



INVITATION TO TENDER DOCUMENT

BEAUMONT HOSPITAL

OPEN PROCEDURE

SINGLE PARTY FRAMEWORK AGREEMENT

FOR

THE SUPPLY OF PAINT AND RELATED PRODUCTS

MAXIMUM POTENTIAL DURATION OF AGREEMENT: FOUR YEARS

DEADLINE DATE FOR RECEIPT OF TENDERS: 28/09/2026 AT 12.00 NOON (LOCAL TIME)

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

DISCLAIMERS

All information contained in this Invitation to Tender document is provided in the strictest confidence and has been made available solely for the purpose of facilitating the production and submission of tenders. No party may disclose the contents of this document without the express permission of Beaumont Hospital (hereinafter 'the Contracting Authority').

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

The Contracting Authority reserves the right to discontinue the procurement process at any time.

Without prejudice to the principle of equal treatment, the Contracting Authority is not obliged to engage in a clarification process in respect of tender submissions with missing or incomplete information. Therefore, tenderers are advised to ensure that they return comprehensive tender submissions in order to avoid the risk of elimination from the competition.

CHECKLIST FOR TENDER SUBMISSIONS

In order to allow the Contracting Authority to fully evaluate completed tender submissions, Tenderers are advised to ensure that their responses include all of the following information:

All information required under each Award Criterion (Section 6)	
The completed Pricing Schedule (Appendix 2)	
The completed and signed Form of Tender (Appendix 1)	
The completed European Single Procurement Document (ESPD) (Appendix 3)	
All other information required in connection with this competitive process.	

This checklist has been provided for guidance purposes only and the Contracting Authority accepts no responsibility for omissions of any description. Tenderers are advised to read this Invitation to Tender document and its appendices in full in order to provide a comprehensive and compliant response. **In particular, in addition to all procedural forms that must be completed, tenderers are advised that a response must be received to each award criterion detailed in Section 6 of this document.**

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1. INTRODUCTION

1.1 About the Contracting Authority

Beaumont Hospital, incorporating St. Joseph's Hospital Raheny, employs approximately 4,300 whole-time equivalent staff and has a total capacity of 913 beds with an additional treatment capacity of 40 places. It is the principal teaching hospital for the Royal College of Surgeons in Ireland and enjoys close links with Dublin City University, especially in the area of nurse training, and with other academic institutions in respect of training and research. Further information regarding the hospital is available online: www.beaumont.ie/aboutus.

1.2 About the Competition

The Contracting Authority is employing the open procedure to establish this framework agreement. In accordance with the provisions governing the conduct of the open procedure, any interested economic operator may tender for appointment as the successful framework member. In the first instance, tenders received will be assessed against the grounds for exclusion and eligibility criteria and rules contained in Sections 4 and 5 of this document, respectively. Tenders that are not eliminated under the grounds for exclusion and that comply with the requirements of the eligibility criteria will be considered for appointment to the framework agreement in accordance with the award criteria, rules and weightings contained in Section 6 of this document, which are intended to identify the most economically advantageous tender.

1.3 About the Framework Agreement

A framework agreement constitutes a means of establishing overall terms and conditions in accordance with which, for a specified duration, individual contracts may or not be awarded. The initial contract to be awarded under this framework agreement comprises the supply of all required products for a period of one year. It is emphasised that neither this framework agreement nor the associated initial contract shall constitute any guarantee to purchase a specific quantity of supplies from a particular economic operator. Indeed, the Contracting Authority reserves the right to operate outside of the framework agreement at its discretion, particularly should it become apparent that doing so would offer greater value for money. Notwithstanding the foregoing, the Contracting Authority has adopted a framework agreement approach to this project with the intention of leveraging efficiencies and maximising cost savings over a four year period.

1.4 Duration of the Framework Agreement

This framework agreement will have a maximum potential duration of four years, while the initial contract awarded under the framework agreement shall have a duration of one year. For the avoidance of doubt, once the initial contract has been executed by the successful framework member, additional contracts awarded under this framework agreement may extend beyond the expiry of the agreement itself. Once the initial contract has been executed by the successful framework member, matters such as the performance of the successful framework member, budgetary considerations and the continued strategic appropriateness of the agreement will be

assessed in order to determine the extent to which the framework agreement will be utilised for its four-year duration.

1.5 Award to Runner-up

In the event that, following the award of this single-party framework agreement, the successful framework member cannot, for whatever reason, execute the initial contract to the satisfaction of the Contracting Authority, the Contracting Authority reserves the right to award membership of the agreement to the next highest-ranked tenderer emerging from this competitive process at any time during the tender validity period. This shall be without prejudice to the right of the Contracting Authority to terminate the agreement and commence a new competitive process.

1.6 Termination

Once established, there is no obligation upon the Contracting Authority to make use of this framework agreement. Notwithstanding this fact, the framework agreement may be terminated in accordance with the framework agreement terms and conditions, a draft version of which is contained in Appendix 4 of this document.

2. SPECIFICATION OF REQUIREMENTS

2.1 Introduction to Requirements

The Contracting Authority intends to establish a single party framework agreement for the supply of paint and related products for use in Beaumont Hospital. The competition relates to the provision of material such as paint, varnish, brushes, rollers and trays.

2.2 Detailed Specification of Requirements

A detailed specification of products required is contained in Appendix 2 – Pricing Schedule. It is emphasised that these products are not listed exhaustively; the Contracting Authority shall have the right to procure any additional related products falling within the advertised scope of the framework agreement (i.e., paint and related products for use in Beaumont Hospital) from the successful framework member.

2.3 Quality of Materials/Goods and Product Samples

All products and/or materials must be of good quality, must meet BS Standard (where applicable) and comply with all legislative provisions, must meet the Contracting Authority's requirements and must be suitable for their intended purpose. Tenderers are advised that the primary objective of this competition is to secure quality goods and materials at an economically advantageous price.

As more fully explained in Section 6 of this document, the Contracting Authority shall take every step necessary to satisfy itself of the quality of all products and/or materials proposed by tenderers. Once the framework agreement has been established, should the Contracting Authority determine that the products supplied by the successful framework member are of an insufficient quality when considered in the context of their intended purpose, these products must be replaced immediately at no additional cost to the Contracting Authority. Payment for the products will be withheld until the Contracting Authority is satisfied with the quality of the products and/or materials that have been supplied. Persistent issues in this regard may jeopardise the successful framework member's continued membership of the framework agreement.

Tenderers will be requested to provide samples of products for trials and these samples must be provided within an acceptable timeframe to Beaumont Hospital. Further details ARE provided in Section 6 below. **All samples must be provided free of charge to facilitate the evaluation process; on the basis that a failure to provide a sample will prevent the Contracting Authority's evaluation team from fully evaluating the technical merit of equipment proposed, a failure to provide a sample where a sample is requested may, at the discretion of the Contracting Authority, result in the elimination of the tender submission in question.**

2.4 Minor Variations

In accordance with Regulation 72 of the European Union (Award of Public Authority Contracts) Regulations 2016, any award decision by the Contracting Authority may be contingent upon the

successful tenderer(s) designate agreeing to propose alternative options for some products (i.e., should a small number of products be deemed unacceptable). Such alternatives must be provided at the prices tendered by the successful tenderer designate. The Contracting Authority's discretion in this regard shall have no bearing upon the obligation of all tenderers to ensure that the products proposed in response to this Invitation to Tender document comply in full with the specification of requirements contained in the Invitation to Tender document.

2.5 Brand Names and Trade Descriptions

Any specifications provided by the Contracting Authority comprising a reference to a particular manufacturer, make, model, brand name or proprietary process are to be interpreted as being accompanied by the phrase 'or equivalent.' For the avoidance of doubt, all products of comparable technical functionality and characteristics will be considered by the Contracting Authority.

2.6 Response Times

The successful framework member will be required to take all steps necessary to ensure that a prompt response is provided when required by the Contracting Authority. As a general obligation, time shall be of the essence in respect of all deliveries. For requirements deemed routine by the Contracting Authority, delivery shall generally be required within two working days or, in the case of urgent requests, within one working day. No delivery charges shall be payable for any deliveries, whether routine or urgent.

2.7 Account Management Obligations

The successful framework operator will be required to nominate a named Contract Manager to oversee the successful execution of all services performed under this framework agreement. Additionally, the successful framework operator will be expected to adhere to the provisions of an appropriate Service Level Agreement which will address, at a minimum, the following elements:

2.7.1 Complaints

The successful framework member shall be required to deal with any complaints promptly, and shall have in place suitable and appropriate mechanisms regarding the resolution of any situations in which a supplied product is deemed to be of insufficient quality by the Contracting Authority.

2.7.2 Availability of Stock

Of primary importance to the Contracting Authority is the timely availability of routine products of suitable quality. In this regard, the successful framework member shall be expected to hold, or to have available, a sufficient quantity of stock to meet all requirements of the Contracting Authority.

2.7.3 Invoicing Arrangements

Invoices shall be submitted to the Contracting Authority monthly in arrears and shall accurately detail the types and quantities of all products supplied to the Contracting Authority for the period in question.

2.7.4 Sourcing Additional Products

From time-to-time, and in addition to the range of products held in stock by the successful framework member, the successful framework member may be required to co-operate with the Contracting Authority regarding the sourcing of additional or ad-hoc products. In this regard, the successful framework member must be capable of securing supply from any third-parties with minimal delays.

2.8 Delivery Protocols

The successful framework member shall deliver all products required under this framework agreement to the location specified by the Contracting Authority. All products shall be packed and marked in a proper manner, in accordance with any statutory requirements and any requirements of the carrier and/or manufacturer of the products. The name of the products shall be clearly marked on each container. Delivery shall include the unloading and stacking of the products by the successful framework member at such place as the Contracting Authority reasonably directs.

For the avoidance of doubt, the Contracting Authority shall be deemed to have accepted the products only if it expressly states this fact in writing, or if it fails to expressly reject the products by appropriately informing the successful framework member. The issue of a receipt note by the Contracting Authority shall not constitute any acknowledgement of the condition, quantity or nature of the products or the Contracting Authority's acceptance of them.

2.9 Warranty

The successful framework member shall guarantee all products supplied under this framework agreement for a period of at least twelve months from the date of delivery against faulty materials. The Contracting Authority shall, within such guarantee period or within 14 calendar days thereafter, give notice in writing to the successful framework member of any defect in any of the products that may have arisen during the guarantee period under proper and normal use. The successful framework member shall promptly remedy such defects (whether by repair or replacement as the Contracting Authority shall elect), free of charge. Any products repaired or replaced in accordance with this provision shall also be covered by a guarantee period of at least twelve months in duration.

3. INSTRUCTIONS TO TENDERERS

3.1 Compliance with Instructions to Tenderers

Tenderers are required to comply with these Instructions to Tenderers when preparing their tender submissions. By submitting a tender, each tenderer acknowledges and agrees to be bound fully by these Instructions to Tenderers. Non-compliance with these Instructions may, and in stated circumstances shall, invalidate the submitted tender, subject always to the discretion of the Contracting Authority. The decision of the Contracting Authority in relation to compliance with these Instructions to Tenderers is final and binding.

3.2 Ambiguities, Discrepancies, Errors or Omissions in the Tender Document

If you consider that you are missing any documents or information, the absence of which would preclude you from submitting a comprehensive tender, or should you become aware of any ambiguity, discrepancy, error or omission in this Invitation to Tender document, please raise the matter via the questions and answers function of the Irish Government's Procurement Opportunities Portal (www.etenders.gov.ie) as soon as possible.

3.3 Queries

All queries regarding this competition should be submitted via the questions and answers function of the Irish Government's Procurement Opportunities Portal (www.etenders.gov.ie). The closing date for receipt of such queries is **17:00 p.m. on 18/09/2026**. The following additional conditions govern the submission of queries:

- (a) No approach of any kind should be made to any other person within, or associated with, the Contracting Authority in connection with this Invitation to Tender. Any such approach may, at the absolute discretion of the Contracting Authority, result in the elimination of the tenderer in question from this process.
- (b) The Contracting Authority will endeavour to respond to all reasonable queries received but does not undertake to respond to all queries indiscriminately. In particular, queries seeking interpretation of this Invitation to Tender document may not result in a response.
- (c) In the event that a tenderer considers a query confidential or commercially sensitive, it must mark the query accordingly. If the Contracting Authority considers, at its absolute discretion, that the query or related response should be properly regarded as confidential or commercially sensitive, the nature of the query and its response will be held as confidential, subject to the Contracting Authority's obligations under law.

If the Contracting Authority is of the opinion that it would be inappropriate to answer the query on a confidential basis, it will notify the tenderer accordingly and require the tenderer to either withdraw the query or agree to its release, accompanied by a response, to all tenderers.

3.4 Qualification of Tenders

Please note that qualifications to a tender submission may render the tender submission invalid.

3.5 Tender Submission

The deadline date and time for receipt of tenders is **28/09/2026** at 12.00 noon (local time). Tenders must be submitted through the eTenders web portal (www.etenders.gov.ie) **only**. The completed tender submission, which is to include all information identified in the Checklist for Tender Submissions contained in this Invitation to Tender document and all other information required by this Invitation to Tender document, must be compiled in such a manner such that it can be read immediately upon opening of the post-box. Tenderers must ensure electronic documents are not corrupt. The Contracting Authority is not responsible for corruption in electronic documents.

Each tenderer is fully responsible for the uploading of the tender document to the post-box. Please note all documents contained in the tender submission must be uploaded together in one zipped file. The post-box will close automatically at 12.00 noon exactly on the closing date; in this regard, tenderers are advised to commence the uploading process substantially in advance of this time to avoid missing the deadline. E-mailed, faxed, hard copy, posted or late tenders will not be considered.

3.6 Extension of Tender Period

The Contracting Authority reserves the right, at its sole discretion, to revise the deadline date for receipt of tender submissions by giving notice in writing to tenderers at any point up to the deadline date contained in this Invitation to Tender document.

3.7 Notice of Addenda

The Contracting Authority reserves the right to update or alter the information contained in this document at any time, but not later than seven (7) days before the deadline date for the receipt of tender submissions. Any such notification will automatically become part of this Invitation to Tender document.

3.8 Modifications to Tenders (Prior to Deadline Date for Receipt of Tenders)

Modifications to tender submissions will be accepted in the form of supplementary information and/or addenda, provided they are uploaded to the eTenders platform (www.etenders.gov.ie) before the deadline date for the receipt of tender submissions.

3.9 Cost of Preparation of Tender Submissions

The Contracting Authority will not be liable for any costs incurred by tenderers in the preparation and submission of tenders and/or any associated work effort or costs (legal or otherwise) arising as a

result of participation in this competition, regardless of the outcome or conduct of the competitive process.

3.10 Clarification of Abnormally Low Tenders

In the event that the Contracting Authority considers the tender submission to be commercially unsustainable or otherwise problematic in light of the tendered price or any other financial matter, the tenderer shall be invited to provide clarification to the Contracting Authority in respect of all elements of the tender submission that the Contracting Authority deems relevant. Any failure to satisfactorily comply with such a request, or to satisfactorily address the Contracting Authority's concerns, may, at the discretion of the Contracting Authority, result in the elimination of the tender in question.

3.11 Tender Validity Period

To allow sufficient time for tender assessment, a tender validity period of twelve months is required, commencing on the deadline date for receipt of tender submissions.

3.12 Currency

Tender prices and any other financial information must be submitted in Euro (€) only. All invoices and payments will be in Euro (€) only.

3.13 Confidentiality

The distribution of this Invitation to Tender document is for the sole purpose of obtaining tender submissions as referred to therein. The distribution of this document does not grant permission or licence to use the documents for any other purpose. Tenderers are required to treat the details of all documentation provided in connection with this competition as private and confidential. Similarly, the Contracting Authority undertakes to use all reasonable endeavours to ensure that any confidential information received from tenderers is not disclosed to third parties, subject always to its obligations under law and the applicable provisions of the Freedom of Information Acts.

In this regard, tenderers are asked to consider if any of the information supplied by them in response to this Invitation to Tender document should not be disclosed because of its sensitivity. Tenderers must specify the precise information that is sensitive and the reasons for its sensitivity. Tenderers are advised that it is not sufficient to merely include a statement of confidentiality encompassing all information contained in a tender submission.

The Contracting Authority cannot guarantee that any information provided by tenderers, either in response to this Invitation to Tender or in the course of any framework agreement established as a result thereof, will not be released pursuant to the Contracting Authority's obligations under law, including the Freedom of Information Acts 2014, European Procurement Directives and all Irish procurement legislation and guidance. The Contracting Authority accepts no liability whatsoever in

respect of any information provided that is subsequently released or in respect of any consequential damage suffered as a result of such obligations.

3.14 Conflict of Interest

Any conflict of interest involving a tenderer must be fully disclosed to the Contracting Authority. Any registrable interest involving the tenderer and the Contracting Authority, or employees of the Contracting Authority or their relatives, must be fully disclosed in the tender submission. In the event that the tenderer becomes aware of the conflict of interest only after a tender submission has been made, the conflict of interest must be immediately disclosed to the Contracting Authority. The terms 'registrable interest' and 'relative' will be interpreted in accordance with Section 2 of the Ethics in Public Office Act, 1995. Failure to disclose a conflict of interest may disqualify a tenderer or invalidate the establishment of any framework agreement, depending upon when the conflict of interest is made known to the Contracting Authority.

3.15 National Legislation

Tenderers are advised that national legislation applies in respect of matters such as employment, working hours, official secrets, data protection and health and safety. Tenderers must have regard to statutory terms relating to minimum pay and to legally binding industrial or sectorial agreements in preparing tenders. Moreover, tenderers are advised that the laws of Ireland will govern this competitive process. This competitive process, any resulting framework agreement and any resulting contract will be subject to the exclusive jurisdiction of the Irish courts.

3.16 Determination of Responsiveness

After opening tender submissions, the Contracting Authority will determine whether each tender submission is substantially responsive to the requirements of this Invitation to Tender document. If a material deviation exists that limits in any substantial way the Contracting Authority's rights or the tenderer's obligations under any framework agreement to be established, the tender shall be rejected.

3.17 Clarification of Tenders

To assist in the evaluation and associated comparison of tender submissions, the Contracting Authority may ask tenderers to clarify and supplement certain aspects of their tender submissions, including financial proposals. A request for such clarifications should not be construed as an indication of success in the competition.

3.18 Interference

Any effort by a tenderer to unduly influence the Contracting Authority, its personnel or any other relevant persons or bodies regarding the process of examination, clarification, evaluation and comparison of tenders and any decisions concerning the establishment of the framework agreement shall result in the elimination of said tenderer's tender submission. In accordance with Section 38 of

the Ethics in Public Office Act 1995, any money, gift or other consideration from a person seeking success in a public tendering competition will be deemed to have been paid or given corruptly unless the contrary is proved.

3.19 Prohibition on Canvassing

Any tenderer who, in connection with this competition:

- (a) offers any inducement, fee or reward to any member, officer or employee of the Contracting Authority or any person acting as an advisor to the Contracting Authority in connection with the competition; or
- (b) takes any step constituting a breach of the Prevention of Corruption Acts 1989 to 2010; or
- (c) canvasses any of the persons referred to in paragraph (a) above in connection with the competition; or
- (d) contacts any officer or employee of the Contracting Authority prior to the framework agreement being established about any aspect of the competition in manner not permitted by this Invitation to Tender document

may be eliminated from the competition, without prejudice to any other civil remedies available to the Contracting Authority and without prejudice to any criminal liability such conduct by a tenderer may attract.

3.20 Prohibition on Collusion

Any tenderer who, in connection with this competition:

- (a) fixes or adjusts the amount or terms of his/her tender submission by or in accordance with any agreement or arrangement with any other tenderer (other than a member of his own grouping or consortium); or
- (b) enters into any agreement or arrangement with any other tenderer that he/she shall refrain from tendering or as to the amount or terms of any tender to be submitted; or
- (c) causes or induces any person to enter into such an agreement or arrangement as referred to in paragraphs (a) or (b) above; or
- (d) informs any tenderer of the amount, approximate amount or terms of any rival tender; or
- (e) canvasses any other tenderer in connection with this competition; or

- (f) offers or agrees to pay or give, or does pay or give, any sum of money, inducement or valuable consideration directly or indirectly to any person for any information in connection with any rival tender submission; or
- (g) communicates to any person other than the Contracting Authority the amount or approximate amount or terms of his proposed tender submission (except in the event that such disclosure is made in confidence and is necessary for the preparation of the tender submission); or
- (h) contacts any officer or employee of the Contracting Authority prior to the framework agreement being established about any aspect of the competition in manner not permitted by this Invitation to Tender document

may be eliminated from the competition, without prejudice to any other civil remedies available to the Contracting Authority and without prejudice to any criminal liability such conduct by a tenderer may attract.

3.21 Notification of Tender Evaluations

All tenderers will be informed in writing of the outcome of this tender competition following the completion of the evaluation of tender submissions.

4. GROUNDS FOR EXCLUSION

4.1 Grounds for Exclusion

This Section of the Invitation to Tender document details the grounds for exclusion that apply to this competition in accordance with Regulation 57 of the European Union (Award of Public Authority Contracts) Regulations 2016.

A tenderer's position under each of these grounds will be assessed by reference to the completed European Single Procurement Document (ESPD) contained in Appendix 3 of this document. The completed ESPD will comprise a 'self declaration' by the tenderer that the grounds for exclusion detailed hereunder do not apply. The information contained in this Section of the Invitation to Tender document informs tenderers of how the completed ESPD will be interpreted by the Contracting Authority.

For the avoidance of doubt, the Contracting Authority reserves the right to request any tenderer to provide all supporting documentation necessary to demonstrate the inapplicability of any ground for exclusion detailed hereunder. Such a request may be made at any point during the competitive process. **In particular, before reaching an award decision, the Contracting Authority may require a successful tenderer to provide all supporting documentation necessary to demonstrate the inapplicability of any ground for exclusion detailed hereunder.** In the event that the supporting documentation demonstrates that a ground for exclusion does, in fact, apply, the tenderer will be eliminated from this competition.

(Grounds detailed overleaf)

EXCLUSION GROUND		REG.
(i)	An economic operator will be excluded from this competition if the economic operator, or a member of its administrative, management or supervisory body, has been convicted of participation in a criminal organisation, within the meaning of Article 2 of Council Framework Decision 2008/841/JHA of 24 October 2008 on the fight against organised crime.	57.1(a)
(ii)	An economic operator will be excluded from this competition if the economic operator, or a member of its administrative, management or supervisory body, has been convicted of corruption, as defined by Regulation 57.1(b) of the European Union (Award of Public Authority Contracts) Regulations 2016.	57.1(b)
(iii)	An economic operator will be excluded from this competition if the economic operator, or a member of its administrative, management or supervisory body, has been convicted of fraud, within the meaning of Article 1 of the Convention on the protection of the European Communities' financial interests drawn up under the Council Act of 16 July 1995.	57.1(c)
(iv)	An economic operator will be excluded from this competition if the economic operator, or a member of its administrative, management or supervisory body, has been convicted of terrorist offences or offences linked to terrorist activities, within the meaning of Articles 1 and 3 respectively of Council Framework Decision 2002/475/JHA of 13 June 2002 on combating terrorism or inciting or aiding or abetting or attempting to commit an offence referred to in Article 4 of that Council Framework Decision.	57.1(d)
(v)	An economic operator will be excluded from this competition if the economic operator, or a member of its administrative, management or supervisory body, has been convicted of money laundering or terrorist financing, within the meaning of Article 1 of Directive 2005/60/EC of the European Parliament and of the Council of 26 October 2005 on the prevention of the use of the financial system for the purpose of money laundering and terrorist financing.	57.1(e)
(vi)	An economic operator will be excluded from this competition if the economic operator, or a member of its administrative, management or supervisory body, has been convicted of child labour and other forms of trafficking in human beings, within the meaning of Article 2 of Directive 2011/36/EU41 of the European Parliament and of the Council of 5 April 2011 on preventing and combating trafficking in human beings and protecting its victims and replacing Council Framework Decision 2002/629/JHA.	57.1(f)
<i>NOTE #1: In respect of each of the exclusion grounds detailed under points (i) to (vi) above, an economic operator may provide evidence to the effect that it has undertaken sufficient measures to demonstrate its reliability, despite the existence of the ground for exclusion. Where, in the opinion of the Contracting Authority, such evidence is sufficient, the economic operator shall not be excluded from the competition. Appropriate evidence is detailed in Regulation 57.14 of the European Union (Award of Public Authority Contracts) Regulations 2016.</i> <i>NOTE #2: In the event that a conviction listed under points (i) to (vi) above occurred more than five years prior to the date of advertisement of this competition, the relevant ground for exclusion shall not apply.</i>		

(vii)	An economic operator will be excluded from this competition if the economic operator is in breach of its obligations relating to the payment of taxes or social security contributions and said breach has been established by a judicial or administrative decision having final and binding effect in accordance with the law of the country in which the operator is established or the Member State of the Contracting Authority. <i>NOTE #1: This provision will not apply when the economic operator has fulfilled its obligations by paying, or entering into a binding arrangement with a view to paying, the taxes or social security contributions due, including, where applicable, any interest accrued or fines.</i> <i>NOTE #2: At the discretion of the Contracting Authority, this provision may not apply when only minor amounts of taxes or social security contributions are in question or when the economic operator did not have time, between being made aware of the breach of obligations and the commencement of this competition, to pay, or to enter into an arrangement to pay, the amounts in question.</i> <i>NOTE #3: In the event that the breach of obligations referred to above occurred more than five years prior to the date of advertisement of this competition, this ground for exclusion shall not apply.</i>	57.3(a), 57.3(b)
(viii)	An economic operator will be excluded from this competition if the economic operator, in performance of a public contract, has not complied with all applicable obligations in the fields of environmental, social and labour law that apply at the place where the works are carried out or the services provided and that have been established by European Union law, national law, collective agreements or by international, environmental, social and labour law.	57.8(a)
(ix)	An economic operator will be excluded from this competition if the economic operator is bankrupt or is the subject of insolvency or winding-up proceedings, where its assets are being administered by a liquidator or by the court, where it is in an arrangement with creditors, where its business activities are suspended or it is in any analogous situation arising from a similar procedure under the law of the State. <i>NOTE: The Contracting Authority may, at its discretion, decide not to exclude an economic operator on this ground for exclusion if it is possible for the Contracting Authority to establish that the economic operator would be able to perform the contract, taking into account national rules, measures and laws relating to the continuation of business.</i>	57.8(b)
(x)	An economic operator will be excluded from this competition where the Contracting Authority can demonstrate, by appropriate means, that the economic operator is guilty of grave professional misconduct, which renders its integrity questionable.	57.8(c)
(xi)	An economic operator will be excluded from this competition where the Contracting Authority has sufficiently plausible indications to conclude that the economic operator has entered into arrangements with other economic operators aimed at distorting competition.	57.8(d)

(xii)	An economic operator will be excluded from this competition where a conflict of interest, as defined by Regulation 34 of the European Union (Award of Public Authority Contracts) Regulations 2016, cannot be effectively remedied by other, less intrusive, measures.	57.8(e)
(xiii)	An economic operator will be excluded from this competition where a distortion of competition from the prior involvement of the economic operator in the preparation of the procurement procedure cannot be remedied by other, less intrusive, measures.	57.8(f)
(xiv)	An economic operator will be excluded from this competition where the economic operator has 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.	57.8(g)
(xv)	An economic operator will be excluded from this competition where the economic operator has been 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, has withheld such information or is not able to submit supporting documents required under Regulation 59 of the European Union (Award of Public Authority Contracts) Regulations 2016	57.8(h)
(xvi)	An economic operator will be excluded from this competition where the economic operator has undertaken to unduly influence the decision-making process of the Contracting Authority, or obtain confidential information that may confer upon it undue advantages in the procurement procedure or where the economic operator has negligently provided misleading information that may have a material influence on decisions concerning exclusion, selection or award.	57.8(i)
<i>NOTE #1: In respect of each of the grounds for exclusion detailed under points (viii) to (xvi) above, an economic operator may provide evidence to the effect that it has undertaken sufficient measures to demonstrate its reliability, despite the existence of the ground for exclusion. Where, in the opinion of the Contracting Authority, such evidence is sufficient, the economic operator shall not be excluded from the competition. Appropriate evidence is detailed in Regulation 57.14 of the European Union (Award of Public Authority Contracts) Regulations 2016.</i> <i>NOTE #2: In respect of each of the exclusion grounds detailed under points (viii) to (xvi) above, in the event that the situation referred to occurred more than three years prior to the date of advertisement of this competition, the relevant ground for exclusion will not apply.</i>		

5. ELIGIBILITY CRITERIA

5.1 Eligibility Criteria and Associated Rules

The Contracting Authority is using the open procedure for the establishment of this framework agreement. While any interested party may submit a tender, only those tenderers meeting the stated levels of financial and technical capacity will be considered for appointment to this framework agreement.

In order to enable the Contracting Authority to ascertain tenderers' financial and technical capacity, all tenderers must complete the ESPD contained in Appendix 3 of this document. In particular, Part IV of the ESPD constitutes a 'self declaration' to the effect that the tenderer complies with each of the eligibility criteria and rules detailed hereunder. Once the ESPD has been completed, no additional response to these eligibility criteria is required.

For the avoidance of doubt, the Contracting Authority reserves the right to request any tenderer to provide all supporting documentation necessary to demonstrate compliance with all eligibility criteria detailed hereunder. Such a request may be made at any point during the competitive process. **In particular, before reaching an award decision, the Contracting Authority may require a successful tenderer to provide all supporting documentation necessary to demonstrate compliance with all eligibility criteria detailed hereunder.** In the event that the supporting documentation demonstrates that any eligibility criterion is not complied with, the tenderer will be eliminated from this competition.

(Criteria detailed overleaf)

(a) INSURANCES

REQUIREMENT
It is a requirement that tenderers either possess the following forms and levels of insurance, or are in a position to implement the following forms and levels of insurance if successful in the competition: (a) Employer's Liability Insurance - €6.5m (b) Public Liability Insurance - €3m (c) Product Liability Insurance - €3m
ESPD REFERENCE AND MEANS OF PROOF
By completing the ESPD contained in Appendix 3, tenderers are confirming that they either possess the forms and levels of insurance indicated or, alternatively, that they are in a position to obtain the forms and levels of insurance indicated if successful in this competition. Should the Contracting Authority elect to seek supporting evidence from tenderers confirming the assertions made in the ESPD in respect of this eligibility criterion, the following means of proof will be acceptable to the Contracting Authority to confirm that this criterion is complied with: (a) Evidence of the possession of the required forms and levels of insurance (i.e., certificates of insurance provided by brokers or underwriters); (b) A signed letter from the tenderer's insurance broker to the effect that the required forms and levels of insurance can be implemented should the tenderer prove successful in this competition.
ELIMINATION
Should a tenderer fail to provide appropriate supporting evidence within five working days of a request to do so, the tenderer in question will be eliminated from further consideration.

(b) FINANCIAL CAPACITY

REQUIREMENT
It is a requirement that tenderers have attained a turnover of at least €100,000 in any one of the three previous financial years.
ESPD REFERENCE AND MEANS OF PROOF
By completing the ESPD contained in Appendix 3, tenderers are confirming that they have attained a turnover of at least €100,000 in any one of the three previous financial years. Should the Contracting Authority elect to seek supporting evidence from tenderers confirming the assertions made in the ESPD in respect of this eligibility criterion, the following means of proof will be acceptable to the Contracting Authority to confirm that this criterion is complied with: (a) Financial statements or extracts from financial statements; (b) An objectively verifiable statement of the tenderer's overall turnover (e.g. an auditor's statement).
ELIMINATION
Should a tenderer fail to provide appropriate supporting evidence and means of proof within five working days of a request to do so, the tenderer in question will be eliminated from further consideration.

(c) TAX CLEARANCE

REQUIREMENT
It is a requirement that tenderers either possess a Tax Clearance Certificate issued by the Irish Revenue Commissioners, or will possess such certification prior to the establishment of this framework agreement. For the avoidance of doubt, it is emphasised that the Contracting Authority is precluded from processing invoices submitted by economic operators not in possession of an Irish Tax Clearance Certificate.
ESPD REFERENCE AND MEANS OF PROOF
By completing the ESPD contained in Appendix 3, tenderers are confirming that they either possess a Tax Clearance Certificate issued by the Irish Revenue Commissioners or have applied for such a certificate. Should the Contracting Authority elect to seek supporting evidence from tenderers confirming the assertions made in the ESPD in respect of this eligibility criterion, the following means of proof will be acceptable to the Contracting Authority to confirm that this criterion is complied with: (a) A reference to electronic evidence of tax clearance status issued by the Irish Revenue Commissioners (i.e., a screenshot, a hyperlink or any other appropriate material); (b) Copies of correspondence between the tenderer and the Irish Revenue Commissioners.
ELIMINATION
Should a tenderer fail to provide appropriate supporting evidence and means of proof within five working days of a request to do so, the tenderer in question will be eliminated from further consideration.

(d) PREVIOUS EXPERIENCE

REQUIREMENT
It is a requirement that tenderers have successfully delivered, within the previous three years, two contracts of a similar nature, scale and complexity to the requirement comprising the subject-matter of this competition. In order to be deemed genuinely comparable in terms of nature, scale and complexity, the services in question must have involved the following: (a) The supply and delivery of a wide range of paint and paint related products;
ESPD REFERENCE AND MEANS OF PROOF
By completing the ESPD contained in Appendix 3, tenderers are confirming that they have successfully delivered, within the previous three years, two contracts of a similar nature, scale and complexity to the requirement comprising the subject matter of this competition. Should the Contracting Authority elect to seek supporting evidence from tenderers confirming the assertions made in the ESPD in respect of this eligibility criterion, the following means of proof will be acceptable to the Contracting Authority to confirm that this criterion is complied with: (a) Suitable references from two current/previous customers, detailing, at a minimum, the annual value of the contracts in question, the duration of the contracts and the range of products provided over the course of the contracts.
ELIMINATION
Should a tenderer fail to provide appropriate supporting evidence and means of proof within five working days of a request to do so, the tenderer in question will be eliminated from further consideration.

(e) HEALTH AND SAFETY STATEMENT

REQUIREMENT
It is a requirement that tenderers possess an up-to-date and compliant health and safety statement that takes full account of the provisions of Section 20 of the Safety, Health and Welfare at Work Act, 2005. In order to be considered a compliant health and safety statement, at a minimum, the document must detail the following: (a) How the safety and health of all employees will be secured and managed; (b) Hazards identified and risks assessed; (c) How the employer will manage his or her safety and health responsibilities, including a commitment to comply with legal obligations, the protective and preventive measures taken, the resources provided for safety and health at the workplace and the arrangements used to fulfil these responsibilities.
ESPD REFERENCE AND MEANS OF PROOF
By completing the ESPD contained in Appendix 3, tenderers are confirming that they possess a compliant health and safety statement that adequately details all matters listed under points (a) to (h) above. Should the Contracting Authority elect to seek supporting evidence from tenderers confirming the assertions made in the ESPD in respect of this eligibility criterion, the following means of proof will be acceptable to the Contracting Authority to confirm that this criterion is complied with: (a) A copy of the tendering organisation's current health and safety statement.
ELIMINATION
Should a tenderer fail to provide appropriate supporting evidence and means of proof within five working days of a request to do so, the tenderer in question will be eliminated from further consideration.

6. AWARD CRITERIA

NOTE: It is emphasised that a failure to provide a narrative response to award criteria B and C will result in the elimination of the tender submission in question.

6.1 Award Criteria and Weightings

This framework agreement will be established with the tenderer submitting the most economically advantageous tender, identified following application of the award criteria and weightings detailed hereunder. It is emphasised that the Contracting Authority is not bound to accept the most economically advantageous tender or any tender received, and reserves the right to accept or reject in whole or in part any or all tenders received.

6.1 – AWARD CRITERIA AND WEIGHTINGS				
CRITERION		%	MAXIMUM SCORE ACHIEVABLE	MINIMUM SCORE REQUIRED
A	Notional Ultimate Cost	70	7,000	N/A
B	Technical Suitability and Quality of Proposed Products	25	2,500	1,500
C	Reliability and Continuity of Service	5	500	300
TOTALS		100	10,000	N/A

6.2 Award Criteria Explained

(a) **Notional Ultimate Cost (70%)**

Tenderers are required to complete the Pricing Schedule contained in Appendix 2 of this Invitation to Tender document (see separate Excel document). This Pricing Schedule must be submitted, in soft copy only, with tender submissions. The resulting 'notional ultimate cost for evaluation purposes' must be carried forward, unaltered, to the Form of Tender contained in Appendix 1 of this Invitation to Tender document. The Form of Tender must be signed, dated and submitted in soft copy formats with tender submissions.

For the purposes of evaluating Notional Ultimate Cost, the Pricing Schedule seeks prices for a range of commonly used products. Any quantities listed in the Pricing Schedule are strictly notional and constitute no guarantee or commitment regarding the quantities of products that will be procured under this framework agreement. In completing the Pricing Schedule, tenderers are advised to consider the stated pack sizes carefully when proposing a tendered price.

It is a requirement of this competitive process that tenderers are in a position to provide the complete range of products listed in the Pricing Schedule. On this basis, a tenderer's failure

to provide a price for a particular item will result in the automatic elimination of the tenderer's submission as unsuitable.

The Pricing Schedule details the manner in which a single cost figure will be arrived at for evaluation purposes. Scores will be apportioned to resulting ultimate cost figures in accordance with the following formula:

Points awarded = (the maximum score achievable) multiplied by (the notional ultimate cost of the lowest-cost valid tender) divided by (the notional ultimate cost of the valid tender in question).

(b) Technical Suitability and Quality of Proposed Products (15%)

In order to demonstrate the technical suitability and appropriateness of proposed products, tenderers are required to provide the following samples with their tender submissions:

1	Gloss Brilliant White	1 Litre
2	Undercoat White	1 Litre
3	Acrylic Eggshell White	1 Litre
4	Acrylic Eggshell Colours	1 Litre
5	Mid Sheen Emulsion White	1 Litre
6	Soft Sheen Emulsion White	1 Litre
7	Satin Wood White Oil Based	1 Litre
8	Polyurethane Extra Durable Varnish Interior Clear Satin	1 Litre
9	Industrial Floor Paint Colours	1 Litre
10	Chlorinated Rubber Marking Paint White	1 Litre
11	Painter Mate/Caulk white	1 Tube
12	Paint Brush	1 Any size

The failure to provide a sample product where such a sample is requested will result in a tender's elimination from the competition.

In assessing the technical suitability and appropriateness of proposed products, the Contracting Authority shall also rely upon information provided in completed Pricing Schedules regarding the manufacturer, make and model of each product listed. In order to attain the minimum required score associated with this criterion, the following conditions must be met:

- All paint must comply with BS Standards and this must be displayed on all tins supplied.
- Self-sterilising paint supplied must be extremely durable and abrasion resistant and offer protection against a range of infections, including, but not limited to, E.coli 0157, Listeria

sp., Staphylococcus aureus, Salmonella, Shigella sp. and MRSA. Self-sterilising paint must comply with relevant EU legislation, including all Directives.

- Under coat should be of such quality to ensure that full coverage is obtained by one coat.
- Paint should be of such quality to ensure that full coverage is obtained by:
 - No greater than one coat after undercoat for:
 - Gloss Brilliant White
 - Gloss colours
 - No greater than two coats after undercoat for:
 - Acrylic Satin White Water Based
 - Acrylic Satin Colours Water Based
 - Acrylic Eggshell White
 - Acrylic Eggshell Colours
 - Mid Sheen Emulsion White
 - Mid Sheen Emulsion Colours
 - Soft Sheen Emulsion White
 - Soft Sheen Emulsion Colours
 - Matt Emulsion White
- All products must comply with any applicable legislative requirements (e.g., CE markings).
- All products must be of sufficient quality and suitability to enable their use in an acute hospital setting.
- All products must be of sufficient quality for sustained use over a long period of time.

Scores in excess of the minimum required score will be apportioned by reference to the overall quality, suitability and appropriateness of the products. In order to fully evaluate tender submissions against this criterion, the Contracting Authority reserves the right, at its sole discretion, to request samples of any other products. Any such samples must be provided within five working days of a request to this effect from the Contracting Authority. No payment will be made for sample products.

Samples listed above must be delivered by 12:00 Noon on 28/09/2026 (closing date of the competition), boxed and marked as 'Tender for Paint and Related Products' and delivered to:

**Kim de Ronde
Procurement Department
Lower Ground Floor
Supplies Corridor
Beaumont Hospital
Dublin 9.**

(c) Reliability and Continuity of Service (5%)

The Contracting Authority reserves the right to contact previous clients of the tenderer, independently and without further reference to the tenderer, in order to ascertain that full confidence may be placed in the tenderer's ability to successfully deliver the required products in a sufficiently reliable manner.

6.3 Minimum Qualitative Score Required

Tenderers should note that they must achieve a minimum rating of 'acceptable,' or 60% of the total marks available, for criteria B and C in order to avoid elimination from the competition.

As a general condition of evaluation, the Contracting Authority will utilise the evaluation process in order to determine whether each tender submission is substantially responsive to the requirements of this Invitation to Tender document. If a material deviation exists that limits in any substantial way the Contracting Authority's rights or the tenderer's obligations under the contract to be awarded, the tender submission may, depending upon the severity of the deviation in question, be rejected.

The evaluation team shall rely upon the following scoring bands for the purposes of apportioning scores under the qualitative award criteria:

ELIMINATED	0% of marks available	No response
	20% of marks available	Poor
	40% of marks available	Mediocre
ELIGIBLE	60% of marks available	Acceptable
	70% of marks available	Good
	80% of marks available	Very Good
	90% of marks available	Excellent
	100% of marks available	Outstanding

6.4 Verification/Clarification Meetings

Meetings for the purpose of verification and/or clarification may be carried out with certain tenderers as an element of the evaluation process and solely in order to identify the most economically advantageous tender. Such meetings may be required in order to verify the scores achieved by tenderers in respect of their written tender submissions, or to resolve any procedural ambiguities. Following such meetings, any scores provisionally awarded by the Contracting Authority may legitimately be revised and/or amended in order to take into account matters discussed. For

the avoidance of doubt, tenderers should note that mere performance at interview will not in and of itself be evaluated. A request to attend a clarification or verification meeting should not be construed as an indication of success in this competition; no legitimate expectations should arise from any such request.

Notwithstanding the foregoing, without prejudice to the principle of equal treatment, the Contracting Authority is not obliged to engage in a clarification process in respect of tender submissions involving missing or incomplete information. Therefore, tenderers are advised to ensure that they return comprehensive tender submissions in order to avoid the risk of elimination from the competition.

The Contracting Authority expressly warrants that any clarification or verification activities will not introduce new conditions to the competition, will not have the effect of amending the assessment methodology described in this Invitation to Tender documentation and will not pejoratively impact upon the principles of equal treatment and transparency in accordance with which this procurement exercise is being conducted. In particular, any information becoming apparent during any verification or clarification meeting will be relied upon only in the context of the award criteria, sub-criteria, weightings and specification of requirements contained in this Invitation to Tender documentation.

APPENDIX 1 – FORM OF TENDER

This form of tender must be completed, signed and returned in soft-copy format by tenderers. Any amendment to the structure of this document, or any qualification of financial offers, may, at the sole discretion of the Contracting Authority, result in the elimination of the tender in question.

Contracting Authority: Beaumont Hospital

Competition: The Supply of Paint and Related Products

From: _____

I/We, having read the full Tender Documents and associated Appendices, do hereby offer to provide the products described to the entire satisfaction of the Contracting Authority, for the following prices, and establish a framework agreement accordingly:

NOTIONAL ULTIMATE COST FOR EVALUATION PURPOSES
(To be carried forward unaltered from the Pricing Schedule)

(€, Exc. VAT))

I/We confirm that I/we:

- Will keep this offer open for acceptance by the Contracting Authority for a period of twelve months from the date of deadline for submission of tenders;
- Agree that you are not bound to accept the most economically advantageous tender or any tender you may receive;
- Have read and thoroughly examined the tender document;
- Fully understand the tender document and the Contracting Authority's requirements;
- Undertake to treat the details of this invitation to tender document, the resulting tender submission and any subsequent clarifications as private and confidential;
- Acknowledge that acceptance by the Contracting Authority of a tender will not constitute a binding and enforceable agreement and that a legally enforceable agreement will not exist until and unless the framework agreement has been formally established by the Contracting Authority;
- Have availed of all offers for additional information or have otherwise satisfied myself/ourselves as to conditions that may in any manner affect the performance of the framework agreement;
- Have included everything necessary for the performance of this contract, including all elements that are either expressly stated in the tender document or contained in any supplementary information or which could reasonably be inferred there from;

- Have found no errors, omissions, conflicts or ambiguities in the tender document, except those which I/We have brought to the attention of the Contracting Authority before the latest date for submitting queries;
- Have included for compliance with all statutory requirements applicable in Ireland and those applicable in any country where parts of the framework agreement may be performed that are in force seven days prior to the deadline for receipt of tenders;
- Will not, if awarded membership of the framework agreement, employ labour in a manner that is discriminatory in relation to gender, race, religious beliefs, age, etc.;
- Will not, if awarded membership of the framework agreement, source any goods or services in countries subject to official international trading sanctions.

SIGNATURE	<i>(Insert)</i>	Date	<i>(Insert)</i>
Name	<i>(Insert)</i>	Position	<i>(Insert)</i>
Telephone	<i>(Insert)</i>	Email	<i>(Insert)</i>

A Tenderer's failure to sign and date this Form of Tender and to complete all sections will invalidate the tender submission.

APPENDIX 2 – PRICING SCHEDULE

Please consult the separate Excel document, which must be returned, in soft copy format, with tender submissions.

APPENDIX 3 – EUROPEAN SINGLE PROCUREMENT DOCUMENT

- a) This document must be completed and returned by tenderers. The completed version of this document will constitute a 'self-declaration' that the grounds for exclusion detailed in Section 4 of the Invitation to Tender document do not apply to the tenderer and that the tenderer is in a position to comply with each of the eligibility criteria detailed in Section 5 of the Invitation to Tender document.
- b) Failure to complete all sections of this document will result in the tenderer's elimination from this competition. Moreover, failure to provide sufficient detail in respect of any field may, at the discretion of the Contracting Authority, result in the elimination of the tenderer in question.
- c) Any misrepresentation in respect of the completed document will result in the tenderer's elimination from this and future procurement competitions.
- d) Tenderers may reuse a European Single Procurement Document previously submitted in respect of another competition. Alternatively, in the event that a tenderer has previously completed an electronic version of this document, the tenderer may provide the Contracting Authority with electronic access to the relevant document. In both instances, it is imperative that the completed version of the European Single Procurement Document contains all of the information sought by this document.
- e) For the avoidance of doubt, the Contracting Authority reserves the right to request any tenderer to provide all supporting documentation necessary to demonstrate the inapplicability of any ground for exclusion detailed in Section 4 of the Invitation to Tender document. Additionally, the Contracting Authority reserves the right to request any tenderer to provide all supporting documentation necessary to demonstrate compliance with the eligibility criteria detailed in Section 5 of the Invitation to Tender document. Such requests may be made at any point during the competitive process. **In particular, before reaching an award decision, the Contracting Authority may require the successful tenderer to provide all supporting documentation necessary to confirm the assertions made hereunder.**
- f) If a tenderer fails to provide supporting documentation necessary to confirm the assertions made hereunder within five working days of a request to do so from the Contracting Authority, the tenderer in question will be eliminated from the competition.

PART I – INFORMATION CONCERNING THE PROCUREMENT PROCEDURE AND THE CONTRACTING AUTHORITY	
IDENTITY OF THE PROCURER:	ANSWER:
Name:	Beaumont Hospital
Which procurement is concerned?	SINGLE-PARTY FRAMEWORK AGREEMENT FOR THE PROVISION OF PAINT TO BEAUMONT HOSPITAL
Title or short description of the procurement:	SINGLE-PARTY FRAMEWORK AGREEMENT FOR THE PROVISION OF PAINT
File reference number attributed:	3086

PART II – INFORMATION CONCERNING THE ECONOMIC OPERATOR	
A: INFORMATION ABOUT THE ECONOMIC OPERATOR	
IDENTIFICATION:	ANSWER:
Name:	
VAT-number, if applicable: <i>(If no VAT-number is applicable, please indicate another national identification number, if required and applicable)</i>	
Postal Address:	
Contact Person or Persons:	
Telephone:	
E-mail:	
Internet address, if applicable:	
GENERAL INFORMATION:	ANSWER:
Is the economic operator a Micro, a Small or a Medium-Sized Enterprise?	Yes: ☐ No: ☐ Define which:
Only in the case the procurement is reserved, is the economic operator a sheltered workshop, a 'social business,' or will it provide for the performance of the contract in the context of sheltered employment programmes?	NOT APPLICABLE
If yes, what is the corresponding percentage of disabled or disadvantaged workers? If required, please specify which category or categories of disabled or disadvantaged workers the employees concerned belong to.	NOT APPLICABLE
If applicable, is the economic operator registered on an official list of approved economic operators or does it have an equivalent certificate (e.g., under a national [pre]qualification system)?	Yes: ☐ No: ☐ Not Applicable: ☐
<i>If you have answered 'yes' to the above question, answer the remaining parts of this Section, Section B and, where relevant, Section C of Part II. Then complete and sign Part VI. (i.e., if you have answered 'yes' to the above question, there is no need to complete Parts III and IV of this Appendix).</i>	
Please provide the name of the list or certification and the relevant registration or certificate number, if applicable:	
If the certificate of registration or certification is available electronically, please state:	<i>Insert web address, issuing authority or body, precise reference of the documentation:</i>
Please state the references on which the registration or certification is based and, where applicable, the classification obtained in the official list:	

Does the registration or certification cover all of the required selection criteria? <i>(If 'no,' please complete and sign Appendix IV of this document.)</i>	Yes: ☐ No: ☐
Will the economic operator be able to provide a certificate with regard to the payment of social security contributions and taxes or provide information enabling the Contracting Authority or Contracting Entity to obtain it directly by accessing a national database in any Member State that is available free of charge?	Yes: ☐ No: ☐ <i>If the relevant documentation is available electronically, please insert the web address, the issuing authority or body and the precise reference of the documentation:</i>
FORM OF PARTICIPATION	ANSWER:
Is the economic operator participating in the procurement procedure together with others?	Yes: ☐ No: ☐
<i>If you have answered 'yes' to the above question, please ensure that the others concerned provide a separate ESPD document and please answer the questions below:</i>	
If 'yes,' please indicate the role of the economic operator in the group (e.g., leader, responsible for specific tasks, etc.):	
If 'yes,' please identify the other economic operators participating in the procurement procedure together:	
Where applicable, please insert the name of the participating group:	
LOTS:	ANSWER:
Where applicable, please indicate the lot(s) for which the economic operator wishes to tender:	NOT APPLICABLE
B: INFORMATION ABOUT REPRESENTATIVES OF THE ECONOMIC OPERATOR	
<i>Where applicable, please indicate the name(s) and address(es) of the person(s) empowered to represent the economic operator for the purposes of this procurement procedure:</i>	
REPRESENTATION, IF ANY:	ANSWER:
Full Name: <i>(Accompanied by the date and place of birth, if required)</i>	
Position / Acting in the capacity of:	
Postal Address:	
Telephone:	
E-mail:	
If necessary, please provide detailed information regarding the representation (e.g., its form, extent, purpose, etc).	

C: INFORMATION ABOUT RELIANCE ON THE CAPACITIES OF OTHER ENTITIES	
RELIANCE:	ANSWER:
Does the economic operator rely on the capacities of other entities in order to meet the eligibility criteria for this competition as set out in Section 5 of the associated Invitation to Tender document?	Yes: ☐ No: ☐
<i>If 'yes,' please provide a separate ESPD form setting out the information required under Sections A and B of this Part and Part III of this Appendix for each of the entities concerned, duly completed and signed by the entities concerned. Please note that this should also include any technicians or technical bodies, not belonging directly to the economic operator's undertaking, especially those responsible for quality control and, in the case of public works contracts, the technicians or technical bodies upon whom the economic operator can call in order to carry out the work.</i> <i>Insofar as it is relevant for the specific capacity or capacities on which the economic operator relies, it may also be necessary for some or all of the entities concerned to complete Part IV of this Appendix.</i>	
D: INFORMATION CONCERNING SUBCONTRACTORS ON WHOSE CAPACITY THE ECONOMIC OPERATOR DOES NOT RELY	
SUBCONTRACTING	ANSWER:
Does the economic operator intend to subcontract any share of the contract to third parties?	Yes: ☐ No: ☐ <i>If 'yes,' and so far as is known, please list the proposed subcontractors:</i>
<i>If 'yes,' please provide the information required under Sections A and B of this part for each of the subcontractors concerned.</i>	

PART III – EXCLUSION GROUNDS

A: GROUNDS RELATING TO CRIMINAL CONVICTIONS

Article 57.1 of Directive 2014/24/EU sets out the following reasons for exclusion:

- 1. Participation in a criminal organisation;*
- 2. Corruption;*
- 3. Fraud;*
- 4. Terrorist offences or offences linked to terrorist activities;*
- 5. Money laundering or terrorist financing;*
- 6. Child labour and other forms of trafficking in human beings.*

GROUND:	ANSWER:
Has the economic operator itself or any person who is a member of its administrative, management or supervisory body or has powers of representation, decision or control therein been the subject of a conviction for one of the reasons listed above, by a conviction rendered at the most five years ago or in which an exclusion period set out directly in the conviction continues to be applicable?	Yes: ☐ No: ☐ <i>If the relevant documentation is available electronically, please insert the web address, the issuing authority or body and the precise reference of the documentation:</i>
<i>If 'yes,' please provide the following information:</i>	
Date of conviction, which of the grounds for conviction (points 1 to 6 above) is concerned and the reason(s) for the conviction:	<i>Insert dates, points and reasons:</i>
Identify who has been convicted:	
Insofar as is established directly in the conviction:	<i>Insert the length of the period of exclusion and the point(s) concerned:</i> <i>If the relevant documentation is available electronically, please insert the web address, the issuing authority or body and the precise reference of the documentation:</i>
In cases of convictions, has the economic operator taken measures to demonstrate its reliability despite the existence of a relevant ground for exclusion (as per Article 57.6 of Directive 2014/24/EU)?	Yes: ☐ No: ☐ <i>If 'yes' please insert a comprehensive description of the measures taken:</i>
B: GROUNDS RELATING TO THE PAYMENT OF TAXES OR SOCIAL SECURITY CONTRIBUTIONS	
PAYMENT OF TAXES / SOCIAL SECURITY:	ANSWER:
Has the economic operator met all of its obligations relating to the payment of taxes or social security contributions, both in the country in which it is established and in the Member State of the Contracting Authority if other than the country of establishment?	Yes: ☐ No: ☐
If the relevant documentation concerning payment of taxes or social contributions is available electronically, please indicate:	<i>Please insert the web address, the issuing authority or body and the precise reference of the documentation:</i>

If the economic operator has not met all of its obligations relating to the payment of taxes or social security contributions, please provide the following information:

Country or member state concerned:	Taxes	Social Contributions
What is the amount concerned?		
How has this breach of obligations been established?		
If through a judicial or administrative decision, is this decision final and binding?	Yes: ☐ No: ☐	Yes: ☐ No: ☐
If through a judicial or administrative decision, please indicate the date of conviction or decision:		
If through a judicial or administrative decision, and in the case of a conviction, please provide the length of the period of exclusion:		
If this breach of obligations has been established by other means, please indicate the other means in question:		
Has the economic operator fulfilled its obligations by paying or entering into a binding arrangement with a view to paying the taxes or social security contributions due, including, where applicable, any interest or accrued fines?	Yes: ☐ No: ☐	Yes: ☐ No: ☐
If the relevant documentation concerning payment of taxes or social contributions is available electronically, please indicate:	<i>Please insert the web address, the issuing authority or body and the precise reference of the documentation:</i>	

C: GROUNDS RELATING TO INSOLVENCY, CONFLICTS OF INTEREST OR PROFESSIONAL MISCONDUCT

GROUND:	ANSWER:
Has the economic operator, to its knowledge, breached its obligations in the fields of environmental, social and labour law?	Yes: ☐ No: ☐
If the economic operator has breached its obligations in the fields of environmental, social and labour law, has the economic operator taken measures to demonstrate its reliability despite the existence of a relevant ground for exclusion (as per Article 57.6 of Directive 2014/24/EU)?	Yes: ☐ No: ☐ <i>If 'yes' please insert a comprehensive description of the measures taken:</i>
Is the economic operator in any of the following situations: • Bankrupt; • The subject of insolvency or winding-up proceedings; • In an arrangement with creditors; • In any analogous situation arising from a similar procedure under national laws and regulations; • That its assets are being administered by a liquidator or the court; • That its business activities are suspended?	Yes: ☐ No: ☐

If the economic operator is in any of the situations mentioned in the immediately preceding question, please provide comprehensive details of the situation:	Yes: ☐ No: ☐
Please provide the reasons for nevertheless being able to perform the contract or framework agreement, taking into account the applicable national rules and measures on the continuation of business in those circumstances, as per Article 57.4 of Directive 2014/24/EU.	Yes: ☐ No: ☐
If the relevant documentation is available electronically, please indicate:	<i>Please insert the web address, the issuing authority or body and the precise reference of the documentation:</i>
Is the economic operator guilty of grave professional misconduct?	Yes: ☐ No: ☐ <i>If 'yes' please insert a comprehensive description of the matter:</i>
If the economic operator is guilty of grave professional misconduct, has the economic operator taken measures to demonstrate its reliability despite the existence of a relevant ground for exclusion (as per Article 57.6 of Directive 2014/24/EU)?	Yes: ☐ No: ☐ <i>If 'yes' please insert a comprehensive description of the measures taken:</i>
Has the economic operator entered into arrangements with other economic operators aimed at distorting competition?	Yes: ☐ No: ☐ <i>If 'yes' please insert a comprehensive description of the arrangements in question:</i>
If the economic operator has entered into arrangements with other economic operators aimed at distorting competition, has the economic operator taken measures to demonstrate its reliability despite the existence of a relevant ground for exclusion (as per Article 57.6 of Directive 2014/24/EU)?	Yes: ☐ No: ☐ <i>If 'yes' please insert a comprehensive description of the measures taken:</i>
Is the economic operator aware of any conflict of interest due to its participation in the procurement procedure?	Yes: ☐ No: ☐ <i>If 'yes' please provide a comprehensive description of the conflict(s) in question:</i>
Has the economic operator or an undertaking related to it advised the Contracting Authority or otherwise been involved in the preparation of the procurement procedure?	Yes: ☐ No: ☐ <i>If 'yes' please provide a comprehensive description of the matter:</i>
Has the economic operator experienced that a prior public contract, framework agreement or concession contract was terminated early, or that damages or other comparable sanctions were imposed in connection with a prior contract?	Yes: ☐ No: ☐ <i>If 'yes' please insert a comprehensive description of the matter:</i>

If the economic operator experienced that a prior public contract, framework agreement or concession contract was terminated early, or that damages or other comparable sanctions were imposed in connection with a prior contract, has the economic operator taken measures to demonstrate its reliability despite the existence of a relevant ground for exclusion (as per Article 57.6 of Directive 2014/24/EU)?	Yes: ☐ No: ☐ <i>If 'yes' please insert a comprehensive description of the measures taken:</i>
Can the economic operator confirm the following: • That it has not been 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? • That it has not withheld such information? • That it has been able, without delay, to submit the supporting documents required by a contracting authority or contracting entity? • That it has not undertaken to unduly influence the decision making process of a contracting authority or contracting entity, to obtain confidential information that may confer upon it undue advantages in a procurement procedure or to negligently provide misleading information that may have a material influence on decisions concerning exclusion, selection or award?	Yes: ☐ No: ☐

PART IV – ELIGIBILITY CRITERIA

α: GLOBAL INDICATION FOR ALL SELECTION CRITERIA

Concerning the eligibility criteria, the economic operator declares that it satisfies the required eligibility criteria for this competition as detailed in Section 5 of the Invitation to Tender document:

Yes: ☐ No: ☐

PART V – REDUCTION OF THE NUMBER OF QUALIFIED CANDIDATES

NOT APPLICABLE

PART VI – CONCLUDING STATEMENTS

The undersigned formally declare that the information stated under Parts II – III of this Appendix is accurate and that it has been set out in full awareness of the consequences of serious misrepresentation.

The undersigned formally declare to be able, upon request and without delay, to provide the certificates and other forms of documentary evidence referred to, except where:

- (a) The Contracting Authority has the possibility of obtaining the supporting documentation concerned directly by accessing a national database in any Member State that is available free of charge;
- (b) As of 18/10/2018 at the latest, the Contracting Authority already possesses the documentation concerned.

The undersigned formally consent to Beaumont Hospital gaining access to documents supporting all information provided in this European Single Procurement Document for the purposes of this competition.

Signed (Authorised Signatory):	
Block Capitals:	
Position:	
Company:	
Registered Office:	
Date:	

APPENDIX 4 – DRAFT TERMS AND CONDITIONS OF THE FRAMEWORK AGREEMENT

*The following terms are provided as an indication of the intended format of the framework agreement to be signed with the successful framework member identified by this competition. Tenderers are **not** requested to sign these terms as part of their tender submission but should review them carefully and indicate any areas of interest by submitting a written query during the tender period.*

Single Party Framework Agreement for the Supply of Paint and Related Products

PARTIES

Beaumont Hospital
(Hereinafter referred to as ‘the Contracting Authority’)

[To be inserted prior to signature]

(Hereinafter referred to as ‘the Framework Operator’ or ‘Operator’)

BACKGROUND

The Contracting Authority has conducted a tender competition for the establishment of a single party framework agreement for the provision of plumbing materials.

- a. The framework agreement was advertised via the Irish Government’s Procurement Opportunities Portal (www.etenders.gov.ie).
- b. The open procedure was used and an Invitation to Tender was issued with a deadline date for tender submissions of 28/09/2026.
- c. Following evaluation of the submitted tender against the published award criteria, the Framework Operator is now appointed as the single operator under this Framework Agreement.

DEFINITIONS

‘Contract’ means a Contract falling within the advertised scope of this Framework Agreement, constituting a defined and agreed piece of work to be performed by a Framework Operator;

‘Initial Contract’ means the first Contract awarded to the Framework Operator upon establishment of the Framework Agreement, constituting the provision of the required products for a period of one year;

‘Framework Agreement’ means these terms and conditions, including the Schedules hereto;

‘Framework Period’ means the period in years set out in Clause 2.1;

'Invitation to Tender' means the Invitation to Tender document issued by the Contracting Authority in order to establish this Framework Agreement;

'Price' means the amount in Euro chargeable by the Framework Operators in respect of any item, supply or associated services purchased by the Contracting Authority;

'Request for Supplementary Tender' means a document issued by the Contracting Authority at any point during the Framework Period requesting a proposal for the provision of either supplies or services;

'Supplementary Tender' means the written submission of the Framework Operator in response to a Request for Supplementary Tender;

'Tender' means the submission of the Framework Operator in response to the Invitation to Tender together with any clarifications, additions or amendments accepted by the Contracting Authority.

'Commencement Date' means the date upon which this Framework Agreement and the Initial Contract shall come into effect, being **[to be inserted prior to signature]**.

1. Appointment of Framework Operator

1.1 In consideration of payment by the Contracting Authority of good and valuable consideration, receipt of which is hereby acknowledged, the Framework Operator accepts its appointment under the terms and conditions of this Framework Agreement.

2. Scope and Period of Framework Agreement

2.1 This Framework Agreement relates to the supply of paint and related products, as described in the specification of requirements contained in the Invitation to Tender document and appended to this Agreement at Schedule 1. The Framework Agreement shall take effect on the Commencement Date and shall be for a maximum potential duration of four years.

2.2 As a general provision, and for the avoidance of doubt, no commitment is made by the Contracting Authority, nor should any such commitment be inferred by the Framework Operator, regarding the volume of products to be procured under the Framework Agreement. Save insofar as may be agreed otherwise in the context of any particular Contract awarded under this Framework Agreement, the Contracting Authority shall be entitled to procure products under this Framework Agreement on a strictly 'as-needed' basis. The Framework Operator shall not be entitled to amend the nature or quality products provided as a result of fluctuating demand on the part of the Contracting Authority.

3. Scope and Period of Initial Contract

- 3.1 The Initial Contract to be awarded under this Framework Agreement comprises the provision of the required products for a period of one year, commencing on the Commencement Date of the Framework Agreement as a whole.
- 3.2 No commitment is made by the Contracting Authority, nor should any such commitment be inferred by the Framework Operator, regarding the volume of products to be procured under the Initial Contract. The Contracting Authority shall be entitled to procure services under the Initial Contract on a strictly 'as-needed' basis. The Framework Operator shall not be entitled to amend the nature or quality of products provided as a result of fluctuating demand on the part of the Contracting Authority.

4. Additional Contracts

- 4.1 Once the Initial Contract has been discharged by the Framework Operator, appointment to this Framework does not entitle the Operator to be consulted in respect of, or awarded, any additional Contract during the Framework Period. The Contracting Authority may at its sole discretion choose not to enter into any Contracts falling within the scope of this Framework Agreement, or may, upon the expiry of the Initial Contract, elect to terminate the Framework Agreement as a whole.
- 4.2 While this Framework Agreement will, in general, form the basis for the award of contracts falling within the scope set out in Clause 2.1 during the Framework Period, the Contracting Authority may at its sole discretion decide to carry out a separate contract award procedure for Contracts falling within the specified scope. In this event, the Contracting Authority shall observe all applicable public procurement rules and shall not afford any advantage to any Framework Operator.
- 4.3 Award of any additional Contract under the Framework Agreement may be subject to the Framework Operator facilitating, upon request, the drafting and implementation of a specific Service Level Agreement, to include agreed key performance indicators, response times, escalation procedures and penalties that are relevant to the Contract in question.
- 4.4 Following the expiry of the Initial Contract, additional Contracts under this Framework Agreement may be awarded either on foot of the Invitation to Tender or on foot of a Request for Supplementary Tender in accordance with the procedure set out in Clause 5.

5. Procedure for Supplementary Tenders

- 5.1 In general, it is envisioned that the majority of Contracts awarded under this Framework Agreement will be directly awarded on foot of the Invitation to Tender document (i.e., the majority of Contracts shall be governed by the terms contemplated by the Invitation to Tender document and the Framework Operator's Tender). From time-to-time, however, and in respect of service requirements that cannot be governed by the Framework Operator's

Tender (and, in particular, the Framework Operator's Pricing Schedule, as appended to this Agreement at Schedule 2), the Contracting Authority may elect to issue a Request for Supplementary Tender during the Framework Period, in accordance with the following procedure. It is emphasised that Supplementary Tenders will be sought solely in respect of work falling under the advertised scope of the framework agreement.

- 5.1.1 The Contracting Authority will issue a Request for Supplementary Tender to the Framework Operator in writing, specifying the conditions that will apply in respect of the Supplementary Tender.
- 5.1.2 The Contracting Authority shall specify the scope of the Supplementary Tender, and in particular whether the applicable terms and fees will be determined by reference to the Tender or, where relevant, the Supplementary Tender.
- 5.1.3 The Contracting Authority shall fix a deadline for the receipt of the Supplementary Tender taking into account the complexity of the Contract and the time needed to prepare an appropriate proposal.
- 5.1.4 Following evaluation of the Supplementary Tender, the Contracting Authority shall determine whether it meets its stated requirements and whether a Contract will be awarded.
- 5.2 The Contracting Authority shall not be responsible for any costs incurred by the Framework Operator in the preparation of a Supplementary Tender or any related site visits.
- 5.3 The Contracting Authority shall not be obliged to award any Contract on foot of a Request for Supplementary Tender and may terminate the award procedure at any time at its sole discretion.

6. Pricing

- 6.1 The maximum price chargeable in respect of all products procured by the Contracting Authority during the initial twenty four months of the Framework Period shall be that set out in the Form of Tender or Pricing Schedules submitted as part of the Tender (Schedule 2 of this Agreement). Following the expiry of this twenty four month period, the price chargeable may be adjusted for inflation on each annual anniversary of the Commencement Date of the framework, subject to agreement by the Contracting Authority. This adjustment shall be in accordance (whether positive or negative) with the CPI index.
- 6.2 The Contracting Authority may seek, or the Framework Operator may offer, lower prices at any time during the Framework Period. In particular, where a given item, supply or service is being offered to other purchasers at a lower price, the Contracting Authority may request adjustment of a Framework Operator's Pricing Schedules or Form of Tender to reflect this fact. The Contracting Authority may reject any aspect of a supplementary tender on the grounds that the Price offered is not acceptable.

7. Personnel

- 7.1 The personnel assigned by a Framework Operator to deliver any Contract under this Framework Agreement shall be those identified in the Framework Operator's Tender, or other personnel of equivalent qualifications, skills, professional expertise and experience expressly approved by the Contracting Authority.

8. Obligations of the Framework Operator

- 8.1 The Framework Operator is required to inform the Contracting Authority of any conflict of interest of which it becomes aware during the period of the Framework Agreement. Any registrable interest involving the Framework Operator and the Contracting Authority or employees of the Contracting Authority or their relatives must be communicated to the Contracting Authority immediately. The terms 'registrable interest' and 'relative' shall be interpreted as per Section 2 and the Second Schedule of the Ethics in Public Office Act, 1995.
- 8.2 The Framework Operator is required to maintain, as a minimum, the forms of insurance set out in the Invitation to Tender document used to establish this framework agreement, and appended to this Agreement at Schedule 4. These forms and levels of insurance may be subject to revision during the lifetime of the Agreement, in which case the Contracting Authority shall notify the Framework Operator in question of the revised requirements and allow thirty (30) days for the provision of evidence that the required policies are in place. Once the Initial Contract has been executed by the Framework Operator, the levels of insurance required in respect of individual Contracts may vary, in which case the Contracting Authority shall notify the Framework Operator in question of the required levels of insurances in the relevant Request for Supplementary Tender, if appropriate, or at the earliest opportunity.
- 8.3 The Framework Operator shall retain a copy of its submitted European Single Procurement Document (ESPD), as used during the evaluation of tender submissions prior to the establishment of this framework agreement. If at any point during the Framework Period or during the lifetime of a Contract an Operator becomes aware of circumstances that might affect the validity of any of the statements in its ESPD, it shall notify the Contracting Authority in writing of such circumstances at the earliest possible opportunity.
- 8.4 No Framework Operator shall give, provide or offer to any staff or agent of the Contracting Authority a loan, fee, reward, gift, advantage, benefit or other payment during the Framework Period 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 Agreement or any Contract.
- 8.5 No Framework Operator shall assign the benefit of its appointment under this Framework Agreement, or under any Contract, or any part thereof without the written permission of the Contracting Authority.

9. Review Meetings

- 9.1 The Contracting Authority and the Framework Operator may liaise to address any issues arising that may impact on the performance of this Framework Agreement and to agree milestones, compliance schedules and operational protocols as required from time-to-time. In particular, the Contracting Authority and the Framework Operator undertake to hold monthly operational account management meetings.

10. Termination of Appointment

- 10.1 Without prejudice to any other rights or remedies to which it may be entitled, the Contracting Authority shall be entitled to terminate the appointment of the Framework Operator forthwith and without liability by giving notice at any time if:
- 10.1.1 The Framework Operator commits a material breach of any term or condition of this Agreement, any Service Level Agreement or any Contract concluded under the Framework Agreement;
 - 10.1.2 The Framework Operator fails to perform any obligation or responsibility under this Agreement, any Service Level Agreement or any Contract concluded under this Agreement either at all or to a standard that the Contracting Authority, acting reasonably, considers satisfactory and, if such breach is capable of being remedied, fails to remedy the breach within fourteen (14) days of notice given by the Contracting Authority requiring the Operator to do so;
 - 10.1.3 The Framework Operator repeatedly fails to supply the required products to the Contracting Authority and has been afforded all reasonable opportunities to rectify this situation;
 - 10.1.4 The Framework Operator performs an obligation under a Contract in a manner that is not in accordance with the terms of this Framework Agreement, including its Schedules, or any agreed Service Level Agreement, or fails to meet any standard prescribed by law;
 - 10.1.5 Any person employed by the Framework Operator, or acting on its behalf, offers or appears to offer a corrupt gift or inducement in the sense set out in Clause 9.5 above, whether with or without the knowledge of the Framework Operator;
 - 10.1.6 The Framework Operator convenes a meeting for the purposes of, or proposes to enter into any arrangement or composition for the benefit of its creditors;
 - 10.1.7 The Framework Operator ceases or threatens to cease to carry on business or takes or suffers any analogous action under any applicable law;

- 10.1.8 The Framework Operator is unable to pay its debts within the meaning of Section 214 of the Companies Act, 1963 (as amended by Section 123 of the Companies Act, 1990) or any analogous provision of law;
- 10.1.9 An order is made or an effective resolution is passed for the winding up of the company of the Framework Operator, other than for the purpose of a restructuring, the terms of which have been agreed by the Contracting Authority;
- 10.1.10 A petition is presented or an order is made or a resolution passed or any analogous proceedings or action is taken for the appointment of an examiner, administrator, receiver, trustee or any similar officer over the company of the Framework Operator;
- 10.1.11 An encumbrancer takes possession, or a receiver is appointed, of any of the property or assets of the Framework Operator;
- 10.1.12 The Contracting Authority reasonably believes that any of the events mentioned above is about to occur in relation to the Framework Operator and notifies the Framework Operator accordingly;
- 10.1.13 The Framework Operator has committed any fraudulent act or any criminal activity or is guilty of gross negligence in the performance of this agreement or the relevant Contract;
- 10.1.14 Any representation made by the Framework Operator in connection with this Agreement or a Contract shall in the opinion of the Contracting Authority prove to be untrue or incorrect in a material respect as of the date when made;
- 10.1.14 Any situation arises that contravenes any of the conditions detailed in the European Single Procurement Document, as submitted by the Framework Operator with the Framework Operator's Tender.
- 10.1.15 Any event analogous to those contemplated in Clauses 10.1.5 through 10.1.14 occurs to the Framework Operator in question within the laws of any other jurisdiction.

The Framework Operator in question shall have no claim for damages or otherwise against the Contracting Authority as a result of the termination of its appointment in accordance with this Clause.

11. General

- 11.1 The Framework Operator acknowledges that the Contracting Authority is subject to the Freedom of Information Act 2014. Accordingly, information furnished to the Contracting Authority by the Framework Operator may be released pursuant to the Contracting

Authority's statutory obligations. If a Framework Operator considers that any of the information supplied by it to the Contracting Authority under this Framework Agreement or any Contract should not be disclosed because of its sensitivity, the Framework Operator in question must, when providing the information, indicate this and specify the reason for its sensitivity. The Contracting Authority accepts no liability whatsoever in respect of any information provided which is subsequently released or in respect of any consequential damage suffered as a result of such obligations.

- 11.2 This Agreement shall be governed by and construed in accordance with the laws of Ireland.
- 11.3 Should any part of this Framework Agreement be or subsequently be found to be invalid, unlawful or unenforceable, then such parts shall be severed from the Framework Agreement and the remainder of the Agreement shall continue in full force and effect.
- 11.4 Force Majeure
 - 11.4.1 If through no fault of a Party, its performance has been affected or delayed by force majeure, such Party shall be at no liability to the other providing the performances are recommenced as soon as possible after such force majeure has ceased to operate.
 - 11.4.2 If however, force majeure causes a delay or failure in performance for a period longer than seven days, the Contracting Authority shall have the right to remove the Framework Operator in question from the Framework Agreement by giving seven days' notice in writing.
 - 11.4.3 Force majeure shall mean an occurrence beyond the control and without the fault or negligence of the Party affected in which it is unable to prevent or provide against by the exercise of reasonable diligence including, but not limited to, acts of God or the public enemy, ex-procreation or confiscation of facilities, government intervention, war, hostilities, rebellion, terrorist activities, local or national emergency, sabotage or riots, floods, or unusually severe weather conditions which could not be reasonably anticipated, fires, explosions, or other catastrophe, national or district strikes or other concerted acts of workmen or other similar occurrences other than strikes or concerted acts of a Framework Operator's workforce.
- 11.5 Nothing in this Agreement shall prevent the Contracting Authority from complying with its obligations under public procurement legislation. If necessary this Framework Agreement and any Contract concluded hereunder may be abridged, modified, or amended without penalty to the Contracting Authority so as to enable it to comply with said obligations.

12. Notices

- 12.1 The names, titles and e-mail addresses of the Parties for the purpose of the giving of notices under this Agreement are as follows:

For the Contracting Authority:

Kim de Ronde

Senior Procurement and Compliance Officer

Beaumont Hospital

kimderonde@beaumont.ie

For the Framework Operator:

[To be inserted prior to signature]

- 12.2 All notices to the Contracting Authority or a Framework Operator from the other Party under this Agreement or the relevant Contract shall be in writing and sent to the appropriate address set out above.
- 12.3 All notices, documents and communications provided under this Agreement or the relevant Contract shall be in the English language.

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

SIGNATURES

SIGNED for and on behalf of [XXXX] by:

Signed:

Date:

Witnessed by:

SIGNED for and on behalf of the Contracting Authority by:

Signed:

Date:

Witnessed by:

Schedules

Schedule 1 – Specification of Requirements

Schedule 2 – Pricing Schedule and Form of Tender

Schedule 3 – European Single Procurement Document

Schedule 4 – Data and Confidentiality Agreement

SCHEDULE 1 – SPECIFICATION OF REQUIREMENTS

[To be inserted prior to signature]

SCHEDULE 2 – PRICING SCHEDULES / FORM OF TENDER

[To be inserted prior to signature]

SCHEDULE 3 – EUROPEAN SINGLE PROCUREMENT DOCUMENT (ESPD)

[To be inserted prior to signature]

SCHEDULE 4– DATA PROTECTION AND CONFIDENTIALITY AGREEMENT

THIS AGREEMENT shall take effect on the Commencement Date of the Contract to which it is appended and is made between:

- (1) Beaumont Hospital
(the 'Contracting Authority')
- (2) [FOR INSERTION PRIOR TO SIGNATURE]
(the 'Supplier')

GENERAL

- A. In connection with a current or proposed Service between the Contracting Authority and the Supplier, whereby the Supplier is supplying, or proposes to supply, goods or services (the Service) to the Contracting Authority, the Contracting Authority may directly make available to the Supplier from time to time the Information (as defined below), or the Supplier or its servants, employees, agents, subsidiaries or sub-contractors may indirectly acquire or have access to the Information by virtue of the Service. For the avoidance of doubt, the Service as referred to in this Schedule includes all services and/or supplies as defined in the Contract to which this Agreement is appended.
- B. This Agreement shall apply to the Supplier's use of the Information (as defined below) and other related matters.
- C. In the event of any ambiguity or discrepancy between the provisions of this Agreement and the provisions of the Contract to which this Agreement is appended, the provisions of the Contract shall apply.
- D. Any standard terms proposed by the Supplier pertaining to data protection or confidentiality are hereby expressly disclaimed.
- E. The term of this Agreement shall correspond to the term of the Contract to which this Agreement is appended.

1. DEFINITIONS

In this Agreement, unless the context otherwise requires:

Data Breach(es) means any breach of security leading to (or which may lead to) the accidental or unlawful destruction, loss, alteration, unauthorized disclosure of, or access to, Personal Data or other Information transmitted, stored or otherwise Processed, and (for the avoidance of doubt) has the meaning afforded to "personal data breach" under Article 4(12) of the GDPR (when effective);

Data Controller or Controller has the meaning given to that term in Section 1(1) of the Data Protection Acts and (when effective) in Article 4 of the GDPR;

Data Processor or Processor has the meaning given to that term in Section 1(1) of the Data Protection Acts and (when effective) in Article 4 of the GDPR;

Data Protection Acts means the Data Protection Acts 1988 and 2003 (as amended) and the European Communities (Electronic Communications, Networks and Services) (Privacy and Electronic Communications) Regulations 2011 (S.I. 336/2011) and every statutory modification, re-enactment, replacement and/or amendment thereof for the time being in force (or, where the context so admits or requires, any one or more of such Acts) and all orders and regulations/statutory instruments made thereunder;

Data Protection Directive means Directive 95/46/EC of the European Parliament and of the Council of

24th October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data;

Data Subject has the meaning given to this term in Section 1(1) of the Data Protection Acts and (when effective) in Article 4 of the GDPR;

Delete for the purposes of this Agreement means removing all Information which is electronically held in such a way that it can never be retrieved from the device on which it is held;

FOIA 2014 means the Freedom of Information Act 2014 and any amendments to or replacements thereof, including by means of directly effective EU Regulation;

GDPR means the EU General Data Protection Regulation, Regulation (EU) 2016/679, the effective date of which is 25th May 2018;

Information means any and all Information, (irrespective of the format, to include paper, electronic or otherwise) belonging to the Contracting Authority, including but not limited to the following:

- 1.1. Personal Information concerning the Contracting Authority's clients, patients or staff, or others whose personal Information is in the control of the Contracting Authority, including confidential Information concerning the physical and mental health of the Contracting Authority's clients, patients, staff or others. For the avoidance of doubt, personal Information includes Personal Data and also includes patient data;
- 1.2. Information regarding the business affairs of the Contracting Authority generally, and as regards the Service;
- 1.3. Information regarding the policies, procedures and work practices of the Contracting Authority;
- 1.4. Goods and services (including, without limitation, audit, consultancy and related services);
- 1.5. Information regarding the existence, content, progress or conclusion of any negotiations between the Contracting Authority and the Supplier relating to the Service; and
- 1.6. Confidential codes or other Information concerning access to the Contracting Authority's computer networks and / or Information systems;

Personal Data has the meaning given to that term in Section 1(1) of the Data Protection Acts and (when effective) in Article 4 of the GDPR, and relates only to personal data, or any part of such personal data, of which the Contracting Authority is the Data Controller or joint Data Controller and in relation to which the Supplier is providing the Service, and (for the purposes of this Agreement) also includes Sensitive Personal Data and Special Categories of Data;

Processing, Processed and Process (and like words) have the meaning given to those terms in Section 1(1) of the Data Protection Acts and (when effective) in Article 4 of the GDPR;

Pseudonymisation, Pseudonymised and like words, have the meaning given to those terms (when effective) in Article 4 of the GDPR;

Sensitive Personal Data has the meaning given to this term in Section 1(1) of the Data Protection Acts;

Special Categories of Data has the meaning given to this term and/or such Personal Data as referred to in Article 9(1) and/or Article 10 of the GDPR.

Any reference to a third party in this Agreement includes, for the avoidance of doubt, subcontractors.

2. OBLIGATIONS OF THE SUPPLIER:

In consideration of the Contracting Authority directly making the Information available to the Supplier, or the Supplier otherwise acquiring the Information, and in consideration of the award of the contract to provide the Service, the Supplier shall:

- 2.1. Not take or remove any Information from the Contracting Authority's premises without having received the written authorisation of the Contracting Authority. Such written authorisation must be issued in advance of the first instance and will apply thereafter;
- 2.2. Manage and Process any Information which it acquires from the Contracting Authority in accordance with the documented instructions of the Contracting Authority and the obligations of the Data Protection Acts and the GDPR in so far as these obligations apply to the Supplier as a Data Processor, including with regard to transfers of Personal Data to a third country or an international organisation, unless required to do so by European Union, EU Member State or Irish law to which the Supplier is subject; in such a case, the Supplier shall inform the Contracting Authority of that legal requirement before Processing, unless that law prohibits such information on important grounds of public interest;
- 2.3. Maintain secret and confidential all Information furnished to it or otherwise acquired by its servants, employees, agents, subsidiaries or sub-contractors save and to the extent that such Information has been made available to the public by the Contracting Authority or by any third party lawfully in possession thereof and entitled to make such disclosure without restriction;
- 2.4. Take appropriate measures to ensure the reliability of the Supplier's servants, employees, agents, subsidiaries or sub-contractors who have access to the Information and ensure that they are required to maintain the confidentiality of the Information which they access and process (in this regard, the Supplier must be in a position to provide the Contracting Authority with a named list of its servants, employees, agents, subsidiaries or sub-contractors authorised to have access to Information);
- 2.5. Not disclose Information to any of the Supplier's servants, employees, agents, subsidiaries or sub-contractors unless and only to the extent that such persons need to know such Information for the purposes of providing services in connection with the Service, and provided that such person has been made aware of the restrictions in this Agreement on the disclosure of the Information and has agreed in writing to comply with such restrictions;
- 2.6. Not disclose any Information to any third party without the prior written consent of the Contracting Authority;
- 2.7. Not engage any third party to Process the Information or any part thereof on its behalf without the prior written consent of the Contracting Authority. Should such consent be given, then the obligations of the Supplier as set out in Clause 2 of this Agreement shall be imposed on that third party by way of a separate written Agreement between the Supplier and the third party, which Agreement will terminate automatically upon the termination of this Agreement for any reason. In the event that the third party fails to fulfil its obligations set out in Clause 2 of this Agreement, the Supplier shall remain fully liable to the Contracting Authority for the performance by the third party of those obligations;
- 2.8. Not use the Information directly or indirectly for any purpose other than in connection with the provision of services to the Contracting Authority regarding the Service;
- 2.9. Not reverse engineer, de-compile or disassemble Information or attempt to use the Information in any form other than machine readable object code, or allow a third party to do any of the above;
- 2.10. Not make any press announcement or otherwise publicise the business relationship with the Contracting Authority in any way, including, without limitation, using the name of the

Contracting Authority in any publicity material, unless authorised to do so by the Contracting Authority;

- 2.11. Only use the Information solely for the purposes of fulfilling the requirements of the Service.
- 2.12. Implement appropriate human, organisational and technological controls and measures in accordance with Section 2(c) of the Data Protection Acts and Article 32 of the GDPR, to keep the Information secure and to protect against accidental loss, destruction, damage, alteration, or disclosure of the Information.
- 2.13. Take the necessary precautions for the prevention of unauthorised access to, unauthorised disclosure of or other unauthorised processing of the Information and in particular:
 - 2.13.1. Keep all Information obtained from the Contracting Authority or otherwise relating to the Service separate from all documents and other records of the Supplier ;
 - 2.13.2. Only make such copies of the Information as are necessary for the provision of services to the Contracting Authority regarding the Service; and
 - 2.13.3. Mark all documentation containing the Information as being subject to the terms of this Agreement and indicate that it is contrary to the terms of this Agreement to copy, disclose or use in any manner or fashion such documentation without the prior written consent of the Contracting Authority; and
 - 2.13.4. Have all necessary access controls in place to include authentication and authorisation for access to Information to ensure its security and confidentiality; and
 - 2.13.5. Have all necessary systems in place to ensure the ongoing confidentiality, integrity, availability and resilience of Processing systems and services; and
 - 2.13.6. Have the ability to restore the availability and access to the Information in a timely manner in the event of a physical or technical incident; and
 - 2.13.7. Have a process for regularly testing, assessing and evaluating the effectiveness of technical and organisational measures for ensuring the security of the Processing of the Information;
- 2.14. Ensure, upon termination or the completion of this Agreement, that all documents, data, other records or tangible objects containing or representing Information which have been disclosed by the Contracting Authority to the Supplier ("Information Records"), and all copies thereof which are in the possession of the Supplier and their subcontractors, shall at the written request and election of the Contracting Authority, be returned to the Contracting Authority or securely Deleted. Without prejudice to the generality of the foregoing:
 - 2.14.1. Where the Contracting Authority has requested that the Supplier return Information Records, the Information Records shall be returned from the Supplier to the Contracting Authority in a commonly used electronic format;
 - 2.14.2. Where the Contracting Authority has requested that the Supplier securely Delete Information, the Supplier shall ensure the Information is permanently Deleted from any of the Supplier's systems or devices which were used to store the Information and from those of third parties to whom the Supplier has disclosed and/or permitted access to the Information or Information Records, save in the case of Information to the extent that European Union or Member State law requires storage or retention of the Information;

- 2.14.3. Where the Supplier is required for legal or regulatory compliance to retain a copy of any Information, the Supplier shall provide the Contracting Authority in writing with full details of any Information they are proposing to retain and the details of the legal and regulatory obligations governing this action;
- 2.14.4. Without prejudice to the obligations at Clause 2.14.3 above, in circumstances where European Union or Irish law requires the Supplier to retain any Personal Data which the Contracting Authority has shared with the Supplier, the Supplier shall provide the Contracting Authority in writing with full details of any Personal Data they are legally required to retain and the details of the European Union or Irish legal obligations governing this action, and ensure the Personal Data retained by them is anonymised or Pseudonymised by them to the Contracting Authority's satisfaction and in a manner and to a standard which is satisfactory under European Union law (including, without limitation, the GDPR);
- 2.15. Provide all necessary assistance to the Contracting Authority in ensuring compliance with the provisions of Articles 32 to 36 of the GDPR and/or any legislative requirements of the Data Protection Acts or any guidance issued by the Irish Data Protection Commissioner regarding Data Breaches, and in particular to notify the Contracting Authority as soon as is practical, but no later than 48 hours after they or (as applicable) their subcontractors become aware of any actual or suspected Data Breach. In such an event the Supplier will immediately supply the Contracting Authority with all the relevant facts surrounding the actual or suspected Data Breach and will provide all necessary assistance to the Contracting Authority to investigate, report upon, ameliorate, correct and end (or, as applicable, prevent) the Data Breach and to ensure that no such Data Breach (or any similar breach) occurs in future;
- 2.16. Ensure that all appropriate and necessary technical and organisational measures are in place to enable the Contracting Authority to fulfill its obligations to respond to requests from Data Subjects exercising their rights under Section 2D of the Data Protection Acts and Chapter III of the GDPR, (including the rights of access to, rectification of and erasure of their Personal Data), and shall promptly comply with any request from the Contracting Authority to amend, transfer, restrict Processing of, or Delete such Personal Data;
- 2.17. For the purposes of Freedom of Information/ transparency obligations placed upon the Contracting Authority (by FOIA 2014, national or European public procurement regulations or otherwise):
 - 2.17.1. Procure that it and its servants, employees, agents, subsidiaries or sub-contractors shall assist the Contracting Authority, at no additional charge and within such timescales as the Contracting Authority may reasonably specify, in meeting any requests for Information which are made to the Contracting Authority under the FOIA 2014 or other applicable transparency rules, such assistance to include (but not be limited to) the provision of a copy of the requested Information.
 - 2.17.2. Notwithstanding anything to the contrary in this Agreement, if the Contracting Authority receives a request for Information pursuant to the FOIA 2014, the Contracting Authority shall be entitled to disclose all Information (in whatever form) as is necessary to comply with the FOIA 2014.
 - 2.17.3. If, at the request of the Supplier, the Contracting Authority seeks to withhold Information protected by this Agreement and a competent authority determines, or the parties subsequently agree, that the Information is not exempt, then the Supplier shall reimburse the Contracting Authority for all costs (including but not limited to legal costs) incurred by the Contracting Authority in seeking to withhold such Information from a request under the FOIA 2014.

- 2.17.4. Not (and shall procure that its servants, employees, agents, subsidiaries or sub-contractors do not) respond directly to a request for Information under the FOIA 2014 unless expressly authorised to do so by the Contracting Authority;
- 2.18. Ensure the security of Information stored on all fixed and mobile devices, including medical devices, desktop computers, servers and mobile computer devices (i.e. laptops, notes, tablets, personal data assistants, Blackberry-enabled devices, iPads, iPhones and other smart type devices etc) and removal storage devices (i.e. CD, DVD, portable hard drives, Diskettes, ZIP disks, Magnetic tapes, etc); and further -
 - 2.18.1. Only in exceptional circumstances and with the written consent of the Contracting Authority, should the Supplier hold Information on mobile computing or removable storage devices. Should the business requirements necessitate the holding of Information on such devices then the Supplier shall ensure that only the Information absolutely necessary for their purpose is stored in this format and that the Information is held on such devices only for the minimum amount of time necessary and furthermore, after such period that they will Delete all Information from these devices;
 - 2.18.2. Where the use of mobile computing or removal storage devices is a necessity then the Supplier will take all necessary precautions to ensure the safety of these devices from theft, or loss and authorized access. As a minimum all mobile computing and removal storage devices must be appropriately secured including by means of strong encryption and protected by the use of strong complex passwords;
 - 2.18.3. The encryption used by the Supplier must satisfy or better the requirements of the HSE Encryption Policy (the current version of which is available at http://hse.ie/eng/services/Publications/pp/ict/Encryption_Policy.pdf) as may be updated from time to time. At any time during the term of this Agreement, the Contracting Authority may request the Supplier to set out in writing the current encryption measures used and the Supplier will provide this information within five business days. If, in the reasonable opinion of the Contracting Authority, the encryption standard employed by the Supplier is not sufficient, the Supplier will implement, at their expense, whatever encryption standards are proposed by the Contracting Authority. At no time should cipher keys be held on the mobile computing or removal storage device for the data which they secure. In addition, the Supplier will at all times hold cipher keys in a secure fashion;
 - 2.18.4. Under no circumstances (encrypted or otherwise) is the Supplier sanctioned by the Contracting Authority to download or store Information on USB memory sticks/keys;
- 2.19. Ensure the security of the Information in transit (including by way of electronic transit/transit by way of electronic communication). Where it is necessary to transfer the Information, the Supplier must take all necessary precautions to ensure the security of the Information before, during and after transit; and further -
 - 2.19.1. The Supplier shall ensure that all transfers of the Information are legal, justifiable, and only the minimum Information absolutely necessary for a given purpose is transferred.
 - 2.19.2. All transfers of Information should, where possible, only take place electronically via secure on-line channels or electronic mail. Where the Supplier transfers Information electronically, in any form and by any means, the Information must be encrypted using strong encryption. The encryption methods used must satisfy or better the requirements of the HSE Encryption Policy referred to by Clause 2.18.3.

- 2.19.3. Where it is not possible to transfer the Information electronically, the Information may be encrypted and copied to a mobile storage device (with the exception of USB memory sticks/keys) and transported manually. The encryption methods used must satisfy or better the requirements of the HSE Encryption Policy referred to by Clause 2.18.3. The encrypted mobile storage media, should wherever possible, be hand delivered by the Supplier to, and be signed for by, the intended recipient. If this is not possible, the use of registered post or some other certifiable delivery method must be used.
 - 2.20. In relation to transfers of Information outside of the Republic of Ireland:
 - 2.20.1. The Supplier must seek the written consent of the Contracting Authority prior to the Supplier sending Information outside the jurisdiction of the Republic of Ireland. The Contracting Authority may, at its discretion, prohibit the Supplier from sending Information outside the jurisdiction of the Republic of Ireland;
 - 2.20.2. Where the Contracting Authority has consented to the transfer of Information outside the Republic of Ireland, the Supplier may only transfer Information to a legal entity located in:
 - 2.20.2.1. A country within the European Economic Area;
 - 2.20.2.2. A country outside the European Economic Area but approved for this purpose by the EU Commission pursuant to Article 25 of the Data Protection Directive and (when effective) to Article 45(3) of the GDPR;
 - 2.20.2.3. A country outside the European Economic Area but subject to the execution by the Contracting Authority, the Supplier and the transferee of standard contractual clauses adopted by the EU Commission in accordance with the examination procedure referred to in Article 31(2) of the Data Protection Directive (and Article 93(2) of the GDPR), as provided for in Article 26(4) of the Data Protection Directive (and Article 46 of the GDPR);
 - 2.20.2.4. A country outside the European Economic Area but where the transferee of the Information is a parent or subsidiary company of the Supplier, provided that the Supplier and that parent or subsidiary company have adopted Binding Corporate Rules which have been approved by the relevant national Data Protection Authority under Article 26(2) of Data Protection Directive and/or the comply with the provisions of Article 47 of the GDPR; or
 - 2.20.2.5. The United States of America only when the Information transferee has agreed in writing to be bound by the European Commission's Implementing Decision (EU) 2016/1250 of 12th July 2016 (EU-US Privacy Shield).
 - 2.21. Make available all information necessary to demonstrate compliance with the obligations laid down in Article 28 of the GDPR in respect of the duties of Data Processors and in particular, If so requested by the Contracting Authority, the Supplier shall:
 - 2.21.1. Permit the Contracting Authority or its representatives (subject to reasonable and appropriate confidentiality undertakings), to inspect and audit the Supplier's data Processing facilities and activities (and/or those of its agents, subsidiaries and sub-contractors) and comply with all reasonable requests or directions by the

Contracting Authority to enable the Contracting Authority to verify and/or procure that the Supplier is in full compliance with its obligations under this Agreement;

- 2.21.2. Make available for audit by the Contracting Authority or its representatives, (subject to reasonable and appropriate confidentiality undertakings), all staff procedures, processes and instructions that the Supplier employ for the management of Information;
- 2.21.3. Permit the Contracting Authority or its representatives, (subject to reasonable and appropriate confidentiality undertakings), to inspect the contractual arrangements that the Supplier has in place, governing the transfer of any Information from the Supplier to legal entities located outside the European Economic Area (whether they be in the form of standard contractual clauses as referred to in Clause 2.20.2.3, Binding Corporate Rules as referred to in clause Clause 2.20.2.4, an agreement by the transferee to be bound by the EU-US Privacy Shield as referred to in Clause 2.20.2.5 or any other form);

3. DISCLOSURE REQUIRED BY LAW

In the event that the Supplier is legally required to disclose any of the Information to a third party, the Supplier undertakes to notify the Contracting Authority of such requirement prior to any disclosure and, unless prohibited by law, to supply the Contracting Authority with copies of all communications between the Supplier and any third party to which such disclosure is made. The Supplier must co-operate with the Contracting Authority in bringing any legal or other proceedings to challenge the validity of the requirement to disclose Information.

4. BREACH OF AGREEMENT

The Supplier hereby indemnifies and agrees to keep indemnified the Contracting Authority against any costs, expenses, damages, harm or loss suffered or incurred by reason of any disclosure of the Information in breach of the terms and conditions of this Agreement and shall account to the Contracting Authority for any moneys received by the Supplier directly or indirectly arising out of the disclosure or use of any of the Information in breach of the terms and conditions of this Agreement.

5. NO WARRANTY

Nothing in this Agreement shall constitute a warranty by the Contracting Authority as to the accuracy of any of the Information and the Contracting Authority will not be liable to the Supplier or to any other party to which any of the Information may be disclosed for any loss or damage howsoever caused, arising directly or indirectly out of the inaccuracy of any of the Information.

6. NO LICENCE

The Supplier acknowledges that the Information is of a special and unique character and that the Information and any patent, copyright or other intellectual property rights of whatever nature attaching thereto are and will remain the property of the Contracting Authority and nothing in this Agreement will be construed as giving the Supplier a licence in respect of such patent, copyright or other intellectual property rights.

7. SURVIVAL OF OBLIGATIONS

The non-disclosure obligations of this Agreement will survive and continue and will bind the Supplier's legal representatives, successors and assigns notwithstanding that the Service may not be actually implemented by the parties.

8. WAIVER

The rights of the Contracting Authority under this Agreement will not be prejudiced or restricted by any indulgence or forbearance extended to the Supplier or other parties, and no waiver by the Contracting Authority in respect of any breach of this Agreement will operate as a waiver in respect of any subsequent breach.

9. VARIATION

This Agreement may not be released, discharged, supplemented, amended, varied or modified in any manner except by an instrument in writing signed by a duly authorised officer or representative of each of the parties hereto.

10. NOTICE

All notices to the Contracting Authority or the Supplier from the other party under this Agreement shall be in writing and sent to the appropriate address set out above.

11. SEVERANCE

If any provision of this Agreement is found by any court or administrative body of competent jurisdiction to be invalid, unenforceable or illegal, the other provisions of this Agreement will remain in force. If any invalid, unenforceable or illegal provision would be valid, enforceable or legal if some part of it were deleted, the provision will apply with whatever modification is necessary to make it valid, enforceable or legal.

12. GOVERNING LAW

This Agreement will be governed by and construed in accordance with the laws of Ireland and the parties hereto hereby irrevocably submit to the exclusive jurisdiction of the courts of Ireland.

13. SIGNATURE

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

SIGNED for and on behalf of [FOR INSERTION PRIOR TO SIGNATURE] by:

Signed: _____

Date: _____

Witnessed by: _____

SIGNED for and on behalf of the Contracting Authority by:

Signed: _____

Date: _____

Witnessed by: _____