guarantee has been granted or made by the Contracting Authority. The Parties are entitled to enter into other contracts and agreements on the same or different terms as set out in the Framework Agreement in respect of services which are the same as or similar to the Services provided however that in doing so the Supplier is not in breach of any of the provisions of the Framework Agreement and/or an Order.
- 2.6 The Rates shall remain fixed for the Framework Period and are not subject to adjustment save as specifically provided for in the Framework Agreement or any Order or otherwise agreed by the Parties.
- 2.7 Any terms and conditions issued, submitted, or put forward by or on behalf of the Supplier shall not apply.
- 2.8 In the case of any discrepancy, conflict of wording, or other inconsistency in or between any provision of the Framework Agreement and an Order the following order of priority shall apply
 - (a) the Order;
 - (b) the Framework Agreement.

3. DURATION

- 3.1 The Framework Agreement shall commence on the date stated in the Agreement and shall continue for an initial period two (2) years subject to any earlier termination in accordance with the provisions herein ("Initial Term"). The Initial Term may be extended by the Contracting Authority, at its sole discretion, by two (2) further periods of one (1) year each (each being a "Further Period") by giving the Supplier notice of such Further Periods at any time prior to the expiry of the Initial Term or Further Period as the case may be, and the Framework Agreement shall then continue until the expiry of that additional period (the Initial Term and Further Periods together being the "Framework Period").

4. SUPPLIER'S WARRANTIES AND OBLIGATIONS

- 4.1 The Supplier shall:

- (a) provide Services in accordance with, (i) the Framework Agreement; (ii) the Order; (iii) any and all Applicable Law; and (iv) the Contracting Authority's instructions and directions issued under the Framework Agreement and/or the Order;
- (b) comply with and implement any policies and/or guidelines and/or any project governance protocols issued by the Contracting Authority from time to time;
- (c) to the extent applicable, comply with all local security arrangements (including as may apply at any location at which Services are to be provided) as notified to the Supplier;
- (d) provide the Services with highest standards skill and diligence, judgment and care to be expected of a properly qualified, competent and experienced supplier specialising in providing services of a similar scope, size, nature, timescale and complexity to the Services and in accordance with good industry practice and comply with all Applicable Laws with particular, but not exclusive regard to the requirements of the Health and Safety Legislation and the Data Protection Legislation.
- (e) be solely responsible in law for the employment, remuneration, taxes, immigration and work permits of all Personnel retained for the purposes of complying with this Framework Agreement; and
- (f) comply with all applicable obligations arising pursuant to the Regulations.

4.2 The Supplier represents warrants and undertakes on behalf of itself and each of its Personnel that:

- (a) the Supplier has full capacity and authority to enter into and to perform the Framework Agreement and each Order;
- (b) the Supplier's performance of the Framework Agreement and/or any Order will not violate any Applicable Law;
- (c) the Supplier shall exercise reasonable endeavours to ensure that it is not and will not be subject to any agreement or other constraint that does, would, or with the passage of time would, prohibit or restrict the Supplier's ability to enter into Orders, or carry out its obligations under the Framework Agreement or any Order;
- (d) it shall perform its obligations arising from the Framework Agreement and any Order with highest standards skill and diligence, judgement and care to be expected of a properly qualified, competent and experienced supplier specialising in providing services of a similar scope, size, nature, timescale and complexity to the Services and shall exercise such standards in the appointment, monitoring and retention of its Personnel;
- (e) Services, or any part, product, Goods, or Software supplied by the Supplier in connection Services will not infringe any IPR of any third party;
- (f) any software provided as part of Deliverables or Services contain no third-party software or any software that may be considered "Free and Open Source Software" or "FOSS" where "FOSS" means any software that users are allowed to run, study, copy modify and redistribute without restriction, and for which access to source code is a prerequisite to its use, and for which users may or may not be required to pay a fee for use of the software;
- (g) all Services provided under the Framework Agreement will be free from defects and conform in all respects to the requirement(s) and/or specification(s) set out in or identified in the Framework Agreement and/or each applicable Order;
- (h) it is entering into the Framework Agreement and enters into any Orders with a full understanding of its material terms and risks and is capable of assuming those risks and has a full understanding of its obligations with regard to taxation, employment and environmental protection and is capable of assuming and fulfilling those obligations;
- (i) it owns, has obtained or is able to obtain, valid licences for all IPR that are necessary for the performance of its obligations under the Framework Agreement and provision of Services and for the Contracting Authority to obtain the benefit of Services;

- (j) if applicable, shall ensure that a backup copy of all data and software shall be taken at the end of each week. In the event of a disaster, breakdown in or interruption to the provision of the Services, the Supplier shall reconstruct the data in accordance with the disaster recovery procedures set out in the Supplier's data recovery plan;
 - (k) The Supplier undertakes to notify the Contracting Authority forthwith of any material change to the status of the Supplier with regard to the warranties, representations and undertakings as set out in this clause 4.2 and to comply with all reasonable directions of the Contracting Authority with regard thereto which may include termination of this Framework Agreement; and
 - (l) the Supplier has the necessary skill, knowledge, experience, financial resources and capacity to fulfil its obligations under this Framework Agreement and any Order in a professional manner without the advice, control or supervision of the Contracting Authority.
- 4.3 The Supplier shall not sub-contract any aspect of the Framework Agreement, any Order, and/or the provision of Services to any third party without the prior written consent of the Contracting Authority. In the event that the Contracting Authority does consent to a sub-supplier, the Supplier shall remain fully responsible for the acts and omissions of that sub-supplier as if they were its own. The Supplier hereby assumes liability for its sub-suppliers and shall ensure that its sub-suppliers shall comply in all respects with the relevant terms of the Framework Agreement and any Order to the extent that it is retained by the Supplier.
- 4.4 The Supplier shall be an independent supplier and not the employee of the Contracting Authority. Neither Party shall have any authority to bind or commit the other. Nothing herein or in any Order shall be deemed or construed to create a joint venture, partnership, and/or fiduciary or other relationship between the Parties for any purpose. The officers and Personnel of the Supplier are not and shall not hold themselves out to be (and shall not be held out by the Supplier as being) officers and/or Personnel of the Contracting Authority for any purposes whatsoever.
- 4.5 The Supplier shall indemnify, hold harmless and keep the Contracting Authority indemnified from and against all liabilities (including the cost of wages, salaries and other remuneration or benefits, expenses, taxation, PRSI payments, health contributions, levies, losses, claims, demands, actions, fines, penalties, awards (including legal expenses on an indemnity basis) from, or incurred by reason of, any claims made against the Contracting Authority (whether under the Regulations or otherwise) by any Affected Employees.
- 4.6 The Supplier indemnifies the Contracting Authority and/or any subsequent supplier engaged to provide the same or similar services to the Services ("**Subsequent Supplier**") and shall keep those parties indemnified against all costs, claims, losses, liabilities, and expenses (including legal costs) which either of those parties may incur arising from any of the following:

- (a) claims (including but not limited to a claim for income tax, PRSI, employment and training levies, income tax and health contribution levies and any interest, duties and/or penalties thereon) which made against the Contracting Authority or Subsequent Supplier by any lawful authority whether in Ireland or the United Kingdom for sums due to such authorities for the performance of the Services by the Supplier;
- (b) any act, omission, breach or default by the Supplier of any of its obligations in relation to any of its Personnel (including but not limited to any liability arising out of any non-payment of monies, wages, salaries, commission, subsistence allowance, sick pay, holiday pay and pension contributions or any act, omission, breach or default by the Supplier relating to the injury, illness, treatment, termination or dismissal of any of its Personnel);
- (c) any claim by or on behalf of any of Affected Employees or any other persons engaged by the Supplier including any employee / purported employee which relates to their employment / engagement (or the termination thereof) by the Supplier including, but not limited to, claims for unfair dismissal, wrongful dismissal, notice, redundancy or any claims for any form of termination payment;
- (d) any liability arising or which may arise as a result of any failure on the part of the Supplier to comply with its obligations under the Regulations.

- 4.7 The Supplier shall provide the Contracting Authority and its Personnel with training in relation to Services or as part of providing Services. The time, locations and format of such training shall be as reasonably requested by the Contracting Authority following prior consultation with the Supplier.
- 4.8 The Supplier will continue to fully support all historic version of Software contained within the Goods or provided as part of Web Hosting Services or Deliverables during the Framework Period and any Warranty Period.
- 4.9 If the Services or any portion thereof are deficient or otherwise not in conformity with the requirements of the Framework Agreement or an Order the Supplier will correct or reperform such Services within three ten (10) Working Days of receipt of notice of such deficiency or non-conformance from the Contracting Authority at the sole expense of the Supplier.
- 4.10 The Supplier shall take out and maintain the insurances set out in the Framework Agreement and/or any Order for the periods and at the levels specified. On request the Supplier will submit to the Contracting Authority certificates of insurance evidencing the insurance required to be taken out and maintained by the Supplier.
- 4.11 The Supplier shall be responsible for and shall indemnify the Contracting Authority against any expense, liability, loss, claim, damages, or proceedings whatsoever in respect of (i) personal injury to or death of any person or; (ii) any loss, injury or damage whatsoever to property real or personal arising out of or in the course of performance of Services save to the extent that same is due to any act of neglect of the Contracting Authority.
- 4.12 No approvals, comments, instructions, consents, deemed acceptances or advice or indication of satisfaction given by or from the Contracting Authority, nor any enquiry or inspection which the Contracting Authority makes or has carried out for its benefit or on its behalf at any time, operates to reduce, extinguish, exclude, limit or modify the Supplier's liability under the Framework Agreement or any Order. The issue of certificates, applications for payment, statements or notices and the payment of any sum is not conclusive evidence that the Services (or any part thereof), including any design, specification, goods, materials and/or workmanship, are in accordance with the provisions of the Framework Agreement and/or any Order.
- 4.13 During the Framework Period and any Warranty Period all new versions, upgrades, modifications, patches, fixes, changes to any Software will at all times:
 - (a) be provided at no additional cost and not require the Contracting Authority to purchase any additional software and/or service in order to implement;
 - (b) provide no less functionality and performance;
 - (c) be Backward Compatible with the version of the Software it replaced or superseded.

5. ORDER PROCEDURE

- 5.1 As and when the Contracting Authority wishes to issue an Order it may issue a written enquiry to the Supplier, which shall include details of the Services which the Contracting Authority proposes to order and shall state the time within which the Contracting Authority requires the Supplier to respond to the enquiry which shall not be less than fourteen (14) days.
- 5.2 The Supplier shall, subject to clause 5.3, within the time required for a response to an enquiry per clause 5.1, respond to an enquiry setting out:
- (a) details of resources it proposes to utilise in relation to the Services the Contracting Authority proposes to order per its enquiry;
 - (b) its proposed Price calculated in accordance with the Rates;
 - (c) its proposed Order Period and Delivery Dates to the extent not specified by the Contracting Authority in the enquiry; and
 - (d) any other information as may be required by the Contracting Authority and requested in the enquiry.
- 5.3 To the extent that the Supplier requires further information in order to respond to an enquiry in accordance with clause 5.2 then it shall request such information as soon as possible in any event within 5 (five) days from receipt of an enquiry and the period for response to such enquiry shall be extended by the number of days equal to the period between the Supplier requesting further information and the Contracting Authority issuing the requested information to the Supplier.
- 5.4 In the event that the Supplier responds to an enquiry requesting or proposing modifications to the Services proposed to be ordered by the Contracting Authority and/or any other aspect of the enquiry the Contracting Authority may either:
- (a) reaffirm the enquiry in which case the time period for the Supplier to respond to the enquiry shall not be renewed or restart; or
 - (b) reissue the enquiry incorporating some or all of the modifications.
- 5.5 Following receipt and consideration of a response to an enquiry being provided by the Supplier in accordance with clause 5.2 if the Contracting Authority is satisfied that the Supplier's proposal or the Parties have otherwise reached agreement in relation to an enquiry then the Contracting Authority may issue an Order Form. The Supplier shall provide any assistance or further information as the Contracting Authority may reasonably require and the Parties shall work together in good faith for the completion of the Order Form for submission by the Contracting Authority to the Supplier. For the avoidance of doubt, each Party shall bear its own cost in developing the details of an Order Form and for any other matter related to finalising the Order Form for submission by the Contracting Authority to the Supplier.
- 5.6 The Parties acknowledge and agree that the issuing of an Order Form by the Contracting Authority is an "invitation to treat" by the Supplier. On and in any event within 3 (three) days of receipt of an Order Form the Supplier shall duly execute and return the Order Form to the Contracting Authority which shall constitute the Supplier's offer to the Contracting Authority. The Contracting Authority shall indicate its acceptance and the placement of an Order by counter-signing the Order Form and issuing a copy of such to the Supplier.
- 5.7 An Order shall not enter into force, be legally binding, or have any other effect unless (i) the Order Form has been duly executed by the Parties; and (ii) as at the date the Order Form is signed by both Parties the Framework Agreement has not expired or been terminated.
- 5.8 The Supplier acknowledges that the Contracting Authority shall not be obliged to issue any enquiry, Order Form or enter into any Order pursuant to this clause 5 and may terminate the procedure of issuing an Order as set out in this clause 5 at any time at the Contracting Authority's sole discretion.

- 5.9 The Contracting Authority shall not be bound by or be liable for any enquiry, statement, draft or proposed Order, representation, promise, inducement or understanding made in or during the procedures described in this clause 5 or otherwise unless and until any such matters are then incorporated into documents which become part of an Order which is in force in accordance with clause 5.7 (in which case, the Contracting Authority shall be bound only to the extent provided for in that Order or otherwise under the Framework Agreement).

6. APPLICABLE SCHEDULES, INSTRUCTIONS AND VARIATIONS

- 6.1 Where Services to be provided by the Supplier in respect of an Order results in the CCA or CC(NI)O applying to such Order then **Schedule 2 – Construction Works** shall apply to the Order
- 6.2 Where the Services to be provided by the Supplier in respect of an Order entails the supply of Goods then **Schedule 3 - Goods** shall apply to the Order.
- 6.3 Where the Services to be provided by the Supplier in respect an Order entails the carrying out of any Maintenance Services then **Schedule 4 - Maintenance** shall apply to the Order.
- 6.4 Where the Services to be provided by the Supplier in respect an Order entails the carrying out of any Web Hosting Services then **Schedule 5 – Web Hosting** shall apply to the Order.
- 6.5 The Contracting Authority may issue instructions in relation to the Services, this Framework Agreement and or the Order including for a Variation and the Supplier shall at all times forthwith comply with all instructions issued by the Contracting Authority in relation to same.
- 6.6 If within 7 days after receipt of a notice from the Contracting Authority requiring compliance with an instruction the Supplier does not comply, the Contracting Authority may employ and pay other persons to give effect to that instruction. The Supplier shall be liable for all additional costs incurred by the Contracting Authority in connection with such employment and an appropriate deduction may be made from amounts otherwise due to the Supplier under the Framework Agreement or any Order and/or shall be recoverable from the Supplier as a debt.
- 6.7 Prior to instructing a Variation the Contracting Authority may issue an instruction for the Supplier to provide a quotation for a proposed Variation which shall specify a Variation which the Contracting Authority proposes to instruct.
- 6.8 The Supplier shall respond to an instruction by the Contracting Authority to provide a quotation in relation to a proposed Variation within any period specified in such instruction. The quotation shall set out the proposed cost for implementing the proposed Variation calculated in accordance with the Rates and any relevant extension to an Order Period calculated in accordance with any relevant aspects of **Appendix D – Supplier’s Submission**. The quotation shall include the level of detail and include such information as the Contracting Authority may reasonably specify in its instruction for a quotation.
- 6.9 As soon as reasonably practicable after receipt of a Supplier’s quotation in relation to a proposed Variation the Contracting Authority shall respond confirming either:
- (a) its acceptance of the quotation, in which case the proposed Variation will be deemed to have been instructed on the issue of the Contracting Authority’s notification of acceptance; or
 - (b) non-acceptance of the Supplier’s quotation, in which case however the Contracting Authority may still instruct the proposed Variation to be carried out.
- 6.10 If the Contracting Authority instructs a Variation, then:
- (a) where the Variation is a result of the Contracting Authority accepting a Supplier quotation per clause 6.9 then the Price and any Delivery Date shall be deemed adjusted in accordance with the applicable Supplier’s quotation.
 - (b) Where the Variation is not a result of the Contracting Authority accepting a Supplier quotation per clause 6.9 the Contracting Authority and the Supplier shall seek to agree in

writing (i) any amendment to the Price; and/or (ii) any amendment to the Delivery Date(s). Any amendments to the Price shall so far as possible be calculated in accordance with the Rates or by fair valuation by the Contracting Authority using open market or competitively tendered prices with deductions for all discounts rebates and taxes which are recoverable where the Rates cannot be used. Failing agreement amendments to Delivery Dates as a result of a Variation shall be as is fair and reasonable in all the circumstances as determined by the Contracting Authority in its absolute discretion.

- 6.11 Notwithstanding any other provision of this Framework Agreement or an Order, to the extent any instruction issued by the Contracting Authority is required by reason of any default, act or omission of the Supplier, the Supplier shall comply with such instruction at its own cost and expense without entitlement to any amendment to the Price or any Delivery Dates.
- 6.12 In the event that the Contracting Authority issues an instruction which conflicts with or diverges from (i) the Framework Agreement; (ii) the applicable Order (except to the extent the instruction is only a Variation); and/or (iii) any instructions previously issued by the Contracting Authority then the Supplier shall immediately notify the Contracting Authority in writing of such conflict or divergence and the Contracting Authority shall be entitled, in its absolute discretion, to determine and direct the Supplier as to which of the conflicting or divergent provisions is to prevail. The Supplier shall comply with whatever provisions it is directed are to prevail and shall be excused compliance with any provisions which it is directed are to be disregarded. In the event that the Contracting Authority directs that an instruction which conflicts with or diverges from (i) the Framework Agreement; (ii) the applicable Order (except to the extent the instruction is only a Variation); and/or (iii) any instructions previously issued by the Contracting Authority shall prevail the Supplier shall be entitled to additional payment or compensation (whether by way of adjustment of the Price or otherwise) and to an extension to a Delivery Date in relation to any additional cost or delay as a consequence of having to comply with the prevailing provisions. For the avoidance of doubt, the Contractor shall be not entitled to any additional payment or compensation (whether by way of adjustment of the Contract Sum or otherwise) or to any extension any relevant Delivery Date as a consequence of having to comply with the prevailing provisions where the prevailing provisions are provisions contained within (i) the Framework Agreement; (ii) the applicable Order (except to the extent the instruction is only a Variation); and/or (iii) any instructions previously issued by the Contracting Authority or where the Supplier has failed to immediately notify the Supplier of such conflict or divergence in accordance with this clause 6.12.

7. PERSONNEL

- 7.1 The Contracting Authority reserves the right to admit to, or remove from, any location owned or controlled by it or any premises occupied by or on behalf of it, any Personnel of the Supplier whose admission or presence would, in the reasonable opinion of the Contracting Authority, be undesirable. The reasonable exclusion of any such individual from the premises of the Contracting Authority under the provisions of this clause shall not relieve the Supplier from the performance of its obligations under the Framework Agreement or an Order.
- 7.2 The Supplier shall use its best endeavours to ensure that the Personnel are made aware of and comply with the relevant terms and conditions of the Framework Agreement and an Order and all policies, rules, regulations and/or codes of conduct operated by or affecting the Contracting Authority from time to time. The Supplier shall be liable for all damage caused to persons or property, or any other losses caused by the default of its Personnel.
- 7.3 The Supplier shall be solely responsible for: (i) paying all salaries, wages, benefits and other compensation that its Personnel may be entitled to receive in connection with the performance of Services; (ii) paying and reimbursing all its Personnel for all related travel, housing and other expenses which such Personnel may be entitled to receive in connection with performing Services; and (iii) withholding and paying applicable payroll taxes and contributions, including but not limited to, payroll taxes and contributions, including, but not limited to, income taxes, unemployment tax,

worker's compensation insurance and disability tax, social insurance, pension contributions, or any other similar obligation.

8. KEY PERSONNEL AND EQUIPMENT

- 8.1 The Supplier undertakes and acknowledges that it is responsible for ensuring that all Key Personnel assigned by it to provide Services in an Order shall be available for the Framework Period and/or any applicable Order Period.
- 8.2 The Supplier acknowledges that the Key Personnel are essential to the proper provision of Services to the Contracting Authority.
- 8.3 In the event that any of the Key Personnel assigned by the Supplier to provide Services under the Framework Agreement and/or an Order become unable to provide such Services for whatever reason then, the Supplier acknowledges and undertakes that it shall immediately notify the Contracting Authority in writing of the inability and replace that person with a person of equivalent experience and expertise ("**Replacement Personnel**") as approved to by the Contracting Authority. The Supplier shall provide to the Contracting Authority such details as the Contracting Authority may reasonably require in writing regarding any Replacement Personnel. The Contracting Authority shall have absolute discretion as to the suitability of any proposed Replacement Personnel.
- 8.4 The Supplier shall provide all Equipment necessary for the provision of Services.
- 8.5 All Equipment brought onto the Contracting Authority's premises and/or any location for the provision of Services shall be at the Supplier's own risk and the Contracting Authority shall have no liability for any loss of or damage to any Equipment. The Supplier shall provide for the haulage or carriage thereof to the Contracting Authority's premises and the removal of Equipment when no longer required at its sole cost. Unless otherwise agreed, Equipment brought onto the premises will remain the property of the Supplier.
- 8.6 The Supplier shall maintain and store all Goods and items of Equipment in a safe, serviceable, and clean condition.
- 8.7 The Supplier shall, at the Contracting Authority's written request, at its own expense and as soon as reasonably practicable:
- (a) remove from the Contracting Authority's premises and/or any location for the provision of Services any Equipment which in the reasonable opinion of the Contracting Authority is either hazardous, noxious or not in accordance with the Framework Agreement; and
 - (b) replace such item with a suitable item of Equipment.
 - (c) On completion of the supply of Services under an Order the Supplier shall remove the Equipment used by the Supplier to provide the Services and shall leave the Contracting Authority's premises and/or any location at which such Services were supplied in a clean, safe and tidy condition. The Supplier is solely responsible for making good any damage to the Contracting Authority's premises and/or any location at which the Services are supplied or any objects contained thereon, other than fair wear and tear, which is caused by the Supplier or any of its Personnel.

9. PAYMENT

- 9.1 Insofar as an Order Form duly executed by the Parties does not set out a Purchase Order Number then after the entry into the Order the Contracting Authority shall notify the Supplier of the Purchase Order Number applicable to such Order.
- 9.2 The Supplier shall issue invoices to the Contracting Authority in respect of each Order:

- (a) in accordance with the schedule set forth in an Order; or
- (b) if no invoice schedule is set forth within an Order, not later than 5 days prior to the Final Date for Payment as per **Schedule 2 – Construction Works**;
- (c) if no invoice schedule is set forth within an Order and **Schedule 2 – Construction Works** does not apply to the Order, on a monthly basis within 30 days after the end of each month in which the Services in an Order are completed.

9.3 Each invoice submitted by the Supplier shall state:

- (a) the dates the relevant Services were carried out.
- (b) the locations where the Services were provided.
- (c) the relevant Purchase Order Number.
- (d) a detailed description of the Services provided.
- (e) the net total Amount Due (as at the date of the invoice and separately identifying, itemising and setting out all elements of cost).
- (f) the applicable VAT registration number of the Service Provider.
- (g) the VAT due on the invoice including the date, rate and the VAT amount.
- (h) the Service Provider's address in full.

9.4 Discharge of any Price by the Contracting Authority is subject to:

- (a) compliance by the Supplier with any accounts payable process operated by the Contracting Authority as notified to the Supplier;
- (b) *the Supplier providing* any documentation reasonably required by the Contracting Authority to substantiate the invoice;
- (c) compliance by the Supplier with the provisions of the Framework Agreement and any Order including but not limited to any milestones, compliance schedules and/or operational protocols in place pursuant to clause 16.1 from time to time;
- (d) the provision by the Supplier of a valid invoice (indicating the relevant Purchase Order Number) and all relevant supporting documentation as may be required by the Contracting Authority from time to time being submitted to the Contracting Authority at the Finance Department, Waterways Ireland at **wifinance@waterwaysireland.org**; and
- (e) the Contracting Authority being in possession of a current Tax Clearance Certificate from the Supplier in relation to Ireland and/or the United Kingdom as may be requested by the Contracting Authority from time to time. The Supplier shall comply with all EU and applicable taxation law and requirements. The Supplier may supply the certificate and registration numbers, as they appear on a Tax Clearance Certificate, to facilitate on-line verification of their tax status by the Contracting Authority. The Supplier shall be responsible for the collection, remittance, and payment of any or all taxes, charges, levies, assessments, and other fees of any kind imposed by governmental or other authority in respect of the purchase, importation, sale, lease or other distribution of Services.

9.5 Subject to receipt of a valid and appropriately vouched invoice issued by the Buyer in accordance with clauses 9.2 to 9.4 the Contracting Authority shall pay the Amount Due in respect of each Order to the Supplier by the Final Date for Payment

9.6 Where **Schedule 2 – Construction Works** does not apply:

- (a) no payments shall be made unless the Supplier quotes a valid Purchase Order Number on each invoice;
- (b) time for payment shall not be of the essence;
- (c) in the event of any dispute, payment may be withheld in respect of any disputed amount until the dispute is resolved. Upon resolution of any dispute or queries on an invoice to the satisfaction of the Contracting Authority the invoice shall be payable by the Contracting Authority.

9.7 The provisions of the Late Payment Legislation shall apply to all payments to extent applicable.

- 9.8 If, following an audit of the Supplier's books and records under clause 16.5 the Contracting Authority has a query relating to an invoice and / or Services for any billing period the Contracting Authority hereby reserves the right to notify the Supplier of such query, notwithstanding that payment in respect of such invoice may already have been made.
- 9.9 Wherever under the Framework Agreement any sum of money is recoverable from or payable by the Supplier (including any sum which the Supplier is liable to pay to the Contracting Authority in respect of any breach of the Framework Agreement or any Order), the Contracting Authority may deduct that sum from any sum then due, or which at any later time may become due to the Supplier under the Framework Agreement or any Order or under any other or contract between the Contracting Authority and the Supplier. Any overpayment by either Party, whether of the Prices or of VAT or otherwise, shall be a sum of money recoverable by the Party who made the overpayment from the Party in receipt of the overpayment.
- 9.10 The Supplier shall not be reimbursed for any costs or expenses in addition to the Price incurred by it or its Personnel in the course of providing the Services unless these are agreed in advance and in writing by the Contracting Authority or expressly provided for in an Order. Any permitted expenses which are claimed must be properly vouched and supporting documentation shall be provided as a condition of payment.
- 9.11 The Contracting Authority shall pay the Supplier any applicable Value Added Tax (VAT) at the rate and in the manner prescribed by law from time to time, provided VAT is shown separately on the relevant invoice. The Supplier shall, upon request, provide such information, as may be reasonably required by the Contracting Authority regarding the amount of VAT charged on invoices submitted.
- 9.12 Professional Services Withholding Tax (if applicable), shall be deducted at the standard rate from any payment made by the Contracting Authority for Services pursuant to an Order.
- 9.13 Without prejudice to any general right to damages under the Framework Agreement and/or an Order where the Supplier does not provide Services (or any part thereof) by the applicable Delivery Date(s) the Contracting Authority may, at its discretion, deduct 2 per cent of the Price per week or part thereof, for each week (or such other rate as may be specified in an Order) of late delivery as liquidated damages up to a maximum amount of 12 per cent of the Price ("**Liquidated Damages Threshold**"). Contracting Authority and Supplier agree that as liquidated damages for delay (but not as penalty), Supplier shall pay Contracting Authority the amount(s) stated in this clause 9.13, as applicable, for each calendar week, or part thereof (or such other rate as may be specified in an Order), in respect of delay beyond relevant Delivery Date(s). Any liquidated damages payable by Supplier under the Framework Agreement will not be deemed consequential damages for the purpose of the Framework Agreement.
- 9.14 Where the Liquidated Damages Threshold is met or exceeded (being that delivery continues not to be performed after the Liquidated Damages Threshold is met), the Contracting Authority shall be entitled to:
- (a) claim any remedy available to it (whether under the Framework Agreement or otherwise) for loss or damage incurred or suffered by it after the end of the Liquidated Damages Period; and
 - (b) without prejudice to clause 9.12, the Contracting Authority shall be entitled to terminate the Framework Agreement with immediate effect by giving notice in writing to the Supplier.
- 9.15 If for any reason the Contracting Authority is dissatisfied with the performance of the Supplier, an appropriate sum may be withheld from any payment otherwise due (the "**Retention Amount**") which Retention Amount shall not at any given time exceed 50 per cent of the Price. In any event, the Contracting Authority shall identify the particular Services with which it is dissatisfied and payment of the Retention Amount will be made upon replacement and/or remedy of the said Services as identified by the Contracting Authority or resolution of outstanding queries. The Contracting Authority shall hold the Retention Amount on behalf of the Supplier but without any

obligation to invest. The terms of this clause 9.15 shall be without prejudice to and not be in substitution for any remedy of the Contracting Authority under the Framework Agreement.

- 9.16 Payment in respect of invoices by the Contracting Authority shall be without prejudice to any rights of or available to the Contracting Authority.

10. REMEDIES

- 10.1 The Supplier shall be liable for and shall indemnify the Contracting Authority for and in respect of all and any losses, claims, proceedings, demands, damages or expenses which the Contracting Authority may suffer due to and arising as a result of the negligence, act or omission, breach of contract, breach of duty, insolvency, recklessness, bad faith, wilful default or fraud of the Supplier or its Personnel or as a result of the Supplier's failure to exercise care as outlined in clause 4.1(d), breach of the warranties as outlined in clause 4, or breach of the Framework Agreement or an Order or breach of any further warranty, or breach of any statutory duty by the Supplier or its Personnel or breach of any Applicable Law. The terms of this clause 10.1 shall survive termination of the Framework Agreement for any reason.
- 10.2 Save in respect of fraud (including fraudulent misrepresentation), personal injury or death, neither Party will be liable for any indirect losses (including loss of profit, loss of revenue, loss of goodwill, indirectly arising damages, costs and expenses) of any kind whatsoever and howsoever arising even if such Party has been advised of their possibility.
- 10.3 Should the Contracting Authority find itself obliged to order elsewhere in consequence of the failure of the Supplier to deliver the Services set out in any Order, the Contracting Authority shall be entitled to recover from the Supplier any amount which may be paid by the Contracting Authority in connection with such services.
- 10.4 Except as otherwise expressly provided by the Framework Agreement, all remedies available to either Party for breach of the Framework Agreement or an Order are cumulative and may be exercised concurrently or separately, and the exercise of any one remedy shall not be deemed an election of such remedy to the exclusion of other remedies.

11. INTELLECTUAL PROPERTY

- 11.1 All IPR title and interest in all Materials (or any part or parts thereof) or created in the provision of Services shall vest in the Contracting Authority and the Supplier so acknowledges and confirms same. For the avoidance of doubt, the Supplier hereby assigns all IPR, title and interest in the Materials or created in the provision of Services appointing the Contracting Authority as its Attorney to sign any document necessary to effect the assignment of IPR to the Contracting Authority (including by way of present assignment of future copyright) to the extent that any such IPR title or interest may be deemed by law to reside in the Materials.
- 11.2 The Contracting Authority grants to the Supplier a royalty-free, exclusive, licence to use such of the Contracting Authority's Pre-existing IPR for the Framework Period and any later Order Period to the extent necessary to enable the Supplier to fulfil its obligations under the Framework Agreement. Save as expressly set out in this clause 11, all Pre-Existing IPR shall remain the sole property of the party who owned, acquired or developed such intellectual property.
- 11.3 To the extent that any Supplier Pre-existing IPR is incorporated into any Materials, Services and/or Deliverables the Supplier grants to the Contracting Authority (and its respective nominees, including any third party contractor(s) and any Subsequent Supplier) a world-wide, non-exclusive, perpetual, transferable, sub-licensable, royalty-free and irrevocable licence to use such Supplier Pre-existing IPR.
- 11.4 The Supplier shall waive and procure a waiver in respect of its Personnel of any moral rights subsisting in any Materials produced under or in performance of the Framework Agreement and/or any Order.

- 11.5 The Supplier shall ensure that all and any necessary consents and/or licences for any software, instrument, modality or methodology are obtained and in place before use for the purposes of the Framework Agreement and/or an Order (to include but not be limited to ensuring that the Contracting Authority shall be vested with all necessary rights so as to enable the Contracting Authority to enjoy the benefit of the Services for its business purposes).
- 11.6 The Supplier hereby indemnifies the Contracting Authority and shall keep and hold the Contracting Authority harmless from and in respect of all and any liability, loss, damages, claims, costs or expenses which arise by reason of any infringement or allegation of infringement of third party IPRs in relation to any Materials, Goods or Services or any Supplier Pre-Existing IPR.
- 11.7 If any claim is made under clause 11.7 at the option of the Contracting Authority for and in respect of any such breach, the Supplier shall at its expense and option:
- (a) procure the necessary rights for the Contracting Authority to continue using the IPR; or
 - (b) replace the relevant deliverable with a non-infringing equivalent; or
 - (c) replace the relevant deliverable to make it non-infringing while giving equivalent performance.
- 11.8 Upon the termination of the Framework Agreement for whatever reason, the Supplier shall immediately deliver up to the Contracting Authority all the Materials prepared up to the date of termination. As an exception to its obligations under this clause 11.8 the Supplier may retain one copy of the Materials, in paper form, in the Supplier's legal files for the purpose of and only to the extent necessary for ensuring compliance with its obligations under the Framework Agreement.
- 11.9 The provisions of this clause 11 will survive the expiration or termination of the Framework Agreement and/or an Order for any reason.

12. CONFIDENTIALITY

- 12.1 The Supplier hereby agrees and undertakes that at any time during the Framework Period or after termination or expiry of the Framework Agreement or any later Order Period, it shall not disclose or allow to be disclosed any Confidential Information to any third party whatsoever without the prior written consent of the Contracting Authority, except to:
- (a) its professional advisors subject to the provisions of this clause 12; or
 - (b) as may be required by law; or
 - (c) in the case of the Contracting Authority by request of any person or body or authority whose request the Contracting Authority or persons associated with the Contracting Authority (including but not limited to any appropriate government authority) considers it necessary or appropriate to so comply.
- 12.2 The Supplier undertakes to comply with all reasonable directions of the Contracting Authority with regard to the use and application of all and any of its Confidential Information (which may include compliance with operational protocols and/or signing of a non-disclosure agreement). The obligations in this clause 12 will not apply to any Confidential Information:
- (a) in the Supplier's possession (with full right to disclose) before it received the Confidential Information from the Contracting Authority; or
 - (b) which is or becomes public knowledge other than by breach of this clause; or
 - (c) is independently developed by the Supplier without access to or use of the Confidential Information; or
 - (d) is lawfully received by the Supplier from a third party (with full right to disclose).
- 12.3 The Supplier shall not use or attempt to use any Confidential Information for any purpose other than that for which it was generated or disclosed or in any manner which may or may be likely to injure or cause loss (either directly or indirectly) to the Contracting Authority or to assist any third party to gain any commercial advantage over or knowledge in relation to the Contracting Authority.

- 12.4 The Supplier shall ensure that Confidential Information is protected against theft, loss or unauthorised access by third parties and shall only be disclosed to its Personnel who need to know such information in order that the Services may be provided.
- 12.5 The Supplier shall ensure that its Personnel and any Key Personnel are fully aware of and comply with these confidentiality provisions and shall be liable for any breach by them of such provisions.
- 12.6 The Supplier confirms that it will, from time to time, during the currency of Framework Period as may be requested by the Contracting Authority submit full personal details (including those of Personnel) who are assigned to provide the Services (or any part thereof) under this Framework Period. The Supplier further acknowledges that checks may be carried out in relation to all Personnel by police authorities and the Supplier shall comply with all reasonable directions of the Contracting Authority arising therefrom.
- 12.7 Where the Contracting Authority receives a request for information from a third party in relation to the Framework Agreement, the Contracting Authority shall consult with the Supplier in respect of the request. The Supplier acknowledges that it may be necessary for the Contracting Authority to release such records to third parties to comply with requests for records made pursuant to the Freedom of Information Code of Practice applicable to the Contracting Authority. The Supplier shall identify any information that is not to be disclosed on grounds of commercial sensitivity, and shall state the reasons for this sensitivity. The Contracting Authority will consult the Supplier about this commercially sensitive information before making a decision on any information request received.
- 12.8 The terms of this clause 12 shall survive expiry, completion or termination for whatever reason of the Framework Agreement and/or any Order.

13. CONTRACTING AUTHORITY DATA, DATA PROTECTION, SECURITY AND INTEGRITY

- 13.1 Nothing in the Framework Agreement or an Order is intended to give the Supplier any IPR in, or other rights in respect of, Contracting Authority Data.
- 13.2 The Supplier must not, without the Contracting Authority's prior consent, use or develop Contracting Authority Data or make Contracting Authority Data available to the Supplier's Personnel or other third parties except to the extent that such personnel or third parties need Contracting Authority Data for the purpose of providing Services or comply with the Framework Agreement and/or an Order.
- 13.3 The Supplier must promptly return Contracting Authority Data to the Contracting Authority (or destroy it so that it is irretrievable):
- (a) if required by the Contracting Authority; or
 - (b) in accordance with the Contracting Authority's data retention and destruction requirements notified to the Supplier from time to time.
- 13.4 The Supplier must not:
- (a) assert any lien or other right against or to Contracting Authority Data; or
 - (b) deal with Contracting Authority Data beyond as required in order to provide the Services or comply with the Framework Agreement and/or an Order.
- 13.5 Nothing in this clause 13 is intended to limit the Supplier's obligations contemplated by the Framework Agreement and/or any Order, including in relation to the Contracting Authority's Confidential Information.
- 13.6 The Parties shall comply with their respective obligations under the Data Protection Legislation, and any other applicable data protection laws and regulations (together, the "**Data Protection Laws**") in connection with the Framework Agreement.
- 13.7 The Parties acknowledge that, in respect of all Personal Data controlled and owned by the Contracting Authority and Processed by the Supplier for the purpose of the provision of the Services under this Framework Agreement:

- (a) the Contracting Authority alone shall determine the purposes for which and the manner in which such Personal Data will be Processed by the Supplier; the Contracting Authority shall be the data controller (as defined in the Data Protection Laws); and
- (b) the Supplier shall be the data processor (as defined in the Data Protection Laws).

13.8 Where, in connection with the Framework Agreement, the Supplier Processes Personal Data on behalf of the Contracting Authority as a data processor, the Supplier shall:

- (a) Process the Contracting Authority Personal Data only on the written instructions of the Contracting Authority and to the extent reasonably necessary or appropriate for the performance of the Framework Agreement and/or any Order;
- (b) not disclose the Contracting Authority Personal Data to any person except as required or permitted by the Framework Agreement and/or an Order or with the Contracting Authority's written consent;
- (c) not deal in or with the Contracting Authority Personal Data; and
- (d) implement appropriate technical and organisational measures (including those specified by the Contracting Authority in advance and/or under the Data Protection Laws) to protect Contracting Authority Personal Data against unauthorised or unlawful processing and against accidental loss, destruction, damage, alteration or disclosure. Subject to the Supplier's obligation to comply with the Data Protection Laws, the Supplier acknowledges:
 - i. that the Contracting Authority is relying upon the Supplier's skill and knowledge in assessing what is "appropriate";
 - ii. that the technical and organisational measures shall be appropriate to the harm which might result from any unauthorised or unlawful Processing, accidental loss, destruction or damage to Contracting Authority Personal Data and having regard to the nature of Contracting Authority Personal Data which is to be protected;
- (e) when implementing and updating technical and organisational measures, have regard to:
 - i. the sensitive nature of the personal data contained within Contracting Authority Personal Data and the substantial harm which would result from unauthorised or unlawful processing or accidental loss or destruction of or damage to such personal data; and
 - ii. the state of technological development and the cost of implementing such measures;
- (f) ensure:
 - i. the reliability and integrity of any Personnel who have access to Contracting Authority Personal Data;
 - ii. that all Supplier Personnel involved in the Processing of Contracting Authority Personal Data have undergone adequate training in the care, protection and handling of Contracting Authority Personal Data; and
 - iii. that all such Personnel perform their duties strictly in compliance with the Data Protection Laws and this clause 13.8 by treating such Contracting Authority Personal Data as Confidential Information;
- (g) permit the Contracting Authority or a Contracting Authority representative, to inspect and audit the Supplier's data Processing activities (and/or those of its agents and sub-suppliers) and comply with all reasonable requests or directions by the Contracting Authority to enable the Contracting Authority to verify and/or procure that the Supplier or sub-supplier (as the case may be) is in full compliance with the Data Protection Laws and their obligations under the Framework Agreement and/or any Order;

