

[Service Provider]

Contract Agreement

For the

Consultancy Service for the Design, Development and Delivery of an interactive Online Training programme titled, 'Understanding Self-Harm'

to the Health Service Executive

Date of Agreement: XX/XX/XXXX

Commencement Date: XX/XX/XXXX

THIS AGREEMENT is entered into on XX/XX/XXXX

BETWEEN

- 1) **XXXX** a company registered in the [XXX] (Company number XXXX) and whose registered office is at XXXX (the **“Service Provider”**), and
- 2) **HEALTH SERVICE EXECUTIVE** having its principal headquarters at Oak House, Millennium Park, Naas, County Kildare. The scope of the term Health Service Executive (the **“HSE”**) includes:
 - a) The Irish Public Health System;
 - b) Organisations funded /contracted by the HSE;
 - c) Public & Private Entities who operate Health & Social Care services in the Republic of Ireland

All of the above are included within the scope of this contract and are hereafter referred to as **(the “HSE”)**,

each a **“Party”** and together the **“Parties”**.

BACKGROUND

- A. The scope of this Agreement covers the provision of an Online Training Programme – Understanding Self-Harm. The successful provider will be required to design, develop and deliver an interactive online training programme titled, ‘Understanding Self-Harm’ for members of the public, with an emphasis on action learning outcomes.
- B. On 10/09/2026 the HSE advertised a tender for an Online Training Programme (HSE 26697). The tender specified the intention to award a Single Party Service Contract for the provision of provision of an Online Training Programme – Understanding Self-Harm across all sectors of the HSE.
- C. The Service Provider, being a leading business in the provision of this service submitted a tender on or before XX/XX/XXXX in response to the above tender notice.
- D. On 10/09/2026, the HSE advised the Service Provider that they were the successful tenderer and the Service Provider is willing to accept such appointment to provide the Services in accordance with the provisions of this Agreement.

1. DEFINITIONS

1.1 In this Agreement, unless the context otherwise requires:

- 1.1.1 **“Agreement”** means this Agreement, comprised of the Clauses and Schedules hereto, together with all amendments thereto made in accordance with these terms, and any other document expressly included by reference herein;
- 1.1.2 **“Annual Review”** means the annual review that the Review Group will carry out in respect of assessing the performance of the Parties in connection with their respective obligations pursuant to this Agreement;
- 1.1.3 **“Change”** means any change whatsoever to this Agreement or its terms, including (but not limited to) any change in the Services and/or quality procedures;
- 1.1.4 **“Change Control Procedure”** means the procedure, as set out in Schedule 6, for agreeing Change Control;

- 1.1.5 **“Change Order”** has the meaning ascribed in Clause 19.4;
- 1.1.6 **“Charges”** means the monies payable to the Service Provider in accordance with this agreement and as are more particularly set out in the Schedule 2 (excluding VAT);
- 1.1.7 **“Commencement Date”** means [xx/xx/xxxx];
- 1.1.8 **“Confidential Information”** means all information (in any form) designated as such by the Parties, in writing, together with (i) all information which relates to the business, affairs, developments, trade secrets, software, know-how, personnel, customers/service users and suppliers of the Parties and (ii) any other information which may reasonably be regarded as the confidential information of the disclosing Party;
- 1.1.9 **“Default”** means any breach of the obligations of any Party, or any default (including non-payment of valid invoices/payment files), act, omission, negligence, or statement, of any Party, their employees, agents or sub-contractors in connection with, or in relation to, the subject matter of this Agreement, which causes a material direct loss or material damage to another Party;
- 1.1.10 **“Delete”** 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;
- 1.1.11 **“Discretionary Exclusions”** means the circumstances set out in Regulation 57(2) of the Public Contracts Regulations;
- 1.1.12 **“Effective Date”** means the date of signing of this Agreement;
- 1.1.13 **“Euro”** or **“€”** means the common currency adopted by one or more members of the European Union, including Ireland;
- 1.1.14 **“Good Industry Practice”** means the standards that would apply to a company seeking to perform its contractual obligations in good faith and in a manner that demonstrates the exercise of a degree of skill, diligence, prudence and foresight that would be expected from a skilled and experienced Service Provider in the provision of the Services and in compliance with all applicable laws, regulations and applicable quality and industry standards;
- 1.1.15 **“HIQA”** means the Health Information and Quality Authority;
- 1.1.16 **“HSE Tender Document Pack”** means the document pack referenced in Clause 2.2;
- 1.1.17 **“Incident”** means any unplanned occurrence which will affect the availability of Products or any other occurrence or accident causing harm/injury to any persons or property during the delivery of the Services;
- 1.1.18 **“Initial Term”** has the meaning ascribed in Clause 4;
- 1.1.19 **“Intellectual Property”** means patents (including patent applications), registered designs, trademarks and service marks (whether registered or otherwise), copyright, database rights, design rights and other intellectual property rights, including in other jurisdictions that grant similar rights as the foregoing, including those subsisting in inventions, drawings, performances, software, semiconductor topographies, improvements, discussions, business names, goodwill and the style of presentation of goods or services, and in the applications for the protection thereof throughout the world (and **“Intellectual Property Rights”** means rights, title and interest in such Intellectual Property);
- 1.1.20 **“Implementation Plan”** means the plan in respect of the roll out of Services in the agreed form as set out in Schedule 8, as may be amended from time to time with the written consent of the Parties;
- 1.1.21 **“KPI”** means Key Performance Indicator;

- 1.1.22 **“Location”** means the healthcare facility being part of the HSE, where the Service Provider is requested to provide the Services
- 1.1.23 **“Mandatory Exclusions”** means the circumstances set out in Regulation 57(1) of the Public Contracts Regulations;
- 1.1.24 **“Service Lead”** means the person assigned by the Service Provider for the duration of the Agreement to ensure the Service is delivered to the quality standards defined and expected. The Service Lead shall act as a single/dedicated point of contact in the Service Provider and shall be available to the HSE at all times.
- 1.1.25 **“Service Provider”** means **[- the successful tenderer];**
- 1.1.26 **“Public Contracts Regulations”** means the European Union (Award of Public Authority Contracts) Regulations 2016;
- 1.1.27 **“Review Group”** means the persons named in Clause 3 who shall have responsibility for the review and management of any issues, both clinical and operational, arising in respect of the Services in accordance with the provisions of that Clause;
- 1.1.28 **“Serious Infringement”** means where this Agreement should not have been awarded by the HSE to the Service Provider in view of a serious infringement of the obligations under the Treaties and Directive 2014/24/EU that has been declared by the Court of Justice of the European Union in a procedure under Article 258 of the Treaty of the Functioning of the European Union;
- 1.1.29 **“Services”** means the provision of the services as more particularly described in Schedule 1 and set out in this Agreement;
- 1.1.30 **“Substantial Breach”** means a material breach of the Agreement which has a material adverse effect on the performance of the Services;
- 1.1.31 **“Substantial Modification”** means a modification to this Agreement other than as provide for in Regulation 72 of the Public Contracts Regulations and to which the HSE is required to conduct a new procurement procedure in accordance with Regulation 72(8) of the Public Contracts Regulations;
- 1.1.32 **“Tender Response”** means the tender submitted by the Service Provider for entry into this Agreement and includes any clarifications issued after the date of tender submission and prior to the Effective Date;
- 1.1.33 **“Term”** and **“Subsequent Term”** have the meaning ascribed in Clause 4;
- 1.1.34 **“TUPE Regulations”** means the European Communities (Protection of Employees on Transfer of Undertakings) Regulations 2003; and
- 1.1.35 **“Working Days”** means **Monday to Sunday, including bank and public holidays in Republic of Ireland.**
- 1.1 Clause, Schedule and Paragraph headings shall not affect the interpretation of this Agreement. References to Clauses and Schedules are to the Clauses and Schedules of this Agreement, references to Paragraphs are to Paragraphs of the relevant Schedule.
- 1.2 The Schedules form part of this Agreement and shall have effect as if set out in full in the body of this Agreement and any reference to this Agreement includes the Schedules.
- 1.3 A “person” includes a natural person, corporate or unincorporated body (whether or not having separate legal personality).
- 1.4 A reference to a “company” shall include any company, corporation or other body corporate, wherever and however incorporated or established.
- 1.5 Words in the singular shall include the plural and vice versa. A reference to one gender shall include a reference to the other genders.

- 1.6 A reference to a statute, statutory provision or any subordinate legislation made under a statute is to such statute, provision of subordinate legislation as amended or re-enacted from time to time whether before or after the date of this Agreement and, in the case of a statute, includes any subordinate legislation made under that statute whether before or after the date of this Agreement.
- 1.7 Where the words “include(s)”, “including” or “in particular” are used in this Agreement, they are deemed to have the words “without limitation” following them.
- 1.8 Any obligation in this Agreement on a person not to do something includes an obligation not to agree or allow that thing to be done.
- 1.9 Any term or condition of this Agreement which requires one Party:
- 1.10.1 to make a request of the other Party;
 - 1.10.2 to report to the other Party; or
 - 1.10.3 to give or obtain notice, notification, confirmation, approval, agreement, consent or permission to or from the other Party,
- shall (unless expressly stated otherwise) be deemed to include an obligation requiring that Party to make that request or report in writing, and to give or obtain such notice, notification, confirmation, approval, agreement, consent or permission in writing.
- 2 SCOPE**
- 2.1 In consideration of the payment of the Charges, and subject to the HSE materially complying with its duties and responsibilities under this Agreement, the Service Provider shall, in accordance with the terms and conditions of this Agreement and subject to amendments as may be agreed from time to time:
- 2.1.1 provide the Services in accordance with Schedule 1 and Schedule 2;
 - 2.1.2 comply with the undertakings set out in Schedule 4; and
 - 2.1.3 provide the services in accordance with the Tender Response submitted by the Service Provider on or before XXXX, including the various written proposals, and the terms of this Agreement.
- 2.2 For the avoidance of doubt, the Parties confirm that the HSE Tender Document Pack, the Tender Response (including the European Single Procurement Document), and this Agreement shall be deemed to form part of this Agreement. In the event that there is a conflict as between any of these documents in connection with the respective obligations and duties of the Parties in connection with the delivery of the Services, the following order of precedence shall prevail:
- 2.2.1 the terms of this Agreement;
 - 2.2.2 the Tender Response; and
 - 2.2.3 the HSE Tender Document Pack.
- The HSE Tender Document Pack includes the HSE Standard Terms for Supplies & Services V.7, and the terms therein are incorporated into this Agreement unless otherwise varied by the specific terms of this Agreement. The HSE Standard Terms for Supplies & Services V.7 is available for download at www.hse.ie.
- 2.3 Services will be rolled out in accordance with the Implementation Plan and all of the Parties agree to use all reasonable commercial endeavours to ensure that the Services are rolled out in accordance with the Implementation Plan.
- 2.4 The Parties hereby acknowledge and agree that the HSE may continue to develop new standards/guidelines and/or service levels in connection with the delivery of the Services in

co-operation and conjunction with the Service Provider. Once agreed by the Parties in accordance with the Change Control Procedure, the Parties will be expected to adhere to any such new standards/guidelines and/or service levels save that where any guidelines and/or standards are introduced pursuant to applicable law, the Parties shall be responsible at all times to ensure the Services hereunder are provided in accordance with applicable law at all times.

- 2.5 Subject to agreement on the terms, the Service Provider agrees to provide Services of a similar nature to those Services the subject of this Agreement, if requested to do so by the HSE.
- 2.6 The Service Provider agrees to deliver the Services in partnership with the HSE, and any other entities or persons contracted by the HSE.
- 2.7 In providing the Services, the Parties acknowledge that Service Provider co-operation with third parties may be required. In this respect, the Service Provider shall co-operate with third party suppliers:
 - 2.7.1 To the extent reasonably required for the purposes of integrating the Services with the works or service of such third party suppliers. To the extent there are specific requirements in this regard, these are set out in Schedule 1; and
 - 2.7.2 Without incurring any material costs in order to allow such third party suppliers to perform their contractual obligations to the HSE.

3 MANAGEMENT

- 3.1 The implementation and operation of this Agreement will be overseen by the Review Group consisting of representatives of the HSE and of the Service Provider. The Service Provider will be required to participate in regular scheduled meetings of the Review Group for the duration of this Agreement.
- 3.2 The HSE shall appoint the following persons to represent it on the Review Group:
 - 3.2.1 XXX, or nominee
or substitutes or replacements will be notified in writing to the Service Provider.
- 3.3 The Service Provider shall appoint the following persons to represent it on the Review Group:
 - 3.3.1 XXX or nominee,
or their substitutes or replacements as notified in writing to the HSE.
- 3.4 The Review Group shall meet frequently as agreed between the Parties to monitor all aspects relating to the delivery of the Services. All such review meetings will take place at a location designated by the HSE within the Republic of Ireland.
- 3.5 In the context of the Services specified under this Agreement, the Review Group meetings shall take place between the HSE and the Service Provider. Subject to the agreement of the Parties, which shall not be unreasonably withheld, the HSE shall be entitled to have another third party attend the Review Group meetings pursuant to this Agreement.
- 3.6 The HSE may, upon reasonable prior written notice to the Service Provider, cause an audit and/or inspection and/or review to be made of the Service Provider's equipment, records, books of account and other documentation that relate directly to the provision of the Services in order to verify the Service Provider's compliance with the terms of this Agreement and to verify statements issued by the relevant Service Provider at any time during the term of this Agreement. Any such inspection shall be made by HSE (or subject to the relevant Service Provider's consent, a third party designated by the HSE subject to such third party entering

into confidentiality agreement on terms equivalent to those set out in this Agreement). Any audit and/or inspection shall be conducted during regular business hours at the Service Provider's premises.

- 3.7 The Service Provider acknowledges that it is obliged to comply with a written request from the HSE for any information that the HSE considers material to the provision of the Services. The HSE shall specify in any written request the information required and the reason for the request.
- 3.8 The Service Provider shall establish and maintain at all times accurate, complete and up-to-date books and records in order to comply with its obligations under this Agreement. This will include such books and records as are necessary in order to show clearly all enquiries, claims, settlements, payments, compensation, systems, processes and other proceedings relating to the Services and all other information relating to the Service Provider's obligations under this Agreement which would be maintained by a prudent Service Provider in accordance with Good Industry Practice, including such information as may be required under applicable Laws.
- 3.9 On request from the HSE, the Service Provider shall, at its own expense, ensure that its external auditors provide to the HSE, as soon as reasonably practicable after the end of the Service Provider's financial year, confirmation that any statement supplied by the Service Provider to the HSE pursuant to Clause 3.7 during that financial year is complete and accurate.
- 3.10 The Service Provider shall, at its own expense and using its own equipment, store information reported and received by the Service Provider from the HSE, HSE staff and others in the course of performing the Services under this Agreement. The Service Provider agrees that all reports, forms, records, files, data and other materials derived from such information and all updates and additions thereto are the exclusive property of the HSE. If the HSE wishes to request a data file transfer up to and including termination of this Agreement, the Service Provider will arrange for such transfer on payment by the HSE of any reasonable costs involved based on format and size of data to be transferred.
- 3.11 The Service Provider shall provide the HSE and the auditors with access to any information and documents (including copies thereof) which may be required to verify that the Services are being provided in accordance with this Agreement and to substantiate the Charges.
- 3.12 The HSE may carry out, as reasonably required, occasional routine audits for the purposes of meeting routine requirements of the internal audit division of the HSE, and the Service Provider shall provide reasonable access to the HSE for these purposes.
- 3.14 The Service Provider shall comply with scheduled financial audits of the Charges required by the HSE. Should any review reveal that the Service Provider has overcharged the HSE in any respect; the Service Provider will promptly reimburse the HSE for the amount of any overcharge from the date on which overpayment was made until the date of reimbursement, as well as the additional cost of the audit arising in connection with investigating the overcharge.
- 3.15 The Service Provider will collaborate with the HSE in its monitoring and audit relationships and in performing the HSE's obligations to third parties (including HIQA, the Comptroller and Auditor General, etc.).
- 3.16 The Service Provider will provide relevant information to appropriate and authorised sources in the health sector and provide the HSE with a copy of the information supplied to such sources. The sources in the health sector shall be authorised by the HSE prior to the sharing of relevant information by the Service Provider.

- 3.17 The provisions of this Clause 3 shall continue to apply for the appropriate retention periods specified by law or in such policies as may be specified by the HSE to the Service Provider notwithstanding the termination of this Agreement for any reason and notwithstanding the completion of the performance of the Service Provider's obligations hereunder.
- 3.18 If any information required pursuant to statute or the provisions of this Agreement is unreasonably withheld by the Service Provider, the HSE may (in its sole and absolute discretion), having given not less than fourteen (14) days written notice to the Service Provider, withhold payment of any part of the Charges until such time as the required information is supplied.

4. TERM

- 4.1 The Agreement shall be effective from the Commencement Date and shall remain in force for twelve (12) months (the "**Initial Term**"), unless terminated in accordance with either Clause 16 of this Agreement or Condition 17 to 22 of the Standard Terms and Conditions of Contract Version 7.
- 4.2 The HSE reserves the right to extend the contract for two (2) by twelve (12) month periods up to a maximum of thirty six (36) months in total, by giving the Service Provider at least six (6) months' notice in writing prior to the expiry of the Initial Term or any Subsequent Term (together the Initial Term and any Subsequent Term, the "**Term**").

5. INSURANCE

- 5.1 The Service Provider shall maintain the minimum insurances specified in Schedule 3 for the duration of this Agreement.
- 5.2 The insurance policies referred to in Schedule 3 should extend to provide indemnity to the HSE.
- 5.3 The Service Provider shall provide all facilities, assistance and advice required by the HSE or the HSE's insurers for the purpose of contesting or dealing with any action, claim or matter arising out of the Service Provider's performance of this Agreement.
- 5.4 The name on the insurance certificate must be the legal name of the Service Provider.
- 5.5 The Service Provider agrees to produce for inspection at the request of the HSE, evidence of the above insurance.

6 PAYMENT TERMS

- 6.1 In consideration of the performance of the Services, and in accordance with the terms of this Agreement, the Location shall pay the Charges, in accordance with Schedule 2. For the avoidance of doubt, references to per annum in Schedule 2 shall be deemed to be references to each twelve (12) month period ending on the anniversary of the Commencement Date.
- 6.2 The Service Provider shall issue an invoice(s) to the Location following completion of the Services at the Location.
- 6.3 The Charges are exclusive of Value Added Tax ("VAT"). Upon receipt of a valid invoice for VAT purposes, the Location shall pay to the Service Provider in addition to the Charges, a sum equal to the VAT chargeable on the Charges. VAT payable by the Location on the Services performed shall be at the rate(s) prescribed by law. The Charges shall be invoiced by the Service Provider to the Location.
- 6.4 Where applicable, payment of Charges shall be made in accordance with the Prompt Payments Act 1997 (as amended) upon receipt of the Service Provider's invoices to the bank account nominated in writing by the Service Provider. All Charges shall be paid in Euro.

- 6.5 Where applicable, in the event that the Location fails to pay any Charges that are due in accordance with this Clause 6.4, then the Location shall pay interest on the overdue amount in accordance with the Prompt Payments Act 1997 (as amended).
- 6.6 In the event of termination of this Agreement in accordance with its terms, payments by the Locations to the Service Provider shall be due and owing only up to the date of termination and cessation of the Services.
- 6.7 The Service Provider shall provide satisfactory evidence of tax compliance to the HSE on an annual basis.
- 6.8 The Parties acknowledge and confirm that the payment by Location to the Service Provider of all Charges under this Agreement shall fully satisfy the Location's payment obligations in respect of the performance of the Services under this Agreement.
- 6.9 Queries in relation to invoices and payments shall be addressed by the Service Provider in writing to Location directly.

7 SERVICES

- 7.1 The Service Provider shall
- 7.1.1 Provide the Services in accordance with the terms of this Agreement;
 - 7.1.2 Provide the Services in accordance with all applicable laws, regulations, licences and consents;
 - 7.1.3 Immediately or as soon as reasonably practicable notify the HSE of any matter which may affect the delivery, provision or level of the Services specified in this Agreement, and agree and implement the appropriate corrective action necessary;
 - 7.1.4 Record the matter and corrective action as specified in Clause 7.1.3.

8 INTELLECTUAL PROPERTY RIGHTS

- 8.1 All Intellectual Property Rights, including patent rights, in any pre-existing works of authorship, inventions, trademarks, service marks, databases, designs, methodologies, know-how, processes, records, documentation, information or other material ("**Proprietary Materials**"), provided or made available by any Party to this Agreement, the title to which is vested and shall remain vested in the relevant Party (or its licensors) who provided or made available such Proprietary Materials.
- 8.2 For the avoidance of doubt, title to all data provided to the Service Provider by the HSE for the purposes of the Services shall remain vested in the HSE.
- 8.3 This Agreement does not assign (and shall not be deemed to assign) any Intellectual Property Rights of any Party here to existing prior to the Commencement Date or developed independently of this Agreement.

9 DATA PROTECTION AND DATA SECURITY

- 9.1 If applicable to the provision of the Services, the Service Provider shall deliver and perform the Services in accordance with the terms of the Service Provider Data Processing Agreement as set out in Schedule 7 of this Agreement.

10 WARRANTIES

- 10.1 Each Party warrants and represents to each other that:
- 10.1.1 it has full capacity and authority and all necessary consents to enter into and to perform this Agreement, and this Agreement is executed by a duly authorised representative;
 - 10.1.2 save as expressly set out in this Agreement it has no right, title or interest in or to any and all Proprietary Materials of the other Parties collected, processed, created and

managed by it, all of which will belong exclusively to the other relevant Party and it shall not disclose, divulge, offer, supply, licence, rent, exchange, resell or re-use any of the other relevant Party's Proprietary Materials, save as expressly permitted, whether now or at any time in the future;

- 10.1.3 at all times in matters arising from or in connection with the performance of this Agreement it will be and remain in full compliance with all applicable legislation in Ireland;
- 10.2 The Service Provider warrants to the HSE that:
- 10.2.1 he will ensure that the disposal of waste packaging arising from the provision of the Services will be fully compliant with the provisions of any applicable permits and all local and European legislation. He further warrants that copies of all relevant permits and licences are kept on file for auditing and review purposes.
 - 10.2.2 he will operate a comprehensive quality management system covering all elements of his business processes.
 - 10.2.3 to the best of his knowledge, the provision of the Services shall not infringe any Intellectual Property Rights of any third party;
 - 10.2.4 the Services shall be supplied and rendered by appropriately experienced, qualified and trained personnel with all due skill, care and diligence that would be reasonably expected from a skilled and experienced person engaged in the same or similar type of undertaking;
 - 10.2.5 he shall allocate appropriate and sufficient capacity to meet his obligations in the provisions of the Services of the Agreement.
 - 10.2.6 he shall perform the Services in all material respects in accordance with this Agreement and its Schedules;
 - 10.2.7 where applicable, he is the owner of or is authorised to use any hardware, software, machines and/or equipment which are in his custody or control and which are necessary for the provision of the Services; and
 - 10.2.8 he shall obtain warranties and representations from any sub-contractors employed in the provision of the Services equivalent to those contained in this Clause 10.2.
- 10.3 The Service Provider shall have in place appropriate mechanisms to assess quality assurance and standards of the performance of the Services in line with Good Industry Practice.
- 10.4 The Service Provider shall comply with legal requirements relating to quality and standards and such other appropriate requirements as may be stipulated by recognised standard setting bodies.
- 10.5 The HSE will have the right to conduct reviews of the Service Provider's quality management programmes and to verify compliance with the requirements of this Agreement. Such reviews may be performed by the HSE, or by a third party acting on behalf of the HSE, provided always that the Service Provider is given not less than fifteen (15) days' prior written notice.
- 10.6 In the event that the HSE review should produce findings with regard to the Service Provider's quality management programme, of concern to the HSE, then, the Service Provider shall produce, within thirty (30) days of the HSE written request, a quality assurance report and plan. The Service Provider shall promptly implement the provisions of such plan at its own cost.
- 10.7 The HSE shall have the right, but not the obligation, at all reasonable times to inspect all or any process or procedural related specifications, documents, drawings and the like produced by the Service Provider in respect of any part of the Services. Any such inspection or any

approval thereof by the HSE shall not relieve the Service Provider of any of its obligations under the Agreement, unless such inspection and/or approval constitute a change to the Agreement or any part thereto.

10.8 The HSE warrants to the Service Provider:

- 10.8.1 that it shall comply with its undertakings as set out in Schedule 4 at all times during the Term;
- 10.8.2 that it has taken all measures necessary to ensure its current and on-going compliance with the Clause 9 of this Agreement in respect of the Services;
- 10.8.3 that it shall co-operate as reasonably necessary with the Service Provider and his approved sub-contractor(s) (where relevant) during the provision of the Services and that its representatives on the Review Group shall make all decisions in a timely and efficient manner; and

10.9 The Service Provider warrants that as of the Effective Date:

- 10.9.1 it has had an opportunity to carry out a detailed due diligence exercise in relation to the requirements of the HSE for the purpose of the Services and has asked the HSE all questions it considers to be relevant for the purpose of establishing whether it is able to provide the Services in accordance with the terms of this Agreement;
- 10.9.2 it has received all material Information requested by it from the HSE to enable it to determine whether it is able to provide the Services in accordance with the terms of this Agreement;
- 10.9.3 it has made its own enquiries to satisfy itself as to the accuracy and adequacy of any Information supplied to it by or on behalf of the HSE; and
- 10.9.4 it has entered into this Agreement in reliance on its own due diligence.

11 EARLY WARNING

11.1 Without prejudice to Clause 3 of this Agreement, each Party shall promptly warn the other whenever it has reasonable grounds to believe that any failure on the part of the Service Provider, the HSE or any third party to carry out its obligations and responsibilities under or associated with the performance of the Services, or the manner in which it is carried out, will have, or threatens to have, a detrimental effect on:

- 11.1.1 the quality or timing of any of the element of the Services;
- 11.1.2 the efficiency or cost to the HSE of the provision of the Services;
- 11.1.3 the operation of the HSE's business; or
- 11.1.4 the performance of any other obligations of the Service Provider under this Agreement.

11.2 For the avoidance of doubt nothing in this Clause 11 shall oblige any Party to monitor, supervise or otherwise manage the other Party's obligations under this Agreement (without prejudice to any express provision otherwise, elsewhere in this Agreement).

12 HSE POLICIES/GUIDELINES

12.1 The Service Provider is obliged to comply with the following policies/guidelines:

12.1.1 policies/guidelines contained within the HSE Tender Document Pack and/or this Agreement;

12.1.2 policies/guidelines introduced during the Term of this Agreement and that are relevant in the context of providing the Services and Products. The Change Control Procedure will be invoked in circumstances where either Party believes the introduction of such policies is likely to have a material impact.

13 ACCESS TO PREMISES

13.1 Where the Service Provider needs access to the HSE's premises, the Service Provider and any of its representatives shall comply with all safety and security requirements of the HSE.

13.2 The HSE shall have the right, which shall not be unreasonably withheld, to conduct a site visit, on 3 days written notice, to the and facility engaged by the Service Provider in relation to the provision of the Services for any purposes pertaining to this Agreement.

14 LIMITATION OF LIABILITY

14.1 The following provisions in this Clause 14 set out the Service Provider's entire aggregate liability to the HSE (including any liability for the acts and omissions of the Service Provider's employees, agents or sub-contractors) in respect of:

14.1.1 a direct or indirect breach or negligent performance or failure in performance by the Service Provider (including by or as a consequence of the actions of their sub-contractors, agents, employees or other persons in the Service Provider's control) of the terms of this Agreement; or

14.1.2 a tortious act or omission for which the Service Provider is liable and arising in connection with the provision of the Services, or the performance or contemplated performance of this Agreement.

14.2 Subject to Clause 14.4 and 14.5, in no event shall the total aggregate liability of the Service Provider, in respect of any one claim or series of connected claims by the HSE under or in connection with this Agreement exceed **€1,000,000**.

14.3 In no event shall any Party be liable for:

14.3.1 loss of profits, loss of revenue or loss of anticipated savings;

14.3.2 loss of business or opportunity, loss of goodwill or injury to reputation;

14.3.3 any special, indirect or consequential loss or damages,

arising out of or in connection with this Agreement. This shall not affect the liability of any Party to perform their obligations under this Agreement.

14.4 Notwithstanding anything to the contrary contained in this Agreement, a Party's liability to the other for:

14.4.1 death or personal injury resulting from their negligence or that of its employees, agents or sub-contractors; or;

14.4.2 fraud, or fraudulent misrepresentation, misstatement, act or omission;

14.4.3 a material breach of Clause 15.

14.4.4 deliberate personal repudiatory breaches of this Agreement which deprive the non-breaching Party of the whole or substantially the whole of the benefit of this Agreement;

14.4.5 any matter in respect of which it would be unlawful to exclude or restrict liability pursuant to applicable laws,

shall not be limited.

- 14.5 The Parties hereby acknowledge and agree that in the event that any Party is subject to a third party claim in connection with any aspect connection to the delivery of the Services (a “**Third Party Claim**”) and such Third Party Claim arises as a result of the other Party (or Parties) (i) negligence, or (ii) reckless act or omission, or (iii) breach of this Agreement (the “**Breaching Party or Breaching Parties**”), the liability of the Breaching Party (or Breaching Parties) shall be the direct costs, expenses and/or damages awarded to the relevant third party the subject of the Third Party Claim or such proportion of the award to the third party as a court may direct the Breaching Party and/or Breaching Parties is responsible for.
- 14.6 The Parties expressly agree that should any limitation or provision contained in this Clause 14 be held to be invalid under any applicable statute or rule of law it shall, to that extent, be deemed omitted, but if any Party thereby becomes liable for loss or damage which would otherwise have been excluded or limited such liability shall be subject to the other limitations and provisions set out herein.
- 14.7 Nothing in this Agreement shall prevent or restrict either Party from obtaining such injunctive or equitable relief, or remedy, as may be granted to it by an appropriate court.
- 14.8 Except as expressly provided by this Agreement, nothing in this Agreement creates, is intended to create, or shall be deemed to create, any benefits, rights, claims, obligations, or causes of action, in, to, or on behalf of, any Party, or entity, other than those Parties to this Agreement.
- 14.9 The HSE has no liability to the Service Provider in connection with this Agreement or the Services (whether for breach of Agreement, breach of duty, including statutory duty, or any other duty, negligence, or anything else) except that stated in this Agreement.

15 CONFIDENTIAL INFORMATION

- 15.1 The Service Provider acknowledges that Confidential Information may be provided to them by the HSE and that each item of Confidential Information shall be governed by the terms of this Agreement.
- 15.2 For the purposes of this Agreement ‘Confidential Information’ shall mean:
- 15.2.1 Unless specified in writing to the contrary by the HSE all and any information (whether in documentary form, oral, electronic, audio-visual, audio-recorded or otherwise including any copy or copies thereof and whether scientific, commercial, financial, technical, operational or otherwise) relating to the HSE, the supply of goods/services under the Agreement and all and any information supplied or made available to the Service Provider (to include employees, agents, Subcontractors and other suppliers) for the purposes of the Agreement; and
- 15.2.2 Any and all information which has been derived or obtained from information described in sub-paragraph 15.2.1.
- 15.3 Save as may be required by law, the Service Provider agrees in respect of the Confidential Information:
- 15.3.1 To only use such Confidential Information for the purposes of the Agreement;
- 15.3.2 To treat such Confidential Information as confidential and to take all necessary steps to ensure that such confidentiality is maintained;
- 15.3.3 Not, without the prior written consent of the HSE, to communicate or disclose any part of such Confidential Information to any person except:
- (a) To those employees, agents, subcontractors and other suppliers on a need to know basis, and who are under an obligation to the Service Provider to keep such information confidential; and/or

- (b) To the Service Provider's auditors, professional advisers and any other persons or bodies having a legal right or duty to have access to or knowledge of the Confidential Information in connection with the business of the Service Provider.

15.4 The obligations in this Agreement will not apply to any Confidential Information:

- 15.4.1 In the Service Provider's possession (with full right to disclose) before receiving it from the HSE; or
- 15.4.2 Which is or becomes public knowledge other than by breach of this clause; or
- 15.4.3 Is independently developed by the Service Provider without access to or use of the Confidential Information; or
- 15.4.4 Is lawfully received from a third party (with full right to disclose).

15.5 The Service Provider undertakes:

- 15.5.1 To comply with all directions of the HSE with regard to the use and application of all and any Confidential Information;
- 15.5.2 To comply with all directions as to local security arrangements deemed reasonably necessary by the HSE, if required, completion of documentation under the Official Secrets Act 1963 and comply with any vetting requirements of the HSE including by police authorities;
- 15.5.3 To implement appropriate technical and organisational measures to protect the Confidential Information;
- 15.5.4 To notify the HSE as soon as possible, and no later than 48 hours, after the Service Provider becomes aware of any security breaches within the Service Provider's organisation leading to the loss or theft of any Confidential Information;
- 15.5.5 Upon termination or the completion of any Agreement, for whatever reason, the Service Provider shall, at the request and choice of the HSE, Delete or return to the HSE, all Confidential Information and copies thereof in its possession. As directed by the HSE, all copies of Confidential Information and copies thereof held by the Service Provider in electronic form, shall be returned to the HSE in a commonly used electronic format or Deleted. The Service Provider will upon request, furnish a certificate to that effect should the HSE so request in writing.

15.6 If applicable, in relation to the processing of any personal data, the Service Provider shall ensure they fully comply with the provisions of the HSE Service Provider Data Processing Agreement at Schedule 7.

16 TERMINATION

16.1 Unless terminated earlier in accordance with the provision of this Agreement, this Agreement shall continue in effect for the Initial Term and where applicable, any Subsequent Term.

16.2 The HSE may terminate this Agreement immediately upon notice:

16.2.1 Where the Service Provider is in Default of any obligation set out in this Agreement and:

16.2.1.1 the Default is, by its nature, capable of remedy and the Service Provider shall have failed to remedy the Default within thirty (30) days of written notice by the HSE or such longer period as the HSE, in its sole discretion, may determine to be appropriate, specifying the Default and requiring its remedy; or

16.2.1.2 the Default is a breach of a fundamental term of this Agreement and, by its nature, not capable of remedy;

- 16.4 The HSE may terminate this Agreement immediately upon notice where the Service Provider, being a company, passes a resolution, or the court makes an order that it be wound up otherwise than for the purpose of a bona fide reconstruction or amalgamation, or a receiver, receiver and manager, administrator, or examiner is appointed in respect of the business or any part thereof or circumstances arise which entitle the court or a creditor to appoint a receiver, administrator or examiner or which entitle the court otherwise than for the purpose of a bona fide reconstruction or amalgamation to make a winding up order, or any similar event occurs under the law of any other jurisdiction.
- 16.5 The HSE may terminate this Agreement immediately on notice in the event that the HSE considers that any of the following circumstances have arisen:
- 16.5.1 where there is a Substantial Modification;
 - 16.5.2 where any of the circumstances detailed in the Mandatory Exclusions or Discretionary Exclusions apply to the Service Provider at the time of the award of this Agreement; or
 - 16.5.3 where there is a Serious Infringement.
- 16.6 The Service Provider shall notify the HSE in writing within ten (10) Business Days of becoming aware of any circumstances listed in clauses 16.1 to 16.5.3 above applying.
- 16.7 In the event of any termination or expiry of this Agreement:
- 16.7.1 the Service Provider and the HSE shall, using good faith endeavours, agree an exit plan to ensure the smooth conclusion of their commercial arrangements and exit from the Services in a manner consistent with health and wellbeing of the Service Users;
 - 16.7.2 subject always to the Intellectual Property Rights of the Service Provider, the Service Provider shall provide the HSE or a replacement contractor nominated by HSE with any and all HSE Proprietary Materials in their possession relating to the Services, either in its then current format or in a format nominated by HSE (in which event, the HSE will reimburse the Service Provider the reasonable data conversion expenses). Alternatively, on HSE's written instruction the Service Provider shall cease to use HSE's Proprietary Materials and, at the request of HSE, shall destroy all copies of HSE Proprietary Materials then in their possession. In either event, the Service Provider hereby agrees to HSE audit of their performance of its obligations set out in this Agreement which shall include, but not be limited to, the relevant senior management of the Service Provider executing a certificate of compliance in a reasonable format produced by HSE and permitting a HSE site visit to the Service Provider's business locations upon not greater than 3 Working Days' notice. The Service Provider hereby grants the HSE a licence to enter their business locations, for the purpose of conducting such audit, subject always to compliance by the HSE with its obligations under this Agreement.
- 16.8 Termination in accordance with this Clause 16 shall not prejudice or affect any right of action, liability or remedy, which shall have accrued or shall thereafter accrue to any Party.
- 16.9 All provisions of this Agreement which are, by their nature, intended to survive expiry or earlier termination shall survive expiry or earlier termination of this Agreement.
- 16.10 In the event of termination of this Agreement in accordance with its terms for any reason, payments of the Charges shall accrue only up to the date of termination and cessation of the Services.

17 FRAUD

- 17.1 The HSE may suspend the Services and its payment obligations if it has reasonable grounds to believe that the Service Provider, its employees, officers or invitees has committed a fraud. If it is subsequently found that none of them had done so, the HSE shall pay the Service Provider any amounts which have been unjustly withheld.
- 17.2 The HSE shall permit the Service Provider, and the Service Provider shall be entitled, to resume the Services immediately upon the earlier of the following:
- 17.2.1 the HSE agreeing in writing to the resumption of the Services; or
- 17.2.2 it is established by a court of competent jurisdiction that the Service Provider, its employees, officers or invitees were not responsible for any fraud.

18 ASSIGNMENT AND SUB-CONTRACTING

- 18.1 The Service Provider shall not without the written consent of the HSE assign the benefit or burden of this Agreement or any part thereof.
- 18.2 The Service Provider must obtain the prior written consent of the HSE if it wishes to engage an agent, subcontractor or third party to provide any of the Services or part thereof.
- 18.3 No sub-contracting by the Service Provider shall in any way relieve the Service Provider of his responsibilities under this Agreement.

19 AMENDMENTS AND CHANGE CONTROL

- 19.1 This Agreement shall not be varied or amended, unless such variation or amendment has been agreed in writing by the Service Provider and by a duly authorised representative of the HSE.
- 19.2 If any Party identifies a requirement for a Change, or wishes to make any Change, such Change shall be governed by the provisions of the Change Control Procedure, specified in Schedule 6.
- 19.3 In the event that the Parties cannot agree to a Change pursuant to Change Control Procedure, the matter shall be escalated in accordance with Clause 20.
- 19.4 A Change can only become effective when it is documented in writing and is signed by all Parties in accordance with the Change Control Procedure ("**Change Order**").

20 DISPUTES

- 20.1 To the extent any dispute arises as between any of the Parties hereto (other than in respect of the non-payment of Charges), any Party may at any time initiate the dispute resolution procedure set out in the HSE's Standard Terms for Supplies and Services V.7.

21 NOTICES

- 21.1 Any notice given under this Agreement shall be in writing and signed by or on behalf of the Party giving it and shall be served by delivering it personally, or sending it by pre-paid recorded delivery or registered post, or by email to the address and for the attention of the relevant Party set out in Clause 21.2 (or as otherwise notified by that Party pursuant to this Clause). Any such notice shall be deemed to have been received:
- 21.1.1 if delivered personally, at the time of delivery;
- 21.1.2 in the case of pre-paid recorded delivery or registered post, 48 hours from the date of posting;

21.1.3 in the case of email, at the date and time of acknowledgment of receipt by the other Party which shall be the responsibility of the Notifying Party to request and retain the acknowledgment of receipt, and

provided that if deemed receipt occurs before 9am on a business day the notice shall be deemed to have been received at 9am on that day, and if deemed receipt occurs after 5pm on a business day, or on a day which is not a business day, the notice shall be deemed to have been received at 9am on the next Working Day.

21.2 The address and email of the Parties for the purposes of Clause 21.1 are:

Service Provider

For the attention of: XXX

Email: XXX@ Service Provider

Health Service Executive

For the attention of: XXX

Email:@hse.ie

21.2 In proving such service it shall be sufficient to prove that the the notice was transmitted by email to the email address of the relevant Party set out in Clause 21.2 (or as otherwise notified by that Party hereunder).

22 GOOD FAITH

Each Party will act with utmost good faith toward the other Parties in the performance of this Agreement.

23 FURTHER ASSURANCE

Each Party shall promptly execute and deliver all such documents, and do all such things, or procure the execution of documents and doing of such things as are required to give full effect to this Agreement and the transactions contemplated by it.

24 FORCE MAJEURE

24.1 A Party, provided that it has complied with the provisions of Clause 24.2, shall not be in breach of this Agreement nor liable for any failure or delay in performance of any obligations under this Agreement (and, subject to Clause 24.4, the time for performance of the obligations shall be extended accordingly) arising from or attributable to acts, events, omissions or accidents beyond its reasonable control ("**Force Majeure Event**"), including but not limited to any of the following:

24.1.1 Acts of God, flood, earthquake, windstorm or other natural disaster;

24.1.2 epidemic or pandemic (but only where such epidemic or pandemic could not have been reasonably foreseen by the Service Provider and where such epidemic or pandemic causes an unexpected surge in demand for the Services);

24.1.3 war, threat of or preparation for war, armed conflict, imposition of sanctions, embargo, breaking off of diplomatic relations or similar actions;

24.1.4 any law or government order, rule, regulation or direction, or any action taken by a government or public authority which materially adversely affects the direct performance of the Services in accordance with this Agreement;

- 24.1.5 terrorist attack, civil war, civil commotion or riots;
- 24.1.6 nuclear, chemical or biological contamination or sonic boom;
- 24.1.7 extreme adverse weather conditions;
- 24.1.8 strikes, industrial action or lockouts.
- 24.2 The corresponding obligations of the other Party will be suspended to the same extent as those of the Party first affected by the Force Majeure Event.
- 24.2 Any Party that is subject to a Force Majeure Event shall not be in breach of this Agreement provided that:
 - 24.2.1 it promptly notifies the other Party in writing of the nature and extent of the Force Majeure Event causing its failure or delay in performance; and
 - 24.2.2 it could not have avoided the effect of the Force Majeure Event by taking precautions which, having regard to all the matters known to it before the Force Majeure Event, it ought reasonably to have taken, but did not; and
 - 24.2.3 it has used all reasonable endeavours to mitigate the effect of the Force Majeure Event, to carry out its obligations under this Agreement in any way that is reasonably practicable and to resume the performance of its obligations as soon as reasonably possible.
- 24.3 In the event of any Force Majeure Event, the Parties shall look to take all reasonable actions as are possible having regard to the circumstances giving rise to the Force Majeure Event to ensure the continuity of Service to all Service Users and Bulk Delivery Locations.
- 24.4 If the Force Majeure Event prevails for a continuous period of more than three (3) months, any Party may terminate this Agreement by giving 14 days' written notice to the other Party. On the expiry of this notice period, this agreement will terminate. Such termination shall be without prejudice to the rights of the Parties in respect of any breach of this Agreement occurring prior to such termination.
- 24.5 For the avoidance of doubt non-payment of any amount due to a Party pursuant to this Agreement shall not be excused by a Force Majeure Event.

25 SERVICE PERSONNEL

- 25.1 For the avoidance of doubt, where this Agreement includes the provision of Services by the Service Provider, those personnel engaged by the Service Provider in the provision of the Services (the "**Service Personnel**") shall in all respects be the responsibility of the Service Provider and not of the HSE.
- 25.2 The Service Provider acknowledges and agrees that he shall only employ, contract, engage or accept Service Personnel who:
 - 25.2.1 possess the appropriate qualifications, experience and skills to perform the duties required of them; and
 - 25.2.2 are covered by appropriate indemnity insurance for the provision of the Services.
- 25.2 The Service Provider (as the employer) must be satisfied with and is responsible for the suitability of all Service Personnel employed by it.
- 25.3 The HSE and the Service Provider hereby agree that for so long as this Agreement remains in force, it remains the intent of all Parties that all Service Personnel shall not be, nor deemed to be, employees of the HSE by virtue of this Agreement or the Services hereunder during the Term and that all HSE personnel shall not be, nor deemed to be, employees of the Service Provider by virtue of this Agreement or the Services hereunder.

- 25.4 The Service Provider will indemnify the HSE against all claims, expenses, liabilities and awards (including reasonable legal fees) whatsoever arising out of or in connection with claims (statutory, contractual or otherwise) made by or on behalf of any Service Personnel which relates to their employment by the Service Provider (or any of their sub-contractors) during the Term for which the HSE is or becomes liable for any reason upon the expiry or termination of this Agreement.
- 25.5 The Parties acknowledge and agree that upon any termination of this Agreement to comply with their respective obligations in accordance with the terms of the TUPE Regulations, and that, during any notice period provided regarding termination, to work in good faith to determine those Services Personnel who may transfer in accordance with the TUPE Regulations.
- 25.6 For the avoidance of doubt, the Parties hereby acknowledge and agree that upon termination of this Agreement and where the Services Provider does not continue in the provision of the Services and the Services continue to be performed and retain their identity, any Services Personnel engaged wholly or mainly in the delivery of the Services shall transfer to such person(s) as thereafter engages in the delivery of the Services (a “**Service Transfer Date**”) in accordance with the TUPE Regulations. The Service Provider shall have no liability in respect of claims (statutory, contractual or otherwise) made by or on behalf of any Service Personnel transferred in accordance with the TUPE Regulations where the Services continue to be performed and retain their identity which relates to their employment on or after a Service Transfer Date which shall be for the account of the Party appointed to perform the Services.
- 26 **STEP IN RIGHTS**
- 26.1 If:
- (a) the Service Provider commits a Substantial Breach of this Agreement;
 - (b) there is a persistent failure;
 - (c) a Force Majeure Event arises; or
 - (d) the HSE exercises its rights under Clause 17 ;
- the HSE may, without prejudice to its other rights and remedies, notify the Service Provider that it intends to exercise its rights under this Clause 26.
- 26.2 If the Service Provider does not substantially remedy the failure to the satisfaction of the HSE within seven (7) days of the notice referred to in Clause 26.1 above or lesser period if reasonably deemed by the HSE to be necessary to mitigate its potential loss, the HSE may itself provide or may employ and pay a third party Service Provider to perform the Services.
- 26.2 The HSE shall permit the Service Provider to resume delivery of the Services or the part thereof provided by itself or a third party Service Provider immediately once it is satisfied on reasonable grounds that the Service Provider will be able to resume delivery of the Services in accordance with this Agreement.
- 26.3 The Service Provider shall co-operate in all reasonable respects with the HSE and any third party Service Provider engaged by the HSE under this Clause 26. On entering into any agreements with third parties, the Service Provider shall ensure that the HSE’s rights under this Clause 26 are in no way restricted and that all necessary consents are in place to allow the HSE fully exercise its rights under this Clause 26.

27 **GENERAL**

- 27.1 Each Party shall at all times comply with all applicable laws and regulations and the highest standards of business conduct. Neither this Agreement nor any rights or duties hereunder

may be assigned or transferred by either Party without the prior written consent of the other Party.

- 27.2 This Agreement, together with the documents incorporated herein in accordance with Clause 2.2, constitutes the complete and exclusive understanding of the Parties and supersedes all other agreements, representations, (excluding only fraudulent misrepresentations) proposals or arrangements between the Parties, regarding the subject matter hereto.
- 27.3 Nothing in this Agreement is intended to, or shall operate to, create a partnership between the Parties, or (save where expressly stated) to authorise any Party to act as agent for the other, and no Party shall have authority to act in the name or on behalf of or otherwise to bind the other in any way (including the making of any representation or warranty, the assumption of any obligation or liability and the exercise of any right or power).
- 27.4 A waiver of any right or remedy under this Agreement is only effective if given in writing and shall not be deemed a waiver of any subsequent breach or default. A failure or delay by a Party to exercise any right or remedy provided under this agreement or by law shall not constitute a waiver of that or any other right or remedy, nor shall it preclude or restrict any further exercise of that or any other right or remedy. No single or partial exercise of any right or remedy provided under this Agreement or by law shall preclude or restrict the further exercise of any such right or remedy.
- 27.5 If any provision of this Agreement is void or unenforceable at law, such provision shall be severed and the remainder of the Agreement shall continue in full force and effect.
- 27.6 The construction, performance and validity of this Agreement shall be governed by the laws of Ireland and the Parties hereby submit to the exclusive jurisdiction of the Courts of Ireland.
- 27.7 Neither Party will make any announcement relating to this Agreement or its subject matter without the prior written approval of the other Party except as required by law or by any legal or regulatory authority in which case it shall notify the other Party of the announcement as soon as is reasonably practicable.
- 27.8 The Service Provider shall only offer the HSE as a client reference to any prospective client in accordance with such terms as shall be agreed with the HSE.
- 27.9 Each Party shall pay its own costs, charges and expenses incurred in connection with the negotiation, preparation and completion of this Agreement.
- 27.10 Except as otherwise expressly provided by the Agreement, all remedies available to the Service Provider or the HSE for breach of this Agreement are cumulative and may be exercised concurrently or separately. The exercise of any one remedy shall not be deemed an election of such remedy to the exclusion of other remedies.
- 27.11 The Service Provider shall be required to maintain an issues and risks register throughout the Term. All issues and risks encountered during the provision of the Services must be recorded on the register and actively managed by the Service Provider. Key issues and risks must be highlighted to the HSE. The HSE shall be provided with access to the register.
- 27.13 The Service Provider shall indemnify and keep indemnified the HSE against all liabilities, costs, expenses, damages and losses incurred by the HSE arising out of or in connection with:
- (a) the Service Provider's breach or negligent performance or non-performance of this Agreement;
 - (b) any claim made against the HSE arising out of or in connection with the provision of the Services, to the extent that such claim arises out of the breach, negligent performance or failure or delay in performance of this Agreement by the Service Provider or Service Personnel; and

(c) the enforcement of this Agreement.

- 27.14 The indemnity under Clause 27.13 shall apply except insofar as the liabilities, costs, expenses, damages and losses incurred by the HSE are directly caused (or directly arise) from the negligence or breach of this Agreement by the HSE.
- 27.15 The Service Provider acknowledges that the HSE is subject to the Freedom of Information Act 2014. Accordingly, information furnished to the HSE by the Service Provider may be released pursuant to the HSE's statutory obligations. If the Service Provider considers that any of the information supplied by it to the HSE under this Agreement should not be disclosed because of its sensitivity it should, when providing the information, indicate this and specify the reason for its sensitivity. The Service Provider shall provide all necessary assistance and cooperation as reasonably requested by the HSE to enable the HSE to comply with its obligations under the Freedom of Information Act 2014. The HSE accepts no liability whatsoever in respect of any information provided which is subsequently released (irrespective of notification) or in respect of any consequential damage suffered as a result of such obligations.

Schedule 1
THE SERVICES

[TO BE CONFIRMED FOLLOWING TENDER PROCESS]

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Schedule 2

CHARGES

1. All Charges shall be in Euro and shall be fixed for the Term unless otherwise agreed by the Parties in writing.
2. All Charges are inclusive of all costs and expenses.

[TO BE CONFIRMED FOLLOWING TENDER PROCESS]

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Schedule 3

INSURANCE

- 3.1.1 The Service Provider shall maintain the Insurance levels specified in the table below for the duration of the Agreement.
- 3.1.2 Claims for compensation for personal injury or death, damage to, theft or loss of private property caused by the actions of the Service Provider must be dealt with and (where justified) met by the Service Provider. The Service Provider shall indemnify the HSE in respect of all such claims.
- 3.1.3 The HSE shall be responsible for insuring the value of the Pack Consumables in storage in the Location.

Type of Insurance	Minimum Cover for any one claim	Permitted deductible for any one claim	Period
Professional Indemnity	€6.5 million	€6,500	Commencement Date until six years following the completion of the Term
Public liability	€6.5 million	€6,500	Commencement Date until completion of the Term
Employer's liability	€12.7million	€0	Commencement Date until completion of the Term

Schedule 4

UNDERTAKINGS OF SERVICE PROVIDER

1. The Service Provider shall take all steps necessary to ensure that they are fully ready to commence operations effective from the Commencement Date.
2. The Service Provider shall not contact HSE staff, other than that required in the performance of the Services under this Agreement. In particular no circulars or questionnaires shall be sent to HSE staff without the written consent of the HSE.
3. The Service Provider shall not release data on usage to any third party without the written consent of the HSE.
4. The Service Provider shall respect and observe all confidentiality requirements under this Agreement, and shall treat all dealings with HSE staff in accordance with the confidentiality obligations of this Agreement.
5. The HSE shall be immediately advised by the Service Provider in relation to any health and safety/risk management adverse findings which may impact on the HSE and any action(s) taken or planned to reduce/negate any potential adverse outcomes.
- 6.
- 7.

Schedule 5

UNDERTAKINGS OF THE HSE

- 1.
2. Where required, the HSE shall agree standard operating procedures to be used by the Service Provider in connection with the provision of the Services under this Agreement.
3. In consideration of the performance of the Services, and in accordance with the terms of this Agreement, the Location shall pay the Charges, in accordance with Schedule 2.

Schedule 6

CHANGE CONTROL PROCEDURES

1. A Change Request must set out the following details:
 - 1.1 the date of the Change Request;
 - 1.2 the reason for the requested Change;
 - 1.3 the proposed timetable for implementation of the requested Change; and
 - 1.4 whether or not the Party issuing the Change Request believes the Change to be of a minor nature.
2. Subject only to Paragraph 4 of this Schedule, the Service Provider shall within ten (10) Working Days of receipt of the Change Request or, if it is a Service Provider issuing the Change Request, together with the Change Request, provide the HSE with:
 - 2.1 a statement of the effect of the requested Change upon the:
 - 2.1.1 the Services and/or the System;
 - 2.1.2 quality procedures; and
 - 2.1.3 Charges and any tax (including VAT) liability;
 - 2.2 any other contractual issues as applicable;
 - 2.3 the availability of any reasonable alternatives to the requested Change; and
 - 2.4 such other information as the Service Provider may deem appropriate (the “**Impact Statement**”).
3. The Parties shall within ten (10) Working Days of the receipt of the Impact Statement discuss the Change Request and the Impact Statement in good faith in order to settle the terms of the Change Order. Each Party shall promptly provide to the other such further and other information that any Party reasonably requests in connection with such discussions.
4. The Service Provider or the HSE shall be entitled to reduce the time limits referred to in Paragraph 2 to five (5) Working Days where, acting reasonably and in good faith, if it considers the Change Request needs to be dealt with urgently.
5. If the Party (or in respect of the HSE issuing a Change Request, the Service Provider) receiving the Change Request agrees that the Change requested in the Change Request is of a minor nature or needs to be implemented as a matter of urgency then the Parties shall not, if a nominee from each Party on the Review Group agrees, be obliged to follow the procedure set out at Paragraph 2 above. In such circumstances, the Parties shall, acting reasonably and in good faith, agree a fast track procedure to settle such Change. In the event that the Parties (for whatever reason) cannot agree whether the Change requested in the Change Request (i) is of a minor nature, or (ii) requires implementation urgency, and/or (iii) the format of fast track procedure to effect such Change or any Party (for whatever reason) no longer considers (prior to any such Change being settled) any Change requested to be of a minor or urgent nature, then the Parties will follow the procedure set out at Paragraph 2 above.
6. The Service Provider shall provide details of all Changes implemented pursuant to this Paragraph 5 in each calendar month. The details shall be provided in the form of a report (the “**Urgent Changes Report**”) and shall include:
 - 6.1 a summary of the Change;
 - 6.2 the reasoning for the Change;

- 6.3 details of how the Change was implemented by the Service Provider, together with any feedback on the implementation of the Change; and
 - 6.4 the impact, if any, of the Change on the provision of the Services; and
 - 6.5 in addition, the Service Provider shall provide to the HSE such additional Information that the HSE may reasonably request following receipt of the Urgent Changes Report.
7. Any discussions between the Service Provider and the HSE in connection with a Change and/or a Change Request shall be without prejudice to the rights of each Party.
 8. The Service Provider shall keep a true copy and a detailed record of each Change Request, Impact Statement and Change Order.
 9. Unless otherwise agreed, each Party shall be responsible for its own costs incurred in dealing with a Change Request, Impact Statement and Change Order.
 10. Each Party shall act reasonably and in good faith in considering and agreeing any Change and Change Request and agreeing any Change Order.

Schedule 7

DATA PROTECTION

SERVICE PROVIDER DATA PROCESSING AGREEMENT (AS AMENDED)

<https://www.hse.ie/eng/services/publications/pp/ict/hse-service-provider-data-processing-agreement-v1.pdf>

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Schedule 8

IMPLEMENTATION PLAN

1. OBLIGATIONS

- 1.1 The Service Provider shall assign a Services Lead for the duration of the Agreement, with effect from the Effective Date.
- 1.2 Unless otherwise agreed, the Service Provider must start the Services on the Commencement Date, being the date specified in this Agreement.
- 1.3 The Service Provider must provide the Services regularly and diligently as required.
- 1.4 The Service Provider must complete the stages outlined in the Implementation Plan within the period stated in the Implementation Plan.
- 1.5 Any change to an Implementation Plan shall be agreed in advance with the other Party. In the event that the Service Provider fails to fulfil an obligation by the date specified in the Implementation Plan, the Service Provider shall provide reasonable and agreed assistance and resources as may be necessary to fulfil the said obligations as early as practicable thereafter.
- 1.6 Costs incurred as a result of delays in fulfilling the Implementation Plan, which arise on the part of the Service Provider or any sub-contractor engaged by the Service Provider, shall be borne by the Service Provider.
- 1.7 In the event that the Service Provider fails to fulfil an obligation by the date specified in an Implementation Plan for fulfilment, due to the act or the omission of the Service Provider:
 - (a) the Parties shall promptly discuss the matter in good faith with a view to resolving the matter as soon as reasonably possible, to the satisfaction of both Parties. In this regard, the HSE shall be entitled to require the Service Provider to submit a report to the HSE identifying (i) the reasons for the detrimental effect and (ii) the Service Provider's proposed corrective measures which, if the Implementation Plan is affected must involve the Service Provider producing and submitting a revised Implementation Plan showing the manner in which future implementation dates will be achieved. The corrective measures set out in the report shall include details of arrangements for additional or redeployed resources as are necessary to fulfil the obligations and details of further applicable quality assurance measures relevant to fulfilling the obligation; and
 - (b) the HSE shall have the right, at its option to amend the Implementation Plan to take account of the delay, in accordance with the Change Control Procedure (having regard to the reasons provided by the Service Provider pursuant to this Paragraph 1.8(a) above.

2. IMPLEMENTATION PLAN

The Service Provider shall be responsible for implementing the Services in accordance with the following Implementation Plan:

[TO BE CONFIRMED FOLLOWING TENDER PROCESS]

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Schedule 9

SERVICE PROVIDER PERFORMANCE

Part 1 – Contract Management Principles

1. The Objectives of Contract Management

- (a) The objectives of contract management are to ensure that:
 - (i) value for money is achieved for the taxpayer through full compliance with contract requirements;
 - (ii) the terms of the Agreement are met in full;
 - (iii) the Services provided by the Service Provider meet the HSE's specified requirements including the delivery of equality and sustainable development goals and the HSE gets what it is paying for on time and within budget;
 - (iv) documented evidence of good performance is provided to assist in evidencing the achievement of value for money and benefit realisation; and documented evidence of poor/unsatisfactory performance is provided; and
 - (v) to facilitate improvement and to build up a performance history; and in exceptional cases, to permit early recourse to the HSE's rights under the default provisions.

2. Changes and Variations Within the Agreement

- (a) All Changes shall be managed through the Change Control Procedure as outlined in Schedule 6 of this Agreement.

Part 2 – Escalation

1. Escalation of Poor Performance to Senior Management Within the Parties

- (a) The first instance of unsatisfactory performance, which has not been satisfactorily dealt with in the normal course of the contract management process, shall be formally notified to the Service Provider by the HSE. This notification is intended to clearly inform the Service Provider of the improvement(s) required and the timescale for completion, and that if the performance does not improve to satisfactory levels within the set timescales the matter shall be escalated to senior management in the Parties for further action.
- (b) If, following this action, the Service Provider is now meeting the key requirements of the Agreement, another letter shall be issued and the matter need not be raised with senior management in the Parties. Performance should continue to be monitored closely.
- (c) If the Service Provider continues to provide an unsatisfactory performance, the Service Provider shall be notified in writing that the matter is being escalated to senior management in the Parties to take corrective action in order to ensure full delivery of Agreement requirements.
- (d) The notification shall also inform the Service Provider that if the matter is escalated to senior management in the Parties and their performance does not improve to satisfactory levels within a specified period, they may be issued with a Certificate of Unsatisfactory Performance, and that the Agreement may be terminated forthwith.
- (e) Following issue of this letter, senior management in the Parties shall arrange a meeting to discuss the way forward. The meeting shall cover the following points;
 - (i) The details of the poor performance and the standard required;
 - (ii) The Service Provider shall be given an opportunity to explain the reasons for the poor performance;
 - (iii) A final action plan to deliver improved performance, which meets the required standards within a specified period, shall be agreed between the Parties.
- (f) A record shall be kept of this meeting and the Parties shall keep each other informed of any actions agreed until the matter is satisfactorily resolved.

2. The following senior management shall be appointed for the purposes of this Schedule 9;

Party	Name	Email

The Agreement for the provision of XXXXXXXXXXXXXXXXXXXXXXXXXX for the Health Service Executive is hereby agreed by us.

Signed by; _____

being a duly authorised signatory of **[TBC]**

Name (print): _____

Company Position: _____

Date: _____

Signed by; _____

being a duly authorised signatory of **the Health Service Executive**

Name (print): _____

Company Position: _____

Date: _____