

**Request for Tenders dated 19th August 2026  
to establish a  
Single Party Framework Agreement  
for the provision of**

**The Supply and Support of a Digital  
Engineering Software Platform**

**to**

**Kildare and Wicklow Education and Training  
Board (KWETB),**

**Tender procedure: Open procedure**

**Tender Deadline: 21<sup>st</sup> September 2026**

**@ 12 noon (Irish time)**

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## Part 1: Introduction

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- 1.1** Kildare Wicklow Education and training Board (KWETB) (the “Contracting Authority”) is issuing this request for tenders (“RFT”) and is the authority responsible for this procurement.

The contracting Authority is a statutory education and training authority established under the Education and Training Boards Act 2013. Operating under the governance of the Department of Education and SOLAS, KWETB delivers further education, training, apprenticeship, youth, and community education services across Counties Kildare and Wicklow. KWETB works collaboratively with industry, employers, and community stakeholders to provide high-quality, learner-centred programmes that support skills development, workforce upskilling, innovation, and regional economic growth.

Further information is available at our corporate website <http://www.kwetb.ie>.

The Contracting Authority invites tenders (“Tenders”) from economic operators (“Tenderers”) for appointment to a Single Party Framework Agreement (the “Framework Agreement”)] for the supply and Support of a Digital Engineering Software Platform to Kildare and Wicklow ETB, as described in detail in Appendix 1 to this RFT.

## Table of Acronyms and Definitions

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The information below is provided for reference purposes only and the acronyms/definitions used both in this Request for Tender and in the Response Document are provided in alphabetical order. The Contracting Authority accepts no responsibility for any omissions from this list.

| Acronym/Definition          | Expanded Term/Meaning                                                                                                                                        |
|-----------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>CAD</b>                  | CAD: Computer-Aided Design                                                                                                                                   |
| <b>CAM</b>                  | CAM: Computer-Aided Manufacturing                                                                                                                            |
| <b>CAE</b>                  | CAE: Computer-Aided Engineering                                                                                                                              |
| <b>PLM</b>                  | PLM: Product Lifecycle Management                                                                                                                            |
| <b>IIoT</b>                 | IIoT: Industrial Internet of Things                                                                                                                          |
| <b>VR/XR</b>                | VR/XR: Virtual Reality / Extended Reality                                                                                                                    |
| <b>CNC</b>                  | CNC: Computer Numerical Control                                                                                                                              |
| <b>BOM</b>                  | BOM: Bill of Materials                                                                                                                                       |
| <b>TIA Portal and SIMIT</b> | TIA Portal and SIMIT: Siemens-specific industrial automation software platforms (Totally Integrated Automation Portal and Simulation for Integrated Testing) |
|                             |                                                                                                                                                              |

## 1.2 In summary, the Services and Goods comprise:

The Contracting Authority invites tenders with the aim of establishing a single party framework agreement. Thereafter that the framework member, entitled to be considered for all contracts within the scope of the framework agreement.

A framework agreement constitutes a means of establishing overall terms and conditions in accordance with which, for a specified duration and within a specified scope and value, individual contracts may or may not be awarded.

### **Strategic Partner**

Due to the strategic importance of these requirements, KWETB wishes to appoint a strategic partner, rather than a supplier solely. This differentiation is to highlight that there will be mutual benefits to both parties and the sharing of knowledge and experiences.

### **Scope of Technical Services Required**

Kildare and Wicklow Education and Training Board (KWETB) propose to engage in a competitive process for the establishment of a Single party frameworks for the supply and support of a Digital Engineering Software Platform to Kildare and Wicklow ETB. Design, configuration, and integration of automation systems including supply of industrial automation services, software, and hardware that enables end-to-end consistency from planning and engineering to operations, supporting digital twins, modular automation, and IT/OT convergence on a fully integrated platform whilst ensuring backward compatibility to existing hardware/software systems.

### **Introduction to Requirements**

KWETB (CELTEC) has a strong and growing track record in delivering high-quality, industry-responsive training in manufacturing, robotics, automation, electrical systems, and instrumentation. Since its establishment, it has supported more than 125 companies through practical programmes and is a key regional provider of specialist technical skills.

**Please Note:** All proposed equipment must be fully integrated with the current KWETB (CELTEC) automation platform/ operating system, which is Siemens SIMATIC S7-1500 technology enabled PLCs using Standard Robot Command Interface (SRCI) in TIA Portal V19.0 or Newer.

### 1.2.1 **A summary of the initial call-off contracts**

After establishing the relevant frameworks, the initial contract will be as follows:

1. Supplier proposed full integration Software bundle to meet requirements detailed in Appendix 1 below.

Tenderers are required to provide, a full list of each item proposed, its justification for inclusion (as part of award criterion A) and licencing cost (as part of award criterion D).

2. Supplier proposed dashboard to oversee requirements for item 1 above.

Tenderers are required to detail the suitability of the proposed dashboard solution. (as part of award criterion, A) and licencing cost (as part of award criterion D).

While it is indicated that the initial call-off contract may be awarded to the most economically advantageous tender immediately following the establishment of the framework, it should be

noted that the Contracting Authority may at its sole discretion establish the framework agreement without awarding the initial contract should the circumstances so dictate.

Please note that the Contracting Authority reserves the right not to award initial contracts, however the initial contracts will be used as the basis for the appointment of the framework member(s). In certain circumstances where discrete pricing is provided, the Contracting Authority reserves the right to award part of the initial contract.

For full details of the specification, please refer to Appendix 1 of this file.

#### **NATURE OF ADDITIONAL / CALL-OFF CONTRACTS UNDER EACH OF THE FRAMEWORK AGREEMENTS**

- Follow-on supplies to the initial contract(s)
- New supplies directly linked to the initial contract(s) and/or scope outlined above

There is no guarantee of additional contracts, but where they arise, the Contracting Authority will consult the member of the framework agreement in accordance with the rules of operation outlined in this Request for Tender.

#### **13 Admission to the Framework Agreements**

The framework agreement will be established a single-party framework agreements with the top scoring admissible tenderer, identified following the assessment of the qualitative criteria for selection, compliance with minimum specification requirements and the award criteria.

#### **1.4**

This public procurement competition (the “Competition”) will be conducted in accordance with the open procedure under the European Union (Award of Public Authority Contracts) Regulations 2016 (Statutory Instrument 284 of 2016) (the “Regulations”). The initial call-off contract will cover the provision of the services outlined in Appendix 1 for a period of two (2) years (24 Months). The Contracting Authority reserves the right to extend the Term for a period or periods of up to 12 months with a maximum of 2 such extensions on the same terms and conditions, subject to the Contracting Authority’s obligations at law, strategic alignment, satisfactory performance and budget availability.

#### **1.5 Not used**

#### **1.6 The Contracting Authority estimates that the aggregate expenditure on the Services and Goods to be covered by the proposed Framework Agreements. It is envisaged that maximum spend under this framework agreement will not exceed **one and a half million euro (€1,500,000)** excluding VAT.**

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

#### **Estimated Value of the initial call-off contracts**

The value of the initial call-off contract for the initial contract in in the region of **€400,000 - €600,000**.

### **Awarding Contracts under the Framework Agreement**

Contracts under the single-party framework agreement may be awarded directly on foot of the original tenders or by consultation with the framework member and invitation(s) to provide supplementary tender(s)/ quotes within the constraints laid down in this tender documentation and the framework agreements terms and conditions.

### **Award to Runner Up**

If it is not possible following the conclusion of the competitive process to award the initial contract to the designated successful tenderer from this competitive process, the Contracting Authority reserves the right to award the framework agreement and/or the initial contract to the tenderer with the next highest score based on the original competition, at any time during the tender validity period.

If, following the award of any contract under this framework agreement, the framework member cannot, for whatever reason, deliver the required services to the satisfaction of the Contracting Authority, the Contracting Authority reserves the right to terminate the framework membership and award the framework agreement to the next highest scoring tenderer emerging from the original process at any time during the tender validity period.

### **Right to tender outside of the Framework Agreement**

The Contracting Authority intends to use the framework agreement for the procurement of requirements falling within its scope during the specified period; however, it reserves the right to go outside the framework for the procurement of any requirement without reference to the framework member. Admission to a framework agreement does not guarantee the award of any contract, nor does it give the framework member the right to be consulted in respect of, or tender for, any contract.

### **Compliance with the Terms and Conditions of the Framework Agreement**

Admission to the framework agreement(s) will be conditional upon acceptance of the Contracting Authority's Framework Agreements Terms and Conditions as appended at the relevant Appendix.

Tenderers are required to review these terms and conditions and indicate their acceptance thereof as part of their tender submission. Any reservation with regard to these terms should be submitted as a query in accordance with the procedure described in the Instructions to Tenderers of this document.

- 1.7 Contracting Authority policy seeks to encourage participation on a fair and equal basis by Small and Medium Enterprises ("SME"s) in this Competition. SMEs that believe the scope of this Competition is beyond their technical or business capacity are encouraged, subject to paragraph 2.5, to explore the possibilities of forming relationships with other SMEs or with larger enterprises. Through such relationships they can participate and contribute to the successful implementation of any Services and Goods Contracts that may result from this Competition and therefore increase their social and economic benefits.

Larger enterprises are also encouraged, subject to paragraph 2.5, to consider the practical ways that SMEs can be included in their proposals to maximise the social and economic benefits of any Services and Goods Contracts that may result from this Competition.

## Part 2: Instructions to Tenderers

### 2.1 IMPORTANT NOTICES

**2.1.1** While every effort has been made to provide comprehensive and accurate information in all notices and documents prepared for the purposes of this Competition, the Contracting Authority does not accept any liability or provide any express or implied warranty in respect of any such information. Tenderers must form their own conclusions about the solution needed to meet the requirements set out in this RFT and may wish to consult their legal advisers.

**2.1.2** The Contracting Authority / Framework Client does not bind itself to accept the lowest priced or any Tender.

This RFT does not constitute an offer or commitment to enter into a Framework Agreement and/or a Services and Goods Contract. The conclusion of a Framework Agreement with a Framework Member does not guarantee the award of any Services and Goods Contract.

No enforceable commitment of any kind will exist unless and until a formal written Framework Agreement has been executed by or on behalf of the Contracting Authority.

No contractual rights in relation to any Framework Client will exist unless and until a formal written Service and Goods Contract and/or NASGF has been executed by or on behalf of the Framework Client.

Any notification of preferred bidder status by the Contracting Authority / Framework Client shall not give rise to any enforceable rights by the Tenderer.

The Contracting Authority may cancel this Competition at any time prior to a formal written Framework Agreement being executed by or on behalf of the Contracting Authority.

The award of a Framework Agreement or a Service and Goods Contract under the Framework Agreement does not confer exclusivity on the successful Tenderer(s).

Tenderers should note that neither the Contracting Authority nor any Framework Client shall be under any obligation to purchase any minimum value of Goods under any Framework Agreement.

**2.1.3** This RFT supersedes and replaces any and all previous documentation, communications and correspondence between the Contracting Authority and Tenderers, and Tenderers should place no reliance on such previous documentation and correspondence.

**2.1.4** In this clause 2.1.4, "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.

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

The Tenderer, as Data Controller in respect of any Personal Data provided by it in its Tender, is required to confirm in the statement required under paragraph 2.4 below that all Data Subjects (where Data Subject has the meaning given under the Data Protection Laws) whose Personal Data is provided by the Tenderer have consented to the processing of such Personal Data by the Tenderer, the Contracting Authority, the Evaluation Team and the supplier of the etenders.gov.ie website, for the purposes of the participation of the Tenderer in this Competition or that the Tenderer otherwise has a legal basis for providing such Personal Data to the Contracting Authority for the purposes of its participation in this Competition .

- 2.1.5** The Contracting Authority would refer Tenderers in particular to the provisions of Regulation (EU) 2022/1031 on the access of third country economic operators, services and goods to the Union's public procurement and concession markets and procedures supporting negotiations on access of Union economic operators, services and goods to the public procurement and concession markets of third countries (International Procurement Instrument – IPI), and to their obligation to comply therewith.

In particular, tenderers and candidates should note in Article 6 of Regulation (EU) 2022/1031, the obligations for a Contracting Authority in the context of a procurement procedure where the EU Commission has adopted an IPI measure.

- 2.1.6** Tenderers are referred to the provisions of Regulation (EU) 2022/2560 of the European Parliament and of the Council on Foreign Subsidies distorting the Internal Market, in addition to Commission Implementing Regulation (EU) 2023/1441, and their obligation to comply therewith. In particular, tenderers and candidates should note the requirements in Articles 28 and 29 of Regulation (EU) 2022/2560 relating to the prior notification or declaration of foreign financial contributions, where the estimated value of the public procurement procedure is equal to or greater than the applicable financial thresholds set out therein. In that regard.

## **2.2 COMPLIANT TENDERS**

- 2.2.1** If a Tenderer fails to comply in any respect with the requirements of this paragraph 2.2.1, the Contracting Authority reserves the right to reject the Tenderer's Tender as non-compliant or, without prejudice to this right and subject to its obligations at law, to take any other action it considers appropriate including but not limited to:

- seeking written clarification from the Tenderer;
- seeking further information from the Tenderer; or
- waiving a requirement, which in the Contracting Authority's view, is non-material or procedural.

Tenderers are required:

- (a) To complete and submit with their Tender the accompanying version of the European Single Procurement Document (“ESPD”). Tenderers may submit an ESPD which has already been used in a previous procurement procedure PROVIDED THAT they confirm that: (i) the information contained in it continues to be correct and (ii) that they satisfy the Selection Criteria for this Competition as set out at part 3.2 below;
  - (b) To submit all documentation which this RFT requires to be submitted with their Tender;
  - (c) To follow the format of this RFT and respond to each element in the order as set out in this RFT;
  - (d) To conform to and comply with all instructions and requirements set out in this RFT;
  - (e) To submit the statement required under paragraph 2.4 below; and
  - (f) Not to alter or edit this RFT in any way.
- 2.2.2 Without prejudice to the generality of paragraph 2.2.1, failure to comply with paragraph 2.6.1, 2.6.2 or 2.6.3 below will render the Tender non-compliant and it will be rejected.

## 2.3 FRAMEWORK AGREEMENT AND GOODS CONTRACT

- 2.3.1 The award of Service and Goods Contracts under a Framework Agreement shall be made in accordance with the rules set out in the Framework Agreement (Goods Contract) at Appendix 5 to this RFT.
- 2.3.2 Tenderers are required to confirm their acceptance of the terms and conditions of the Framework Agreement (Goods Contract) at Appendix 5 to this RFT by signing the Tenderer’s Statement at Appendix 3. Tenderers may not amend the Tenderer’s Statement, the Framework Agreement or the Services Goods Contract Templates.

## 2.4 ACCEPTANCE OF RFT REQUIREMENTS

Each Tenderer is required to accept the provisions of this RFT. ALL TENDERERS MUST RETURN, with their Tender, a scanned signed copy of the Tenderer’s Statement, as set out in Appendix 3, printed on the Tenderer’s letterhead. The Contracting Authority must be able to read the scanned signature of the Tenderer. If possible, please sign documents using blue ink. If the Contracting Authority cannot read the scanned signature, Tenderers may be requested to resubmit. Tenderers may not amend the Tenderer’s Statement.

## 2.5 CONSORTIA AND PRIME / SUBCONTRACTORS

Where a group of undertakings (in whatever form and regardless of the legal relationship between them) come together to submit a Tender in response to this RFT, the Contracting Authority will deal with all matters relating to this Competition through a single nominated entity authorised to represent all members of the group of undertakings. The Tenderer must provide details of all members of the group of undertakings and their role in the Tender and clearly and comprehensively set out the contact details including name, title, telephone number, postal address, facsimile number and email address of the nominated entity authorised to represent the Tenderer and to whom all communications shall be directed and accepted until this Competition has been completed or terminated. Correspondence from any other person will NOT be accepted, acknowledged or responded to.

Prior to and as a condition of appointment to any Framework Agreement, the successful Tenderer shall be required to designate a single entity who will carry overall responsibility for the Framework Agreement and any Service and Goods Contract (the “Prime Contractor”), irrespective of whether or not tasks are to be performed by a subcontractor or other consortium member (the “Subcontractor”).

## 2.6 TENDER SUBMISSION REQUIREMENTS

**2.6.1** Tenders must be submitted via the ‘electronic tenderbox’ available on [www.etenders.gov.ie](http://www.etenders.gov.ie). Only Tenders submitted to the electronic tenderbox will be accepted. Tenders submitted by any other means (including but not limited to: by email, fax, post, hand delivery, etc.) will NOT be accepted.

Tenderers must ensure that they give themselves sufficient time to upload and submit all required tender documentation in their Tender before the Tender Deadline (as defined in paragraph 2.6.2). Tenderers should take into account the fact that upload speeds vary.

Tenderers must note that in the electronic tenderbox, there is a current file size limit of 250MB for each single file uploaded, with a maximum total limit of 2GB for all documentation (combined) in the Tender submitted.

In order to submit a Tender to the electronic tenderbox, Tenderers must ensure that they follow the necessary steps on the eTenders platform to ensure that their tender has been submitted properly, which includes ensuring that the “Submit” button has been clicked. In the event that Tenderers need to modify or change any aspect of their Tender before the Tender Deadline, the Tender in its entirety will need to be re-submitted. Tenderers should be aware that the “Submit” button will be disabled automatically at the Tender Deadline.

For the avoidance of doubt, Tenderers must submit a tender response in respect of the relevant Framework. The Contracting Authority have provided a Tender Response Document (TRD) as a separate document for tenderers to use in preparing their response to this tender. This document and format must be used. Tenderers should note that personalisation of the TRD is not allowed, and they must not add their branding/colours to the TRD.

- 2.6.2 Tenders must be received not later than 12:00 noon (Irish time) on Monday 21<sup>st</sup> September 2026 (the “Tender Deadline”). Tenders that are received late WILL NOT be considered in this Competition.
- 2.6.3 Tenders must be submitted in English.
- 2.6.4 Subject to paragraph 2.14 and 2.18, each Tenderer is limited to submitting one Tender in its own capacity and one Tender as part of a consortium/group of undertakings under this RFT.
- 2.6.5 All Tenders submitted in soft copy must be compiled such that they can be read immediately using Microsoft Office 2016 suite of software. ALL responses must be submitted in MS Word format. ALL technical specification sheets must be submitted in MS Excel format. ALL pricing schedules must be submitted in MS Excel format. Supplementary documents may be provided in other formats provided that they are common formats which can be opened using the MS Office suite, Adobe or Photo editor. Tenders must NOT contain embedded documents, and all supplementary documents must be included as individual documents and referenced from within the main response document.

The Contracting Authority is not responsible for corruption in electronic documents. Tenderers must ensure electronic documents are not corrupt.

## 2.7 QUERIES AND CLARIFICATIONS

- 2.7.1 All queries relating to any aspect of this Competition or of this RFT must be directed to the messaging facility on [www.etenders.gov.ie](http://www.etenders.gov.ie). Queries will be accepted no later than 12:00 noon on Friday 4<sup>th</sup> September 2026 unless otherwise published by the Contracting Authority. For the avoidance of doubt, Tenderers may not contact potential Framework Clients regarding any aspect of this Competition.
- 2.7.2 All responses to queries will be issued by the Contracting Authority via the messaging facility on [www.etenders.gov.ie](http://www.etenders.gov.ie). Where appropriate, queries may be amalgamated. Tenderers should note that the Contracting Authority will not respond to individual Tenderers privately.
- 2.7.3 The Contracting Authority reserves the right to issue or seek written clarifications.
- 2.7.4 The Contracting Authority reserves the right at any time before the Tender Deadline, to update or amend the information contained in this document and/or to extend the Tender Deadline. Participating Tenderers will be informed of any such amendment or extension through the eTenders website.
- 2.7.5 Tenderers should ensure that they register their interest in this Competition, by clicking on the “Accept” button on [www.etenders.gov.ie](http://www.etenders.gov.ie), in order to receive all responses to queries and other updates in relation to this Competition.

## 2.8 TENDERING COSTS

- 2.8.1 All costs and expenses incurred by Tenderers relating to their participation in this Competition including, but not being limited to, site visits, field trials, demonstrations and/or presentations shall be borne by and are a matter for discharge by the Tenderers exclusively.

## 2.9 CONFIDENTIALITY

- 2.9.1 All documentation, drawings, data, statistics, information, patterns, samples or material disclosed or furnished by the Contracting Authority to Tenderers during the course of this Competition:
- (a) are furnished for the sole purpose of replying to this RFT only;
  - (b) may not be used, communicated, reproduced or published for any other purpose without the prior written permission of the Contracting Authority;
  - (c) shall be treated as confidential by the Tenderer and by any third parties (including subcontractors) engaged or consulted by the Tenderer; and
  - (d) must be returned immediately to the Contracting Authority upon cancellation or completion of this Competition if so requested by the Contracting Authority.

## 2.10 PRICING

- 2.10.1 All Tenderers must complete the Pricing in section 4.5 Form of Tender in the Tender Response Document (TRD).
- 2.10.2 All prices quoted must be all-inclusive (i.e. including but not being limited to shipping, packaging, delivery, ancillary costs and all other costs/expenses), be expressed in Euro only and exclusive of VAT. The VAT rate(s) where applicable should be indicated separately.
- 2.10.3 Tenderers must confirm that all prices quoted in the Tender will remain valid for **nine (9)** calendar months commencing from the Tender Deadline.
- 2.10.4 Any currency variations occurring over the term of the Services and Goods Contract shall be borne by the Tenderer.
- 2.10.5 Payments for Services and Goods provided pursuant to this RFT shall be subject to and made in accordance with the terms and conditions of the Contracts at Appendix 5 to this RFT.
- 2.10.6 Tenderers should note that the Maximum Framework prices submitted in their Tender may be increased or decreased only on the first anniversary of the Effective Date of the Framework Agreement (as defined in the Framework Agreement) and on subsequent anniversaries of the Effective Date thereafter, but only by either:
- the same percentage increase or decrease (if any) in the Consumer Price Index, published by the Central Statistics Office (Ireland) in the twelve-month period immediately preceding the effective date the Framework.); or
  - three per cent (3%); **whichever is the lesser.**

Any percentage increases may only be applied once they have been agreed with the Contracting Authority in writing.

## 2.11 ENVIRONMENTAL, SOCIAL AND LABOUR LAW

- 2.11.1** In the performance of any Services and Goods Contract awarded, the successful Tenderer(s) and their Subcontractors (if any), shall be required to comply with all applicable obligations in the field of environmental, social and labour law that apply at the place where the goods are provided, that have been established by EU law, national law, collective agreements or by international, environmental, social and labour law listed in Schedule 7 of the Regulations.
- 2.11.2** Tenderers shall be required to include an undertaking to comply fully with the provisions of Council Directive 2001/23/EC of 12 March 2001 on the approximation of the laws of the Member States relating to the safeguarding of employees' rights in the event of transfers of undertakings, business or parts of undertakings or business and as implemented in Irish law by Statutory Instrument S.I. No. 131 of 2003, the European Communities (Protection of Employees on Transfer of Undertakings) Regulations 2003 and to indemnify the Contracting Authority for any claim arising or loss or costs incurred as a result of its failure or incapacity to fulfil its obligations under the said Directive and Statutory Instrument..
- 2.11.3** The Protection of Employees (Temporary Agency Work) Act 2012 (the "2012 Act") provides that an Agency Worker (as defined in the 2012 Act) is entitled to the same basic working and employment conditions as those which apply to employees recruited directly by the Hirer (as defined in the 2012 Act) to do the same or a similar job. Where the provision of the Services will involve the provision to the Contracting Authority of Agency Workers (within the meaning of the 2012 Act), Tenderers should ensure that they consider their obligations under the 2012 Act when pricing their Tender. The Contracting Authority shall have no liability for any increase in salaries that may be payable as a result of the application of the 2012 Act to the provision of the Services.

## 2.12 PUBLICITY

No publicity regarding this Competition or any Framework Agreement, Mini Competition or Services and Goods Contract pursuant to this Competition is permitted unless and until the Contracting Authority has given its prior written consent to the relevant communication.

## 2.13 REGISTRABLE INTEREST

Any Registrable Interest involving any Tenderer or Subcontractor and the Contracting Authority, any Framework Client, members of the Government, members of the Oireachtas, or employees and officers of the Contracting Authority or any Framework Client and their relatives must be fully disclosed in the Tender or, in the event of this information only coming to the notice of the Tenderer or Subcontractor after the submission of a Tender, must be communicated to the Contracting Authority immediately upon such information becoming known to the Tenderer/Subcontractor. The terms "Registrable Interest" and "Relative" shall be interpreted as per Section 2 of the Ethics in Public Office Acts 1995 and 2001, copies of which are available at [www.irishstatutebook.ie](http://www.irishstatutebook.ie). The Contracting Authority will, in its absolute discretion, decide on the appropriate course of action, which may in appropriate circumstances include eliminating a Tenderer from this Competition or a Mini-Competition or terminating any Framework Agreement and / or Goods Contract entered into by a Tenderer.

## 2.14 ANTI-COMPETITIVE CONDUCT

Tenderers' attention is drawn to the Competition Act 2002 (as amended, the "2002 Act"). The 2002 Act makes it a criminal offence for Tenderers to collude on prices or terms in a public procurement competition.

## 2.15 INDUSTRY TERMS USED IN THIS RFT

Where reference is made to a particular item, source, process, trademark, or type in this RFT then all such references are to be given the meaning generally understood in the relevant industry and operational environment.

## 2.16 FREEDOM OF INFORMATION

- 2.16.1** Tenderers should be aware that, under the Freedom of Information Act 2014 and the European Communities (Access to Information on the Environment) Regulations 2007 to 2014, information provided by them during this Competition may be liable to be disclosed.
- 2.16.2** Tenderers are asked to consider if any of the information supplied by them in their Tender should not be disclosed because of its confidentiality or commercial sensitivity. If Tenderers consider that certain information is not to be disclosed because of its confidentiality or commercial sensitivity, Tenderers must, when providing such information, clearly identify the specific sections of their Tender containing such information and specify the reasons for its confidentiality or commercial sensitivity. For the avoidance of doubt Tenderers may not assert confidentiality or commercial sensitivity over the entire Tender but must clearly identify the specific section containing such information. If Tenderers do not identify information as confidential or commercially sensitive, it is liable to be released in response to a request under the above legislation without further notice to or consultation with the Tenderer. The Contracting Authority will, where possible, consult with Tenderers about confidential or commercially sensitive information so identified before making its decision on a request received. 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.

## 2.17 TAX CLEARANCE

It will be a condition of any Framework Agreement or Goods Contract pursuant to this Competition that the successful Tenderer(s) shall, for the term of such contract(s), comply with all applicable EU and domestic tax laws. Tenderers are referred to [www.revenue.ie](http://www.revenue.ie) for further information. Prior to the award of any Framework Agreement or Goods Contract arising out of this Competition, the successful Tenderer shall be required to supply its Tax Clearance Access Number and Tax Reference Number to facilitate online verification of their tax status by the Contracting Authority. By supplying these numbers, the successful Tenderer acknowledges and agrees that the Contracting Authority has the permission of the successful Tenderer to verify its tax cleared position online.

## 2.18 CONFLICTS OF INTEREST

Any conflict of interest or potential conflict of interest on the part of a Tenderer, Subcontractor or individual employee(s) or agent(s) of a Tenderer or Subcontractor(s) must be fully disclosed to the

Contracting Authority as soon as the conflict or potential conflict is or becomes apparent. Tenderers are required to declare that the preparation of their Tender was carried out independently. In the event of any actual or potential conflict of interest, the Contracting Authority may invite Tenderers to propose means by which the conflict of interest might be removed and in circumstances where there are links between Tenderers, the Contracting Authority may seek further information to confirm the Tenders have been prepared independently. The Contracting Authority will, at its absolute discretion, decide on the appropriate course of action, which may in appropriate circumstances include eliminating a Tenderer from this Competition or any Mini-Competition or terminating any Framework Agreement or Services Contract entered into by a Tenderer.

## 2.19 WITHDRAWAL FROM THIS COMPETITION

Tenderers are required to notify the Contracting Authority immediately, via the e-tenders website, if at any stage they decide to withdraw from this Competition.

## 2.20 SITE VISIT

2.20.1 *Not used*

## 2.21 INSURANCE

2.21.1 The successful Tenderer(s) shall be required to hold for the term of any Goods Contract the below insurances. Tenderers should note that they are not obliged to have insurances in place in order to enter into a Framework Agreement with the Contracting Authority.

| Type of Insurance             | Indemnity Limit                                                                                                                      |
|-------------------------------|--------------------------------------------------------------------------------------------------------------------------------------|
| <b>Employer's Liability</b>   | €13 million limit for any one claim or series of claims arising out of a single occurrence and unlimited in the period of insurance. |
| <b>Public Liability</b>       | €6.5 million limit for any one claim or series of claims arising out of a single occurrence per period of insurance.                 |
| <b>Product Liability</b>      | €6.5 million limit for any one claim and in the aggregate per period of insurance.                                                   |
| <b>Cyber Liability</b>        | €1 million limit for any one claim and in the aggregate per period of insurance,                                                     |
| <b>Professional Indemnity</b> | Minimum limit of €1.5 million for any one claim or series of claims arising out of a single occurrence per period of insurance.      |

**2.21.2** By signing the Tenderer's Statement at Appendix 3, Tenderers confirm, that if awarded a Goods Contract (i) they will, from the Effective Date of the Goods Contract (as defined in the Goods Contract), obtain and hold the types and levels of insurance as specified in the relevant SRFT (ii) the territorial limits and jurisdiction of its insurance policies include Ireland and (iii) they are not aware of any exclusions, restrictions, conditions or warranties or, in the case of policies with an aggregate limit of indemnity, any outstanding claims, which could have a material adverse impact on the level of coverage specified above. . A formal confirmation from the Tenderer's insurance company or broker to this effect will be requested from the successful Framework Member(s) prior to the award of (and shall be a condition of) any Goods Contract.

**2.21.3** The successful Tenderer will, during the term of the Goods Contract, be required to:

- (a) immediately advise the Contracting Authority and the Framework Client of any material change to its insured status;
- (b) produce proof of current premiums paid upon request;
- (c) produce valid certificates of insurance upon request.

## 2.22 SAMPLES

**2.22.1** (a) "Not used"

## Part 3: Selection and Award Criteria

### 3.1 COMPLIANT TENDERS

3.1 Only those Tenderers who have:-

- (a) Submitted compliant Tenders pursuant to paragraph 2.2 above, and
- (b) Declared by way of ESPD that either:
  - (i) no mandatory grounds for exclusion of the Tenderer pursuant to Regulation 57 of the Regulations apply to them, or
  - (ii) in circumstances where any mandatory exclusion grounds apply to the Tenderer (and where the Tenderer is not precluded from doing so under Regulation 57(17) of the Regulations), that it can provide evidence to the effect that measures taken by it are sufficient to demonstrate its reliability despite the existence of any such relevant exclusion ground, and
- (c) Declared by way of ESPD that they satisfy the selection criteria for this Competition as set out in part 3.2 below (the “Selection Criteria”),

will be evaluated in accordance with the Award Criteria at part 3.3 below.

However, please note that the Contracting Authority also reserves the right to exclude from evaluation a Tenderer to whom a discretionary ground for exclusion pursuant to Regulation 57 of the Regulations applies.

Tenderers should note that where a Tenderer is relying on the capacity of other entities (for example, Subcontractors) for the purposes of fulfilling any of the Selection Criteria in part 3.2 below it must ensure that each such entity:

- (i) completes and submits a separate ESPD in respect of each such entity, and
- (ii) when requested by the Contracting Authority, submit proof, to the satisfaction of the Contracting Authority, that each such entity will place the necessary resources at the disposal of the Tenderer.

Where a Tenderer (Prime Contractor) intends to subcontract any share of any Contract to a Subcontractor, but is not relying on the capacity of such Subcontractor for the purposes of fulfilling any of the Selection Criteria in part 3.2 below, it must ensure that each such Subcontractor submits a separate ESPD in respect of such Subcontractor completing those sections of the ESPD which are specified in section 2.D of the ESPD for this Competition.

The Contracting Authority may decide to examine Tenders before verifying the absence of exclusion grounds in Regulation 57 of the Regulations (the “Exclusion Grounds”) and the fulfilment of the Selection Criteria.

However, notwithstanding anything to the contrary in this part 3.1, the Contracting Authority reserves the right to ask Tenderers at any moment during the Competition to submit any or all of the following for the purposes of verification of the status of the Tenderer (including the Prime Contractor and any Subcontractor):

- (i) a Declaration in the form attached at Appendix 4;
- (ii) evidence to the effect that measures taken by the entity concerned are sufficient to demonstrate its reliability despite the existence of a relevant Exclusion Ground; and
- (iii) all or any of the supporting documents specified at paragraph 3.2 below;
- (iv) information concerning the Tenderer, and any proposed subcontractors, suppliers or entities whose capacities are being relied on within the meaning of the public procurement Directives for the purposes of Regulation (EU) No 833/2014 (as amended by EU Regulation 2022/576 or any subsequent amendments to same) 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 legal person is established; and
- (v) information concerning the origin of goods, if any, for the purposes of assessing compliance with Regulation (EU) No 833/2014 (as amended by EU Regulation 2022/576 or any subsequent amendments to same).

If a Tenderer does not, upon request by the Contracting Authority, provide evidence which is considered by the Contracting Authority as sufficient to demonstrate (i) its fulfilment of the Selection Criteria (or any one of them) in accordance with this RFT and (ii) the absence of Exclusion Grounds or its reliability despite the existence of a relevant Exclusion Ground and (iii) that it does not come 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) and (iv) that the origin of goods, if any, are not subject to the prohibitions set out in Regulation (EU) No 833/2014 (as amended by EU Regulation 2022/576 or any subsequent amendments to same) then it shall be excluded from further participation in this Competition.

If a Tenderer does not, upon request by the Contracting Authority, provide evidence which is considered by the Contracting Authority as sufficient to demonstrate (i) the fulfilment by any Subcontractor on whose capacity the Prime Contractor relies of the Selection Criteria (or any one of them) in accordance with this RFT and (ii) the absence of Exclusion Grounds in respect of any Subcontractor, or the reliability of any Subcontractor despite the existence of a relevant Exclusion Ground and (iii) that any subcontractor, supplier, or other entity on whose capacity the prime contractor relies does not come 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) and (iv) that the origin of goods, if any, are not subject to the prohibitions set out in Regulation (EU) No 833/2014 (as amended by EU Regulation 2022/576 or any subsequent amendments to same) then it shall be excluded from further participation in this Competition *unless* it replaces the entity concerned with one which meets all relevant requirements of this RFT.

### 3.2 SELECTION CRITERIA

- 3.2 Tenderers will either pass OR fail each of the Selection Criteria in this part 3.2.
- A Tenderer who fails a selection criterion will be excluded from participating in this Competition.

#### 3.2.A Economic and Financial Standing

Tenderers must declare by way of ESPD that they satisfy the financial and economic standing requirement(s) set out below and that they are able, upon request and without delay, to provide the supporting documentation specified below to the Contracting Authority in each case.

##### 3.2.A (i) Turnover

| Reference                              | Mandatory Requirement                                                                                                                                                                                                      | Qualifying Threshold |
|----------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------|
| <b>Economic and Financial Standing</b> | Tenderers must demonstrate that they have had a minimum annual turnover of two hundred and fifty thousand Euro (€250,000) for each of the three financial years immediately preceding the date of publication of this RFT. | <b>Pass/Fail</b>     |

Details of the Tenderer's turnover for each of the three immediately preceding financial years must be **provided below** in the following format where "Financial Year 1," is the most recent financial year:

|                 | Financial Year 1 | Financial Year 2 | Financial Year 3 |
|-----------------|------------------|------------------|------------------|
| <b>Turnover</b> | €                | €                | €                |

**Please Note:** Tenderers are required to provide, when requested to do so, the following supporting evidence for their Economic and Financial Standing (Turnover):

1. Audited financial statements each of the last three financial years which must include an unqualified audit report on financial statements to confirm the Tenderer's turnover for each of the three most recent financial years (for which audited accounts are available).

In the case of a Tenderer being a grouping, this condition may be satisfied by the group members as a whole, or by reliance on the lead tenderer. Where group members are relying on the lead Tenderer's financial capacity, self-declaration / evidence will only be required of the lead.

Tenderers must provide the supporting documentation specified above without delay when requested by the Contracting Authority. However, where the Tenderer is unable, for a valid reason, to provide the specified documentation, the Tenderer must inform

the Contracting Authority of the valid reason as to why the documentation cannot be supplied and, if the Contracting Authority considers the reason given to be valid, provide such other suitable alternative documentation to prove, to the satisfaction of the Contracting Authority, their economic and financial capacity.

**Delivery Confirmation (Pass/Fail):**

Tenderers must confirm that all goods proposed under this Tender can be delivered, installed and commissioned (where applicable) no later than **31 December 2026**.

Failure to provide this confirmation, or an inability to meet this delivery requirement, will result in the Tender being deemed non-compliant.

**3.2.B Technical and Professional Ability**

Tenderers must declare by way of ESPD that they satisfy the technical and professional requirement(s) set out below and that they are able, upon request and without delay, to provide the supporting documentation specified below to the Contracting Authority in each case.

| Reference                                 | Mandatory Requirement                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       | Qualifying Threshold |
|-------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------|
| <b>Technical and Professional Ability</b> | <p>Tenderers must provide information clearly demonstrating successful delivery of two (2) previous comparable experience/projects, involving the features as defined in the TRD. Tenderers should refer to instances within the last five (5) years which demonstrate that they have successfully delivered services of a comparable nature and scale on one (1) occasion. The contracts referenced for consideration should provide comprehensive information to enable the Contracting Authority to determine their comparability to the requirements of this contract.</p> <p>The contracts listed should be chosen to demonstrate the firm's skills, efficiency, experience and reliability in the relevant areas of expertise. In completing the table for each reference project, Tenderers must provide sufficient information to allow the Contracting Authority to evaluate whether all of the requirements at above have been met and whether the services have been successfully delivered.</p> | <b>Pass/Fail</b>     |

|  |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |  |
|--|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--|
|  | <p><b>Note #1:</b> All fields in the TRD should be completed in full. In the event that the information requested on the value of contracts or identity of clients is considered confidential, tenderers must ensure that they provide sufficient information to allow the Contracting Authority to judge the similarity of these contracts to the services required.</p> <p><b>Note #2:</b> Tenderers will note that they are to provide contact details for referees for each reference project. The Contracting Authority has the right to contact the referees to verify the information being provided, without further reference to the Tenderer. It is the responsibility of Tenderers to satisfy themselves that the nominated contact person is in a position to provide a reference if contacted by the Contracting Authority. Tenderers should note that the Contracting Authority may at its discretion contact all referees or referees for the successful Tenderers only.</p> <p><b>Note #3:</b> Tenderers must note that this is a pass/fail criterion, and the Contracting Authority may deem a tender inadmissible based on the feedback received from the referees indicated in the submission, where applicable.</p> <p><b>Note #4:</b> Any reference contracts presented must have been substantially delivered by the Tendering party.</p> |  |
|--|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--|

## Personnel and Skills

Tenderers must provide information which demonstrates access to the minimum number of skilled personnel as indicated below and outlined in the TRD. Please note that multiple skills may reside in the same person.

Please attach an organisation chart, clearly identifying all relevant departments, divisions, and third parties, if applicable.

| Skillset Required              | Minimum Number |
|--------------------------------|----------------|
| Contract Manager               | 1              |
| Installation/ Support Engineer | 1              |
| Technical Support              | 1              |

## 2.6 Quality Assurance Management System

Tenderers must provide information on the measures in place to ensure the delivery of a quality service, for example by way of an externally certified system, or an equivalent in-house quality control process or system. Please complete the Tender Response Document (TRD).

## 2.7 Environmental Management System

Tenderers must demonstrate compliance with all the relevant Environmental legislation and guidelines through operation of an appropriate third-party certified or in-house environmental management system. The Contracting Authority reserves the right to seek further information to verify compliance.

Please complete in the TRD.

### 3.3 AWARD CRITERIA FOR SELECTION AS A FRAMEWORK AGREEMENT MEMBER

- 3.3.1** Only tenderers that meet the Selection Criteria and are confirmed as valid and responsive to the specifications set out in this document will be evaluated against the award criteria. Tenderers should ensure that they have submitted sufficient relevant information to allow their tenders to be assessed under each of the award criteria set out below.

The Contract will be awarded on the basis of the most economically advantageous tender(s) as identified in accordance with the following criteria:

| Criterion A | Weighting                                                                                                                                                                                                                                                                                                                                                                                                                                                        | Maximum Marks | Minimum Marks<br>50% |
|-------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------|----------------------|
|             | 30%                                                                                                                                                                                                                                                                                                                                                                                                                                                              | 3,000         | 1,500                |
| Title       | Fit for Purpose of the proposed Equipment                                                                                                                                                                                                                                                                                                                                                                                                                        |               |                      |
| Description | <p>Tenderers are required to provide detailed specification of the proposed solution which meets all of the mandatory requirements outlined and also provide details how the requirements details in Appendix 1 of the Request for tender document.</p> <p>This response may be supported by details explanation on how these requirements will be addressed/ met.</p>                                                                                           |               |                      |
| Criterion B | Weighting                                                                                                                                                                                                                                                                                                                                                                                                                                                        | Maximum Marks | Minimum Marks 50%    |
|             | 20%                                                                                                                                                                                                                                                                                                                                                                                                                                                              | 2000          | 1000                 |
| Title       | Contract Management, Support and Training                                                                                                                                                                                                                                                                                                                                                                                                                        |               |                      |
| Description | <p>Tenderers are required to provide details of the proposed contract manager by means of a detailed CV, outlining the experience and expertise of the proposed resource and also addressing how all requirements of Appendix 1 will be met. Tender should also provide details of how the software solution will be supported. Finally, tenderers must detail the proposed training solution. Please refer to Appendix 1 of this document for requirements.</p> |               |                      |
| Criterion C | Weighting                                                                                                                                                                                                                                                                                                                                                                                                                                                        | Maximum Marks | Minimum Marks 50%    |
|             | 10%                                                                                                                                                                                                                                                                                                                                                                                                                                                              | 1,000         | 500                  |
| Title       | Sustainability, Innovation and Added Value                                                                                                                                                                                                                                                                                                                                                                                                                       |               |                      |
| Description | <p>Tenderers must outline their proposals for integrating sustainable considerations into the service. Proposals must be pertinent to the subject matter, and appropriate.</p> <p>Finally, tenderers must provide details of how innovation or value add might be applied over the term of the contract without any additional cost to the Contracting Authority.</p>                                                                                            |               |                      |
| Criterion D | Weighting                                                                                                                                                                                                                                                                                                                                                                                                                                                        | Maximum Marks | Minimum Marks        |

|              |                                                                                                                    |       |     |
|--------------|--------------------------------------------------------------------------------------------------------------------|-------|-----|
|              | 40%                                                                                                                | 4,000 | n/a |
| <b>Title</b> | <b>Ultimate Cost</b>                                                                                               |       |     |
| Description  | Tenderers are required to populate Table A within the Form of Tender, section 4.5 of the Tender Response Document. |       |     |

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

### 3.3.2 Methodology for scoring Qualitative Criteria:

Tenderers are required to submit complete responses to each of the requirements set out in Appendix 1 of this RFT. Where a Tenderer does not submit a response to any one sub-criterion, its tender will be deemed non-compliant and will not be evaluated. The Tenderer will be excluded from further participation in the Competition.

Each response provided by the Tenderer for each individual qualitative award criterion, sub-criterion and sub-sub-criterion, as applicable, will be evaluated and scored in accordance with the Scoring Methodology set out in the Scoring Methodology Table below.

For example, if the maximum available marks for a particular sub-criterion are 1000, a response which is assessed as demonstrating a satisfactory to very satisfactory level of quality, comprehensiveness and understanding in respect of the qualitative sub-criterion (Band 3) will score between 400 and 590 marks. A response which is assessed as demonstrating a good to very good level of quality, comprehensiveness and understanding in respect of the qualitative sub-criterion (Band 4) will score between 600 and 790 marks.

Tenderers must therefore demonstrate, by providing a clear and comprehensive description in each case, how their proposal will meet each of the qualitative requirements set out in Appendix 1.

Scoring Methodology Table

| Score            | Category     | Description                                                                                                                             |
|------------------|--------------|-----------------------------------------------------------------------------------------------------------------------------------------|
| <b>90 – 100%</b> | Exceptional  | An exceptional response demonstrating extensive understanding offering full assurance to client – fully supported with no reservations. |
| <b>80 – 89%</b>  | Excellent    | An excellent response demonstrating excellent understanding offering assurance to client – fully supported.                             |
| <b>70 – 79%</b>  | Very good    | A very good response demonstrating very good understanding offering assurance to client – strongly supported.                           |
| <b>60 – 69%</b>  | Good         | A good response demonstrating good understanding offering assurance to client – well supported.                                         |
| <b>50 – 59%</b>  | Acceptable   | An acceptable response demonstrating a minimum understanding offering assurance to client - satisfactorily supported.                   |
| <b>&lt;50%</b>   | Unacceptable | Less than 50% is unacceptable. Should a minimum score apply, the Tender will be considered ineligible from further consideration.       |
| <b>0%</b>        | No response  | The Tenderer failed to provide a response to the Criterion.                                                                             |

## 3.3.3

**Calculation of Marks to be awarded for Cost:**

The following formula will be applied to the cost score only in the case of valid tenders which are deemed admissible having met the qualitative criteria for selection, compliance with minimum specification requirements and where applicable the minimum score under each qualitative award criterion.

The lowest cost tender that also meets all the minimum requirements of the qualitative award criteria will receive the maximum score achievable under this criterion. The scores of the other valid tenders will be calculated using the following formula:

|                                     |                        |
|-------------------------------------|------------------------|
| Lowest Cost from a Bona Fide tender | A                      |
| Cost for the tender being evaluated | B                      |
| Maximum Points available for Cost   | C                      |
| Formula employed                    | $\frac{A \times C}{B}$ |

**Scoring Rationale Further Notes**

Once all Tender responses have been evaluated in accordance with the methodologies set out above, the total qualitative score for each Tender shall be added to the total Cost score for each Tender to provide a total score out of a maximum score of 10,000 for the Tender in question.

All Tenders will be ranked according to their total scores out of 10,000.

3.3.4 **Tie Break**

If the evaluation results in a tie between two or more Tenders, then the Tender that has been awarded the highest marks for the total quality element (i.e. non-cost related element) of their Tender will be deemed to be the most economically advantageous tender ("MEAT").

In the event of the application of this tie-break rule not resulting in the determination of a MEAT, this approach will continue to be applied to each of the award criteria in the descending order listed below until such time as a MEAT can be determined:

Order of Tie Break Evaluation Criteria:

In the unlikely event of the rules set out above failing to determine a MEAT, the preferred Tenderer shall be selected based on random selection. In such a circumstance, representatives of each Tenderer that achieved the same highest marks may be either:

- a. invited to attend at the Contracting Authority's premises to observe the random selection; or
- b. invited to attend a video conference call to observe the random selection where attendance at the Contracting Authority's premises is not possible.

In either case, Tenderers will be notified in advance of the time/date and location of the random selection procedure.

**3.3.5** Subject to paragraphs 2.1 (Important Notices) and 3.5 (Standstill Period) of this RFT, appointment to the framework of the highest ranked Tenderer(s) (as determined by paragraph 3.3.1) will be conditional upon:

- (a) the Tenderer submitting the following evidence in respect of the Tenderer (including the Prime Contractor and any Subcontractors, as applicable in accordance with paragraph 3.1 above) to the extent not already provided, within seven (7) days of request by the Contracting Authority: (i) a Declaration in the form attached at Appendix 4; (ii) if applicable, evidence to the effect that measures taken by the entity concerned are sufficient to demonstrate its reliability despite the existence of a relevant Exclusion Ground; (iii) all or any of the supporting documents specified at paragraph 3.2; and
- (b) the evidence specified at paragraph 3.2(a) above demonstrating that each entity concerned meets the Selection Criteria and the compliance requirements specified at paragraph 3.1 (b) and (c) above.

**3.3.6** Tenderers should take note that, where a Service and Goods Contract is awarded by way of Mini-Competition, the Contracting Authority will require the Framework Member to whom it has decided to award the Goods Contract to supply up-to-date evidence as set out in paragraph 3.2(a) above. Where the Framework Member cannot provide up-to-date evidence to demonstrate that each entity concerned meets the Selection Criteria and the compliance requirements specified at paragraph 3.1(b) and (c) above, then the Contracting Authority may proceed to offer the Goods Contract to the next highest-ranked Tenderer.

### **3.4 PRESENTATION OF PROPOSALS**

Tenderers may be required to make a presentation of the proposal contained in their Tender. The Contracting Authority will not be responsible for the cost of such presentations (in accordance with paragraph 2.8). Performance at presentations will NOT be evaluated.

### **3.5. STANDSTILL PERIOD**

**3.5.1** In circumstances where the European Communities (Public Authorities' Contracts) (Review Procedures) Regulations 2010 (Statutory Instrument 130 of 2010), as amended by the European Communities (Public Authorities' Contracts) (Review Procedures) (Amendment) Regulations 2015 (Statutory Instrument 192 of 2015) and the European Communities (Public Authorities' Contracts) (Review Procedures) (Amendment) Regulation 2017 (Statutory Instrument 327 of 2017) apply, no contract can or will be executed or take effect until at least fourteen (14) calendar days after the day on which the Tenderers have been sent a

notice informing them of the result of this Competition (“Standstill Period”) if such notice is sent by electronic means. The Standstill Period shall be sixteen (16) calendar days if such notice is sent by other means. The preferred bidder will be notified of the decision of the Contracting Authority and of the expiry date of the Standstill Period.

- 3.5.2** Tenderers should note that the Contracting Authority may, when notifying Tenderers of the results of this Competition, include the scores obtained by the Tenderer concerned and the scores obtained by the lowest ranking preferred bidder in respect of each award criterion assessed by the Contracting Authority.

### **3.6 RETURN OF SIGNED FRAMEWORK AGREEMENT(S)**

- 3.6.1** The successful Tenderer(s) must sign and return the Framework Agreement(s) to the Contracting Authority no later than **twenty-one (21)** calendar days from the date of expiry of the Standstill Period unless notified otherwise in writing by the Contracting Authority. A signed Framework Agreement returned by the successful Tenderer(s) is not binding on the Contracting Authority until the Contracting Authority has signed the Framework Agreement in accordance with paragraph 2.1.2 above.
- 3.6.2** Where the signed Framework Agreement has not been received by the Contracting Authority within the period as specified at paragraph 3.6.1 then the Contracting Authority may proceed to offer a Framework Agreement to the next highest-ranked Tenderer in accordance with paragraph 3.6.1 above.

## Appendix 1: Requirements and Specifications

**Tenderers must address each of the issues and requirements in this part of the RFT and submit a detailed description in each case, where required which demonstrates how these issues and requirements will be dealt with / met and their approach to the proposed provision of the Services and Goods as set out in this RFT.**

### DETAILED SPECIFICATION OF REQUIREMENTS

Kildare and Wicklow Education and Training Board (KWETB) propose to engage in a competitive process for the establishment of a Single party frameworks for the supply and support of a Digital Engineering Software Platform to Kildare and Wicklow ETB.

#### Background

There is an existing installation of 20 Siemens SIMATIC S7-1500 PLCs all with digital and analog IO, industrial communications such as serial, Modbus, IO links, ProfiNet, Profibus and HART, and associated Siemens Industrial IPCs, Siemens managed and unmanaged networking and all programmed and configured within the Siemens TIA Portal environment.

There is an existing installation of 10 robotic systems (Universal Robots, Mitsubishi and MiR ROEQ).

#### Introduction

This tender seeks a comprehensive, integrated digital engineering software platform to support advanced manufacturing education and training. The solution must enable learners and instructors to cover the full product development lifecycle — from concept design through manufacturing, simulation, automation, IIoT, virtual commissioning, and PLM workflows — within a single coherent ecosystem.

The platform will be deployed in a classroom/lab environment and must expose users to industry-standard tools and processes used in real industrial settings.

Design, configuration, and integration of automation systems including supply of industrial automation services, software, and hardware that enables end-to-end consistency from planning and engineering to operations, supporting digital twins, modular automation, and IT/OT convergence on a fully integrated platform whilst ensuring backward compatibility to existing hardware/software systems.

#### Core Platform Integration

- The proposed solution must be a single integrated digital engineering software platform that natively covers CAD, CAM, CAE, manufacturing simulation, robotics, virtual commissioning, IIoT, immersive engineering (VR/XR), and PLM-capable workflows.
- Design, simulation, manufacturing, automation, IIoT, and PLM modules must form part of one coherent ecosystem from the same vendor (not a collection of disconnected third-party tools).

- The platform must support end-to-end workflows across the full product development lifecycle: concept design, 3D modelling, manufacturing planning, simulation, automation validation, and operational data capture

### **1.1 CAD Requirements**

- The CAD environment must support parametric 3D modelling, assemblies, drafting, surfacing, sheet metal design, multi-CAD translation, and seamless downstream integration with manufacturing and PLM systems.

### **CAM and Manufacturing Requirements**

- The CAM environment must support advanced machining workflows including 2.5-axis, 3-axis, 5-axis, turning, post-processing, toolpath verification, machine simulation, and G-code driven verification.
- The solution must support CNC manufacturing education using industrially recognised workflows (toolpath creation, post-processing, shop documentation, and machine-code validation).
- The platform must support additive manufacturing workflows, including build preparation, lightweighting, lattice structures, and related advanced processes.

### **Simulation Requirements**

- The simulation environment must support structural and Multiphysics simulation suitable for teaching and applied industry projects.
- The solution must include system simulation capability for hydraulic, pneumatic, thermal, mechanical, electrical, and electromechanical system modelling.
- The platform must support digital manufacturing workflows including process simulation, robotic work cell simulation, layout validation, offline programming, and manufacturing process verification.
- Discrete event simulation capability must be included for manufacturing systems, factory layouts, throughput analysis, bottleneck identification, and what-if production scenarios.

### **Robotics and Virtual Commissioning**

- The solution must support robotics education and industrial robotics workflows, including offline programming, robot path validation, interference checking, and manufacturer-specific robot programming.
- Support for Universal Robots (existing installation) offline programming and simulation must be provided.
- Virtual commissioning capabilities must be included to validate manufacturing processes, robot cells, automation logic, and production behaviour in a virtual environment prior to physical deployment.
- Integration with industrial automation environments, including Siemens TIA Portal and SIMIT (where relevant), must be supported.

## IloT and Data Capabilities

- The IloT component must support industrial data collection, asset connectivity, dashboarding, monitoring, and visualisation of live or simulated machine data.
- Integration with Siemens PLCs (seamless integration with existing installation required) and industrial automation hardware must be supported for realistic training scenarios.
- The platform must enable creation of custom dashboards for visualising industrial data from machines, systems, and sensors.

## Immersive and PLM Capabilities

- The platform must support immersive engineering and VR/XR use cases for reviewing and interacting with 3D engineering data.
- The solution must be capable of scaling into a mature PLM environment, including product data management, document management, BOM management, workflows, change control, and full lifecycle management.

## Licensing and Deployment Model

- Licensing must support multiple concurrent users, instructors, floating licences, and practical classroom/lab training sessions.
- The solution must be suitable for classroom-based delivery with easy administration and user management.

## Technical Boundaries/Constraints:

All proposed solutions must be fully backward compatible with the existing Siemens SIMATIC S7-1500 PLCs, Siemens Industrial IPCs, and TIA Portal environment.

Preference will be given to solutions offering native Siemens compatibility without requiring additional middleware or gateways.

## Mandatory Requirements (General)

The following requirements are mandatory. Tenderers will be required to confirm their proposed equipment meets these mandatory requirements as part of the response document:

| MRG     | DETAILS                                                                                                                                                                                                                                               |
|---------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| MRG 1   | General Conditions                                                                                                                                                                                                                                    |
| MRG 1.1 | The proposed solution must be a single integrated digital engineering software platform that natively covers CAD, CAM, CAE, manufacturing simulation, robotics, virtual commissioning, IloT, immersive engineering (VR/XR), and PLM-capable workflows |
| MRG 1.2 | Design, simulation, manufacturing, automation, IloT, and PLM modules must form part of one coherent ecosystem from the same vendor <b>(not a collection of disconnected third-party software/tools)</b> .                                             |
| MRG 1.3 | The platform must support end-to-end workflows across the full product development lifecycle: concept design, 3D modelling, manufacturing planning, simulation, automation validation, and operational data capture.                                  |

|                |                                                                                                                                                                                       |
|----------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>MRG 1.4</b> | The supplier must demonstrate proven expertise across the full proposed stack (CAD/CAM, simulation, digital manufacturing, IIoT, virtual commissioning, robotics, and PLM).           |
| <b>MRG 1.5</b> | Local implementation, training, and technical support must be provided by a team with relevant experience in the Irish advanced manufacturing education/industry sector.              |
| <b>MRG 1.6</b> | The supplier must provide helpdesk support, with escalation to the software vendor, software updates and licence management, troubleshooting and ongoing technical guidance.          |
| <b>MRG 1.7</b> | Phased implementation support must be available: initial core lab deployment with clear upgrade paths to IIoT, PLM, advanced automation, robotics, simulation, and immersive modules. |
| <b>MRG 1.8</b> | The supplier must support both initial deployment and longer-term (multi-year) evolution of the lab in line with evolving requirements.                                               |
|                |                                                                                                                                                                                       |

### Additional Requirements

Over the lifetime of the Framework and as the industry evolves, the Contract Authority from time to time wish to engage with the successful tender for advice and guidance on the direction for example digitalisation. Tenderers are required to detail how this service would be provided within their response.

Also, the Contracting Authority is aware that tenders may have a catalogue of Automation Software and related hardware such as VR Headsets which would showcase the full benefits and abilities of the proposed software (this is not a call for standalone hardware) that would fall under this framework. As a result, tenderers are requested to provide a full list of all software and related hardware within their catalogue with the relevant pricing, reflecting any education discount that might apply.

**Please note:** This is for information purposes only and will not form part of any evaluation. For any additional requirements under the framework, section 2.3 of this document will apply.

### Licensing Requirements

Tenderers must confirm the proposed software solution offers multiyear licensing. These multiyear licensing must include as part of the agreement:

- all software updates, software patches, software enhancements for the duration of the active licenses.
- all license updates, including license transfer, license enhancements and license troubleshooting for the duration of the active licenses.

### Training:

Tenderers are required to provide details of the proposed training that can be provided for all users, including operators, programmers etc., of the specific equipment to a level that all are competent regarding its functionality.

## Support & Maintenance

### General support

For all software support tenderers must outline their proposed protocol for dealing with software issues.

This may include as examples, an online help desk/ phone support/ remote access / support portal etc.

Tenderers are required to provide details of their proposed response times across the normal three levels of escalation:

- Green
- Amber
- Red

### Pricing

As these requirements will be installed and utilised in an educational/ Training body currently situated at KWETB (CELTEC) in Celbridge, Co. Kildare, the provision of educational discounts over the lifetime of the framework and any contracts awarded which run beyond the term of the Framework, is a priority for budgetary and strategic planning. Tenderers are reminded of this when populating the Form of Tender in the Tender response document.

The Contracting Authority requires tenderers to nominate a dedicated contract manager who will act as the main point of contact for the duration of the contract. This person shall have the authority to deal with all matters in relation to the contract and be responsible for the satisfactory delivery of the requirements.

The duties of the contract manager will include the following:

- Overall responsibility for a good working relationship with the Contracting Authority
- Provide regular reports on performance as agreed with the Contracting Authority
- Meet as and when required to review and examine performance
- Deal with disputes, complaints or concerns that cannot be adequately resolved
- Proactively discuss with the Contracting Authority ways of improving efficiency regarding service delivery in general and providing suggestions for improvement and cost savings

## SUSTAINABILITY

Tenderers as part of their response should provide details on how the principle of sustainability might be applied in delivering the Contracting Authority's requirements.

## INNOVATION AND ADDED VALUE

Tenderers are required to provide details of how innovative solutions or value-added services they feel would enhance their solution but will have no additional cost to the Contracting Authority

#### **COMPLIANCE WITH THE TERMS AND CONDITIONS OF THE CONTRACT**

Award of contract will be conditional upon acceptance of the Contracting Authority's Terms and Conditions as appended at the relevant Appendix.

Tenderers are required to review these terms and conditions and indicate their acceptance thereof as part of their tender submission. Any reservation with regard to these terms should be submitted as a query in accordance with the procedure described in the Instructions to Tenderers (Section 6) of this document.

#### **AWARD TO RUNNER UP**

If, following the award of a contract, the successful tenderer cannot, for whatever reason, deliver the required services to the satisfaction of the Contracting Authority; the Contracting Authority reserves the right to award the contract to the next highest scoring tenderer emerging from the process at any time during the contract tender validity period.

This shall be without prejudice to the right of the Contracting Authority to cancel this competitive process and/or initiate a new contract award procedure at its sole discretion.

## Appendix 2: Pricing Schedule

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Section 4.5 Form of Tender in the Tender Response Document.

## Appendix 3: Tenderers' Statement

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[Tenderers shall complete and return the following form of Tenderers' Statement printed on the Tenderers' headed notepaper and signed by the Tenderer.]

### TENDERERS' STATEMENT

**TO:**

**RE:**

Having examined your Request for Tenders (the "RFT") including the Instructions to Tenderers, the Selection and Award Criteria, the Requirements and Specifications, and the Terms and Conditions of the Framework Agreement and the Services and Goods Contract, we hereby declare the following:

1. We understand the nature and extent of the Services and Goods required to be delivered as described in Requirements and Specifications at Appendix 1 to the RFT.
2. We accept all of the Terms and Conditions of:
  - a) the RFT;
  - b) the Framework Agreement and agree that, if offered appointment to the framework, we will execute the Framework Agreement at Appendix 5 of the RFT and the Confidentiality Agreement at Appendix 6 of the RFT;
  - c) the Services and Goods Contract and agree if awarded any contract pursuant to the Framework Agreement to execute the Services and Goods Contract at Appendix 5 to the RFT.
3. We accept all the Selection and Award Criteria as set out in Part 3 of the RFT.
4. We agree to provide the Services and Goods in accordance with the RFT, our Tender, the SRFT and our response to SRFT if awarded any Services and Goods Contract pursuant to a Framework Agreement.
5. We agree that, if awarded any contract pursuant to a Framework Agreement that we shall, in the performance of such contract, comply with all applicable obligations in the field of environmental, social and labour law.
6. We confirm that we have complied with all requirements as set out at Part 2 of the RFT.
7. We confirm that all prices quoted in our Tender will remain valid for the period of time commencing from the Tender Deadline specified at paragraph 2.10.3 of the RFT.
8. We shall, if awarded any Services and Goods Contract pursuant to a Framework Agreement, have in place on the Effective Date of the Services and Goods Contract all insurances (if any) as required by paragraph 2.21.1 of the RFT.

9. We confirm that all Data Subjects whose Personal Data is provided in our Tender have consented to the processing of such Personal Data by us, the Contracting Authority, the Evaluation Team and the supplier of the etenders.gov.ie website, for the purposes of our participation in this Competition or that we otherwise have a legal basis for providing such Personal Data to the Contracting Authority for the purposes of our participation in this Competition and that we will provide evidence of such consent and / or legal basis to the Contracting Authority upon request.
10. We do not come 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).
11. The origin of goods connected to our Tender, if any, are not subject to the prohibitions set out in Regulation (EU) No 833/2014 (as amended by EU Regulation 2022/576 or any subsequent amendments to same).
12. Any subcontractor, supplier or other entity on whose capacity we rely as part of our Tender does not come 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).

**SIGNED**

**Company**

**(Authorised Signatory)**

**Print name**

**Address**

**Date**

## Appendix 4: Declaration as to Personal Circumstances of Tenderer

---

Re: Request for Tenders to establish a Single Party Framework Agreement for the supply, delivery and maintenance (via warranty) of Automation requirements (hardware and related software required for operation) to Kildare and Wicklow ETB

**NAME:** [Click here and insert name]

**ADDRESS:** [Click here and insert address]

I, [Click here and insert name of Declarant], of [Click here and insert name of entity] do solemnly and sincerely declare that:

1. I am a [insert role of Declarant] of [Click here and insert name of entity] and am authorized by [Click here and insert name of entity] to make this declaration which relates to a tender ("the Tender") submitted by [Click here and insert name of entity] in response to an RFT titled Single Party Framework Agreement for the for the supply and support of a Digital Engineering Software Platform to Kildare and Wicklow ETB., published by Kildare Wicklow Education and Training Board ("the Contracting Authority").
2. Neither [Click here and insert name of entity] nor any person who is a member of the administrative, management or supervisory body of [Click here and insert name of entity] nor any person who has powers of representation, decision or control in [Click here and insert name of entity] has:
  - a. ever been the subject of a conviction for participation in a criminal organisation, as defined in Article 2 of Council Framework Decision 2008/841/JHA.
  - b. ever been the subject of a conviction for corruption, as defined in Article 3 of the Convention on the fight against corruption involving officials of the European Communities or officials of Member States of the European Union and Article 2(1) of Council Framework Decision 2003/568/JHA as well as corruption as defined in the national law of the Contracting Authority or the law of the state in [Click here and insert name of entity] is established.
  - c. ever been the subject of a conviction for fraud within the meaning of Article 1 of the Convention on the protection of the European Communities' financial interests.
  - d. ever been the subject of a conviction for terrorist offences or offences linked to terrorist activities, as defined in Articles 1 and 3 of Council Framework Decision 2002/475/JHA respectively, or for inciting or aiding or abetting or attempting to commit an offence, as referred to in Article 4 of that Framework Decision.
  - e. ever been the subject of a conviction for money laundering or terrorist financing, as defined in Article 1 of Directive 2005/60/EC of the European Parliament and of the Council.
  - f. ever been the subject of a conviction for child labour and other forms of trafficking in human beings as defined in Article 2 of Directive 2011/36/EU of the European Parliament and of the Council.
3. [Click here and insert name of entity]:

- a. is not in breach and has not breached its obligations relating to the payment of taxes or social security contributions.
  - b. has carried out the preparation of the Tender independently.
4. [Click here and insert name of entity]:
- a. has, in the performance of all public contracts, complied with applicable obligations in the field of environmental social and labour law that apply at the place where the works are carried out or the services provided, that have been established by EU law, national law, collective agreements or 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).
  - b. is not bankrupt or the subject of insolvency or winding-up proceedings, its assets are not being administered by a liquidator or by the court, it is not in an arrangement with creditors, its business activities are not suspended nor is it in any analogous situation arising from a similar procedure under national laws and regulations.
  - c. is not guilty of grave professional misconduct.
  - d. has not entered into agreements with other economic operators aimed at distorting competition.
  - e. is not aware of any conflict of interest due to its participation in the Competition;
  - f. has not had any prior involvement in the preparation of the Competition;
  - g. has not shown significant or persistent deficiencies in the performance of a substantive requirement under a prior public contract, a prior contract with a contracting entity, or a prior concession contract, which led to early termination of that prior contract, damages or other comparable sanctions.
  - h. is not guilty of serious misrepresentation in supplying the information required for the verification of the absence of grounds for exclusion or the fulfilment of the Selection Criteria for this Competition and did not withhold such information and did not fail or is not able to submit supporting documents in respect of this Competition as required under Regulation 59 of the European Union (Award of Public Authority Contracts) Regulations 2016 (Statutory Instrument 284 of 2016) .
  - i. has not undertaken to unduly influence the decision-making process of the Contracting Authority in respect of the Competition, or obtain confidential information that may confer upon it undue advantages in respect of the Competition; or negligently provided misleading information that may have a material influence on decisions concerning exclusion, selection or award.
5. [Click here and insert name of entity] does not come 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);
6. The origin of goods connected to the Tender, if any, are not subject to the prohibitions set out in Regulation (EU) No 833/2014 (as amended by EU Regulation 2022/576 or any subsequent amendments to same);
7. Any subcontractor, supplier or other entity on whose capacity [Click here and insert name of entity] relies as part of the Tender does not come 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).

I understand and acknowledge that the provision of inaccurate or misleading information in this declaration may lead to my business/firm/company/partnership being excluded from participation in this or future tenders, and I make this solemn declaration conscientiously believing the same to be true and by virtue of the Statutory Declarations Act, 1938. This declaration is made for the benefit of the Contracting Authority.

\_\_\_\_\_

**Signature of Declarant**

Declared before me by \_\_\_\_\_ who is personally known to me

(or who is identified to me by \_\_\_\_\_ who is personally known to me) or\*

at \_\_\_\_\_ this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_

\_\_\_\_\_

**(signed)**

**Practising Solicitor/Commissioner for Oaths**

***\*Please include such other form of identification used to identify the Declarant as permitted by the Statutory Declarations Act, 1938 (as amended)***

## Appendix 5: Services and Goods Contract

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Kildare and Wicklow Education and Training Board  
and

[Insert successful Framework Member's full legal name]

### **AGREEMENT**

Relating to the Provision of Services and Goods pursuant to

Request for Tenders to Establish a Single Party Framework Agreement for the provision of  
the supply and support of a Digital Engineering Software Platform to Kildare and Wicklow ETB.

**THIS AGREEMENT IS MADE ON THE [DATE E.G. 2ND] DAY [MONTH] OF 20[YEAR] BETWEEN:**

[Insert name of Framework Client] of [address] ("the Client");

and

[Framework Member's full legal name], of [address:] ("the Contractor")

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

**WHEREAS:**

- A.** By Request for Tender entitled "Request for Tenders to Establish a Single Party Framework Agreement for the supply and support of a Digital Engineering Software Platform to Kildare and Wicklow ETB" advertised in the supplement to the Official Journal of the European Union, OJEU Notice Number [ ] of [ ] ("the RFT") the Contracting Authority invited economic operators ("Tenderers") to participate in a framework agreement for the provision of the Services and Goods described in Appendix 1 of the RFT (together referred to in this Agreement as the "Services"). References to the RFT shall include any clarifications issued by the Contracting Authority via the messaging facility on [www.etenders.gov.ie](http://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 A to E attached hereto;
  - ii. The RFT;
  - iii. The Submission;
- 2.** The Contractor agrees to provide the Services described in Schedule B (the "Services") to the Client in accordance with this Agreement ("Agreement"). Schedule B details the nature, quantity, quality, time of delivery, key personnel and functional specifications of the Services in accordance with the RFT, the SRFT, the Submission and the Response ("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 [insert contact name] of [insert contact address]; the Contractor's Contact is [Contractor contact name: to be completed on signing] of [Contractor contact address: to be completed on signing].

5. This Agreement shall take effect on the date of this Agreement (“the Effective Date”) and shall expire on [insert date], 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”).

*Delete and replace with “Not Used” if not applicable:*

The Client reserves the right to extend the Term for a period or periods of up to [Insert number] months with a maximum of [Insert number] such extensions permitted subject to its obligations at law. The total Term, including all extensions, shall not exceed 6 years in aggregate.

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 disfavours any Party by virtue of the authorship of any of the provisions of this Agreement.

|                                        |                                            |
|----------------------------------------|--------------------------------------------|
| SIGNED for and on behalf of the Client | SIGNED for and on behalf of the Contractor |
| _____                                  | _____                                      |
| (being a duly authorised officer)      |                                            |
| Witness                                | Witness                                    |
|                                        |                                            |

## Schedule A: Terms and Conditions

### 1. CONTRACTOR'S OBLIGATIONS

- A.** 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.
- B.** In consideration of the payment of the Charges and subject to clause 3 the Contractor shall:
1. provide the Services in accordance with the Specification, the RFT, the SRFT, the Client's directions and the terms of this Agreement;
  2. 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;
  3. comply with all local security and health and safety arrangements as notified to it by the Client; and
  4. 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.
- C.** 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 1B(4), 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.
- D.** Without prejudice to clause 1C, 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.

- E. 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.
- F. 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 10.
- G. 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.
- H. 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.
- I. In the case of public procurement procedures which are subject to an IPI measure as well as in the case of contracts awarded based on a framework agreement, where the estimated value of those contracts is equal to or above the values set out in Article 4 of Directive 2014/24 EU and where those framework agreements are subject to an IPI measure, within the meaning of Regulation (EU) 2022/1031, the Contractor shall comply with the following obligations:
  - i. 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;
  - ii. 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;
  - iii. to provide, upon request, adequate evidence corresponding to point (i) or (ii) above;
  - iv. to pay a proportionate charge, in the event of non-observance of the obligations referred to at point (i) or (ii) above, of between 10% and 30% of the total value of the contract.

## 2. KEY PERSONNEL

The Contractor undertakes and acknowledges that it is responsible for ensuring that all key personnel as specified in the Submission ("Key Personnel"), assigned by it to provide the Services shall be available for the Term of this Agreement. The Contractor acknowledges that the Key Personnel are essential to the proper provision of the Services to the Client. In the event that any of the Key Personnel 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 any Key Personnel and replace that person with a person of equivalent experience and expertise ("Replacement Personnel"). The Contractor shall provide to the Client such details as the Client may reasonably require in writing regarding any Replacement Personnel. The Client shall have absolute discretion as to the suitability of any proposed Replacement Personnel.

## 3. PAYMENT

- A. 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.
- B. Discharge of the Charges is subject to:
  1. 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 10A from time to time;
  2. 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;
  3. 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
  4. 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.
- C. 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.
- D. 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.

- E.** 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.
- F.** 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.

#### 4. WARRANTIES, REPRESENTATIONS AND UNDERTAKINGS

- A.** The Contractor acknowledges, warrants, represents and undertakes that:
  1. 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;
  2. it is entering into this Agreement with a full understanding of its material terms and risks and is capable of assuming those risks;
  3. 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;
  4. 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;
  5. it has taken all and any action necessary to ensure that it has the power to execute and enter into this Agreement;
  6. the status of the Contractor, as declared in the "Declaration as to Personal Circumstances of Tenderer" dated [date], which confirms that none of the excluding circumstances listed in Regulation 57 of the Regulations apply to the Contractor, remains unchanged;
  7. 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;
  8. *Delete and replace with "Not Used" if not applicable:*  
 it has inspected the Client's premises, lands and facilities before submitting its Submission and has made appropriate enquiries so as to be satisfied in relation to all matters connected with the performance of its obligations under this Agreement;

9. the Client shall be under no obligation to purchase any minimum number or value of Services; and
  10. 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 4A.10.
  11. All services will comply with the Specifications and be performed with all due skill, care and diligence in a timely and professional manner using appropriately qualified and experienced personnel and in accordance with good industry practice.
  12. In respect of any goods and equipment supplied by the Contractor (hereinafter referred to as “the Goods”), the Goods shall conform to the specifications detailed in the RFT and, for a period of one year from the date of delivery, be free from defects and be suitable to meet the Client's requirements. This warranty shall be supplemented by the warranty supplied by the Tenderer in response to the RFT.
  13. The Contractor shall be and undertakes to be responsible for and to take due precautions for the safe custody of any Goods on his premises which are the property of the Contractor and shall insure the same against any form of loss or damage and the Contractor so acknowledges and confirms.
  14. The Contractor confirms and undertakes that any Goods supplied will, at the time of delivery (and for the Guarantee Period), correspond to the description given by the Contractor in accordance with the Submission (to include any samples furnished thereunder) and the Specification (Schedule B) and that the manufacture, distribution and processes employed will comply in all material respects with the representations made in the Submission. None of the provisions of the Sale of Goods Acts 1893 and 1980 shall be excluded or limited under this Agreement.
- B.** 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 4A and to comply with all reasonable directions of the Client with regard thereto which may include termination of this Agreement.

## 5. REMEDIES

- A.** 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. The terms of this clause 5A shall survive termination of this Agreement for any reason.
- B.** Save in respect of fraud (including fraudulent misrepresentation), personal injury or death or in respect of the Contractor's indemnity under clause 6(G), 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.

- C. 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.
- D. 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.

*USE ONE OF THE FOLLOWING TERMS IN CLAUSE 5.E AND DELETE THE OTHER. WHEN FINISHED, DELETE THESE INSTRUCTIONS.*

- E. *Delete if not applicable:* Save in respect of fraud, personal injury or death and the Contractor's indemnity in clause 6(G) (for which no limit applies), the Client's total aggregate liability to the Contractor under this Agreement whatsoever and howsoever arising shall not under any circumstances exceed [ ]% of the Charges paid under this Agreement, regardless of the number of claims.

*OR*

*Delete if not applicable:* Save in respect of fraud, personal injury or death or in respect of the Contractor's indemnity under clause 6(G) (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 *the Liability Limits of the relevant Insurance policy requirement as set out in the SRFT*. Service credits and liquidated damages for delay *Use either "shall" OR "shall not", not both:* shall / shall not be taken into account when assessing whether the liability caps set out here have been met or exceeded.

- F. 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 5F shall be without prejudice to and not be in substitution for any remedy of the Client under this Agreement.

- G.** 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 terminate this Agreement in either case without prejudice to any other rights and remedies of the Client.

**H.** **Not Used**

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 [insert amount or percent] per week/day, or part thereof, for each week/day of late delivery as liquidated damages up to a maximum amount of [insert amount or percent] of the Charges (or invoice or order) for the relevant Goods (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:

1. 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
2. without prejudice to sub-clause (1), the Client shall be entitled to terminate the Agreement with immediate effect by giving notice in writing to the Contractor.

## 6. INTELLECTUAL PROPERTY

- A.** Intellectual Property Rights ("IPR") 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.
- B.** Pre-existing IPR means all IPR existing prior to the date of this Agreement and all IPR in any materials, acquired or developed by or for Contractor or Client independently of this Agreement, and any IPR in Contractor's standard hardware and software products or modifications or updates to such products.
- C.** All IPR title and interest in all reports, data manuals and/or other materials (other than software) (including without limitation all and any audio or audio visual recordings, transcripts, books, papers, records, notes, illustrations, photographs, diagrams) produced for the purposes of this Agreement (collectively "the Materials") (or any part or parts thereof) shall vest in the Client and the Contractor so acknowledges and confirms. For the avoidance of doubt the Contractor hereby assigns all Intellectual Property Rights, title and interest in

the Materials (including by way of present assignment of future copyright) to the extent that any such Intellectual Property Rights title or interest may be deemed by law to reside in it in the Materials to the Client absolutely.

- D.** The Client grants to the Contractor a royalty-free non-exclusive licence to use the Client's Pre-existing IPR for the Term to the extent necessary to enable the Contractor to fulfil its obligations under this Agreement. Save as expressly set out in this clause 6 all Pre-Existing IPR shall remain the sole property of the party who owned, acquired or developed such intellectual property.
- E.** The Contractor shall waive or procure a waiver of any moral rights subsisting in copyright produced under or in performance of this Agreement.
- F.** Nothing in this Agreement shall prohibit or be deemed to prohibit the Contractor from providing services similar to the Services to any party other than the Parties hereto. In no event shall the Contractor be precluded from independently developing for itself, or for others, materials which are competitive with, or similar to, the Services and to use its general knowledge, skills and experience, and any ideas, concepts, know-how, formats, templates, methodologies and techniques that are acquired or used in the course of providing the Services.
- G.** The Contractor shall ensure that all and any necessary consents and/or licences for any software, instrument, modality or methodology are obtained and in place before use for the purposes of this Agreement (to include but not be limited to ensuring that the Client shall be vested with all necessary rights so as to enable the Client to enjoy the benefit of the Services for its business purposes). 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 third party Intellectual Property Rights in so far as any such rights are used for the purposes of this Agreement.

At the request of the Client for and in respect of any such breach, the Contractor shall at its expense and option:

- (i) procure the necessary rights for the Client to continue use;
  - (ii) replace the relevant deliverable with a non-infringing equivalent;
  - (iii) replace the relevant deliverable to make it non-infringing while giving equivalent performance; or
  - (iv) if the Contractor cannot obtain the remedies in (i), (ii) or (iii) above, it may direct the return of the deliverable and refund to the Client Charges paid for such deliverable less a reasonable amount for the Client's use of the deliverable up to the time of return, provided such reasonable amount is due to the owner of the said deliverable, TOGETHER with all losses (whether direct, indirect or consequential) thereby accruing to the Client as a result of the breach.
- H.** Upon the termination of this Agreement for whatever reason, the Contractor shall immediately deliver up to the Client all the Materials prepared up to the date of termination. The provisions of this clause 6 will survive the expiration or termination of this Agreement for any reason.

## 7. CONFIDENTIALITY

- A.** 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:-
1. its professional advisers subject to the provisions of this clause 7; or
  2. as may be required by law; or
  3. as may be necessary to give effect to the terms of this Agreement subject to the provisions of this clause 7; or
  4. 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.
- B.** 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 between the Contractor and the Client dated [insert date] and entered into pursuant to clause 13.2 of the Framework Agreement (“the Confidentiality Agreement”).
- The obligations in this clause 7 will not apply to any Confidential Information:
1. in the receiving Party’s possession (with full right to disclose) before receiving it from the other Party; or
  2. which is or becomes public knowledge other than by breach of this clause; or
  3. is independently developed by the disclosing Party without access to or use of the Confidential Information.
  4. is lawfully received by the disclosing Party from a third party (with full right to disclose).
- C.** 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.
- D.** 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.

- E** The terms of this clause 7 shall survive expiry, completion or termination for whatever reason of this Agreement.

## 8. FORCE MAJEURE

- A.** 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 8B 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, (excluding cyber terrorism and/or cyber-attacks), government regulations, embargoes, explosions, fires, floods, tempests, or failures of supply of electrical power, excluding industrial action of whatever nature or cause (strikes, lockouts and similar) occurring at the Contractor (or Subcontractor or agent) places of business.
- B.** 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:
1. the nature of the Force Majeure Event;
  2. the anticipated delay in the performance of obligations;
  3. the action proposed to minimise the impact of the Force Majeure Event;
- 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.
- C.** If the Force Majeure Event continues for [insert number] calendar days either Party may terminate at 14 days' notice.
- D.** 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.

## 9. TERMINATION

- A.** This Agreement may be terminated by the Client, without liability for compensation or damages, by serving [insert period of time months] written notice to the Contractor. This Agreement may be terminated by the Contractor, without liability for compensation or damages, by serving [insert period of time months] written notice to the Client.
- B.** Either Party shall have the right (in addition to its rights under clause 9(a) 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:
1. 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;
  2. 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;
  3. 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
  4. in circumstances where the Client becomes aware of any registrable interest on the part of the Contractor.
- C.** 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:
- i) that any of the exclusion grounds set out in Regulation 57 of the Regulations apply to the Contractor;
  - ii) that the Contractor (on its own or resulting from its sub-contractors, suppliers or entities on which it relies) comes 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).
- D.** 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.
- E.** 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.
- F.** For the avoidance of doubt, the Minister may terminate this Agreement (but not any Framework Client Contract) in accordance with this Clause 9. A Framework Client may

terminate any Framework Client Contract to which they are a party in accordance with this Clause 9.

## 10. CONTRACT MANAGEMENT

- A.** 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.
- B.** The Contractor agrees to:
  - 1. 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;
  - 2. maintain such records and comply with such reporting arrangements and protocols as required by the Client from time to time;
  - 3. comply with all reasonable directions of the Client; and
  - 4. comply with the service levels and performance indicators set out in Schedule D.
- C.** 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.

## 11. DISPUTES

- A.** 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.
- B.** The Dispute shall be referred as soon as practicable to [insert Contractor contact] within the Contractor and to [insert Client contact] within the Client respectively.
- C.** 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.
- D.** 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 Chartered Institute of Arbitrators, Irish Branch to appoint a mediator.
- E.** 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.

- F.** 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.
- G.** 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.

## **12. GOVERNING LAW, CHOICE OF JURISDICTION AND EXECUTION**

- A.** 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.
- B.** 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.
- C.** The parties agree that the signatures for the execution of this Agreement may be an Advanced Electronic Signature (as defined by the Electronic Commerce Act 2000) or an Electronic Signature (as defined by the Electronic Commerce Act 2000) and either form of electronic signature has the same effect as a handwritten signature

## **13. NOTICES**

- A.** 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.
- B.** All notices shall be deemed to have been served as follows:
  1. if personally delivered, at the time of delivery;
  2. 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
  3. if communicated by email, on the next calendar day following transmission.

## **14. ASSIGNMENT AND SUBCONTRACT**

- A.** 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.
- B.** 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 Party, 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.

#### **15. 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.

#### **16. 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.

#### **17. 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.

#### **18. 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.

#### **19. 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.

#### **20. CONFLICTS, REGISTRABLE INTERESTS AND CORRUPT GIFTS**

- A.** 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.

- B.** 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.
- C.** 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 20C 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.

## 21. ACCESS TO PREMISES

- A.** 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 Licencee and shall vacate the same on completion, termination or abandonment of this Agreement.
- B.** 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.

## 22. EQUIPMENT

- A.** The Contractor shall provide all equipment and materials necessary for the provision of the Services ("Equipment").
- B.** 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.
- C.** The Contractor shall maintain and store all items of Equipment within the Client's premises in a safe, serviceable and clean condition.
- D.** The Contractor shall, at the Client's written request, at its own expense and as soon as reasonably practicable:

- i. 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
  - ii. replace such item with a suitable substitute item of Equipment.
- E. 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.

## 23. NON SOLICITATION

- A. 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.

## 24. CHANGE CONTROL PROCEDURE

- A. 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.
- B. 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.
- C. 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").
- D. All Change Control Notices proposing changes to this Agreement must be submitted for review to the other Party's Contact.
- E. 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.
- F. On approval of an Impact Assessment, this Agreement and/or the Schedules should be updated and revised as appropriate and in writing.
- G. 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.
- H. 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.

## 25. DATA PROTECTION AND SECURITY

The Contractor undertakes to comply with all requirements of data protection law and such guidelines as may be issued by the Data Protection Commission from time to time including but not limited to (i) the Data Protection Acts as amended; and (ii) all EU requirements arising (but not limited to provisions relating to the processing of data, ensuring the security of data and restrictions on the transfer of data abroad) and any legislation and regulations implementing same.

The Contractor acknowledges that it is an independent “Data Controller” within the meaning of and for the purposes of all national and EU data protection legislation including but not limited to Regulation (EU) 2016/679 (“the General Data Protection Regulation”) and any guidance and codes of practice issued by the Data Protection Commission in Ireland from time to time (“the Data Protection Laws”) in respect of any “Personal Data” within the meaning of the Data Protection Laws) provided to the Contractor or received by the Contractor from the Client, any “Data Subject” (within the meaning of the Data Protection Laws) or any other third party for the purposes of or in relation to the provision of the Services under the Agreement.

The Contractor shall ensure that it shall comply at all times with all obligations applicable to it as the Data Controller under the Data Protection Laws.

The Contractor shall take all reasonable steps to ensure that’s a) persons employed by it, and b) other persons employed at its place work, are aware of and comply with this clause.

## 26. ADDITIONAL CONDITION(S)

Without prejudice to the foregoing, the following provisions shall also apply in respect of any Goods supplied under this Contract:

### 26.1 THE GOODS

- A. The Contractor shall deliver the Goods at the time(s), to the location(s) and on the date(s) specified in the Specification or in a purchase order which is raised by the Client.
- B. Unless otherwise stated in the Specification:
  1. Where the Goods are delivered by the Contractor, the point of delivery shall be when the Goods are removed from the transporting vehicle at the Client’s premises as notified to the Contractor. Where the Goods are collected by the Client, the point of delivery shall be when the Goods are loaded on the Client’s vehicle.
  2. Delivery shall include the unloading, stacking or installation of the Goods by the Contractor’s staff, agents or carriers at such place as the Client or a duly authorised person shall reasonably direct.

3. The Goods shall be packed and marked in a proper manner and in accordance with the Client's instructions and any statutory requirements and any requirements of the carriers and manufacturers. In particular the Goods shall be marked with the contract number (or other reference number if appropriate) and the net, gross and tare weights. The name of the contents shall be clearly marked on each container and all containers of hazardous Goods (and all documents relating thereto) shall bear prominent and adequate warnings.
4. Unless expressly agreed to the contrary, the Client shall not be obliged to accept delivery by instalments. If, however, the Client does specify or agree to delivery by instalments, delivery of any instalment later than the date specified or agreed for its delivery shall, without prejudice to other rights or remedies of the Client, entitle the Client to terminate the whole of any unfulfilled part of the Agreement without further liability to the Client.
5. The Client shall be under no obligation to accept or pay for any Goods delivered in excess of the quantity ordered. The risk in any over-delivered Goods shall remain with the Contractor.
6. The Client shall be under no obligation to accept or pay for any Goods supplied earlier than the date for delivery stated in the Specification.

C. Any Contractor pre-printed terms and conditions produced, signed or stamped by either Party and for whatever purpose during the Term are hereby disallowed.

D.

Time of delivery shall be of the essence and if the Contractor fails to deliver the Goods 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 Goods and / or terminate this Agreement in either case without prejudice to any other rights and remedies of the Client.

## 26.2 INSPECTION

A. The Client or its authorised representative may inspect (to include a call for advance samples) or test the Goods either completed or in the process of manufacture, during normal business hours on reasonable notice at the Contractor's premises (including the premises of any Subcontractor or agent) and the Contractor shall provide all reasonable assistance in relation to any such inspection or test free of charge. A failure to make a complaint at the time of any such inspection or test and / or the approval given during or after such inspection or test shall not constitute a waiver by the Client of any rights or remedies in respect of the Goods and the Client reserves the right to reject the Goods in accordance with clause 26.2B.

- B.** The Client may by written notice to the Contractor reject any of the Goods which fail to conform to the approved sample or fail to meet the Specification. Such notice shall be given within a reasonable time after delivery to the Client of such Goods. If the Client rejects any of the Goods pursuant to this clause the Client may (without prejudice to other rights and remedies) either:
1. treat the Agreement as discharged by the Contractor's breach and obtain a refund (if payment for the Goods has already been made) from the Contractor in respect of the Goods concerned together with payment of any additional expenditure reasonably incurred by the Client in obtaining other Goods in replacement provided that the Client uses its reasonable endeavours to mitigate any additional expenditure in obtaining replacement Goods.
- or
2. have such Goods promptly, and in any event within 5 calendar days, either repaired by the Contractor or replaced by the Contractor with Goods which conform in all respects with the approved sample or with the Specification and due delivery shall not be deemed to have taken place until such repair or replacement has occurred.
- C.** Rejected Goods shall be removed by the Contractor from the Client within 5 calendar days from the date of the notification to the Contractor of their rejection. In the event of failure by the Contractor to remove Goods within 5 calendar days of such notification, the Client may dispose of such Goods as he sees fit and pending such removal, the Goods will remain with the Client at the risk of the Contractor. Any costs incurred by the Client relating to such disposal shall at the option of the Client be borne by the Contractor.
- D.** For the avoidance of doubt, the Client will be deemed to have accepted the Goods if it expressly states the same in writing or fails to reject the Goods in accordance with clause 26.2B.
- E.** The issue by the Client of a receipt note for the Goods shall not constitute any acknowledgement of the condition, quantity or nature of those Goods, or the Client's acceptance of them.
- F.** The Contractor hereby guarantees the Goods in accordance with the manufacturer's warranty as set out in a contract or in an order from the date of delivery (the "Guarantee Period") against faulty materials or workmanship. The Client shall within such Guarantee Period, or within 14 calendar days thereafter, give notice in writing to the Contractor of any defect in any of the Goods as may have arisen during such Guarantee Period under proper and normal use. The Contractor shall (without prejudice to any other rights and remedies which the Client may have) promptly remedy such defects (whether by repair or replacement as the Client shall elect) free of charge, which replaced or repaired Goods shall also have the benefit of this clause for the Guarantee Period.

## 26.3 RISK AND TITLE

- A. The Goods ordered under this Agreement shall be delivered to any location specified by the Client, in Ireland, without limit to the number of locations, in the quantities and by the dates specified in the orders, unless otherwise stated. Any extension of the delivery time shall not constitute a general waiver or acquiescence on the part of the Client. All such Goods shall be delivered free of encumbrances or retention of title clauses or similar provision. The Charges quoted shall be based on the understanding that the Goods are to be delivered carriage paid to the various locations as specified in the order, along with the necessary delivery documentation. Pending such delivery, the Goods shall remain at the risk of the Contractor.
- B. Title shall pass to the Client on payment for the Goods.

#### 26.4 NOTIFICATION OF USE OF AI SYSTEM

- A. "**AI Act**" means Regulation (EU) 2024/1689 of the European Parliament and of the Council of 13 June 2024 laying down harmonised rules on artificial intelligence;

"**AI System**" means a machine-based system designed to operate with varying levels of autonomy and that may exhibit adaptiveness after deployment and that, for explicit or implicit objectives, infers, from the input it receives, how to generate outputs such as predictions, content, recommendations, or decisions that can influence physical or virtual environments;

the AI System is transparent and interpretable such that its output can be traced back to the input data

- B. USE OF AI SYSTEM

1) The Service Provider shall only use an AI System as part of the Services in accordance with this Clause 28 and in accordance with Applicable Law. For the avoidance of doubt, the use of an AI System as part of the Services is subject to this services agreement and confidentiality Agreement.

2) The Service Provider shall not, without prior written notification to the Framework Client, use an AI System as part of the Services. If requested by the Framework Client, the Service Provider shall provide any information and assistance that the Framework Client may require in relation to the proposed use of the AI System.

3) Prior to the use of an AI System as part of the Services, the Service Provider shall train and test the AI System in accordance with Best Industry Practice or shall procure that the AI System is trained and tested in accordance with Best Industry Practice.

4) The Service Provider warrants, represents and undertakes that:

- a. the use of any AI System as part of the Services is compliant with the AI Act
- b. it has and will continue to comply with Data Protection Legislation in respect of any AI System used as part of the Services and any personal data that is processed by any AI System used as part of the Services; and
- c. it has obtained and will continue to obtain all consents, licences and permissions for the use of any data, including training, test and verification data used as part of the AI System;
- d. no viruses, disabling code (including code intended by the Supplier to limit or prevent use of the AI System) or malicious software (including spyware) are contained in the AI System;
- e. the development, installation, use or possession of the AI System will not infringe the Intellectual Property of any third party;
- f. it shall not use or deploy in the Services any (i) AI System that is prohibited under Article 5 of the AI Act, or (ii) high-risk AI System under Annex II or III of the AI Act;
- g. it shall not use any of the Framework Client's information in the training of any AI System;
- h. the AI System will not provide any output which causes unlawful discrimination, or is inaccurate, incomplete, incorrect or offensive; and
- i. it has and will continue to comply with Data Protection Legislation in respect of any AI System used as part of the Services and any personal data that is processed by any AI System used as part of the Services; and
- j. it has obtained and will continue to obtain all consents, licences and permissions for the use of any data, including training, test and verification data used as part of the AI System;
- k. no viruses, disabling code (including code intended by the Supplier to limit or prevent use of the AI System) or malicious software (including spyware) are contained in the AI System;
- l. the development, installation, use or possession of the AI System will not infringe the Intellectual Property of any third party;
- m. it shall not use or deploy in the Services any (i) AI System that is prohibited under Article 5 of the AI Act, or (ii) high-risk AI System under Annex II or III of the AI Act;
- n. it shall not use any Contracting Authority information in the training of any AI System;
- o. the AI System will not provide any output which causes unlawful discrimination, or is inaccurate, incomplete, incorrect or offensive; and

- p. the AI System is transparent and interpretable such that its output can be traced back to the input data.

**Schedule B: Services: The Specification**

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[Insert when completing contract]

**Schedule C: Charges**

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[Insert when completing contract]

**Schedule D: Service Levels**

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[Insert when completing contract]

## Schedule E: Data Protection

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All relevant data protection information is included at Schedule F:

## Appendix 6: Confidentiality Agreement

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THIS AGREEMENT is made on the [date] day of [month] 20 [year] BETWEEN:

The [insert name of Contracting Authority], of [insert address] (hereinafter “the Contracting Authority”) of the one part;  
and

[Contractor’s legal name: to be completed on signing.], of [address: to be completed on signing.] (hereinafter called “the Contractor”) of the other part.

### WHEREAS

- A. By Request for Tenders dated [insert date] entitled [insert title] (the “RFT”) the Contracting Authority invited tenders (“Tenders”) for the provision of the Goods/Services described in Appendix 1 to the RFT (the “Goods” “Services”) (“the Competition”). The Contractor submitted a response to the RFT dated the [insert date of Tender].

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 Contractor

PROVIDED 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 Contracting 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.

*(IF YOU ARE NOT CONSENTING TO A THIRD PARTY PROCESSOR - DELETE IF NOT IN USE)*

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

*(OR IF USING A THIRD PARTY PROCESSOR - DELETE IF NOT IN USE)*

The Contracting Authority 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 11 as between the Contracting Authority 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 11.

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.

|                                                                                                                                            |                                                                                    |
|--------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------|
| <div>SIGNED for and on behalf of the Contracting Authority</div> <div></div> <div>_____</div> <div>(being a duly authorised officer)</div> | <div>SIGNED for and on behalf of the Contractor</div> <div></div> <div>_____</div> |
| <div>Witness</div> <div></div>                                                                                                             | <div>Witness</div> <div></div>                                                     |