- (h) provide a written description of the technical and organisational methods employed by the Supplier or sub-supplier (as the case may be) for Processing Contracting Authority Personal Data (within the timescales required by the Contracting Authority);
 - (i) not Process or permit the Processing of the Contracting Authority Personal Data outside the European Economic Area other than with the prior written consent of the Contracting Authority, and in such case in accordance with the Data Protection Laws and clause 13.8;
 - (j) where the Contracting Authority consents to a transfer of Contracting Authority Personal Data outside the European Economic Area:
 - i. ensure that Contracting Authority Personal Data continues to be Processed strictly in compliance with the Data Protection Laws and this clause 13.8; and
 - ii. promptly and fully inform the Contracting Authority of any circumstances (including the existence of legislation) that may prevent the Supplier from fulfilling its obligations under this clause 13.8; and
 - (k) not include Contracting Authority Personal Data in any product or service offered by the Supplier or any sub-supplier (as the case may be) to third parties unless it is specifically required as part of the provision of the Services.
- 13.9 The Supplier will indemnify and keep fully and effectively indemnified the Contracting Authority against all liabilities, costs, expenses, damages and losses (including any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and legal and other professional costs and expenses) suffered or incurred by the Contracting Authority (arising or incurred anywhere in the world) as a result of any breach of the Data Protection Laws or its obligations under this clause 13.
- 13.10 The Supplier shall assist the Contracting Authority to comply with any obligations under the Data Protection Laws and shall not perform its obligations under the Framework Agreement in such a way as to cause the Contracting Authority to breach any of its applicable obligations under the Data Protection Laws.
- 13.11 The Supplier acknowledges that compliance with this clause 13 is of the utmost importance to the Contracting Authority and that any breach may cause the Contracting Authority to suffer not only financial losses but also other direct and indirect losses.
- 13.12 The following definitions apply:
 - (a) the terms "**Personal Data**" "**data subject**" and "**Processing**" bear the respective meanings given them in the Data Protection Legislation;
 - (b) data includes Personal Data; and
 - (c) "**Contracting Authority Personal Data**" means any Personal Data provided by or on behalf of the Contracting Authority.
- 13.13 The Supplier shall:
 - (a) take reasonable precautions to preserve the integrity of any data which it processes and to prevent any corruption or loss of such data;
 - (b) make a backup copy of such data every week and record the copy on media from which the data can be reloaded if there is any corruption or loss of the data; and
 - (c) in such event and if attributable to any default by the Supplier promptly restore the data at its own expense or, at the Contracting Authority's option, promptly reimburse the Contracting Authority for any reasonable expenses it incurs in having the data restored by a third party.
- 13.14 Except as expressly provided otherwise, the Framework Agreement does not transfer ownership of, or create any licences (implied or otherwise), in any IPR in any data.

- 13.15 The Contracting Authority requires all contractors engaged in the processing of Personal Data to sign and implement its GDPR Addendum to contract, in compliance with the EU General Data Protection Regulation (GDPR) which became effective from 25th May 2018 which is available at **Schedule F**. The Supplier shall execute and return such signed GDPR Addendum upon signing the Framework Agreement.

14. FORCE MAJEURE

- 14.1 A "Force Majeure Event" means an event or circumstance or combination of events and/or circumstances not within reasonable control of the Affected Party (as defined in clause 14.2 below) without the fault or negligence of the Affected Party which has the effect of delaying or preventing that Party from complying with its obligations under the Framework Agreement and/or an Order including but not limited to acts of God, war, break-out of epidemic or pandemic, insurrection, riot, civil disturbance, rebellion, acts of terrorism, government regulations, embargos, explosions, fires, floods, unusually severe weather conditions which would not reasonably have been anticipated, tempests, but excluding industrial action of whatever nature or cause (strikes, lockouts and similar) occurring at the Supplier's (or sub-supplier or agent) places of business.

- 14.2 In the event of any failure, interruption, or delay in the performance of either Party's obligations (or of any of them) resulting from any Force Majeure Event, that Party (the "Affected Party") shall promptly and in any event within 10 (ten) days notify the other Party in writing specifying:

- (a) the nature of the Force Majeure Event;
- (b) the anticipated delay in the performance of obligations; and
- (c) the action proposed to minimise the impact of the Force Majeure Event,

and provided that the Affected Party shall have so notified it shall not be liable or have any responsibility of any kind for any loss or damage thereby incurred or suffered by the other Party as a result of the failure of the Affected Party to perform due to the Force Majeure Event; provided always that the Affected Party shall use all reasonable effects to minimise the effect of the same and shall resume the performance of its obligations as soon as reasonably possible.

- 14.3 If the Force Majeure Event continues for thirty (30) calendar days the Contracting Authority may terminate the Framework Agreement and/or any Order(s) by giving notice in writing to the Supplier.
- 14.4 Unless otherwise instructed by the Contracting Authority, the Supplier shall recommence performance as soon as possible after the Force Majeure Event has ceased.

15. TERMINATION

- 15.1 Unless expressly stated to the contrary, the service of a notice to terminate the Framework Agreement shall not operate as a notice to terminate any Order made under the Framework Agreement. The expiry or earlier termination of the Framework Agreement shall not automatically terminate any Orders that are in existence at the time of such expiry or termination and the terms of the Framework Agreement shall remain in full force and effect as regards any such Order(s) notwithstanding the expiry or termination of the Framework Agreement.
- 15.2 Notwithstanding the foregoing, the Contracting Authority may at any time during the Framework Period on written notice terminate the Framework Agreement and/or any Order(s) for any reason whatsoever without liability or compensation to the Supplier. In this event, it is expressly agreed that the Supplier shall be entitled to payment in respect of Services performed in accordance with the Framework Agreement and/or applicable Order and defect free up to the date of termination only and the Supplier shall not have any other claim or demand for payment against the Contracting Authority.
- 15.3 This Framework Agreement and/or any Order(s) may be terminated by the Contracting Authority forthwith by notice in writing to the Supplier if:

- (a) the Supplier commits a breach of the Framework Agreement or Order which is either not capable of remedy or if capable of remedy is not remedied within thirty (30) days of service of a notice of such breach by the Contracting Authority; or
 - (b) the Supplier or any of its Personnel are guilty of any fraud or serious misconduct or neglect in the discharge of his duties hereunder or be convicted of any criminal offence or commit any act of dishonesty; or
 - (c) the Supplier is Insolvent; or
 - (d) any other event or matter occurs which the Framework Agreement specifically confers a right on the Contracting Authority to terminate as a result of such event or matter.
- 15.4 Where applicable, the Contracting Authority shall have the right, in addition to any other rights which it has at law, to terminate the Framework Agreement immediately and without liability for compensation or damages in circumstances where the Contracting Authority becomes aware that any of the excluding circumstances listed in Article 45 of EU Directive 2004/18/EC as implemented into Irish Law by European Communities (Award of Public Authorities' Contracts) Regulations 2006 (S.I. No. 329/2006) apply to the Supplier.
- 15.5 Termination of the Framework Agreement shall not affect any antecedent and accrued rights, obligations or liabilities of either Party, nor shall it affect any Order nor any provision of the Framework Agreement which is expressly or by implication intended to come into or continue in force on or after such termination, including for the avoidance of doubt clauses 4.2, 4.5, 4.6, 10, 11, 12, 13, 15, 16.5, 17, 29, 30, 31, 32 and 36 of the Framework Agreement.
- 15.6 On expiry or termination of the Framework Agreement, howsoever arising, the Supplier shall immediately return all Confidential Information, records, papers, materials, media and other property of the Contracting Authority which is in its possession. As an exception to its obligations under this clause 15.6 the Supplier may retain one copy of the confidential information and records in paper form in the Supplier's legal files for the purpose of and only to the extent necessary for ensuring compliance with its obligations under the Framework Agreement.
- 15.7 If the Framework Agreement expires or is terminated for any reason, the Supplier shall co-operate fully with the Contracting Authority or any Subsequent Supplier to ensure an orderly migration of the Services to the Contracting Authority or at the Contracting Authority's request to any Subsequent Supplier.
- 15.8 If requested, the Supplier shall promptly furnish such anonymised information relating to the terms and conditions of the employment of all persons providing the Services as may be required by the Contracting Authority. The Supplier agrees to the Contracting Authority releasing any such anonymised information to third party tenderers for the purposes of any procurement competition for the provision of the Services upon expiry of the Framework Period or earlier termination of the Framework Agreement for whatever cause.
- 15.9 The Supplier agrees that between notice of termination of the Framework Agreement being and the date of termination of the Framework Agreement, the Supplier will not vary, purport or promise to vary the terms and conditions of employment of the Personnel assigned by the Supplier to the Framework Agreement.

16. CONTRACT MANAGEMENT AND RIGHTS OF INSPECTION AND AUDIT

- 16.1 The Supplier shall attend meetings with the Contracting Authority as provided in Appendix B. Furthermore, the Contracting Authority's Project Manager and the Supplier's Representative shall liaise and meet as provided in Appendix B and on a regular basis to address any issues arising which may impact on the performance of the Framework Agreement and/or any Order and to agree milestones, compliance schedules and operational protocols as required by the Contracting Authority from time to time. If requested in writing by the Contracting Authority, the Supplier shall meet formally with the Contracting Authority to report on progress and shall comply with all written directions of the Contracting Authority in relation to same.

- 16.2 The Supplier shall monitor and analyse new processes and technologies which may be used in relation to the provision of the Services and shall report to the Contracting Authority at least annually in relation to same. Where requested by the Contracting Authority the Supplier shall provide proposals for:
- (a) optimising the procurement and provision of the Services (including as to efficiency and cost-effectiveness); and
 - (b) to enhance the sustainability of the Services.
- 16.3 The Supplier agrees to:
- (a) liaise with and keep the Contracting Authority's Project Manager fully informed of any matter which might affect the observance and performance of the Supplier's obligations, including delivery times;
 - (b) comply with the reporting arrangements and protocols required by the Contracting Authority from time to time; and
 - (c) comply with all reasonable directions of the Contracting Authority.
- 16.4 The Contracting Authority or its authorised representative may inspect the Supplier's premises, lands and facilities (or such part or parts thereof and the premises of any sub-supplier or agent) with due access to relevant personnel and records upon reasonable notice in writing to ensure compliance with the Framework Agreement and/or any Order(s) (including to carry out any health and safety audit, inspection or investigation). The Supplier shall comply with all reasonable directions of the Contracting Authority thereby arising. The cost of inspection shall be borne by the Contracting Authority.
- 16.5 The Contracting Authority reserves the right to carry out an audit of all appropriate books and records of the Supplier relating to the performance of the Framework Agreement at any time, as and when the Contracting Authority determines this to be necessary.
- 16.6 The Supplier shall maintain accurate records at all times. In particular the Supplier shall retain all appropriate financial, statistical, administrative and all other relevant supporting papers and records in both hard and electronic form in relation to the performance of the Framework Agreement and shall make all such records and papers available to the Contracting Authority and its authorised representatives upon reasonable notice for the duration of the Framework Agreement and for a period of seven (7) years following the date of expiry or termination the Framework Agreement and/or any Order (whichever is the later), or for such longer period as the Contracting Authority may request.
- 16.7 The Contracting Authority may conduct any audit contemplated by this clause 16 either with its own internal resources or by utilising the services of a third-party auditing firm, in the Contracting Authority's absolute discretion. The Contracting Authority may copy, at its own expense, any record mentioned by this clause.
- 16.8 The Contracting Authority reserves the right to meet with the Supplier's external auditors to discuss any issues that it may identify which could impact on the delivery of Services.
- 16.9 The records referred to in clause 16.6 hereof shall include, without limitation, such information, data, ledgers, bank statements, accounts, authorities, directions and instructions to the Supplier's auditors, accountants, banks and other servants or agents, and any other papers which may be reasonably necessary to enable the Contracting Authority to exercise its right of audit to satisfy itself that the Supplier has complied with the terms of the Framework Agreement and/or any Order.

17. DISPUTE PROCEDURES

- 17.1 Subject to clause 35 and to the Parties' respective rights to apply to the courts upon any cause of action at any time, the Parties shall seek to resolve any disputes between them, arising out of or relating in any way to the issues covered by the Framework Agreement, amicably.

- 17.2 In the event of any dispute between the Parties in relation to the Framework Agreement and/or any Order(s), the Contracting Authority's Project Manager and the Supplier's Representative referred to in **Appendix B – Scope of Service** and **Appendix C – the Supplier's Submission** and/or as may be specified in relation to a relevant Order shall meet and endeavour to resolve such dispute within fourteen (14) days of the matter being referred to them. If they are unable to resolve the dispute within this period the matter shall be referred to the senior executives and representatives of each Party as may be specified in relation to a relevant Order or otherwise nominated by each Party who shall endeavour to resolve it within a further 14 days from the date it was referred to them.
- 17.3 In the event that the Parties are unable to resolve the dispute in accordance with clause 17.2 period, the Parties will attempt to settle it by mediation before such mediator as the parties shall agree. To initiate the mediation a party must give notice in writing to the other party to the dispute requesting mediation and the mediation will start, unless otherwise agreed by the parties, within 28 days of one party issuing a request to mediate to the other.
- 17.4 If the Parties are unable to agree on a mediator, the mediator will be nominated by President, for the time being, of Engineers Ireland upon request from either of the Parties. The commencement of mediation will not prevent the parties commencing or continuing an arbitration.
- 17.5 If the dispute is not settled by mediation within 14 days of commencement of the mediation or within such further period as the parties may agree in writing, the dispute shall be referred to and finally resolved by arbitration.
- 17.6 The President, for the time being, of Engineers Ireland shall be the appointing body for an arbitrator. The UNCITRAL rules in force at the time arbitration is initiated shall apply. In any arbitration commenced pursuant to this clause, the number of arbitrators shall be 1 and the seat or legal place of arbitration shall be Dublin, Ireland, unless otherwise agreed by the Parties.

18. NOTICES

- 18.1 Subject to clause 18.3, any notice or other communication required to be given under the Framework Agreement shall be in writing addressed to the relevant Party at the address set out in the Framework Agreement for such party and may be sent by prepaid registered post, email or facsimile transmission. Any such notice or other communication will be deemed to have been duly served or given:
- (a) if posted by registered post at the expiration of forty-eight (48) hours after the envelope containing the same was delivered into the custody of the postal authorities (and not returned undelivered);
 - (b) if personally delivered, at the time of delivery; or
 - (c) if sent by email, on the first Working Day following successful transmission.
- 18.2 If notice is not given or served during usual business hours on a day other than a Saturday or Sunday or a statutory or public holiday in Ireland it will be deemed to have been given or served on the next day which is not a Saturday or Sunday or a statutory or public holiday.
- 18.3 Any notice issued under clause 15 or clause 17 shall be personally delivered or sent by pre-paid registered post.

19. ASSIGNMENT

The Framework Agreement shall be assignable in whole or in part by the Contracting Authority but shall not be assignable in any way by the Supplier without the Contracting Authority's prior consent.

20. ENTIRE AGREEMENT

The Framework Agreement and each Order constitutes the entire agreement and undertaking of the Parties, and any and all previous agreements, arrangements, and understandings (whether written or oral) between

the Parties with regard to the subject matter of the Framework Agreement and/or the relevant Order. It is expressly agreed, without prejudice to the foregoing, that any standard terms or conditions of the Supplier (including those which appear on any documents furnished by the Supplier in the course of providing the Services) shall not be applicable.

21. SEVERABILITY

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

22. WAIVER

The rights of the Contracting Authority shall not be prejudiced or restricted by any indulgence or forbearance extended to the Supplier, and no waiver by the Contracting Authority in respect of any breach will operate as a waiver in respect of any subsequent breach. No failure or delay by the Contracting Authority in exercising any rights or remedy will operate as a waiver thereof, nor will any single or partial exercise or waiver of any right or remedy by the Contracting Authority prejudice its further exercise or the exercise of any other right or remedy by Contracting Authority.

23. MEDIA

No media releases, public announcements or public disclosures relating to the Framework Agreement or its subject matter or any Order, including but not limited to promotional or marketing material, shall be made by the Supplier without the prior written consent of the Contracting Authority.

24. CONFLICTS, REGISTRABLE INTERESTS AND CORRUPT GIFTS

- 24.1 The Supplier confirms that it has carried out a conflicts of interest check and is satisfied that it has no conflicts in relation to the Services and its obligations undertaken under the Framework Agreement. The Supplier hereby undertakes to advise the Contracting Authority forthwith should any conflict or potential conflict of interest come to its attention during the Framework Period or any later Order Period and to comply with the Contracting Authority's directions in respect thereof.
- 24.2 Any registrable interest involving the Supplier (and any sub-supplier or agent as the case may be) and the Contracting Authority, the Ceann Comhairle (Speaker), or any member of the Irish Government, or Northern Irish Assembly, or any member of the Oireachtas, or their relatives shall be fully disclosed to the Contracting Authority immediately upon such information becoming known to the Supplier (sub-supplier or agent as the case may be) and the Supplier shall comply with the Contracting Authority's directions in respect thereof. The terms "registrable interest" and "relative" shall be interpreted as per section 2 of the Ethics in Public Office Act, 1995, as may be amended or revised from time to time.
- 24.3 The Supplier shall not offer or agree to give any public servant or civil servant any gift or consideration or commission of any kind as an inducement or reward for doing or forbearing to do or for having done or forborne to do any action in relation to the obtaining or execution of the Framework Agreement, any Order or any other public contract. Any breach of this clause 24.3 or the commission of any offence by the Supplier, any sub-supplier, agent or employee under the Prevention of Corruption Acts 1889 to 2005 shall entitle the Contracting Authority to terminate the Framework Agreement and any Order(s) forthwith and to recover the amount of any loss resulting from such cancellation, including but not limited to recovery from the Supplier of the amount or value of any such gift, consideration or commission.

25. ACCESS TO PREMISES

To the extent applicable, any of the Contracting Authority's premises made available from time to time to the

Supplier by the Contracting Authority in connection with the Framework Agreement, shall be made available to the Supplier on a non-exclusive licence basis and shall be used by the Supplier solely for the purpose of performing its obligations under the Framework Agreement and/or an Order. The Supplier shall have use of such premises as licensee and shall vacate the same on completion, termination or abandonment of the Framework Agreement or any Order.

26. CHANGE CONTROL

- 27.1 Both Parties agree that any request for changes to the scope of Services or any of the terms of the Framework Agreement or an Order will be processed in writing according to the following procedure set out in this clause 27 (the "**Change Control Procedure**").
- 27.2 At any time during the Framework Period or an Order Period, either Party may propose a change or changes to any part or parts of the Framework Agreement or an Order.
- 27.3 The Change Control Procedures set out herein will apply to all changes irrespective of whether the Supplier or the Contracting Authority proposes the change.
- 27.4 A change control notice ("**Change Control Notice**") shall be prepared for all change requests. The Change Control Notice will provide an outline description of the change requested, the rationale for the change, the effect that the change will have on Services (where known) and an estimate of the effort and cost required to prepare an impact assessment ("**Impact Assessment**") to be carried out by the Supplier.
- 27.5 All Change Control Notices proposing changes to the Framework Agreement or an Order must be submitted for review to the other Party's contact.
- 27.6 The Parties must indicate their acceptance or rejection of the Change Control Request and/or Impact Assessment within a reasonable timeframe of its submission for review, subject to a maximum of twenty (20) calendar days or such other period as may be agreed between the Parties.
- 27.7 On approval of an Impact Assessment, the Framework Agreement and/or the Order shall be updated and revised to the extent necessary.
- 27.8 In the event that either Party rejects the Impact Assessment, the change(s) shall not take place and the Parties shall continue to perform their obligations under the Framework Agreement.
- 27.9 The Supplier and the Contracting Authority will agree a reasonable charge in advance for investigating each proposed variation and preparing each estimate, whether or not the variation is implemented. If the Contracting Authority's request for any variation is subsequently withdrawn but results in a delay in the performance of the Services then the Supplier will not be liable for such delay and will be entitled to an extension of time equal to not less than the period of the delay.

27. SUB-CONTRACT

The Supplier shall not sub-contract any aspect of the provision of Services to any third party without the prior written consent of the Contracting Authority.

28. SUCCESSION

The Framework Agreement shall enure for the benefit of and be binding upon the respective Parties hereto and their respective heirs, administrators, successors and permitted assigns.

29. AMENDMENT

The Framework Agreement and an Order may only be amended by written agreement of authorised representatives of the Parties.

30. LIABILITY OF CONTRACTING AUTHORITY

Notwithstanding any other provision of the Framework Agreement or any Order the Contracting Authority's entire aggregate liability to the Supplier under the Framework Agreement shall not exceed an amount equal to the total Prices paid under any Order. Liability is not limited or excluded where this is not permitted by law.

31. RIGHTS OF THIRD PARTIES

The parties to the Contract do not intend that any term of the Contract shall be enforceable by any legal or natural person that is not a party to it.

32. DEDUCTIONS

If any sum of money shall be due from the Supplier to the Contracting Authority whether under the Framework Agreement, any Order or any other contract between the Supplier and the Contracting Authority, the same may be deducted or set-off from any sum then due or which at any time thereafter may become due to the Supplier under the Framework Agreement or any Order or any other contract between the Supplier and the Contracting Authority.

33. ETHICS AND OBLIGATIONS

The Parties agree at all times in performing their obligations under the Framework Agreement and an Order to comply with the Ethics in Public Office Acts 1995 and 2001 and the Prevention of Corruption Acts 1889 to 2010.

34. GOVERNING LAW AND CHOICE OF JURISDICTION

The Framework Agreement shall in all aspects be governed by and construed in accordance with the laws of Ireland save to the extent that the law of Northern Ireland is specified to apply to any particular Order in which case the Framework Agreement and such Order shall in all aspects be governed and construed in accordance with the law of Northern Ireland in relation to that Order only.

35. KPIs

- 35.1 Where Services (or any part thereof) or performance of the Supplier's obligations are subject to a particular KPI, the Supplier shall supply the Services in such a manner as will ensure that the relevant Achieved KPI is equal to or higher or better than the corresponding relevant Target KPI.
- 35.2 Without prejudice to any other right or remedy available to the Contracting Authority, if Services do not meet any relevant Target KPI, then the Supplier will be in breach of the Framework Agreement and/or any relevant Order.

36. EXIT PROVISIONS

- 36.1 On expiry or termination of the Framework Agreement or an Order, the Supplier shall ensure a complete transition from the Supplier to the Contracting Authority or any Subsequent Supplier if required to do so by the Contract Authority (an "Exit").
- 36.2 The Exit will be completed in full by the Supplier in a timely manner and will not cause any unnecessary interruption of, or unnecessary adverse impact to the Services and the other obligations within this Clause 36 shall be without prejudice to the generality of this obligation.
- 36.3 The Contracting Authority may require the Supplier to continue to provide the Services for a period of up to twelve (12) months after expiry or termination of an Order upon the terms of such Order (including as to payment).

- 36.4 The Supplier will include within its Quality Plan (as set out in Appendix B – Scope of Service) submitted following entry into any Order the tasks required, applicable responsibilities and associated timeframes to comply with this clause 36,
- 36.5 The Supplier will regularly review the provisions within its Quality Plan relevant to an Exit and make any updates as may be reasonably required to ensure that such provisions remain fit-for-purpose and accurate. Furthermore, the Supplier will review and update the provisions within its Quality Plan relevant to Exit following any Variation and provide an updated version of the Quality Plan to the Contracting Authority's Project Manager for acceptance. The inclusion or omission of any activity within the Quality Plan will not limit the Supplier's obligations under this Clause 36.
- 36.6 The Supplier shall:
- (a) on occurrence of an Exit implement the relevant provisions within the Quality Plan relevant to an Exit;
 - (b) provide such assistance as requested by the Contracting Authority to affect the handover of the Services including provision of such information to enable a Subsequent Supplier to assume provision of the Services or services similar to the Services;
 - (c) if requested assist the Contracting Authority and/or any Subsequent Supplier in securing maintenance and support with respect to any third-party software necessary for the use of the Services, for so long as the Contracting Authority requires, at competitive rates;
 - (d) provide the Contracting Authority and/or any Subsequent Supplier with all necessary training, work shadowing and knowledge transfer necessary to enable the Contracting Authority and/or any Subsequent Supplier to provide the Services;
 - (e) promptly and fully answer within ten (10) Working Days (or such other period as may be identified in the Quality Plan or agreed between the Parties) all reasonable questions about the terminating or expiring aspects of an Order which may be asked by the Contracting Authority and/or any Subsequent Supplier before and up to twelve (12) months after termination or expiry of the Framework Agreement or any Order;
 - (f) co-operate in any tender process conducted by the Contracting Authority for the purpose of selecting a Subsequent Supplier to provide services similar to the Services provided by the Supplier under the Framework Agreement or an Order, including the provision of advice, assistance, information or documentation reasonably required.
- 36.7 Save where the Framework Agreement or an Order is terminated by the Contracting Authority under clause 15.2 no additional amounts shall become due to the Supplier and the Contracting Authority shall not be obligated to pay any additional charges in respect of the Supplier's compliance with this clause 36. Where the Framework Agreement or an Order is terminated by the Contracting Authority under clause 15.2 the Supplier shall be entitled to its reasonable costs incurred in complying with this clause 36.
- 36.8 Unless otherwise instructed by the Contracting Authority, the Supplier obligations under this Clause 36 shall continue until a complete transition from the Supplier to the Contracting Authority or a Subsequent Supplier has occurred.

SCHEDULE 2

CONSTRUCTION WORKS

1. DEFINITIONS AND INTERPRETATION

1.1 As used in this Schedule and any Order the following capitalised terms shall have the meanings provided below unless the context otherwise requires:

1.2 “**All Risks Insurance**” means insurance which provides cover against any physical loss or damage to work executed and materials on Site for incorporation into the Works and against the reasonable cost of the removal and disposal of debris and of any shoring and propping of the Works which results from such physical loss or damage but excluding the cost necessary to repair, replace or rectify:

- (a) property which is defective due to:
 - (i) wear and tear,
 - (ii) obsolescence, or
 - (iii) deterioration, rust or mildew;
- (b) any work executed or any Site Materials lost or damaged as a result of its own defect in design, plan, specification, material or workmanship or any other work executed which is lost or damaged in consequence thereof where such work relied for its support or stability on such work which was defective;
- (c) loss or damage caused by or arising from:
 - (i) any consequence of war, invasion, act of foreign enemy, hostilities (whether war be declared or not), civil war, rebellion, revolution, insurrection, military or usurped power, confiscation, commandeering, nationalisation or requisition or loss or destruction of or damage to any property by or under the order of any government de jure or de facto or public, municipal or local authority,
 - (ii) disappearance or shortage if such disappearance or shortage is only revealed when an inventory is made or is not traceable to an identifiable event, or
 - (iii) an Excepted Risk.

“**Completion Date**” means the date by which the works are to reach practical completion as set out in the Order.

“**Construction Legislation**” means the CCA and the CC(NI)O.

“**Excepted Risk**” means ionising radiations or contamination by radioactivity from any nuclear fuel or from any nuclear waste from the combustion of nuclear fuel, radioactive toxic explosive or other hazardous properties of any explosive nuclear assembly or nuclear component thereof, pressure waves caused by aircraft or other aerial devices travelling at sonic or supersonic speeds.

“**Joint Names Policy**” means a policy of insurance which includes the Contracting Authority and Supplier as composite insured and under which the insurers have no right of recourse against any person named as an insured or recognised as an insured thereunder.

“**Payment Claim Date**” is the date 12 days prior to a Due Date and is the payment claim date for the purposes of section 3(2) of the CCA 2013.

“**Rectification Period**” means the period stated as such in the Order or in the event that no such

period is set out or identified in the Order a period of twelve 12 months from the date for practical completion of the Works stated on the notice issued by the Contracting Authority under clause 3.2(a) of this **Schedule 2 – Construction Works**.

“**Site**” is as set out in the Order or any document appended or incorporated by reference thereto.

“**Works**” means all of the works to be carried out or arranged by the Supplier as set out in the Order.

“**Works Insurance Policy**” means the Joint Names Policy or other insurance policy to be effected and maintained under clause 5.1 of this **Schedule 2 – Construction Works**.

- 1.3 Insofar as an Order requires the Supplier to carry out the design of any Construction Works then the term “execution” of the Works as used in this Schedule will be deemed to include for such design (to be carried out in accordance with this **Schedule 2 – Construction Works** and references to “executed”, “executing”, and “execute” will be construed accordingly.

2. CARRYING OUT THE WORKS

- 2.1 The Supplier shall not commence the execution of the Works until:
- (a) any commencement date specified in the Order; or
 - (b) in the event that no commencement date is specified in the Order, the date for commencement as notified to the Supplier by the Contracting Authority in writing which shall not be less than seven (7) days after the date of such notice.
- 2.2 The Supplier shall carry out and complete the Works by the Completion Date in accordance with the Framework Agreement and the Order and shall proceed with the execution of the Works regularly, diligently and in a workmanlike manner.
- 2.3 The Supplier, in executing the Works, shall, so far as procurable, use materials, goods and workmanship of the quality and standards specified in the Framework Agreement or the Order or if not specified then such quality and standards shall be of a standard appropriate to the Works.
- 2.5 The Supplier shall not make any change to the standard or type of goods and materials for use in the Works specified in the Framework Agreement or an Order or instructed by the Contracting Authority without express written authorisation from the Contracting Authority.
- 2.6 The Supplier shall not specify for use and/or knowingly use on or in connection with the Works any materials or substances generally known at the time of specification or use to be deleterious to health and safety or the integrity of buildings and/or other structures and/or plant or machinery.

3. PRACTICAL COMPLETION AND DEFECTS

- 3.1 The Supplier shall notify the Contracting Authority in writing of the date when in its opinion the Works have or will have reached practical completion.
- 3.2 Within a reasonable period, and in any event within fourteen (14) days after receipt of the Supplier’s notice under clause 3.1 of this **Schedule 2 – Construction Works** the Contracting Authority shall, to the extent necessary, inspect the Works and shall either:
- (a) confirm that, in its opinion, the have Works reached practical completion, in which case, upon the Supplier complying and/or satisfying all of the other requirements under an Order specified as necessary to achieve practical completion the Contracting Authority shall issue a notice confirming the date of practical completion; or,
 - (b) notify the Supplier of what the Contracting Authority considers needs to be done in order for the Works to have reached practical completion in which case the Supplier shall undertake same and the procedure in clause 3.1 and this clause 3.2 of **Schedule 2 – Construction Works** shall be repeated.

- 3.3 As soon as reasonably practicable and in any event within ten (10) days of the date of practical completion the Supplier shall clear and remove from the Site all Supplier equipment and rubbish and shall where requested by Contracting Authority take reasonable measures to protect the Works.
- 3.4 If any defects, shrinkages or other faults in the Works appear within the Rectification Period due to materials, goods, workmanship or execution not in accordance with the Framework Agreement or any Order, the Contracting Authority shall not later than 14 days after the expiry of the Rectification Period notify the Supplier who shall make good such defects, shrinkages or other faults entirely at his own cost unless the Contracting Authority instructs otherwise in which case an appropriate deduction may be made from the Price.
- 3.5 When the Supplier's obligations under clause 3.4 of **Schedule 2 – Construction Works** have been discharged the Contracting Authority shall issue a notice specifying the date they were discharged.

4. PAYMENT

- 4.1 For the period up to and one month following practical completion of the Works the due dates ("Due Date(s)") for interim payments shall be as provided for in the applicable Order or in the absence of such provision the first Due Date shall be the last Working Day of the month following the month in which the Works commenced and Due Dates shall reoccur monthly on the same day (or the nearest preceding Working Day) provided that the Supplier shall have issued a valid Payment Application by the relevant Payment Claim Date.
- 4.2 The proportion of the Price to which the Supplier is entitled at each Due Date for an interim payment, shall be:
- (a) the total value of the Services provided and properly executed by the Contractor in respect of the Order; and
 - (b) the total value of any materials on the Site for incorporation into the Works and which are adequately protected and/or any materials not on the Site but which the Supplier has provided the Contracting Authority a satisfactory vesting certificate in relation to;
- less:
- (c) any amounts deductible and/or retainable in accordance with the Framework Agreement or the Order;
 - (d) sums already paid by the Contracting Authority to the Supplier in respect of the Order.
- 4.3 Not more than 5 days after each Payment Claim Date, the Supplier shall submit an application for payment (an "**Payment Application**") to the Contracting Authority which shall:
- (a) specify the sum that the Contractor considers will become due to it at the relevant Due Date calculated in accordance with clause 4.2 of this **Schedule 2 – Construction Works** and the basis on which that sum is calculated;
 - (b) have attached to it, sufficient supporting documents and information to evidence its entitlement, including any such supporting documents and information requested by Contracting Authority;
 - (c) comply with the requirements of section 4(2) of the CCA to the extent same applies to the Order.
- 4.4 Not later than 5 days after the relevant Due Date, the Contracting Authority shall issue an interim payment certificate ("**Interim Payment Certificate**") to the Supplier specifying the amount the Contracting Authority considers to be due to the Supplier at the relevant Due Date and the basis on which that sum has been calculated.
- 4.6 If Contracting Authority intends to pay less than the Amount Due (as it may be prior to the issue of any Pay Less Notice), the Contracting Authority shall no later than two (2) days before the relevant Final Date for Payment issue a written notice giving notice of that intention (a "**Pay Less Notice**")

to the Supplier which shall set out the sum Contracting Authority considers to be due on the date the Pay Less Notice is given and the basis on which that sum is calculated.

- 4.7 Following practical completion of the Works along with the completion of the provision any other Services stated to be provided by the Supplier in an Order, the Supplier shall within the period stated in the Order (or in the absence of any such period being specified within an Order, then within 3 months from practical completion of the Works) supply to the Contracting Authority all documentation reasonably required for computation of the final payment and any additional information for such computation as may be requested by the Contracting Authority.
- 4.8 The due date for the final payment shall be the later of twenty-eight (28) days after:
- (a) receipt of the documentation and information required to be provided by the Supplier;
 - (b) the date specified in the notice issued by the Contracting Authority under clause 3.5 of this **Schedule 2 – Construction Works**.
- 4.9 Not later than five (5) days after the Due Date for the final payment the Contracting Authority shall issue a final certificate (the “**Final Payment Certificate**”) which shall state:
- (a) The Price in respect of the relevant Order as adjusted for any Variations or any other additions or deductions to same in accordance with the Framework Agreement and the Order; and
 - (b) The sum of amounts previously paid by the Contracting Authority in respect of the Order.
- 4.10 The final payment shall be the difference (if any) between the two sums identified in clause 4.9(a) and (b) of this **Schedule 2 – Construction Works**, which shall be shown in the certificate as a balance due to the Supplier from the Contracting Authority or vice versa. The certificate shall state the basis on which that amount has been calculated, including the amount of each adjustment.
- 4.11 The Contracting Authority may make, in any Interim Payment Certificate, Final Payment Certificate or Pay Less Notice any correction or modification that should properly be made to any previous any Interim Payment Certificate, Final Payment Certificate or Pay Less Notice.

5. INSURANCE

- 5.1 To the extent an Order states it is required the Supplier shall:
- (a) effect and maintain with insurers approved by the Contracting Authority a Joint Names Policy for All Risks Insurance for the full reinstatement value of the Works (plus the percentage, if any, stated in the Order to cover professional fees) and shall maintain such Joint Names Policy up to and including the date of practical completion or, if earlier, the date of termination of the Order or the Framework Agreement; or
 - (b) effect and maintain with insurers approved by the Contracting Authority a policy or policies covering existing structures as set out in the Order.
- 5.2 If during the carrying out of the Works any loss or damage affecting any executed work or materials on Site for incorporation into the Works is occasioned by any of the risks covered by the Works Insurance Policy or an Excepted Risk or there is any loss of or damage of any kind to any existing structure or its contents, the Supplier shall forthwith notify the Contracting Authority.
- 5.3 Subject to clauses 5.6 and 5.7 of this **Schedule 2 – Construction Works** the occurrence of such loss or damage to executed work or materials on Site for incorporation into the Works shall be disregarded in calculating any amounts payable to the Supplier under the Framework Agreement and the Order.
- 5.4 The Supplier, for himself and his sub-suppliers, shall authorise the insurers to pay to the Contracting Authority all monies from the Works Insurance Policy, and from any policies covering existing structures or their contents that are effected by the Contracting Authority.
- 5.5 Where loss or damage affecting executed work or materials on Site for incorporation into the Works is occasioned by any risk covered by the Works Insurance Policy, the Supplier, after any inspection required by the insurers under that policy, shall and with due diligence restore the damaged work,

replace or repair any lost or damaged materials on Site for incorporation into the Works, remove and dispose of any debris (collectively 'reinstatement work') and proceed with the carrying out and completion of the Works.

5.6 Where clause 5.1(a) or (b) of this **Schedule 2 – Construction Works** applies and the Supplier is responsible for effecting the Works Insurance Policy:

- (a) the Contracting Authority shall pay all monies from such insurance to the Supplier by instalments under separate reinstatement work certificates issued by the Contracting Authority at the same dates as those for Interim Payment Certificates less only the amounts referred to in clause 5.6(b) of this **Schedule 2 – Construction Works**;
- (b) the Contracting Authority may retain from those monies any amounts properly incurred by the Contracting Authority and notified by him to insurers in respect of professional fees up to the aggregate amount of the percentage cover for those fees or (if less) the amount paid by insurers in respect of those fees;
- (c) in respect of reinstatement work, the Supplier shall not be entitled to any payment other than amounts received under the Works Insurance Policy.

5.7 Where the Contracting Authority has taken out and maintained a Joint Names Policy covering the Works or where loss or damage is caused by an Excepted Risk reinstatement work shall be treated as a Variation.

SCHEDULE 3

GOODS

1. DEFINITIONS AND INTERPRETATION

- 1.1 As used in this Schedule and any Order the following capitalised terms shall have the meanings provided below unless the context otherwise requires:

“Acceptance Criteria” means any criteria for acceptance of the Goods specified in an Order or otherwise set out in the Framework Agreement.

“Dedicated Inventory” means the Goods identified as such in the Order and to be held by the Supplier pending use in providing Services or written instruction by the Contracting Authority to deliver any Goods within the Dedicated Inventory.

“Sale of Goods Legislation” means the Sale of Goods and Supply of Services Act 1980 enacted in Ireland and/or the Sale of Goods Act 1979 enacted in the United Kingdom.

2. DELIVERY

- 2.1 The Goods shall be delivered by the Supplier to the location and on the date(s) specified in the Order on the Delivery Date(s). The Goods shall be deemed delivered by the Supplier only on completion of unloading and installing the Goods at the location(s).
- 2.2 The Goods shall not be delivered by instalments unless otherwise agreed in writing by Contracting Authority in advance or specified in the Order.
- 2.3 Each delivery of the Goods shall be accompanied by a delivery note stating:
- (a) the date of the Order and the relevant Purchase Order Number; and
 - (b) the product numbers and type and quantity of Goods in the consignment;
- 2.4 Time of delivery is of the essence. Without prejudice to clause 9.13 of Schedule 1 If the Supplier fails to deliver the Goods by within one week of the Delivery Date(s) specified in the Order, the Contracting Authority shall (without prejudice to its other rights and remedies) be entitled at its sole discretion:
- (a) to terminate the applicable Order in whole or in part;
 - (b) to purchase the same or similar Goods from a third party other than the Supplier;
 - (c) to recover from the Supplier all costs and losses resulting to the Contracting Authority, including the amount by which the price payable by the Contracting Authority to acquire those Goods from a third party exceeds the Price under the Order; and
 - (d) all or any of the foregoing.

3. ACCEPTANCE, REJECTION AND INSPECTION

- 3.1 The Contracting Authority shall not have accepted, or be deemed to have accepted, the Goods until the Acceptance Criteria in the applicable Order are satisfied in full.
- 3.2 The Contracting Authority shall be entitled to reject any Goods which are not in full compliance with the terms and conditions of the Framework Agreement or the Order. Any acceptance of defective, late or incomplete Goods or any payment made in respect thereof, shall not constitute a waiver of any of the Contracting Authority's rights and remedies, including its right to reject. In the event that the volume of Goods delivered by Supplier exceed the tolerances (if any) specified in the Order the Supplier shall promptly and at its own cost arrange for the collection or return of any Goods over-delivered.

- 3.3 Any rejected Goods may be returned to the Supplier by the Contracting Authority at the Supplier's cost and risk. The Supplier shall pay to the Contracting Authority any costs incurred by the Contracting Authority for storing and returning any of the Goods over-delivered or rejected.
- 3.4 Any inspection or testing of the Goods shall not be deemed to be acceptance of the Goods or a waiver of any of the Contracting Authority's rights and remedies, including its right to reject.

4. TITLE AND RISK

- 4.1 Subject to Clause 6, risk in the Goods shall pass to the Contracting Authority on (i) delivery to Contracting Authority premises or a Subsequent Supplier; or (ii) installation.
- 4.2 Subject to Clause 6, title to the Goods shall pass to the Contracting on the earlier of:
- (a) payment for the Goods by the Contracting Authority; or
 - (b) delivery or installation of the Goods.
- 4.3 The Supplier warrants and represents that it:
- (a) has at the time full, clear and unencumbered title to the Goods, and the full, clear and unencumbered right to sell and deliver them to the Contracting Authority; and
 - (b) shall hold such title and right to enable it to ensure that the Contracting Authority shall acquire a valid, unqualified title to the Goods and shall enjoy quiet possession of them.

5. WARRANTIES

- 5.1 The Supplier warrants and represents that, for a period of twenty-four (24) months (or such other period as set out in the Framework Agreement or the Order) from delivery (the "Warranty Period"), the Goods shall:
- (a) conform to any sample, their description and to any requirements and/or specification for the Goods as is provided or set out in the applicable Order or any Schedule thereto;
 - (b) be free from defects in design, material and workmanship;
 - (c) comply with all Applicable Laws, standards and best industry practice; ; and
 - (d) be of "satisfactory quality" and/or "merchantable quality" within the meaning of any applicable Sale of Goods Legislation.
- 5.2 The Supplier shall, without prejudice to the Contracting Authority's other rights and remedies, within a reasonable time repair, replace, correct or refund the price of defective Goods.
- 5.3 Clause 5.1 of this **Schedule 3 – Goods** shall apply to any Goods that are repaired, replaced or corrected with effect from delivery of the repaired, replaced or corrected Goods.

6 DEDICATED INVENTORY

- 6.1 During the Order Period, the Supplier shall maintain the Dedicated Inventory identified in and in accordance with the Order. In the event that the Dedicated Inventory is (i) installed by the Supplier in the provision of the Services; or (ii) instructed to be delivered to the Contracting Authority pursuant to a written instruction and in accordance with the Order, then the Supplier will replenish the Dedicated Inventory as set out in the Order or otherwise agreed in writing by the Parties.
- 6.2 In the event of termination or expiry of the Framework Agreement or Order the Contracting Authority shall be deemed to have issued a written instruction for delivery immediately prior to such termination or expiry in respect of any Dedicated Inventory that is either in the possession of the Supplier or in process of (i) being built by or on behalf of the Supplier or (ii) delivered to the Supplier as at the date of such termination or expiry.

- 6.3 Title in each particular unit of Dedicated Inventory shall transfer to the Contracting Authority on the earlier of (i) delivery of such unit; (ii) payment for such unit; or (iii) such unit being installed by the Supplier in the provision of the Services.
- 6.4 Should the Dedicated Inventory become “obsolete” or not usable in any way due to a design change, provided the Supplier has provided a minimum of six (6) months prior written notice to the Contracting Authority of such design change that would result in the applicable Dedicated Inventory becoming obsolete, the Contracting Authority shall purchase any remaining units of such obsolete Dedicated Inventory. The Supplier shall not replenish any Dedicated Inventory stock that may become obsolete for which it has provided notice to Contracting Authority.
- 6.5 The Supplier warrants that the Dedicated Inventory:
- (a) is insured against loss or damage for its full value under a policy of insurance protecting the Supplier’s and Contracting Authority’s respective interests in the joint names of the Supplier and Contracting Authority.
 - (b) are stored at the premises of the Supplier and at such premises they are:
 - (i) are set apart;
 - (ii) have been clearly and visible marked in a manner agreed and in such a way that the marks will remain legible until delivered or installed by the Supplier in the provision of Services; and
 - (iii) are stored in such a manner as to protect them from damage or deterioration and to the reasonable satisfaction of the Contracting Authority.

SCHEDULE 4

MAINTENANCE

1. DEFINITIONS AND INTERPRETATION

1.1 As used in this Schedule and an Order the following capitalised terms shall have the meanings provided below unless the context otherwise requires:

“Working Hours” means the period between 09:00 – 17:00 on a Working Day.

“Consumables” means non-durable items used in the operation of the Goods and which may include those items set out and identified as Consumables in the Order or the Framework Agreement.

“Corrective Maintenance” means:

- (a) making any adjustments to the Goods; or
- (b) replacing any parts or components of the Goods,

in each case, as required to restore the Goods to Good Working Order.

“Emergency Maintenance” means:

- (a) physically inspecting Priority Goods
- (b) making any adjustments to the Priority Goods; and/or
- (c) replacing any parts or components of Goods of the Priority Goods,

in each case, as required to restore the Goods to Good Working Order and which the Contracting Authority requires to be carried out outside Working Hours.

“Fix Time” means any applicable fix time set out in the Order or the Framework Agreement.

“Good Working Order” means:

- (a) operating in accordance with the requirements or specifications for such Goods as identified in the Order and/or the Framework Agreement; and
- (b) free from defects.

“Priority Goods” means the Goods located at the priority stations as identified within **Appendix B – Scope of Services**.

“Response Time” means any applicable response time set out in the Order or the Framework Agreement.

“Routine Maintenance” means:

- (a) testing that the Goods are functional;
- (b) making any adjustments or carrying out any work as may be required to ensure the Goods remain in Good Working Order; and/or
- (c) replacing any Consumables or Goods that require replacing.

“Spare Parts” means all spare components and subassemblies of the Goods supplied for installation in the Goods as part of the provision of the Services.

“Web Platform” means the Contracting Authorities web-hosting platform to which Goods transmit data.

2. INSPECTION

- 2.1 The Supplier shall carry out inspections and checks of the Goods (including a remote check that the Goods are active and transmitting data to the Web Platform) at the times and frequency and/or in accordance with (i) any schedule for inspection as specified in the Order; (ii) the Framework Agreement; or (iii) otherwise as instructed to do so by the Contracting Authority.
- 2.2 In carrying out an inspection of the Goods the Supplier shall determine whether it is in Good Working Order.
- 2.3 In the event that following a remote check any of the Goods are inactive the Supplier shall immediately notify the Contracting Authority.
- 2.4 Within 7 days of carrying out an inspection of the Goods the Supplier shall provide the Contracting Authority with a completed checklist in relation to the relevant Goods (such checklist being in the form contained **Appendix B – Scope of Services** or otherwise notified by the Contracting Authority) and notify the Contracting Authority in writing of:
- (a) the items of Goods or aspects or parts thereof which were inspected and which are in Good Working Order; and
 - (b) the Goods or aspects or parts thereof which were inspected and which are not in Good Working Order and the remedial action taken (which may include replacement of the Goods or any parts or components thereof or Consumables) and any further remedial action which the Supplier considers is required to restore the Goods to Good Working Order along with a quotation for any addition to the Price as calculated or determined in accordance with the Rates and/or extension to any Delivery Date(s) which the Supplier considers is required for such restoration.
- 2.5 Upon receipt of a notification in accordance with clause 2.4(b) of this **Schedule 4 – Maintenance** the Contracting Authority may:
- (a) notify the Supplier that it accepts the quotation, in which case the amount of the quotation shall be added to the applicable Price and any applicable Delivery Date(s) shall be deemed extended and the Supplier shall carry out the Services set out in such quotation in accordance with the Order and the Framework Agreement;
 - (b) Notify the Supplier to carry out the Services set out in such quotation but that the any applicable addition to the Price and any extension to any applicable Delivery Date(s) shall be determined by the Contracting Authority in accordance with clause 6.10(b) of **Schedule 1 – Terms and Conditions**;
 - (c) Notify the Supplier of the Services which the Contracting Authority requires to be carried out in order to restore the relevant Goods (or aspects or parts thereof) to Good Working Order and that any applicable addition to the Price and any extension to any applicable Delivery Date(s) shall be determined by the Contracting Authority in accordance with clause 6.10(b) of **Schedule 1 – Terms and Conditions**; or
 - (d) That no further action is to be taken by the Supplier in relation to the inspected Goods at that time.

2. ROUTINE, CORRECTIVE AND EMERGENCY MAINTENANCE

- 3.1 The Supplier shall attend the location(s) of the Goods identified in the Order thereto at the times and frequency and/or in accordance with any schedule for inspection as specified in the Order or the Framework Agreement or agreed to by the Parties. The Supplier shall perform the Routine Maintenance during Working Hours at such times as may be specified in the Order or as may be otherwise agreed between the Parties from time to time (including whilst carrying out any inspection per clause 2.1 of this **Schedule 4 – Maintenance**).
- 3.2 If the Supplier discovers that any of the Goods are defective or is malfunctioning or have failed

or are not otherwise in Good Working Order during the course of the Routine Maintenance the Supplier will use all reasonable endeavours to repair same during that visit at the relevant location or replace the Goods in the event that it is not possible to repair the relevant Goods. If that is not reasonably practicable (or it is not reasonably practicable to do so during Working Hours) the Supplier shall either arrange for a further visit to the relevant location within Working Hours to complete the repair or replacement or arrange for the removal of the Goods (or part of the Goods, if applicable) for repair off-site.

- 3.3 On the Supplier becoming aware or on the Contracting Authority informing the Supplier that Goods (or an aspect or part thereof) are defective or malfunctioning or have failed or are not otherwise in Good Working Order, the Supplier shall ensure that one of its Personnel shall:
- (a) attend the relevant location(s) during Working Hours within the relevant Response Time to perform Corrective Maintenance; and
 - (b) complete the Corrective Maintenance within the relevant Fix Time.
- 3.4 On the Supplier becoming aware that or the Contracting Authority informing the Supplier that Priority Goods (or any aspect or part thereof) are defective or are malfunctioning or have failed or are inactive or are not otherwise in Good Working Order, and requires inspection or repair outside of Working Hours, the Supplier shall:
- (a) attend the relevant location(s) within the relevant Response Time to perform Emergency Maintenance; and
 - (b) complete the Emergency Maintenance within the relevant Fix Time.
- 3.5 Where it is not reasonably practicable for the Supplier to complete Corrective Maintenance or Emergency Maintenance at the relevant location(s) on its first visit the Supplier shall either arrange for a further visit to the location(s) within Working Hours to complete the repair or arrange for the removal of the Goods (or part or aspect of the Goods, if applicable) for repair off-site. Without prejudice to the foregoing the Supplier shall carry out all Corrective Maintenance and Emergency Maintenance within the relevant Fix Time.
- 3.6 Within seven (7) days of the completion of any Routine Maintenance, Corrective Maintenance and/or Emergency Maintenance the Supplier shall provide the Contracting Authority with a completed checklist in relation to the relevant Goods (such checklist being in the form contained **Appendix B – Scope of Services** or otherwise notified by the Contracting Authority) and a report detailing the actions taken and any Goods replaced and Spare Parts and Consumables used. The Supplier shall provide such further information requested by the Contracting Authority in relation to a report provided under this clause 3.6 of this **Schedule 4 – Maintenance** within fourteen (14) days of such request for further information.
- 3.7 Clause 5 of **Schedule 3 – Goods** shall apply in respect of any Goods installed or supplied in the course of any inspection, Routine Maintenance or Emergency Maintenance.

4. SPARE PARTS AND CONSUMABLES

- 4.1 The Supplier shall supply and fit such Spare Parts and Consumables as required to maintain the Goods in Good Working Order or to restore the Goods to Good Working Order and no extra charge or addition to the Price will be made for the supply of such Spare Parts and Consumables where such Spare Parts and Consumables are supplied and fitted to Goods during the Warranty Period for such Goods (as per clause 5.1 of **Schedule 3 – Goods**).
- 4.2 All Spare Parts and Consumables shall be new. The Supplier will transfer to the Contracting Authority, with full title guarantee and free from all third-party rights, all the Spare Parts and Consumables that it provides to the Contracting Authority, and the Spare Parts and Consumables shall become part of the Goods upon their installation in the Goods.

SCHEDULE 5

WEB HOSTING

1. DEFINITIONS AND INTERPRETATION

1.1 As used in this Schedule and any Order the following capitalised terms shall have the meanings provided below unless the context otherwise requires:

“Acceptance Tests” means the tests to be carried out on the Supplier Web Platform to the extent set out or identified in the Order or the Framework Agreement.

“Contracting Authority Information” means all Contracting Authority data and information.

“Cyber Security Requirements” means all applicable laws, regulations, codes, guidance (from regulatory and advisory bodies, whether mandatory or not), international and national standards, and sanctions, relating to security of network and information systems and security breach and incident reporting requirements, including the Data Protection Legislation, the Cybersecurity Directive (EU) 2016/1148), Commission Implementing Regulation (EU) 2018/151) and the Network and Information Systems Regulations.

“Design Requirements” means the requirements and/or specification for the Supplier Web Platform to the extent set out or identified in an Order or the Framework Agreement.

“Development Schedule” means the timetable and/or schedule for the design, development, and delivery of the Supplier Web Platform to the extent set out or identified in an Order or the Framework Agreement.

“Incident” means any Vulnerability, Virus or security incident which:

- (a) may affect the Supplier Web Platform;
- (b) may affect the Supplier's network and information systems such that it could potentially affect the Contracting Authority or the Supplier Web Platform; or
- (c) is reported to the Supplier by the Contracting Authority.

“Known Vulnerabilities” means any Vulnerability that has either:

- (a) been assigned a Common Vulnerabilities and Exposures (CVE) number;
- (b) been disclosed on the National Vulnerability Database available at the website operated by the US National Institute of Standards and Technology (NIST) from time to time; or
- (c) been disclosed on the internet, or any public database, such that it would be revealed by reasonable searches conducted in accordance with good industry practice.

“Latent Vulnerabilities” means any instances of typical classes of Vulnerability. For example, buffer overflows, cross-site scripting (XSS) and Structure Query Language (SQL) injection.

“Network and Information Systems Regulations” means the European Union (Measures for a High Common Level of Security of Network and Information Systems) Regulations 2018 enacted in Ireland and/or the Network and Information Systems Regulations 2018 enacted in the United Kingdom to the extent either or each apply to either Party and/or the Web Platform.

“Server” means a high-performance computer server administered by or on behalf of the Supplier.

“Virus” means any thing or device (including any software, code, file or programme) which may:

- (a) prevent, impair or otherwise adversely affect the operation of any computer software, hardware or network, any telecommunications service, equipment or network or any other service or device;
- (b) prevent, impair or otherwise adversely affect access to or the operation of any programme or data, including the reliability of any programme or data (whether by rearranging, altering or erasing the programme or data in whole or part or otherwise); or
- (c) adversely affect the user experience, including worms, trojan horses, viruses and other similar things or devices.

“Vulnerability” means a weakness in the computational logic (for example, code) found in software and hardware components that, when exploited, results in a negative impact to confidentiality, integrity, or availability, and the term “Vulnerabilities” shall be construed accordingly.

“Supplier Web Platform” means the web platform to be designed, developed, delivered and hosted by the Supplier as set out in an Order.

2. PROJECT SCOPE AND DOMAIN NAME

2.1 The Supplier shall:

- (a) design, develop and deliver the Supplier Web Platform in accordance with the Development Schedule, the Design Requirements and the Contracting Authority’s instructions;
- (b) host the Web Platform from the Server in accordance with any service levels specified in the Order;
- (c) immediately on the issuing of the Order to which this **Schedule 5 – Web Hosting** applies register any domain name identified in the Order thereto which the Supplier is to register (**“Domain Name”**) in accordance with the details for registration specified in the Order;
- (d) notify the Contracting Authority three (3) months prior to any renewal date in respect of the registration of the domain name and promptly renew the registration of the Domain Name upon the relevant renewal date as specified in the Order or as instructed to do so by the Contracting Authority;
- (e) ensure the Supplier Web Platform is available 24 hours a day, 7 days a week except for any planned downtime agreed with the Contracting Authority; and
- (f) maintain the Supplier Web Platform as specified in the Order and the Framework Agreement.

2.2 The Supplier warrants that if it registers any Domain Name in its own name, or lists its own Personnel as administrative and technical contacts as part of such registration, it shall (and procure that any necessary third party shall) within fourteen (14) days of being instructed to do so by the Contracting Authority, execute and deliver such documents and perform such acts as may be required for the purpose of effecting the transfer of the Domain Name registration to the Contracting Authority, and ensure the administrative and technical contacts are those instructed by the Contracting Authority, without any cost to the Contracting Authority.

2.3 All fees associated with any registration and renewal of a Domain Name are deemed included in the Price.

3. WEB PLATFORM DEVELOPMENT AND ACCEPTANCE

3.1 Once the Supplier has completed any particular phase(s) and/or milestone(s) for the design and development of the Supplier Web Platform in accordance with Development Schedule the Supplier shall notify the Contracting Authority and invite it to attend and/or commence (to the extent applicable) any applicable Acceptance Tests for such phase(s) or milestone(s).

3.2 The Acceptance Tests shall test compliance of the Supplier Web Platform with the Design Requirements.

- 3.3 Acceptance of the Supplier Web Platform shall occur when the Web Platform has passed all Acceptance Tests for each phase and/or milestone as may be set out in the Development Schedule.
- 3.4 If any Acceptance Tests are not passed, the issues and/or failures that caused the relevant test to be failed shall be documented by the Party carrying out the relevant Acceptance Test and presented to the other Party for discussion as to how best to rectify such issue(s) and/or failure(s).
- 3.5 The Supplier shall remedy any issue(s) and/or failure(s) identified in accordance with clause 3.2 of this **Schedule 5 – Web Hosting** promptly in order to ensure that the Supplier Web Platform passes the relevant Acceptance Tests on a retest. If such a retest demonstrates that the Supplier Web Platform is still not in accordance with the Design Requirements, the Contracting Authority may, by written notice to the Supplier, elect at its sole option:
- (a) to fix (without prejudice to its other rights and remedies) a new date for carrying out further tests on the Supplier Web Platform on the same terms and conditions as the retest (except that all reasonable costs which the Contracting Authority may incur as a result of carrying out such tests shall be deducted from amounts otherwise due to the Supplier or otherwise be recoverable from the Supplier as a debt). If the Supplier Web Platform fails such further tests, the Customer shall be entitled to proceed under clause 3.5(b) or clause 3.5(c) of this **Schedule 5 – Web Hosting**; or
 - (b) to accept the Supplier Web Platform subject to an appropriate and reasonable deduction of the Price, taking into account the circumstances.
 - (c) to reject the Supplier Web Platform, in which event the Order shall automatically terminate and the Supplier shall (without prejudice to the Contracting Authority's other rights and remedies) immediately refund to the Contracting Authority all sums already paid to the Supplier under the Order in respect of designing and developing the Supplier Web Platform.

3. WEB PLATFORM WARRANTIES

- 4.1 The Supplier warrants that the Supplier Web Platform and its operation will be uninterrupted and free of errors, Known Vulnerabilities and Latent Vulnerabilities, Viruses and material defects and that the Supplier Web Platform will perform in accordance with the Design Requirements for the duration of the Framework Period and Order Period.
- 4.2 If there is any breach of the Supplier's warranty set out in clause 4.1 of this **Schedule 5 – Web Hosting**, the Supplier shall, at no cost to the Contracting Authority, promptly remedy such breach and ensure the Supplier Web Platform complies with the Design Requirements.

5. WEB PLATFORM CONTENT

- 5.1 The Supplier shall update the Supplier Web Platform with content provided from time to time by the Contracting Authority for incorporation into the Supplier Web Platform, but which shall not include re-designing the Supplier Web Platform.
- 5.2 The Supplier shall grant the Contracting Authority access to the Supplier Web Platform, in order to update information held on the Supplier Web Platform and for any further or additional purposes as may be identified in the Order.
- 5.3 The Supplier will be custodians of the data, and should be responsible for verifying data integrity

6. WEB PLATFORM SECURITY

- 6.1 The Supplier warrants that any information provided by it to the Contracting Authority on the security of its network and information systems is up to date and accurate and that it will update the Contracting Authority immediately in the event of any changes to such information.
- 6.2 The Supplier shall notify the Contracting Authority immediately if it becomes aware of any Incident, and respond without delay to all queries and requests for information from the Contracting Authority about any Incident, whether discovered by the Supplier or the Contracting Authority, in particular

bearing in mind the extent of any reporting obligations the Contracting Authority may have under the Network and Information Systems Regulations and the Data Protection Legislation, and that the Contracting Authority may be required to comply with statutory or other regulatory timescales.

- 6.3 The Supplier will use its best endeavours to ensure the continuity of the Services at all times and in accordance with any policies referred to in clause 4.1(b) of **Schedule 1 – Terms and Conditions**.
- 6.4 The Supplier agrees to co-operate with the Contracting Authority in relation to:
- (a) all aspects of its compliance with the Network and Information Systems Regulations (if applicable);
 - (b) any request for information, or inspection, made by any regulator (including in connection with the Network and Information Systems Regulations);
 - (c) any request for further information made in respect of any information provided as referred to in clause 6.1 of this **Schedule 5 - Web Hosting**;
 - (d) any Incident.
- 6.5 The Supplier shall (and warrants that it shall) at all times:
- (a) in accordance with good industry practice, implement, operate, maintain and adhere to, appropriate policies to cover the issues relating to the Web Platform's continuity and its own network and information systems security, including an incident management process which shall enable the Supplier, as a minimum, to meet its reporting obligations under clause 6.4 of this **Schedule 5 - Web Hosting**.
 - (b) promptly mitigate against Incidents.
- 6.6 The Supplier shall provide copies of the policies referred to in clause 6.5(a) of this **Schedule 5 - Web Hosting** promptly on request by the Contracting Authority.
- 6.7 The Supplier shall indemnify the Contracting Authority against any loss or damage suffered by the Contracting Authority in relation to any breach by the Supplier of its obligations under this **Schedule 5 – Web Hosting** which cause the Contracting Authority to breach the Cybersecurity Requirements.
- 6.8 The Supplier shall implement and maintain a written information which will be followed in respect of the provision of the Supplier Web Platform, and which shall include and address, at a minimum, the following administrative, physical and technical safeguards:
- (a) logical access controls to manage access to the Supplier Web Platform and system functionality on a least privilege and need-to-know basis, including defined authority levels and job functions, unique IDs and passwords, strong (i.e., two-factor) and promptly revoking or changing access in response to terminations or changes in job functions;
 - (b) password controls to manage and control password security, complexity and expiration;
 - (c) network security controls, including the use of firewalls and updated intrusion detection/prevention systems to help protect the Supplier's systems and the Supplier Web Platform from intrusion or limit the scope or success of any attack or attempt at unauthorized access, and reasonable system monitoring;
 - (d) vulnerability management procedures and technologies to identify, assess, mitigate and protect against new and existing security vulnerabilities and threats, including Viruses, bots and other malicious code, and also including use of anti-virus or other programs capable of detecting, removing and protecting against malicious or unauthorized software with signature updates at least every twenty-four (24) hours;
 - (e) appropriate disposal and destruction measures to ensure any Contract Authority Information, and any media is sanitized and/or destroyed, as appropriate, prior to disposal, release out of organisational control, or release for reuse; and, the Supplier shall ensure that third parties cannot obtain any such data and is not recoverable by any known forensic means;

- (f) encrypting Contracting Authority Information and any encryption keys stored by Supplier or stored on any mobile media (including USB, tablets, laptops, external hard drives, and cell phones) and encrypting data and any encryption keys transmitted over public or wireless networks (including email) and encrypting and storing backup media at a secure offsite facility;
- (g) Supplier Personnel shall not store, manage, move or maintain any Contracting Authority Information on any portable computing device and/or mobile devices, unless an exception is made in writing by the Contracting Authority; and
- (h) implementing and maintaining procedures for vulnerability and patch management ensuring that application system and network device vulnerabilities are evaluated and security patches applied in a timely manner.
- (i) monitoring, detecting, isolating, preventing, and responding to attempted or successful attempts or intrusions by unauthorized persons into any system used to maintain Contracting Authority Information or to perform the Services.
- (j) maintaining current firewall protection and system patches for any internet-connected systems and devices;
- (k) Designating one or more employees to coordinate and maintain the security program, assess and manage risks, and monitor the program's effectiveness.
- (l) reviewing and assessing the security program at least annually to determine whether existing safeguards adequately control security risks.
- (m) adjusting the security program as appropriate in response to risk assessments or in light of new or significant threats or material changes in business practices or operations that may affect the security program.
- (n) training employees and other persons responsible for providing Services and Contracting Authority Personnel in security program practices and procedures with reasonable regularity, including in such training, without limitation, the risks of social engineering and malicious software, and password management requirements.
- (o) establishing sanctions for security program violations.
- (p) selecting vendors and service providers capable of maintaining appropriate safeguards and practices, and contractually requiring the service providers to maintain substantially similar privacy and data security practices and procedures as are required of Supplier under the Framework Agreement and the Order.

SCHEDULE 6

GDPR ADDENDUM

SCHEDULE 7

ORDER FORM

Section 1. General Information

This Order is governed and incorporates the terms of the Framework Agreement effective as of **201**, by and between **Waterways Ireland** and **Full Legal Name of Supplier** ("Framework Agreement") as provided therein.

Order Date:	
Order Number:	
PO Number:	
Overview of Services:	
Price:	
Waterways Ireland Project Manager:	Name: Email: Phone:
Supplier Representative	Name: Email: Phone:
Services will be performed at and/or Goods delivered to the following locations and/or the Site of Construction Works is:	
Order Period	Commencement Date (if different from Effective Date): End Date:
Subcontractors:	
Further documentation included within Order:	

Section 2. Scope of Services

Overview/Description:

Approach/Specifications:

KPIs / Service Levels:

In addition to the above Supplier will provide the Services to Waterways Ireland the following dates

Item / Milestone	Description	Delivery / Completion Date

Section 3. Supplier Project Personnel

The following Supplier Personnel are designated as “**Key Personnel**”:

Name	Role	Key Responsibilities

Section 5. Further Requirements

Insurances to be maintained by Supplier	
Acceptance / Completion Tests:	
Acceptance / Completion Criteria:	

Rectification / Warranty Period	
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Section 6. Invoicing and Payments

Dates for Payment / Payment Schedule:

Section 7. Signatures

The Parties hereby agree to the terms of this Order as of the Order Effective Date and acknowledge that this Order together with the documents referred to herein and in the terms of the Framework Agreement as making up the Order of the Agreement represent the entire agreement of the Parties with respect to the Services set forth herein and the Parties acknowledge their agreement of this Order by signature from an authorised representative of each Party.

The Order will only be considered a valid and binding agreement upon final execution by Waterways Ireland. Any amendments to this Order, including any amendments to any other such documents attached or incorporated by reference to this Order or the Framework Agreement, may only be made upon the signed written agreement of the Parties, and for those changes that modify the Price until Waterways Ireland issues a revised purchase order incorporating those changes. Anything to the contrary will be considered null and void.

This Order may be executed in any number of counterparts, each of which will be deemed to be an original and all of which constitute one and the same instrument. This Order shall be signed in originals and the Supplier shall be provided with one signed original and the rest will be retained by the Contracting Authority.

Executed as a deed by [●] acting by
....., an authorised
signatory, in the presence of:



.....
Signatory

Signature of Witness

Name, Address and occupation of Witness:

Executed as a deed by [●] acting by
....., a director, in the
presence of:



.....
Signatory

Signature of Witness

Name, Address and occupation of Witness:

