



Ollscoil
Teicneolaíochta
an Atlantaigh

Atlantic
Technological
University

ATLANTIC TECHNOLOGICAL UNIVERSITY

[INSERT SUCCESSFUL TENDERER'S FULL LEGAL NAME]

AGREEMENT

Relating to the provision of [ICT] Services pursuant to

**Request for Tenders for the provision to Establish a Single Supplier Framework Agreement for the
Provision of a Digital Mapping System for Atlantic Technological University (ATU)**

THIS AGREEMENT is made on _____ 2026

BETWEEN

- (1) **ATLANTIC TECHNOLOGICAL UNIVERSITY** a statutory body established pursuant to the Technological Universities Act 2018 and having its principal place of business at Port Road, Letterkenny, Donegal including its successors and assigns (“the Client”);
- and
- (2) [Contractor’s full legal name], of [address] (“the Contractor”)
- (each a “Party” and together “the Parties”).

WHEREAS:

- (A) By Request for Tender entitled “ CFT ID 8581419 - PIF 26/366 Request For Tenders to Establish a Single-Supplier Framework Agreement for the Provision of a Digital Mapping System for Atlantic Technological University (ATU)” advertised at national level on the e tenders platform under the accelerated open procedure dated insert date of RFT (“the RFT”) the Contracting Authority invited tenders from economic operators (“Tenderers”) for the provision of the services described in Appendix 1A of TRD and Section 2 to the RFT (the “Services”). References to the RFT shall include any clarifications issued by the Contracting Authority via the messaging facility on www.etenders.gov.ie between [insert date] and [insert date] (the “RFT Clarifications”). The RFT (including the RFT Clarifications) is hereby incorporated by reference into this Agreement.
- (B) The Contractor submitted a response to the RFT dated [insert date of Tender] (“the Submission”). References to the Submission shall include any clarifications issued by the Contractor in writing to the Contracting Authority between [insert date] and [insert date] (the “Submission Clarifications”). The Submission (including the Submission Clarifications) is hereby incorporated by reference into this Agreement.

IT IS HEREBY AGREED as follows:

1. This Agreement consists of the following documents, and in the case of conflict of wording, in the following order of priority:
 - (i) This Agreement and Schedules [] to [] attached hereto;
 - (ii) The RFT;
 - (iii) The Submission.
2. The Contractor agrees to provide the [supply, hosting, installation, migration, configuration, customisation, testing, commissioning, documentation, training and maintenance/support services] Services described in Schedule B (“the Services”) to the Client in accordance with this Agreement (“Agreement”). Schedule B details the nature, quality, time of delivery, key personnel and functional specifications of the Services in accordance with the RFT and the Submission (“the Specification”).

3. Subject to the terms and conditions of this Agreement, the Client agrees to pay to the Contractor the charges as stipulated in [Schedule C] (“the Charges”). The Charges are exclusive of VAT which shall be due at the rate applicable on the date of the VAT invoice.
4. For the purposes of this Agreement, the Client’s Contact is [name of contact person] of [address of contact person]; the Contractor’s Contact is [Contractor contact name] of [Contractor contact address].
5. This Agreement shall take effect on the date of this Agreement (“the Effective Date”) and shall expire on [+12 months], unless it is otherwise terminated in accordance with the provisions of this Agreement or otherwise lawfully terminated or otherwise lawfully extended as agreed between the Parties (“the Term”).

The Client reserves the right to extend the Term for a period or periods of up to [12] months with a maximum of [3] such extensions permitted subject to its obligations at law.
6. Unless otherwise specified herein, a defined term used in this Agreement shall have the same meaning as assigned to it in the RFT.
7. Headings are included for ease of reference only and shall not affect the construction of this Agreement.
8. Unless the context requires otherwise, words in the singular may include the plural and vice versa.
9. References to any statute, enactment, order, regulation or other legislative instrument shall be construed as a reference to the statute, enactment, order, regulation or instrument as amended, unless specifically indicated otherwise.
10. In the event that any ambiguity or question of intent or interpretation arises in relation to this Agreement, this Agreement shall be construed as if drafted jointly by the Parties and no presumption or burden of proof shall arise favouring or disfavouring any Party by virtue of the authorship of any of the provisions of this Agreement

SIGNED for and on behalf of Atlantic Technological University

Name:

Position:

Date:

Witness Atlantic Technological University

Name:

Position:

Date:

SIGNED for and on behalf of

Name:

Position:

Date:

Witness for and on behalf of

Name:

Position:

Date:

Document complete: _____

Name:

On behalf of Contracts Administration

Schedule A: Terms and Conditions

1. Contractor's Obligations

- 1.1 The Contractor undertakes to act with due care, skill and diligence in the provision of the Services and generally in the carrying out of its obligations under this Agreement and in the appointment, monitoring and retention of its agents and Subcontractors. The Contractor shall require its agents and Subcontractors to exercise due care, skill and diligence in the provision of the Services and generally in the carrying out of obligations allocated by the Contractor to its agents and Subcontractors under this Agreement.
- 1.2 In consideration of the payment of the Charges and subject to clause 3 the Contractor shall:
- (a) provide the Services **[and the Documentation]** in accordance with the Specification, the RFT, the Client's directions and the terms of this Agreement;
 - (b) comply with and implement any policies, guidelines and/or any project governance protocols issued by the Client from time to time and notified to the Contractor in writing;
 - (c) comply with all local security and health and safety arrangements as notified to it by the Client; and
 - (d) provide the Services in accordance with good industry practice and comply with all applicable laws including but not limited to all obligations in the field of environmental, social and labour law that apply at the place where the Services are provided, that have been established by EU law, national law, collective agreements and by international, environmental, social and labour law listed in Schedule 7 of the European Union (Award of Public Authority Contracts) Regulations 2016 (Statutory Instrument 284 of 2016) (the "Regulations"). The Contractor shall be responsible for compliance with all statutory requirements of an employer and without prejudice to the generality of the foregoing shall 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 Agreement.
 - (e) ensure that the System shall, in all regards, comply with the Specification and all applicable accessibility requirements under EU and Irish law, including Directive (EU) 2016/2102 and the European Union (Accessibility of Websites and Mobile Applications of Public Sector Bodies) Regulations 2020 (S.I. No. 358/2020), and shall conform to WCAG 2.1 AA and EN 301 549 accessibility standards (or any successor or replacement standards), both at the date of delivery and throughout the Term. The Supplier shall implement appropriate testing, monitoring and remediation processes to ensure ongoing compliance.
 - (f) the Service Level Arrangements applicable to the performance of Services by the Contractor under this Agreement shall be that evidenced in Schedule **[D]** including any future amendment or redraft thereof ("**Service Level Arrangements**").
 - (g) ensure that the System and all associated Documentation are accessible to persons with disabilities;

- (h) ensure that accessibility is maintained throughout the term of this Agreement and that any updates, upgrades or changes do not introduce accessibility barriers;
- (i) carry out regular accessibility testing, including the use of assistive technologies, and provide evidence of accessibility compliance on request, including independent audit reports where available;
- (j) promptly address any accessibility issues identified and provide a remediation plan with timelines, prioritising issues that impact access to core functionality;
- (k) support the Client in meeting its accessibility obligations, including providing information required for accessibility statements and responding to accessibility related queries or complaints.

1.3 The Contractor is deemed to be the prime contractor under this Agreement and the Contractor assumes full responsibility for the discharge of all obligations under this Agreement and shall assume all the duties, responsibilities and obligations associated with the position of prime contractor. The Contractor as prime contractor under the Submission hereby assumes liability for its Subcontractors and shall ensure that its Subcontractors shall comply in all respects with the relevant terms of this Agreement, including but not limited to clause 1.2(d) above, to the extent that it or they are retained by the Contractor. Subject to clause 14, the Contractor shall notify the Client as soon as possible of any changes to the name, contact details and legal representatives of its Subcontractors.

1.4 Without prejudice to clause 1.3, where the Client becomes aware that any of the exclusion grounds set out in Regulation 57 of the Regulations apply to any Subcontractor, the Client reserves the right to require the Contractor to immediately replace such Subcontractor and the Contractor shall comply with such requirement. The Contractor shall include in every sub-contract a right for the Contractor to terminate the sub-contract where any of the exclusion grounds apply to the Subcontractor and a requirement that the Subcontractor, in turn, includes a provision having the same effect in any sub-contract which it awards.

1.5 During this Agreement the Contractor shall be an independent contractor and not the employee of the Client. Neither Party shall have any authority to bind or commit the other. Nothing herein 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, employees or agents of the Contractor are not and shall not hold themselves out to be (and shall not be held out by the Contractor as being) servants or agents of the Client for any purposes whatsoever.

1.6 The Client acknowledges that the Contractor may from time to time be dependent on the Client to facilitate the Contractor in the carrying out of its duties under this Agreement. The Client agrees to use its reasonable endeavours to so facilitate the Contractor within the timescales and in the manner agreed by it in writing in accordance with clause [12].

1.7 The Contractor agrees that any information relating to this Agreement and / or the performance of this Agreement may be passed by the Client to the Office of Government Procurement ("OGP") and that the OGP may use this information in the analysis and reporting of spend data including the preparation and publishing of reports.

- 1.8 The Contractor shall comply with all applicable obligations arising pursuant to the European Communities (Protection of Employees' Rights on Transfer of Undertakings) Regulations 2003 (S.I. No. 131 of 2003) and Council Directive 2001/23/EC (together the "TUPE Regulations") and failure to so comply shall constitute a serious breach of this Agreement. The Contractor shall indemnify, save harmless and keep the Client indemnified from and against any claim arising or loss or costs incurred as a result of its failure or incapacity to fulfil its obligation under the said TUPE Regulations.
- 1.9 In the case of public procurement procedures which are subject to an IPI measure within the meaning of Regulation (EU) 2022/1031, the Contractor shall comply with the following obligations:
- (a) not to subcontract more than 50% of the total value of the contract to economic operators originating in a third country which is subject to an IPI measure;
 - (b) for contracts whose subject matter covers the supply of goods, to ensure for the duration of the contract that goods or services supplied or provided in the execution of the contract and originating in the third country which is subject to the IPI measure represent no more than 50% of the total value of the contract, irrespective of whether such goods or services are supplied or provided directly by the successful tenderer or by a subcontractor;
 - (c) to provide to the Client, upon request, adequate evidence corresponding to point (a) or (c) above;
 - (d) to pay a proportionate charge, in the event of non-observance of the obligations referred to at point (a) or (b) above, of between 10% and 30% of the total value of the contract.
- 1.10 [The Contractor shall use best endeavours to make the Services available 24 hours a day, seven days a week, except for:
- (a) planned maintenance carried out during the maintenance window of [10.00 pm to 2.00 am Irish time]; and
 - (b) unscheduled maintenance performed outside Normal Business Hours, provided that the Contractor has used reasonable endeavours to give the Client at least **[]** Normal Business Hours'] notice in advance.]
- 1.11 [If the Services availability drops below 99.5% per [month OR quarter], the Contractor shall pay to the Client service credits in the amounts set out in **Schedule []**. If the Services availability drops below 99.5% during three consecutive calendar months/quarters, Client may terminate this agreement on notice in writing to the Contractor.]
- 1.12 [The Contractor will, as part of the Services and at no additional cost to the Client, provide the Client with the Contractor's standard Client support services during Normal Business Hours in accordance with the Contractor's Support Services Policy in effect at the time that the Services are provided. The Contractor may amend the Support Services Policy on no less than ninety (90) days' notice in writing to the Client and shall ensure that any amendment to the Support Services Policy does not adversely affect, reduce, or change the Support Services. If the Client does not agree to the Contractor's updated Support Services Policy, the Client may terminate this agreement on no less than thirty (30) days' prior written notice to the Contractor.]

2. User subscriptions

The Contractor hereby grants to the Client a non-exclusive, non-transferable right and licence, without the right to grant sublicences, to permit the Authorised Users to use the System and the Documentation and to access the Services during the Term solely for the Client's internal business operations, educational, research, administration and statutory functions.

3. Key Account Manager

The Contractor undertakes and acknowledges that it is responsible for ensuring that the Key Account Manager assigned by it to provide the Services shall be available for the Term of this Agreement. The Contractor acknowledges that the Key Account Manager is essential to the proper provision of the Services to the Client. In the event that the Key Account Manager assigned by the Contractor to provide the Services under this Agreement becomes unable to provide the Services for whatever reason then, the Contractor acknowledges and undertakes that it shall immediately notify the Client in writing of the inability of the Key Account Manager and replace that person with a person of equivalent experience and expertise ("Replacement Account Manager"). The Contractor shall provide to the Client such details as the Client may reasonably require in writing regarding any Replacement Account Manager. The Client shall have absolute discretion as to the suitability of any proposed Replacement Account Manager.

4. Payment

4.1 Subject to the provisions of this clause 3 the Client shall pay and discharge the Charges (plus any applicable VAT), in the manner specified at Schedule C. Invoicing arrangements shall be on such terms as may be agreed between the Parties.

4.2 Discharge of the Charges is subject to:

- (a) Compliance by the Contractor with the provisions of this Agreement including but not limited to any milestones, compliance schedules and/or operational protocols in place pursuant to clause 12 from time to time;
- (b) The furnishing by the Contractor of a valid invoice and such supporting documentation as may be required by the Client from time to time. Any Contractor pre-printed terms and conditions are hereby disallowed;
- (c) Invoices being submitted to the Client's Contact (as set out in this Agreement or such other alternative contact as may be agreed between the Parties). All and any queries relating to the invoice and/or the Services for any billing period (including whether or not Services have been accepted, rejected, satisfactorily re-performed or as the case may be) must be raised by the Client's Contact within 14 calendar days of receipt of invoice. In circumstances where no queries are raised within the said 14-day period the invoice shall be deemed accepted. Upon resolution of any queries on the invoice to the satisfaction of the Client or upon such deemed acceptance the invoice shall be payable by the Client. Payment is subject to any rights reserved by the Client under any other provision of this Agreement; and

- (d) The Client being in possession of the Contractor's current Tax Clearance Certificate. The Contractor shall comply with all applicable EU and domestic taxation law and requirements.
- 4.3 The European Communities (Late Payment in Commercial Transactions) Regulations, 2012 shall apply to all payments. Incorrect invoices will be returned for correction with consequential effects on the due date of payment.
- 4.4 Wherever under this Agreement any sum of money is recoverable from or payable by the Contractor (including any sum which the Contractor is liable to pay to the Client in respect of any breach of this Agreement), the Parties may agree to deduct that sum from any sum then due, or which at any later time may become due to the Contractor under the Agreement or under any other agreement or contract with the Client. Any overpayment by either Party, whether of the Charges 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.
- 4.5 The Charges shall include any and all costs or expenses incurred by the Contractor, its employees, servants and agents in the performance of its obligations under this Agreement.
- 4.6 The Charges shall be discharged as provided for in this clause subject to the retention by the Client in accordance with section 523 of the Taxes Consolidation Act, 1997 of any Professional Services Withholding Tax payable to the Contractor. Any and all taxes applicable to the provision of the Services will be the sole responsibility of the Contractor and the Contractor so acknowledges and confirms.

The Contractor may seek an increase in the Charges only after the expiry of 24 months from the Commencement Date and only once every year thereafter during the Term based on the movement over the prior 12 months of the annual rate of inflation as set out by the Consumer Price Index (CPI) in January of that year, in the manner prescribed by clause 11. In the event that the CPI rate is zero or negative, there will be no CPI adjustment

5. Warranties, Representations and Undertakings

- 5.1 The Contractor acknowledges, warrants, represents and undertakes that:
 - (a) it has the authority and right under law to enter into, and to carry out its obligations and responsibilities under this Agreement and to provide the Services hereunder;
 - (b) it is entering into this Agreement with a full understanding of its material terms and risks and is capable of assuming those risks;
 - (c) it is entering into this Agreement with a full understanding of its obligations with regard to taxation, employment, social and environmental protection and is capable of assuming and fulfilling those obligations;
 - (d) it has acquainted itself with and shall comply with all legal requirements or such other laws, recommendations, guidance or practices as may affect the provision of the Services as they apply to the Contractor;

- (e) it has taken all and any action necessary to ensure that it has the power to execute and enter into this Agreement;
- (f) the status of the Contractor, as declared in the “Declaration as to Personal Circumstances of Tenderer” dated [insert date] , which confirms that none of the excluding circumstances listed in Regulation 57 of the Regulations apply to the Contractor, remains unchanged;
- (g) it owns, has obtained or is able to obtain, valid licences for all Intellectual Property Rights (as defined in clause 6 below) that are necessary for the performance of its obligations under this Agreement and for the Client to obtain the benefit of the Services for its business purposes;
- (h) it retains and shall maintain for the Term insurances for the nature and amount specified in the RFT. The Contractor undertakes to advise the Client forthwith of any material change to its insured status, to produce proof of current premiums paid upon written request and where required produce valid certificates of insurance for inspection. The Contractor shall carry out all directions of the Client with regard to compliance with this clause 4.1(h)(i); and
- (i) the Client shall be under no obligation to purchase any minimum number or value of Services;
- (j) it shall comply with Cyber Security Requirements and good cyber security industry practices;
- (k) it shall comply with Data Protection Laws;
- (l) it shall comply with AI Laws;
- (m) [it shall use its reasonable efforts to ensure that the Services, the System and any Contractor Content are free from all viruses and other contaminants including any codes or instruction that may be used to access, modify, delete or damage data files, or other computer programs used by the Client from time to time and that it shall use the most comprehensive and up to date available virus checker;]
- (n) it is and shall remain throughout the term of this Agreement compliant (and certified by an independent, reputable and competent certification body to be compliant) with, and shall provide the Services in line with, a then-current version of [International Standards Organisation (ISO) / International Electrotechnical Commission (IEC) 27001, ISO 9001, ISO 14001 and Information Technology Infrastructure Library (ITIL)]. The Contractor shall provide the Client with a complete copy of the summary of each audit or other report received by the Contractor in connection with such accreditation(s) and certification(s) within 10 Business Days after the Contractor's receipt of such report.]

5.2 The Contractor undertakes to notify the Client forthwith of any material change to the status of the Contractor with regard to the warranties, acknowledgements, representations and undertakings as set out at clause 4.1 and to comply with all reasonable directions of the Client with regard thereto which may include termination of this Agreement.

6. [Service Levels and Service Credits]

- 6.1 The Contractor undertakes to ensure that the Services meet or exceed the Service Levels at all times during the Term.
- 6.2 Without prejudice to Clause [6.1], if the Contractor fails to meet any of the Service Levels, the Contractor shall:
- (a) immediately notify the Client of such failure;
 - (b) document that failure in accordance with the relevant procedures prescribed by the Client from time to time;
 - (c) to the extent that the Service in question is capable of re-performance, re-perform that Service at no additional cost to the Client; and
 - (d) deploy all additional resources and take all remedial action that is necessary to rectify the failure or to prevent it from reoccurring.
- 6.3 If the Contractor fails to comply with any of the Service Levels, the Contractor shall credit the Client with the applicable Service Credits either by showing the Service Credits as a deduction from the amount due from the Client to the Contractor in the next invoice then due to be issued or, at the request of the Client, by issuing a credit note against a previous invoice and the amount for the Service Credits shall be repayable by the Service Provider as a debt within 45 days of issue of the credit note.
- 6.4 Service Credits and Service Levels will be assessed on a monthly basis within five business days of the month then past with effect from Commencement Date.
- 6.5 It is acknowledged by the parties that any Service Credits are a price adjustment to reflect the actual quality of Services provided to the Client in the relevant period and do not represent a penalty or an agreed estimate of the loss or damage that may be suffered by the Client in respect of a breach of the Service Levels (which gives rise to the Service Credits) and accordingly the crediting of such sums is without prejudice to any entitlement the Client may have a right to damages from the Contractor relating to any such breach of the Service Levels. The parties agree that if a court of competent jurisdiction determines that (contrary to the intention of the parties) any Service Credits constitute a penalty, those Service Credits shall reduce to such amounts as the court considers not to constitute a penalty.]

7. Remedies

- 7.1 The Contractor shall be liable for and shall indemnify the Client for and in respect of all and any losses, claims, demands, damages or expenses which the Client may suffer due to and arising directly 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 Contractor, its employees, Subcontractors or agents or any of them or as a result of the Contractor's failure to exercise skill, care and diligence as outlined in clause 1.1 The terms of this clause 7.1 shall survive termination of this Agreement for any reason.
- 7.2 Save in respect of fraud (including fraudulent misrepresentation), personal injury or death or in respect of the Contractor's indemnity under clauses [7.1], and any indemnity obligations under the Data Processing Agreement, 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.

7.3 Should the Client find itself obliged to order elsewhere in consequence of the failure of the Contractor to deliver Services, the Client shall be entitled to recover from the Contractor any excess prices which may be paid by the Client.

7.4 Except as otherwise expressly provided by this Agreement, all remedies available to either Party for breach of this Agreement 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.

7.5 [Save in respect of fraud, personal injury or death or in respect of the Contractor's indemnity under clause [7.1] and any indemnity obligations under the Data Processing Agreement (for which no limit applies), the limit of the Contractor's aggregate liability to the Client under this Agreement whatsoever and howsoever arising shall not under any circumstances exceed [[]% of the annual licence fees paid by the Client to the Contractor under this Agreement in respect of the year in which the claim arises or [] % of the Charges paid or projected to be paid (whichever is higher) under this Agreement] regardless of the number of claims.]

7.6 [If for any reason the Client is dissatisfied with the performance of the Contractor, a sum may be withheld from any payment otherwise due calculated as follows:

[Insert] ("the Retention Amount") which Retention Amount shall not at any given time exceed [number] per cent of the Charges. In such event the Client shall identify the particular Services with which it is dissatisfied together with the reasons for such dissatisfaction. Payment of the Retention Amount will be made upon replacement and/or remedy of the said Services as identified by the Client or resolution of outstanding queries. The Client shall hold the Retention Amount on behalf of the Contractor but without any obligation to invest. The terms of this clause 5.6 shall be without prejudice to and not be in substitution for any remedy of the Client under this Agreement.]

7.7 [Time of delivery shall be of the essence and if the Contractor fails to deliver the Services within the time period promised or specified in the Specification, the Client may by notice in writing to the Contractor's Contact release itself from any obligation to accept and pay for the Services and / or terminate this Agreement in either case without prejudice to any other rights and remedies of the Client.

[Without prejudice to any general right to damages under this Agreement where the Contractor does not provide the Services within delivery dates or lead times in accordance with this Agreement, the Client may, at his discretion, deduct [amount] per week/day, or part thereof, for each week/day of late delivery as liquidated damages up to a maximum amount of [insert amount] (the "Liquidated Damages Threshold").

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 Client shall be entitled to:

- (a) claim any remedy available to it (whether under this 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 sub-clause (a), the Client shall be entitled to terminate the Agreement with immediate effect by giving notice in writing to the Contractor.]

8. Intellectual Property

- 8.1 Nothing in this Agreement affects either Party's rights in and to any Intellectual Property Rights that existed prior to the date of this Agreement (including pre-existing Intellectual Property Rights of either party contained in or relating to Confidential Information).
- 8.2 The Client acknowledges and agrees that, as between the parties, the Contractor and/or its licensors own all Intellectual Property Rights in the System and in all other materials connected with the provision of the Services and/or developed or produced in connection with this Agreement by the Contractor, its officers, employees, sub-contractors or agents. Except as expressly stated in this Agreement, this Agreement does not grant the Client any rights to such Intellectual Property Rights.
- 8.3 The Contractor acknowledges and agrees that the Client owns and retains all rights, title and interest in and to the Data. Save to the extent necessary for the provision of the Services and performance of its obligations under this Agreement, the Contractor shall have no rights to access, use or modify the Data unless it has the prior written consent of the Client.
- 8.4 The Contractor grants to the Client a perpetual (for the term of this Agreement and thereafter), irrevocable, sub-licensable, non-transferable, non-exclusive, royalty-free, worldwide licence to use all of the Contractor's Intellectual Property Rights in the System and the Deliverables solely in connection with the Client's (and its permitted sub-licensees') use of the System and Deliverables in accordance with this Agreement.
- 8.5 The Client grants to the Contractor a revocable, sub-licensable, non-transferable, non-exclusive, royalty-free, worldwide limited licence for the term of this Agreement to use, exploit, copy, reproduce, manufacture, sub-license, modify, improve, enhance and make derivative works of the Client's Intellectual Property Rights solely to the extent and as incorporated into the System and solely to the extent necessary to enable the Contractor to comply with its obligations under this Agreement.
- 8.6 The Contractor shall not disclose to the Client or use in its work any trade secrets or confidential information of a third party which the Contractor is not lawfully entitled to disclose or use in such manner. The Contractor shall not use any equipment, supplies, facilities, computer code, work product, inventions or materials of any other third party (Third-Party Materials) in the Contractor's performance under this Agreement unless:
 - (a) the Contractor has the full right and authority to do so without violating any rights of any third party;
 - (b) the Contractor has obtained all necessary rights to enable it to perform its obligations under this Agreement and grant the rights granted pursuant to this Agreement, and to permit the Client to utilise the Third-Party Materials as

contemplated under this Agreement, in each case at no additional cost or expense to the Client;

- (c) the Client's use of such Third-Party Materials will not restrict or impair in any manner its use of the System or subject the Client to any obligation or liability; and
- (d) such Third-Party Materials are specifically identified to the Client in writing in advance of any use and the Client has agreed in writing to such use.

8.7 The Contractor grants to the Client a perpetual (for the term of this Agreement and thereafter), irrevocable, sub-licensable, non-transferrable, non-exclusive, royalty-free, worldwide licence to use such Third-Party Materials in connection with the Client's (and its permitted sub-licensees') use of the System and Deliverables in accordance with this Agreement.

8.8 The Contractor hereby indemnifies the Client and shall keep and hold the Client harmless from and in respect of all and any losses (whether direct, indirect or consequential) liability, damages, claims, costs or expenses which arise by reason of any breach of any Third-Party Materials in so far as any such rights are used for the purposes of this Agreement.

8.9 The Client reserves all rights not expressly granted in this Agreement.

9. Confidentiality

9.1 Each of the Parties to this Agreement agrees to hold confidential all information, documentation and other material received, provided or obtained arising from their participation in this Agreement ("Confidential Information") and shall not disclose same to any third party except to:-

- (a) its professional advisers subject to the provisions of this clause 8; or
- (b) as may be required by law; or
- (c) as may be necessary to give effect to the terms of this Agreement subject to the provisions of this clause 8; or
- (d) in the case of the Client by request of any person or body or authority whose request the Client or persons associated with the Client (including but not limited to the Legislature and/or the Executive and/or the Civil Service) considers it necessary or appropriate to so comply.

9.2 The Contractor undertakes to comply with all reasonable directions of the Client with regard to the use and application of all and any of its Confidential Information and shall comply with the confidentiality agreement as exhibited at [Appendix 6 to the RFT] ("the Confidentiality Agreement"). Without prejudice to the generality of the foregoing, the Contractor shall ensure that all electronic communications which include Confidential Information are encrypted to a standard reasonably acceptable to the Client.

9.3 The obligations in this clause 8 will not apply to any Confidential Information:

- (a) in the receiving Party's possession (with full right to disclose) before receiving it from the other Party; or
- (b) which is or becomes public knowledge other than by breach of this clause; or
- (c) is independently developed by the disclosing Party without access to or use of the Confidential Information; or
- (d) is lawfully received by the disclosing Party from a third party (with full right to disclose).

9.4 The Contractor acknowledges that the security of the State and its information is of paramount importance to the Client. Accordingly the Contractor confirms that it will, if requested by the Client, from time to time, submit full personal details (including those of Subcontractors) who are assigned to provide the Services (or any part thereof) under this Agreement. The Contractor further acknowledges that checks may be carried out in relation to all such personnel by police authorities and the Contractor shall comply with all reasonable directions of the Client arising therefrom.

9.5 In circumstances where the Client is subject to the provisions of the Freedom of Information Act 2014 or the European Communities (Access to Information on the Environment) Regulations 2007 to 2014, then in the event of the Client receiving a request for information related to this Agreement, the Client shall consult with the Contractor in respect of the request. The Contractor shall specifically identify any information that is not to be disclosed on grounds of confidentiality or commercial sensitivity, and shall state the reasons for this sensitivity. The Client will consult the Contractor about this confidential or commercially sensitive information before making a decision on any request received under the above legislation. The Contracting Authority accepts no liability whatsoever in respect of any information provided which is subsequently released (irrespective of notification) or in respect of any consequential damage suffered as a result of such obligations.

9.6 The terms of this clause 8 shall survive expiry, completion or termination for whatever reason of this Agreement.

10. **Force Majeure**

10.1 A 'Force Majeure Event' means an event or circumstance or combination of events and/or circumstances not within the reasonable control of the Affected Party (as defined in clause 8.2 below) which has the effect of delaying or preventing that Party from complying with its obligations under this Agreement including but not limited to acts of God, war, out-break of disease, insurrection, riot, civil disturbance, rebellion, acts of terrorism, government regulations, embargoes, explosions, fires, floods, tempests, or failures of supply of electrical power, or public telecommunications equipment or lines, excluding industrial action of whatever nature or cause (strikes, lockouts and similar) occurring at the Contractor (or Subcontractor or agent) places of business.

10.2 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 notify the other Party in writing specifying:

- (a) the nature of the Force Majeure Event;

- (b) the anticipated delay in the performance of obligations;
- (c) the action proposed to minimise the impact of the Force Majeure Event;
- (d) and the Affected Party shall not be liable or have any responsibility of any kind for any loss or damage thereby incurred or suffered by the other Party, provided always that the Affected Party shall use all reasonable efforts to minimise the effects of the same and shall resume the performance of its obligations as soon as reasonably possible after the removal of the cause.

10.3 If the Force Majeure Event continues for [insert number]calendar days either Party may terminate at 14 days notice.

10.4 In circumstances where the Contractor is the Affected Party, the Client shall be relieved from any obligation to make payments under this Agreement save to the extent that payments are properly due and payable for obligations actually fulfilled by the Contractor in accordance with the terms and conditions of this Agreement. The Contractor will: (a) use all reasonable endeavours to continue to perform the affected Services including taking steps reasonably required by the Client and the Client and will cooperate with the Contractor; (b) keep the Client informed of developments relating to the Force Majeure Event; and (c) continue to perform all obligations not affected by the Force Majeure Event. The Contractor shall not be entitled to increase the Charges as a result of the Force Majeure Event.]

11. Termination

11.1 This Agreement may be terminated by the Client, without liability for compensation or damages, by serving three [3] written notice to the Contractor. This Agreement may be terminated by the Contractor, without liability for compensation or damages, by serving six [6] written notice to the Client.

11.2 Either Party shall have the right (in addition to its rights under clause 10.1 and any other rights which it has at law) to terminate this Agreement immediately and without liability for compensation or damages on the happening of any of the following:

- (a) if the other Party commits any serious breach or a series of breaches of any provision of this Agreement and fails to remedy such breach(es) (if the breach(es) are capable of remedy) within 30 days after receipt of a request in writing from the other Party;
- (b) if the other Party becomes insolvent, becomes bankrupt, enters into examinership, is wound up, commences winding up, has a receiving order made against it, makes any arrangement with its creditors generally or takes or suffers any similar action as a result of debt, or an event having an equivalent effect;
- (c) in circumstances where the Client becomes aware of any conflict of interest on the part of the Contractor which cannot, in the opinion of the Client, be removed by other means; and
- (d) in circumstances where the Client becomes aware of any registrable interest on the part of the Contractor

- 11.3 The Client shall have the right, in addition to any other rights which it has at law, to terminate this Agreement immediately and without liability for compensation or damages in circumstances where the Client becomes aware:
- (a) that any of the exclusion grounds set out in Regulation 57 of the Regulations apply to the Contractor
 - (b) that the Contractor (or its subcontractor(s), if any) falls within the category of prohibited economic operators identified in Regulation (EU) No 833/2014 of 31 July 2014 (as amended by EU Regulation 2022/576 or any subsequent amendments to same);
 - (c) there is a breach of any the of the warranties set out in Clause 4.1;
 - (d) [the Contractor commits a Critical Service Failure;
 - (e) the Contractor commits one or more Major Service Failures per month in any [three] consecutive months during the Term or in any [four] months in any given 12 month period during the Term].
- 11.4 Termination of this Agreement shall not affect any antecedent and accrued rights, obligations or liabilities of either Party, nor shall it affect any provision of this Agreement which is expressly or by implication intended to come into or continue in force on or after such termination.
- 11.5 If requested by the Client, the Contractor 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 Client ("Employment Information"). The Contractor agrees that the Client may release the Employment Information to third parties for the purposes of any procurement competition for the provision of the Services upon expiry of the Term or earlier termination of this Agreement for whatever cause.

12. **Contract Management**

- 12.1 The Client's Contact and the Contractor's Contact shall liaise on a regular basis to address any issues arising which may impact on the performance of this Agreement and to agree milestones, compliance schedules and operational protocols as required by the Client from time to time. If requested in writing by the Client the Contractor shall meet formally with the Client to report on progress and shall comply with all written directions of the Client.
- 12.2 The Contractor agrees to:
- (a) liaise with and keep the Client's Contact fully informed of any matter which might affect the observance and performance of the Contractor's obligations under this Agreement;
 - (b) maintain such records and comply with such reporting arrangements and protocols as required by the Client from time to time;
 - (c) comply with all reasonable directions of the Client; and
 - (d) comply with the service levels and performance indicators set out in Schedule D.

- 12.3 The Client or its authorised representative may inspect the Contractor's premises, lands and facilities (or such part or parts thereof relating solely to this Agreement) with due access to relevant personnel and records upon reasonable notice in writing to ensure compliance with the terms of this Agreement. The Contractor shall comply with all reasonable directions of the Client thereby arising. The cost of inspection shall be borne by the Client.

13. Disputes

- 13.1 In the event of any dispute arising out of or relating to this Agreement (the "Dispute"), the Parties shall first seek settlement of the Dispute as set out below.
- 13.2 The Dispute shall be referred as soon as practicable to [insert Contractor contact] within the Contractor and to [Michael Hopkins Head of Procurement ATU] within the Client respectively.
- 13.3 If the Dispute has not been resolved within fifteen (15) Business Days (or such longer period as may be agreed in writing by the Parties) of being referred to the nominated representatives, then either Party may refer the Dispute to an independent mediator, the identity of whom shall be agreed in advance by the Parties.
- 13.4 If the Parties are unable to agree on a mediator or if the mediator agreed upon is unable or unwilling to act, either Party may within twenty-one (21) days from the date of the proposal to appoint a mediator or within twenty-one (21) days of notice to either Party that the mediator is unable to act, apply to the Chairman of the Chartered Institute of Arbitrators, Irish Branch to appoint a mediator.
- 13.5 Any submissions made to and discussions involving the mediator, of whatever nature, shall be treated in strict confidence and without prejudice to the rights and/or liabilities of the Parties in any legal proceedings and, for the avoidance of doubt, are agreed to be without prejudice and legally privileged. The Parties shall make written submissions to the mediator within ten (10) Business Days of his/her appointment.
- 13.6 The Parties shall share equally the cost of the mediator. The costs of all experts and any other third parties who, at the request of any Party, shall have been instructed in the mediation, shall be for the sole account of, and shall be discharged by that Party.
- 13.7 For the avoidance of doubt, the obligations of the Parties under this Agreement shall not cease, or be suspended or delayed by the reference of a dispute to mediation. The Contractor shall comply fully with the requirements of the Agreement at all times.

14. Governing Law, Choice of Jurisdiction and Execution

- 14.1 This Agreement shall in all aspects be governed by and construed in accordance with the laws of Ireland and the Parties hereby agree that the courts of Ireland have exclusive jurisdiction to hear and determine any disputes arising out of or in connection with this Agreement.
- 14.2 This Agreement shall be executed in duplicate and each copy of the Agreement shall be signed by all the Parties hereto. Each of the Parties to this Agreement confirms that this Agreement is executed by their duly authorised officers.

15. Notices

15.1 Any notice or other written communication to be given under this Agreement shall either be delivered personally or sent by registered post or email. The Parties will from time to time agree primary and alternative contact persons and details for the purposes of this clause 13.

15.2 All notices shall be deemed to have been served as follows:

- (a) if personally delivered, at the time of delivery;
- (b) if posted by registered post, at the expiration of 48 hours after the envelope containing the same was delivered into the custody of the postal authorities (and not returned undelivered); and

15.3 if communicated by email, on the next calendar day following transmission.

16. Assignment and Subcontract

16.1 Subject to a Party's obligations at law, any assignment to a third party or other transfer of a Party's rights or obligations under this Agreement (the "Assignment") requires the prior written consent of the other Party. Prior to any such Assignment, the assignee will be obliged to sign an undertaking to comply with all obligations under this Agreement. Any attempted Assignment not complied with in the manner prescribed herein shall be null and void.

16.2 Subject to a party's obligations at law, any sub-contract of a party's rights or obligations under this agreement requires the prior written consent of the other part, such consent not to be unreasonably withheld or delayed. Any attempted subcontract not complied with in the manner prescribed herein shall be null and void. For the purposes of Regulation (EU) No 833/2014 of 31 July 2014 (as amended by EU Regulation 2022/576 or any subsequent amendments to same), the Client may require information from the Contractor in relation to the status of the proposed subcontractor(s) including, but not limited to, in respect of natural persons, copies of identity documents and, in respect of legal persons, a certificate or extract from the commercial register or other competent authority of the country in which the person is established.

17. Entire Agreement

This Agreement constitutes the entire agreement and understanding of the Parties, and any and all other previous agreements, arrangements and understandings (whether written or oral) between the Parties with regard to the subject matter of this Agreement (save where fraudulently made) are hereby excluded.

18. Severability

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

19. Waiver

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

20. Non-Exclusivity

Nothing in this Agreement shall preclude the Client from purchasing services (or Services) from a third party at any time during the currency of the Agreement.

21. Media

No media releases, public announcements or public disclosures relating to this Agreement or its subject matter, including but not limited to promotional or marketing material, shall be made by the Contractor without the prior written consent of the Client.

22. Conflicts, Registrable Interests and Corrupt Gifts

22.1 The Contractor confirms that it has carried out a conflicts of interest check and is satisfied that neither it nor any Subcontractor nor agent as the case may be has any conflicts in relation to the Services and its obligations undertaken under this Agreement. The Contractor hereby undertakes to notify the Client immediately should any conflict or potential conflict of interest come to its attention during the currency of this Agreement and to comply with the Client's directions in respect thereof. In the event of such notification, the Client shall have the right (in addition to any other rights which it has at law) to terminate this Agreement immediately and without liability for compensation or damages.

22.2 Any registrable interest involving the Contractor (and any Subcontractor or agent as the case may be) and the Client, the Ceann Comhairle (Speaker), or any member of the Government, or any member of the Oireachtas, or their relatives must be fully disclosed to the Client immediately upon such information becoming known to the Contractor (Subcontractor or agent as the case may be) and the Contractor shall comply with the Client's directions in respect thereof, to the satisfaction of the Client. In the event of such disclosure, the Client shall have the right (in addition to any other rights which it has at law) to terminate this Agreement immediately and without liability for compensation or damages. The terms "registrable interest" and "relative" shall be interpreted as per section 2 of the Ethics in Public Office Act, 1995 (as amended) a copy of which is available on request.

22.3 The Contractor 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 this or any other public contract. Any breach of this clause 21.3 or the commission of any offence by the Contractor, any Subcontractor, agent or employee under the Criminal Justice (Corruption Offences) Act 2018 shall entitle the Client to terminate this Agreement immediately and without liability for compensation or damages and to recover the amount of any loss resulting from such cancellation, including but not limited to recovery from the Contractor of the amount or value of any such gift, consideration or commission.

23. Access to Premises

23.1 Any of the Client's premises made available from time to time to the Contractor by the Client in connection with this Agreement, shall be made available to the Contractor on a non-exclusive licence basis and shall be used by the Contractor solely for the purpose of performing

its obligations under this Agreement. The Contractor shall have use of such premises as licensee and shall vacate the same on completion, termination or abandonment of this Agreement.

- 23.2 The Contractor shall upon reasonable notice by the Client allow the Client access to its premises (including the premises of any Subcontractor or agent) where the Services are being performed for the Client under this Agreement.

24. Equipment

- 24.1 The Contractor shall provide all equipment and materials necessary for the provision of the Services ("Equipment").

- 24.2 All Equipment brought onto the Client's premises shall be at the Contractor's own risk and the Client shall have no liability for any loss of, caused by or damage to any Equipment. The Contractor shall provide for the haulage or carriage thereof to the Client'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 Contractor.

- 24.3 The Contractor shall maintain and store all items of Equipment within the Client's premises in a safe, serviceable and clean condition.

- 24.4 The Contractor shall, at the Client's written request, at its own expense and as soon as reasonably practicable:

- (a) remove from the Client's premises any Equipment which in the reasonable opinion of the Client is either hazardous, noxious or not in accordance with this Agreement; and
- (b) replace such item with a suitable substitute item of Equipment.

- 24.5 On completion of the Services the Contractor shall remove the Equipment used by the Contractor to provide the Services and shall leave the Client's premises in a clean, safe and tidy condition. The Contractor is solely responsible for making good any damage to the Client's premises or any objects contained thereon, other than fair wear and tear, which is caused by the Contractor or any of its employees or Subcontractors.

25. Non Solicitation

For the Term and for a period of 12 months thereafter (and save in respect of publicly advertised posts) neither the Client nor the Contractor shall employ or offer employment to any of the other Party's employees without that other Party's prior written consent.

26. Change Control Procedure

- 26.1 At any time during the Term of this Agreement, either Party may propose a change or changes to any part or parts of this Agreement.

- 26.2 The change control procedures set out in this Schedule will apply to all changes irrespective of whether the Contractor or the Client proposes the change.

- 26.3 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 the Services (where known) and an estimate of the effort and cost required to prepare an impact assessment ("Impact Assessment").
- 26.4 All Change Control Notices proposing changes to this Agreement must be submitted for review to the other Party's Contact.
- 26.5 The Parties must indicate their acceptance or rejection of the change control request and/or Impact Assessment within a reasonable timeframe of its completion and Tender Submission for review, subject to a maximum of twenty (20) calendar days or such other period agreed between the Parties.
- 26.6 On approval of an Impact Assessment, this Agreement and/or the Schedules should be updated and revised as appropriate and in writing.
- 26.7 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 this Agreement.
- 26.8 The Contractor and the Client 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 Client's request for any variation is subsequently withdrawn but results in a delay in the performance of the Services then the Contractor 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.
- 26.9 Any proposed change to the System or Services must not reduce or negatively impact accessibility compliance. Where relevant, the Impact Assessment must include the effect of the proposed change on accessibility and confirm continued compliance with applicable accessibility requirements.
27. **Data Protection**
- 27.1 The Contractor shall comply with all applicable requirements of the Data Protection Laws.
- 27.2 The Parties acknowledge that for the purposes of the Data Protection Laws, the Client is the Data Controller and the Contractor is the Data Processor in respect of Data which is Personal Data. Schedule [] sets out the scope, nature and purpose of Processing by the Contractor, the duration of the Processing and the types of Personal Data and categories of Data Subject.
- 27.3 Without prejudice to the generality of clause 26.2, the Contractor shall, in relation to any Personal Data processed in connection with the performance by the Contractor of its obligations under this Agreement:-
- (a) process that Personal Data only on the written instructions of the Client. If the Contractor cannot provide such compliance, it will without undue delay inform the Client of its inability to comply in which case the Client is entitled to immediately terminate the Agreement and / or to take any other reasonable action. For example, but not limitation, the Contractor will not engage in "data mining" of the Data or communications, whether through automated or human means, except as specifically and expressly required by law or authorised in writing by the Client;

- (b) ensure that it has in place appropriate technical and organisational measures, reviewed and approved by the Client, to protect against unauthorised or unlawful processing of Personal Data and against accidental loss or destruction of, or damage to, Personal Data, appropriate to the harm that might result from the unauthorised or unlawful processing or accidental loss, destruction or damage and the nature of the data to be protected, having regard to the state of technological development and the cost of implementing any measures (those measures may include, where appropriate, pseudonymising and encrypting Personal Data, ensuring confidentiality, integrity, availability and resilience of its systems and services, ensuring that availability of and access to Personal Data can be restored in a timely manner after an incident, and regularly assessing and evaluating the effectiveness of the technical and organisational measures adopted by it);
- (c) ensure that all personnel who have access to and/or process Personal Data are obliged to keep the Personal Data confidential and are aware of and comply with this clause 26. The Contractor shall provide appropriate training to its personnel with respect to (i) the correct handling of Client Personal Data so as to minimise the risk of security breaches; and (ii) the requirements of Data Protection Laws;
- (d) not transfer any Personal Data outside of the European Economic Area unless the prior written consent of the Client has been obtained and the following conditions are fulfilled:
 - (i) appropriate safeguards are in place in relation to the transfer, to ensure that Personal Data is adequately protected in accordance with Chapter V of Regulation 2016/679 (General Data Protection Regulation);
 - (ii) the data subject has enforceable rights and effective legal remedies;
 - (iii) The Contractor complies with its obligations under the Data Protection Laws by providing an adequate level of protection to any Personal Data that is transferred; and
 - (iv) The Contractor complies with reasonable instructions notified to it in advance by the Client with respect to the processing of the Personal Data;
- (e) to the extent permitted by law, the Contractor shall notify the Client of all communications it receives from third parties relating to the Data and shall not do anything or enter into any communication with such third party unless expressly authorised by the Client in writing.

27.4 The Contractor shall without undue delay inform the Client if any Data is lost or destroyed or becomes damaged, corrupted, or unusable. The Contractor shall implement an appropriate disaster recovery programme to ensure that the Data may be restored in such circumstances and the Contractor shall restore such Data at the Contractor's sole cost and expense.

27.5 The Contractor shall provide access to the Data only to those Contractor's employees, contractors and/or subcontractors who need to access the Data to fulfil the Contractor's obligations under this Agreement. The Client reserves the right to request that any of the Contractor's employees or sub-contractors who have access to Data be subject to Garda vetting.

- 27.6 The Contractor shall promptly notify the Client if it receives a Data Subject Access Request to have access to any Personal Data or any other complaint, correspondence, notice, request any order of the Court or request of any regulatory or government body relating to the Client's obligations under the Data Protection Laws and provide full co-operation and assistance to the Client in relation to any such complaint, order or request (including, without limitation, by allowing Data Subjects to have access to their data).
- 27.7 The Contractor shall without undue delay report in writing to the Client any data compromise involving Personal Data, or any circumstances that could have resulted in unauthorised access to or disclosure of Personal Data.
- 27.8 The Contractor shall assist the Client in ensuring compliance with its obligations under the Data Protection Laws with respect to security, impact assessments and consultations with supervisory authorities and regulators.
- 27.9 The Contractor shall at the written direction of the Client, amend, delete or return Personal Data and copies thereof to the Client on termination of this Agreement unless the Contractor is required by the laws of any member of the European Union or by the laws of the European Union applicable to the Contractor to store the Personal Data.
- 27.10 The Contractor shall permit the Client, the Office of the Data Protection Commission or other supervisory authority for data protection in Ireland, and/ or their nominee to conduct audits and or inspections of the Contractor's facilities, and to have access to all data protection, confidentiality and security procedures, data equipment, mechanisms, documentation, databases, archives, data storage devices, electronic communications and storage systems used by the Contractor in any way for the provision of the Services. The Contractor shall comply with all reasonable directions of the Client arising out of any such inspection, audit or review. Any finding by any such audit that the Services do not comply with any aspect of the Specifications and / or the provisions of this Agreement shall be resolved by the Contractor to the satisfaction of the Client, at no cost to the Client, within a timescale to be specified by the Client.
- 27.11 The Contractor shall fully comply with, and implement policies which are communicated or notified to the Contractor by the Client from time to time.
- 27.12 The Contractor shall maintain complete and accurate records and information to demonstrate its compliance with this clause 26 and allow for inspections and contribute to any audits by the Client or the Client's designated auditor.
- 27.13 The Contractor shall:-
- (a) take all reasonable precautions to preserve the integrity of any Personal Data which it processes and to prevent any corruption or loss of such Personal Data;
 - (b) ensure that a back-up copy of any and all such Personal Data is made [insert frequency] and this copy is recorded on media from which the data can be reloaded if there is any corruption or loss of the data; and
 - (c) in such an event and if attributable to any default by the Contractor or any Sub-contractor, promptly restore the Personal Data at its own expense or, at the Client's option, reimburse the Client for any reasonable expenses it incurs in having the Personal Data restored by a third party.

27.14 The Contractor shall on an annual basis during the Agreement, arrange for the carrying out of an audit of the [System] [Services] and the disaster recovery system established under Clause 29 by an independent IT audit body that holds a recognised qualification in IT audit such as Certified Information Systems Auditor (CISA) or equivalent and is acceptable to the Client. The Client may refuse to accept an audit body only where it has reasonable grounds to believe that the proposed audit body may pose a risk to the security of the [System] [Services]. The audit scope must be acceptable to the Client and approved in writing by the Client in advance of the audit. A copy of the report of the independent IT audit body must be made available as soon as possible following completion of the audit to the Client and any finding that the [System][Services] does not comply with any aspect of the Specification and / or the provisions of this Agreement shall be resolved by the Contractor to the satisfaction of the Client, at no cost to the Client, within a period agreed between the parties.

27.15 (IF YOU ARE NOT CONSENTING TO A THIRD PARTY PROCESSOR – DELETE IF NOT IN USE)

The Client does not consent to the Contractor appointing any third party processor of Personal Data under this agreement

27.16 (OR IF USING A THIRD PARTY PROCESSOR – DELETE IF NOT IN USE)

the Client consents to the Contractor appointing [insert third-party processor] as a third-party processor of Personal Data under this Agreement. The Contractor confirms that it has entered or (as the case may be) will enter into a written agreement incorporating terms which are substantially similar to those set out in this clause 25 as between the Client and the Contractor, the Contractor shall remain fully liable for all acts or omissions of any third-party processor appointed by it pursuant to this clause 25.

27.17 Save for clauses [26.2, 26.3, 26.4(iv) and 26.5,] all the obligations on the Contractor in this clause 26 relating to the processing of Personal Data shall apply to the processing of all Data.

27.18 The provisions of this clause 26 shall survive termination and or expiry of this Agreement for any reason.

28. Security

28.1 The Contractor shall ensure at all times that appropriate safety and security systems, policies and procedures are maintained and enforced to prevent unauthorised access or damage to, and to ensure the business continuity of, any and all [Systems][Services] and related networks or resources and the Data, in accordance with Cyber Security Requirements [including the measures set out in Schedule [G];

28.2 The Contractor shall ensure that the [System][Services] are designed, maintained and upgraded at all times so as to mitigate against Security Incidents. The parties agree that if Security Incidents are detected or discovered, each of them shall co-operate with the other to mitigate the Security Incident and, particularly if the Security Incident causes or threatens the loss of operational efficiency, loss or corruption of the Data, or the reduced management of risks posed to the security of the System or Client IT Infrastructure , the parties shall assist each other to mitigate any losses and restore the Systems to their original operating and security efficiency. The costs of complying with this clause 28 shall be apportioned between the parties on a pro rata basis according to fault.

- 28.3 The Client shall promptly inform the Contractor if it suspects or uncovers any Security Incident and, subject to the cost allocations in clause 28.2, shall use all commercially reasonable endeavours to promptly mitigate such incident.
- 28.4 The Contractor shall:
- (a) notify the Client immediately if it becomes aware of any Incident and respond without delay to all queries and requests for information from the Client about any Security Incident, whether discovered by the Contractor or the Client, in particular bearing in mind the extent of any reporting obligations the Client may have under applicable data protection or cybersecurity legislation and that the Client may be required to comply with statutory or other regulatory timescales;
 - (b) at the Client's cost, promptly cooperate with any request for information made in respect of:
 - (i) any Security Incident;
 - (ii) any policies referred to in clause 27.1; or
 - (iii) any requests for information, or inspection, made by a regulator with competent jurisdiction over the Client (including in connection with any applicable data protection or cybersecurity legislation).
- 28.5 The Contractor shall follow its [archiving] and security procedures for the Data, including those set out in this clause 28 [and as described in **Schedule [G]**].
- 28.6 The Contractor shall promptly notify the Client in writing of any actual or suspected loss or damage to the Data. [In the event of any loss or damage to the Data, the Client's sole and exclusive remedy shall be for the Contractor to use reasonable commercial endeavours to restore the lost or damaged Data from the latest backup of such Data [to be maintained by the Contractor in accordance with the archiving procedure described in Schedule []]. The Contractor shall not be responsible for any loss, destruction, alteration or unauthorised access to or disclosure of Data caused by any third party (except those third parties sub-contracted by the Contractor to perform services related to Data maintenance and back-up).]
- 28.7 [The Contractor shall indemnify the Client for any and all losses, damages, costs, expenses (including reasonable professional advisers' costs and disbursements, and reasonable legal costs and disbursements) arising from or incurred by reason of any breach by the Contractor of its obligations under this clause 28.]
- 28.8 [The Contractor shall comply with, and shall procure that each of the sub-contractors complies with, the Client's procedures for vetting personnel in respect of all of Contractor's personnel employed or engaged in the provision of the Services.]
- 28.9 [The Client shall have the right, in its absolute discretion, to require the Contractor not to use specified individuals employed or engaged by the Contractor, or by a sub-contractor, in the performance of specified elements of the Services.]

29. **Location of Data Centres and Network Connection Requirements**

29.1 All Data (both live and backup copies) shall be stored, hosted and processed only in Data Centres located within Ireland and the European Economic Area (EEA).

29.2 The Contractor shall ensure the Services are accessible by System Users connecting from any of the locations and using any of the network connections specified in the table below:

Atlantic Technological University (ATU) has 9 campuses across the counties of Galway, Mayo, Sligo, and Donegal comprising of:	
1.	ATU Galway City, Dublin Road, Galway, H91 T8NW
2.	ATU Galway City Centre for Creative Arts and Media, Monivea Road, Galway, H91 DY9Y
3.	ATU Mayo, Westport Road, Castlebar, Co. Mayo, F23 X853
4.	ATU Connemara, National Centre for Excellence in Furniture Design and Technology, Letterfrack, Co. Galway, H91 AH5K
5.	ATU Mountbellew Agricultural College, Mountbellew, Co. Galway, H53WE00
6.	ATU Sligo, Ash Lane, Sligo, F91 YW50 & ATU Sligo, Block 8, Clarion Sligo, F91 A2FP
7.	ATU St Angela's, Clogherevagh, Lough Gill, Co. Sligo, F91 C634
8.	ATU Letterkenny, Port Road, Letterkenny, County Donegal, F92 FC93,
9.	ATU Killybegs, Shore Road, Glebe, Killybegs, Co. Donegal, F94 DV52
10.	Any other ATU locations not known at this time.

29.3 Where provision is required to facilitate the Client staff to access the service overseas this shall be provided by multi factor authentication as a minimum.

30. **Disaster Recover and Business Continuity**

30.1 The Contractor shall be responsible for maintaining and implementing the disaster recovery procedures to ensure the Services are not disrupted for a period exceeding [16] hours during any disaster. The Contractor shall take all necessary steps to ensure that the Client shall not be denied access to the Services for more than 24 hours in the event there is a Disaster impacting any primary infrastructure necessary to provide the Services.

30.2 The Contractor shall maintain the capability to resume provision of the Services from an alternative data centre in Ireland and via an alternative telecommunications route in the event of a disaster that renders the Contractor's primary infrastructure unusable or unavailable. All requirements of this Agreement, including those relating to security, shall apply to the disaster recovery site.

30.3 If the Contractor fails to restore Services within 48 hours of the initial disruption of the Services then this shall be considered a serious breach of the Agreement and the Client may terminate this Agreement with immediate effect and seek alternative Services, which would otherwise have been provided by the Contractor under this Agreement, from third parties.

31. Exit

- 31.1 The Contractor shall assist with the transition from the Contractor's Services, and shall develop a plan ("Exit Plan") within six (6) months of the [Commencement Date/Effective Date] for review and approval by the Client, to effect the orderly transition of the Data to the Client (or its designee) from the Contractor. Such Exit Plan will set forth the tasks and actions to be performed by both Parties, the time for completing such tasks and actions, and the criteria for declaring the transition completed. The Parties and their employees and agents will cooperate in good faith to execute the Exit Plan and each party will perform those tasks and actions assigned to it in the Exit Plan.
- 31.2 On contract termination or expiry, the Contractor must provide all documents and Data that is stored by the Contractor in any format - Production, Configuration, Test, Training and Development to the Client in a non-proprietary, machine readable form. The Contractor shall also provide all live and backup copies of Data to be verifiably removed from the Contractor's facilities, once the data return has been validated by the Client.
- 31.3 For the avoidance of doubt all costs associated with carrying out the Exit Plan shall be borne by the Contractor at no charge to the Client and shall be deemed to be part of the Services under this Agreement.
- 31.4 The provisions of this Clause 30 will survive the expiration or termination of this Agreement for any reason.

32. Training

- 32.1 The Contractor shall provide the Client and the System Users with training for the purposes of understanding and using the Services ("Training Services"). Training Services shall be provided by the Contractor where new features/functionality are added.

33. Definitions

- 33.1 In this Agreement the following terms have the meaning given to them below:

"Accessibility" means the extent to which the System, Services and Documentation are capable of being accessed, understood and used by all users, including persons with disabilities, and comply with the accessibility requirements applicable to public sector bodies under European Union and Irish law.

"AI Law" means regulation (EU) 2024/1689, the European Union's Artificial Intelligence Act (AI Act) including all technical standards, codes of practice and guidelines issued pursuant to the AI Act by the European Commission, European Artificial Intelligence Office or other supervisory authority and applicable laws and regulations of Ireland or the European Union relating to AI;

"Applicable Law" means any law applicable in the State and includes without limitation, common law, statute, statutory instrument, proclamation, bye-law, directive, decision,

regulation, rule, order, notice, code of practice, code of conduct, rule of court, instruments, or delegated or subordinate legislation;

[**“Authorised Users”** means those employees, agents and independent contractors of the Client, its subsidiaries and affiliates, who are authorised by the Client to use the Services [and the Documentation].]

“Client Contact” means the individual point of contact for the Client as set out in Clause [];

[**“Commencement Date”** means [];]

“Conflict of Interest” means any actual or potential conflict of interest (including any relationship, filial or otherwise, or any interest, whether arising through personal, company or professional association, or current or prospective contractual obligations) which the Contractor or any of its Personnel may have including, without prejudice to the generality of the foregoing, any actual or potential conflict relating to any aspects of the Services;

“Contractor Content” means any audio and visual information, documents, products and services contained or made available to the Client in the course of using the Service;

“Contractor Contact” means [];

“Cyber Attack” means any of the following:

- (i) a Security Incident;
- (ii) an illegal or malicious attempt to harm any part of one or more of the Client’s IT Infrastructure and Data or the information contained in or transiting through it (whether using malicious code or any other form of system infiltration or otherwise); and/or
- (iii) access by or instigated by an unauthorized person or persons to any part of the IT Infrastructure and Data referred to in paragraph (b) for deliberate or malicious exploitation or intent so as to compromise security, access, stability or integrity. For the avoidance or doubt this includes external and insider threats.

“Cyber Security Requirements” means all applicable Laws, international and national standards, industry schemes and sanctions relating to security of network and information systems and/or security breach and incident reporting requirements, including the Data Protection Legislation, data laws, security laws and cyber security laws, in each case as amended from time to time.

“Data” means all information, whether in oral or written (including electronic) form, created by or in any way originating with the Client (including but not limited to its employees, agents, independent contractors and/or subcontractors) and all information that is the output of any computer processing, or other electronic manipulation, of any information that was created

by or in any way originating with the Client, in the course of using and configuring the Services provided under this Agreement and includes any the Client Personal Data;

"Data Protection Laws" the Data Protection Acts 1988 to 2018, the General Data Protection Regulation (EU) 2016/679 (the "GDPR"), the ePrivacy Directive 2002/58/EC and all applicable laws and regulations of Ireland or the European Union relating to the processing of personal data, including, where applicable, the guidance and codes of practice issued by the Data Protection Commission, the European Data Protection Board and other supervisory authorities, and any jurisprudence of the Court of Justice of the European Union, and the terms "controller", "data subject", "personal data", "personal data breach", "processing", "processor" and "supervisory authority" shall have the meanings given to those terms in the GDPR.

"Data Security Incident" means a breach of security leading to the accidental or unlawful destruction, loss, alteration, unauthorized disclosure of, or access to, the Data or Personal Data transmitted, stored or otherwise processed including:

- (i) a discovery or reasonable suspicion that there is a vulnerability in any technological measure used to protect any Personal Data that has previously been subject to a breach, which may result in exploitation or exposure of that Personal Data; and/ or
- (ii) any defect or vulnerability with the potential to impact the ongoing resilience, security and/or integrity of systems processing Personal Data.

"Deliverables" means []

"Disaster" means any unplanned interruption or event which materially prevents Contractor from performing, or the Client from receiving, the Services or the Deliverables.

[**"Documentation"** means the document(s) and other materials made available to the Client by the Contractor online via [WEB ADDRESS] or such other web address notified by the Contractor to the Client from time to time which sets out a description of the Services and the user instructions for the Services.]

[**"Effective Date"** means the date of this Agreement;]

"Framework" means the [] and which continues in force at the date of this Agreement.

"Intellectual Property Rights" means all patents and 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, designs, 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 in any country or jurisdiction for the full term thereof.

“IT Infrastructure” means information technology system(s) comprising any or all of the following: programs, business processing system, electronic operations system, communications networks, hosted applications and connectivity to the internet/the computer, telecommunication facilities (including networks, network devices, cables and routers), hardware, mobile devices, peripherals, software, hardware, equipment and databases and whether on premise, cloud or otherwise;

[**“Normal Business Hours”** means [8.00 am to 6.00 pm] local Irish time, each Business Day.]

“Party” means the Client and/or the Contractor;

“Personnel” means all persons employed by the Contractor together with the Contractor's servants, agents and Contractors of any tier used in the performance of its obligations under this Agreement;

“Personal Data”, the personal data disclosed or supplied by the Client to the System or Services or otherwise acquired or generated by Contractor on the Client's behalf in relation to the provision of the Services including the personal data set out in [Appendix 1];

“Security Incident” means any of the following:

- (i) any information security incident or any event or incident related to the Data having an actual adverse effect on any element of the security of the IT Infrastructure of the Client and/or any Contractor Party;
- (ii) any reasonably suspected event or incident or “near miss” incident related to the Data;
- (iii) any event or incident related to the Data involving any breach of security leading to a loss of Data; and/or
- (iv) any event or incident related to the Data which involves the compromise of confidentiality, integrity and/or availability of information of Data, including: (i) a Data Security Incident; (ii) a Cyber Attack; (iii) a Disaster; (iv) a discovery or reasonable suspicion that there is a vulnerability in any technological measure used to protect any Data that has previously been subject to any such event, which may result in exploitation or exposure of that Data; (v) any defect or vulnerability with the potential to impact the ongoing resilience, security and/or integrity of the IT systems; (vi) any

other unauthorized use of or access to any part of an IT Infrastructure and/or Data; and/or (vii) any damage, destruction, corruption or alteration of any Data.

“[Service Level]” means the service levels set out in Schedule 3]

“Service Credit” means any credits payable to the Client in accordance with the Service Level Arrangements.]

“Services” means any of the services falling within the scope set out in Clause [];

“Specification” means the specification for the System outlined in Schedule [];

“System” means the software application provided by the Contractor as part of the Services;]

“System Administrator” means those System Users designated by the Client who are authorised to create System User accounts and otherwise administer the Client’s use of the Service;]

“System User” the relevant Client’s employees, representatives, consultants, contractors, agents or students who are authorised to use the Service and who have been supplied with user identifications and passwords by the Client (or at the Client’s request);]

“Term” means the period set out in Clause [].

“User Subscriptions” means the user subscriptions purchased by the Client pursuant to clause which entitle Authorised Users to access and use the Services and the Documentation in accordance with this Agreement.]

“Work Product” means all deliverables and all other reports, documents, materials, techniques, ideas, concepts, trade marks, know-how, algorithms, software, computer code, routines or sub-routines, specifications, plans, notes, drawings, designs, pictures, images, text, audiovisual works, inventions, data, information and other items, expressions, works of authorship or work product of any kind that are authored, produced, created, conceived, collected, developed, discovered or made by the Contractor (or any of its sub-contractors) in connection with the Services or which relate in any manner to the Services or which result

from any work performed by the Contractor (or any of its sub-contractors) for the Client, including any and all Intellectual Property Rights therein.]

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Schedule B: Services: The Specification

[Insert when completing contract]

Schedule C: Charges

Schedule D: Service Level Arrangements

[Insert when completing contract]

Schedule E: Insurance

[Insert at RFT stage, if applicable, or when completing contract]

Schedule F: Data Protection

Processing by the Contractor	
Subject matter of Processing	
Nature & Purpose of the Processing	
Duration of the Processing	
Categories of Data Subjects	
Types of Personal Data	
Sub-Processors	
Security Measures implemented by the Supplier	
Other Relevant Information	

Contact Information

	ATU	Contractor
Address	Port Rd, Letterkenny, Co. Donegal, F92 FC93, Ireland	
Company Registration Number	n/a	
Name of Data Protection Officer	Edel Hegarty	
DPO Phone Number	091 742769	
DPO Email Address	dataprotection@atu.ie	

ATU Data Processing Agreement:

Schedule G: Security Requirements

1. Introduction and Reference

This Schedule supplements the Data Processing Agreement ("DPA") and forms part of the Agreement between the Client ("Controller") and the Contractor ("Processor"). It sets out the specific technical and organisational security measures, disaster recovery, incident management, audit rights, data handling, exit procedures, and other obligations for the SaaS-based service, to ensure compliance with the GDPR, the Irish Data Protection Act 2018, and other applicable laws.

2. Definitions

Defined terms in this Schedule shall have the meanings set forth in Clause 5 of the Agreement, including but not limited to "Client Data," "Data Protection Laws," "Security Incident," and "Disaster."

3. Technical and Organisational Security Measures (Article 32 GDPR)

3.1 The Contractor shall implement and maintain state-of-the-art security measures to protect Client Data, including:

- Encryption of Client Data in transit (TLS 1.2 or higher) and at rest (AES-256 or equivalent).
- Secure, validated cryptographic key management using FIPS 140-2 validated modules or equivalent.
- Phishing-resistant Multi-Factor Authentication (MFA) for all privileged and administrative access.
- Role-Based Access Control (RBAC) enforcing the principle of least privilege.
- Logical segregation of Client Data in the multi-tenant SaaS environment to prevent cross-tenant data access.
- Regular vulnerability scanning, routine penetration testing, and timely remediation of identified vulnerabilities.
- Comprehensive and tamper-evident logging of authentication, access, administrative, and system events, retained for a minimum of 12 months.
- Network segmentation and segregation of duties in development, testing, and production environments.

3.2 The Contractor shall ensure the SaaS environment supports secure Single Sign-On (SSO) integration using industry-standard protocols, including SAML 2.0 (Security Assertion Markup Language), and/or OAuth 2.0 / OpenID Connect (OIDC)

3.3 The Contractor shall maintain robust physical security controls over all data centers processing Client Data, in compliance with recognised industry standards for data center security (e.g. ISO 27001, SOC 2)

4. Data Minimisation and Purpose Limitation

4.1 The Contractor shall process only the personal data strictly necessary for the provision of the services as instructed by the Client.

4.2 Client Data shall not be used for profiling, analytics, or other secondary purposes without explicit prior written consent from the Customer.

5. Data Residency and International Transfers

5.1 Client Data shall be stored and processed exclusively within the European Economic Area (EEA) unless the Client expressly consents otherwise in writing.

5.2 For any approved transfers outside the EEA, appropriate safeguards such as Standard Contractual Clauses compliant with Chapter V GDPR shall be in place.

6. Incident Management and Breach Notification

6.1 The Contractor shall maintain a documented and regularly tested incident response plan, compliant with Articles 33 and 34 of the GDPR, to address Security Incidents and personal data breaches .

6.2 The Contractor shall notify the Client without undue delay and in any event within 24 hours after becoming aware of any Security Incident or personal data breach affecting Client Data.

6.3 The notification shall include sufficient detail to enable the Client to comply with regulatory breach reporting obligations.

6.4 The Contractor shall cooperate fully with the Client in the investigation, containment, mitigation, and regulatory reporting of any Security Incident, including providing access to relevant logs, personnel and documentation.

7. Disaster Recovery and Business Continuity

7.1 The Contractor shall maintain and regularly tested disaster recovery plans designed to minimise disruption . The target Recovery Time Objective (RTO) shall be no more than twenty-four (24) hours, subject to reasonable efforts and excluding force majeure events..

7.2 In the event of a disaster affecting primary infrastructure, the Contractor shall use commercially reasonable efforts to restore access to the SaaS service within twenty-four (24) hours, leveraging failover capabilities and backup systems. The Contractor shall maintain a geographically failover environment within Ireland or the EEA, with independent telecommunications and infrastructure, ensuring compliance with all applicable security and data protection requirements..

7.3 The Contractor shall maintain a Recovery Time Objective (RTO) of twenty-four (24) hours or less; the Recovery Point Objective (RPO) of twelve (12) hours or less. .

7.4 7.5 Failure to restore service within forty-eight (48) hours, excluding force majeure events, shall constitute a material breach, allowing the Client to terminate the Agreement immediately.

8. Audit and Compliance

8.1 The Client shall have the right, upon reasonable notice, to conduct security audits, inspections, or assessments of the Contractor's facilities, policies, and controls related to the processing of Client Data. Where direct access is not feasible, the Contractor shall provide relevant documentation and third-party audit reports.

8.2 The Contractor shall cooperate in good faith with audit requests and provide access to relevant documentation, designated personnel, and audit summaries, subject to confidentiality obligations and operational constraints.,

8.3 Upon request, the Contractor shall provide current certifications such as ISO 27001, SOC 2 Type II, or equivalent, along with executive summaries of recent penetration tests or independent security audits.

8.4 The Contractor shall maintain records of processing activities in accordance with Article 30 of the GDPR and shall provide such records to the Client upon request.

9. Subprocessors

9.1 The Contractor shall not engage any subprocessor for the processing of Client Data without the Client's prior authorisation..

9.2 The Contractor shall ensure that all subprocessors are bound by written agreement imposing data protection and security obligations equivalent to those set out in this Agreement and Schedule, including provision for audit, breach, notification and data handling.

9.3 The Contractor shall remain fully liable for the performance and any acts or omissions of subprocessors in relation to Client Data.

10. Change Management and Service Levels

10.1 The Contractor shall maintain service availability of at least 99.9% uptime per calendar month, excluding scheduled maintenance windows. Scheduled maintenance shall be communicated to the Client at least 5 business days in advance, and shall be conducted during off-peak hours where possible.

10.2 The Contractor shall provide at least 14 days' written notice prior to implementing changes that materially affect security controls, data location, or processing operations. In the case of emergency changes required to address critical vulnerabilities or incidents, the Contractor shall notify the Client as soon as reasonably practicable.

10.3 The Contractor shall apply security patches and updates in accordance with industry best practices. Critical patches shall be deployed within 24–72 hours of release, unless otherwise agreed or justified by risk assessment.

11. Data Return, Deletion, and Exit

11.1 Upon termination or expiry of the Agreement, the Contractor shall within thirty (30) days, either: return all Client Data in a structured, commonly used, and machine-readable format (e.g., CSV, JSON, SQL dump) or securely delete such databased on the Customer's written instruction .

11.2 The Contractor shall securely delete all remaining copies of Client Data, including backups, within no more than thirty (30) days of data return or deletion validation by the

Schedule H: Confidentiality Agreement

The **Atlantic Technological University**, a statutory body established pursuant to the Technological Universities Act 2018 and having its principal place of business at Port Road, Letterkenny, Donegal including its successors and assigns ("the Client"); (hereinafter "the Contracting Authority") of the one part.

and

[] of ("the Contractor") (hereinafter called "the Contractor") of the other part.

WHEREAS

- A. By Request for Tenders dated [] entitled "[]" (the "RFT") the Contracting Authority invited tenders ("Tenders") for the provision of the Goods/Services described in Section 3 the RFT (the "Goods" "Services") ("the Competition"). The Contractor submitted a response to the RFT dated the [] 2025.
The Contractor has been identified as the preferred bidder in the Competition.
- B. For the purposes of the Competition and any subsequent contract awarded thereunder (if any) ("the Contract"), certain confidential information as defined at clause 2 of this Agreement, will be furnished to the Contractor. The Confidential Information is confidential to the Contracting Authority.

NOW IT IS HEREBY AGREED in consideration of the sum of €2.00 (the receipt of which is hereby acknowledged by the Contractor) as follows:

- 1. The Contractor acknowledges that Confidential Information may be provided to them by the Contracting Authority and that each item of Confidential Information shall be governed by the terms of this Agreement.
- 2. For the purposes of this Agreement "Confidential Information" means:
 - 2.1 unless specified in writing to the contrary by the Contracting Authority all and any information (whether in documentary form, oral, electronic, audio-visual, audio-recorded or otherwise including any copy or copies thereof and whether scientific, commercial, financial, technical, operational or otherwise) relating to the Contracting Authority, the supply of Goods/Services under the Contract and all and any information supplied or made available to the Contractor (to include employees, agents, Subcontractors and other suppliers) for the purposes of the Contract(s) including personal data within the meaning of the Data Protection Laws; and
 - 2.2 any and all information which has been derived or obtained from information described in sub-paragraph 2.1.
- 3. For the purposes of this Agreement "Data Protection Laws" means all applicable national and EU data protection laws, regulations and guidelines, including but not limited to Regulation (EU) 2016/679 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (the "General Data Protection Regulation"), and any guidelines and codes of practice issued by the Office of the Data Protection Commission or other supervisory authority for data protection in Ireland from time to time

4. Save as may be required by law, the Contractor agrees in respect of the Confidential Information:
 - 4.1 to treat such Confidential Information as confidential and to take all necessary steps to ensure that such confidentiality is maintained;
 - 4.2 not, without the prior written consent of the Contracting Authority, to communicate or disclose any part of such Confidential Information to any person except:
 - i to those employees, agents, Subcontractors and other suppliers on a need-to-know basis; and/or
 - ii to the Contractor's auditors, professional advisers and any other persons or bodies having a legal right or duty to have access to or knowledge of the Confidential Information in connection with the business of the ContractorPROVIDED ALWAYS that the Contractor shall ensure that all such persons and bodies are made aware, prior to disclosure, of the confidential nature of the Confidential Information and that they owe a duty of confidence to the Contracting Authority; and shall use all reasonable endeavours to ensure that such persons and bodies comply with the provisions of this Agreement.
5. The obligations in this Agreement will not apply to any Confidential Information:
 - i in the Contractor's possession (with full right to disclose) before receiving it from the Contracting Authority; or
 - ii which is or becomes public knowledge other than by breach of this clause; or
 - iii is independently developed by the Contractor without access to or use of the Confidential Information; or
 - iv is lawfully received from a third party (with full right to disclose).
6. The Contractor undertakes:
 - 6.1 to comply with all directions of the Contracting Authority with regard to the use and application of all and any Confidential Information or data (including personal data as defined in the Data Protection Laws);
 - 6.2 to comply with all directions as to local security arrangements deemed reasonably necessary by the Contracting Authority including, if required, completion of documentation under the Official Secrets Act 1963 and comply with any vetting requirements of the Contracting Authority including by police authorities;
 - 6.3 upon termination of the Competition (or the Contract) for whatever reason to furnish to the Contracting Authority all Confidential Information or at the written direction of the Contracting Authority to destroy in a secure manner all (or such part or parts thereof as may be identified by the Contracting Authority) Confidential Information in its possession and shall erase any Confidential Information held by the Contractor in electronic form. The Contractor will upon request furnish a certificate to that effect should the Contracting Authority so request in writing. For the avoidance of doubt "document" includes documents stored on a computer storage medium and data in digital form whether legible or not.
7. The Contractor shall not obtain any proprietary interest or any other interest whatsoever in the Confidential Information furnished to them by the Contracting Authority and the Contractor so acknowledges and confirms.
8. The Contractor shall, in the performance of the Contract, access only such hardware, software, infrastructure, or any part of the databases, data or ICT system(s) of the Contracting Authority as may be necessary for the purposes of the Competition (and obligations thereunder or arising therefrom) and only as directed by the Contracting Authority and in the manner agreed in writing between the Parties.

9. The Contractor agrees that this Agreement will continue in force notwithstanding any court order relating to the Competition or termination of the Contract (if awarded) for any reason.
10. The Contractor agrees that this Agreement shall in all aspects be governed by and construed in accordance with the laws of Ireland and the Contractor hereby further agrees that the courts of Ireland have exclusive jurisdiction to hear and determine any disputes arising out of or in connection with this Agreement.
11.
 - A. In this Agreement, the following terms shall have the meanings respectively ascribed to them:
 - “Data Controller” has the meaning given under the Data Protection Laws;
 - “Data Processor” has the meaning given under the Data Protection Laws;
 - “Data Subject” has the meaning given under the Data Protection Laws;
 - “Data Subject Access Request” means a request made by a Data Subject in accordance with rights granted under the Data Protection Laws to access his or her Personal Data;
 - “Personal Data” has the meaning given under Data Protection Laws;
 - “Processing” has the meaning given under the Data Protection Laws;
 - B. The Contractor shall comply with all applicable requirements of the Data Protection Laws.
 - C. The Parties acknowledge that for the purposes of the Data Protection Laws, the Contracting Authority is the Data Controller, and the Contractor is the Data Processor in respect of Confidential Information which is Personal Data. Schedule A sets out the scope, nature and purpose of Processing by the Contractor, the duration of the Processing and the types of Personal Data and categories of Data Subject.
 - D. Without prejudice to the generality of clause 11(B), the Contractor shall, in relation to any Confidential Information which is Personal Data: -
 - (1) process that Personal Data only on the written instructions of the Contracting Authority;
 - (2) ensure that it has in place appropriate technical and organisational measures, reviewed and approved by the Contracting Authority, to protect against unauthorised or unlawful processing of Personal Data and against accidental loss or destruction of, or damage to, Personal Data, appropriate to the harm that might result from the unauthorised or unlawful processing or accidental loss, destruction or damage and the nature of the data to be protected, having regard to the state of technological development and the cost of implementing any measures (those measures may include, where appropriate, pseudonymising and encrypting Personal Data, ensuring confidentiality, integrity, availability and resilience of its systems and services, ensuring that availability of and access to Personal Data can be restored in a timely manner after an incident, and regularly assessing and evaluating the effectiveness of the technical and organisational measures adopted by it);
 - (3) ensure that all personnel who have access to and/or process Personal Data are obliged to keep the Personal Data confidential;
 - (4) not transfer any Personal Data outside of the European Economic Area unless the prior written consent of the Contracting Authority has been obtained and the following conditions are fulfilled;

- i. appropriate safeguards are in place in relation to the transfer, to ensure that Personal Data is adequately protected in accordance with Chapter V of Regulation 2016/679 (General Data Protection Regulation);
 - ii. the data subject has enforceable rights and effective legal remedies;
 - iii. The Contractor complies with its obligations under the Data Protection Laws by providing an adequate level of protection to any Personal Data that is transferred; and
 - iv. The Contractor complies with reasonable instructions notified to it in advance by the Contracting Authority with respect to the processing of the Personal Data;
- E. The Contractor shall promptly notify the Contracting Authority if it receives a Data Subject Access Request to have access to any Personal Data or any other complaint, correspondence, notice, request any order of the Court or request of any regulatory or government body relating to the Contracting Authority's obligations under the Data Protection Laws and provide full co-operation and assistance to the Contracting Authority in relation to any such complaint, order or request (including, without limitation, by allowing Data Subjects to have access to their data).
- F. The Contractor shall without undue delay report in writing to the Contracting Authority any data compromise involving Personal Data, or any circumstances that could have resulted in unauthorised access to or disclosure of Personal Data.
- G. The Contractor shall assist the Contracting Authority in ensuring compliance with its obligations under the Data Protection Laws with respect to security, impact assessments and consultations with supervisory authorities and regulators.
- H. The Contractor shall at the written direction of the Contracting Authority, amend, delete or return Personal Data and copies thereof to the Contracting Authority on termination of this Agreement unless the Contractor is required by the laws of any member of the European Union or by the laws of the European Union applicable to the Contractor to store the Personal Data.
- I. The Contractor shall permit the Contracting Authority, the Office of the Data Protection Commission or other supervisory authority for data protection in Ireland, and / or their nominee to conduct audits and or inspections of the Contractor's facilities, and to have access to all data protection, confidentiality and security procedures, data equipment, mechanisms, documentation, databases, archives, data storage devices, electronic communications and storage systems used by the Contractor in any way for the provision of the services. The Contractor shall comply with all reasonable directions of the Contracting Authority arising out of any such inspection, audit or review.
- J. The Contractor shall fully comply with and implement policies which are communicated or notified to the Contractor by the Contracting Authority from time to time.
- K. The Contractor shall maintain complete and accurate records and information to demonstrate its compliance with this clause 11 and allow for inspections and

contribute to any audits by the Contacting Authority or the Contracting Authority's designated auditor.

L. The Contractor shall: -

1. take all reasonable precautions to preserve the integrity of any Personal Data which it processes and to prevent any corruption or loss of such Personal Data;
2. ensure that a back-up copy of any and all such Personal Data is made [insert frequency] and this copy is recorded on media from which the data can be reloaded if there is any corruption or loss of the data; and
3. in such an event and if attributable to any default by the Contractor or any Sub-contractor, promptly restore the Personal Data at its own expense or, at the Contracting Authority's option, reimburse the Contracting Authority for any reasonable expenses it incurs in having the Personal Data restored by a third party.

M. The Contracting Authority does not consent to the Contractor appointing any third-party processor of Personal Data under this agreement.

N. Save for clauses 11B, 11C, 11D (4) and 11E, all the obligations on the Contractor in this clause 11 relating to the processing of Personal Data shall apply to the processing of all Confidential Information.

SIGNED for and on behalf of Atlantic Technological University _____ Name: Position: Date:	SIGNED for and on behalf of _____ Name: XXXXXXXXXX Position: Date:
Budget Holder Atlantic Technological University _____ Name: Position: Date:	Witness for and on behalf of _____ Name: XXXXXXXXXXXXXXXX Position: Date: