



Ollscoil
Teicneolaíochta
an Atlantaigh

Atlantic
Technological
University

Draft

Single Operator Framework Service Concession for the Provision of
Academic Gowning & Related Services for Atlantic Technological
University

Contracting Authority: Atlantic Technological University

Supplier:

Single-Party Framework Agreement

Terms and Conditions

For the Provision of:	Single Operator Framework Service Concession for the Provision of Academic Gowning & Related Services for Atlantic Technological University
Contracting Authority:	Atlantic Technological University
Framework Member:	
Date:	

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Subject to contract / contract denied

Framework Agreement with a Framework Member in a Single-Party Framework for a service concession for the provision of Conferring Gown Services for the University's Conferring Ceremonies. The service will include the Hire of Gowns, Hoods, Mortarboards and the provision of Fitting Services for all University Conferring Ceremonies for both Students & Academic Personnel.

The Service Concession at Atlantic Technological University will involve a contract for pecuniary interest concluded in writing between Atlantic Technological University hereinafter, "the Contracting Authority" and the successful tenderer, to be known as "the Concessionaire".

This Service Concession will involve the establishment of a framework agreement / award of a contract by means of which the Contracting Authority intends to entrust the management of services to a single economic operator, the consideration for which will consist either solely in the right to exploit the services that are subject of this procurement, or in that right together with payment to the Contracting Authority.

Parties

[Atlantic Technological University] of [Port Road, Letterkenny, Co Donegal]

(Hereinafter referred to as the 'Contracting Authority')

AND

[] of []

(Hereinafter referred to as the "Framework Member" or "Member")

Background

The Contracting Authority has conducted a tender competition in accordance with Directive 2014/24/EU and all applicable procurement rules for the establishment of a framework agreement (within the meaning of the aforesaid directive) with a single economic Framework Member. The tender competition under the **Open** procedure was advertised in the Official Journal of the European Union on [] with a reference number of [] and on the eTenders website on [] with an RFT ID [8900713] (the 'Contract Notice').

Definitions

"**Call Off Contract**" means any contract awarded on foot of this framework agreement;

"**Call Off Request**" means the request issued by the Contracting Authority to a Framework Member instructing that Framework Member, under the Cascade method, to provide the required **Supplies/Services**;

"**Commencement Date**" means after [];

"**Competitive Procedure**" means the process leading to the establishment of this Framework Agreement and/or award of a contract on foot of this Framework Agreement;

"**Contract**" means a contract which falls within the scope of this Framework Agreement and for which the Contracting Authority conducts a Competitive Procedure under the terms of this Agreement;

"**Framework Agreement**" means these terms and conditions, including any Schedules hereto;

“Framework Member” means the supplier or service provider formally appointed to the Framework Agreement on foot of a Competitive Procedure;

“Framework Period” means the period in years set out in Clause 2.2;

“Party” means the Contracting Authority and/or the Framework Member;

“Request for Tender” means the document issued by the Contracting Authority on 25.08.2026, with the aim of establishing the framework agreement;

“Other Conditions” means for example Contract Terms and Conditions, Special Terms and Conditions and/or Service Level Agreement as may be appropriate;

“Supplementary Request for Tender” means an invitation from the Contracting Authority for the Framework Member to respond to a specific requirement which was not specifically covered under the original Request to Tender, but does fall within the Scope of the Framework Agreement;

“Supplementary Tender” means the submission of the Framework Member in response to a Supplementary Request for Tender;

“Tender” means the submission by the Framework Member’s in response to the Request for Tender, together with any clarifications, additions or amendments accepted by the Contracting Authority.

1 Appointment of Framework Member

- 1.1 The Framework Member accepts its appointment to provide **Supplies/Services**, if instructed to do so from time to time by the Contracting Authority, under the terms and conditions of this Framework Agreement.
- 1.2 This Framework Agreement sets out, amongst others, the award procedure for **Supplies/Services** which may be required by the Contracting Authority, the main terms and conditions for any Call-Off Contract, and the obligations of the Framework Member during and after the Framework Period.
- 1.3 Membership of this Framework does not entitle the Member to be consulted in respect of, or awarded any contract during, the Framework Period. The Contracting Authority may at its sole discretion choose not to enter any contracts falling within the scope of this Framework Agreement, or to terminate the Agreement in accordance with Clause 9.
- 1.4 While this Framework Agreement will in general form the basis for the award of contracts during the Framework Period, the Contracting Authority reserves the right to operate outside the terms of the Framework Agreement, for example if it considers that it is not achieving value-for-money or the nature of the contract would benefit from a separate competitive process.

2 Period of Framework Agreement

- 2.1 The Framework Agreement shall take effect on the Commencement Date.
- 2.2 The framework concessionaire agreement will be for a maximum period of two years initially. The Contracting Authority reserves the right to extend the Term for a period or periods of up to one (1) year with a maximum of one (1) such extension permitted on the same terms and conditions, subject to the Contracting Authority's obligations at law. The Term will not exceed three (3) years in aggregate.

For the avoidance of doubt, the Contracting Authority confirms that the period of any Contracts awarded under this Framework Agreement may extend beyond the date of expiry of the agreement. Extensions are at the discretion of ATU, and subject to formal review.

3 Scope of Framework Agreement

- 3.1 This Framework Agreement relates to a Service Concession for the Provision of Academic Gowning & Related Services. The service will include the Hire of Gowns, Hoods, Mortarboards and the provision of Fitting Services for all University Conferring Ceremonies for both Students & Academic Personnel. **The**

scope of Supplies/Services which may be awarded under this framework includes:

- 3.2.1 The initial contract as described in the Request for Tender.
- 3.2.2 Additional Call-Off Contracts within the scope of the Framework Agreement which may comprise some or all elements of the Supplies/Services as described in the detailed specification, being additional requirements which may arise.

3.3 The maximum value of the framework

It is envisaged that the income likely to arise under this framework agreement/concession is approximately €350,000.00 - €500,000.00 over the maximum life of the framework and any potential new requirements.

It is emphasised, however, that this figure is provided strictly for indicative purposes only as there is no guaranteed income under the framework agreement, over the Term and any possible extensions. Tenderers must understand that this figure is an estimate only based on current and future expected usage.

4 Procedure for the Award of Call-Off Contracts

- 4.1 Contracts awarded under the framework may be by direct appointment to the Framework Member.
- 4.2 Where the terms of the original tender competition did not specifically address the needs relating to a specific contract which falls within the scope of the framework the Contracting Authority will invite a Supplementary Tender from the Framework Member.
- 4.3 On each occasion that a contract is awarded to a Framework Member pursuant to this Clause, the Contracting Authority and the successful Framework Member shall enter into a contract in accordance with the Terms and Conditions as detailed in Schedule 4, as well as any Special Terms and Conditions that will be set out in the invitation to provide a Supplementary Tender. The Call-Off Contract shall be within the scope of contracts defined for the Framework Agreement.

5 Notification of the Award of a Call-Off Contract

When the Contracting Authority has made an award decision pursuant to Clause 4, the Contracting Authority will issue a notification in writing to the Framework Member.

6 Fixed Conditions for Contracts

6.1 Prices

The maximum price chargeable by the Framework Member during the initial 2 (Two) years of the Framework Agreement is as set out in Schedule 1. Price changes, if applicable, will be in line with the Irish Consumer Price Index or by any method agreed between the various parties.

6.2 Contract Manager

The Framework Member must nominate a contract manager to liaise with the Contracting Authority to ensure the successful operation of this Framework Agreement.

6.3 Personnel

The resources nominated by the Framework Member must be those used in the award of any contract under the framework and as detailed in Schedule 2.

Regarding personnel assigned to deliver services under the framework, where the successful Framework Member proposes to replace a nominated person, the proposed replacement person must be of equal or better qualifications and expertise than that of the original nominated person(s). Any replacements must be notified in writing to the Contracting Authority and must be agreed by the Contracting Authority prior to their commencement of any work under the Framework Agreement.

6.4 Service Level Agreement

Contracts under this framework agreement may be subject to the application of a Service Level Agreement which will outline the Key Performance Indicators applicable to the contract. The applicable Service Level Agreement is to be agreed by both parties within three months of contract signing.

7 Obligation of Framework Member

7.1 Conflict of Interest

The Framework Member 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 Member and the Contracting Authority or employees of the Contracting Authority or their relatives must be communicated to the Contracting Authority immediately.

7.2 Interference and Inducement to Purchase

Any effort by the Framework Member to unduly influence the Contracting Authority, relevant agency personnel or any other relevant persons or bodies in the process of examination, clarification, evaluation and comparison of tenders and in decisions concerning the Award of Contract shall have their tender rejected. The presumptions (including as to any gift, consideration or advantage) and other provisions under the Criminal Justice Act 2018 (Ireland), and all other measures for the time being governing the subject-matter in any applicable jurisdiction, shall be applicable.

7.3 Insurances

Each Framework Member is required to maintain, at a minimum, the levels and forms of insurance set out in the tender documents and as detailed in Schedule 3 of this Framework Agreement.

7.4 Tax Compliance

The Framework Member shall maintain a tax clearance status as declared by the Irish Revenue Commissioners throughout the Framework Period and the period of any contract being executed under the Framework Agreement (whichever is longer).

7.5 Assignment

The Framework Member shall not assign the benefit of its appointment under this Framework Agreement, or under any contract, or any part thereof, unless with the prior written agreement of the Contracting Authority.

7.6 Data Protection

The Framework Member must operate fully in compliance with all relevant Data Protection legislation and the Parties acknowledge that for the purposes of the Data Protection Laws, the Contracting Authority is the Data Controller and the Framework Member is the Data Processor in respect of Data which is Personal Data.

7.7 Confidentiality / Freedom of Information

- 7.7.1 The Framework Member must not disclose to anyone information that the Contracting Authority notifies the Framework Member is confidential except as necessary to perform the Framework Member's obligations under this Framework Agreement or a Call-Off Contract or to comply with the law.
- 7.7.2 The Framework Member undertakes to comply with all reasonable directions of the Contracting Authority with regard to the use and application of all and any confidential information and shall comply with the Confidentiality Agreement as set out.
- 7.7.3 The Framework Member acknowledges that the Contracting Authority is subject to the Freedom of Information Act 2014, as amended. In the event of the Contracting Authority receiving a request for information related to this Framework Agreement, the Contracting Authority shall consult with the Framework Member in respect of the request. The Framework Member shall identify any information that is not to be disclosed on grounds of commercial sensitivity and shall state the reasons for this sensitivity. The Contracting Authority will consult the Framework Member about this commercially sensitive information before making a decision on any Freedom of Information request received. The final decision on disclosure rests with the Office of the Information Commissioner and ultimately, the Irish courts.

7.8 Audit

The Framework Member shall keep and maintain until a minimum of six (6) years after the expiry of the Framework Period, full and proper records and all documents relating to the performance of its obligations under this Framework Agreement and shall allow the Contracting Authority and any auditors access to such records.

7.9 Publicity

Unless otherwise directed by the Contracting Authority, the Framework Member shall not make any press announcements or publicise this Framework Agreement in any way without the Contracting Authority's prior written consent.

7.10 Performance Review

The Contracting Authority and Framework Member shall liaise on a regular basis to address any issues arising which may impact on the performance of this Agreement and/or a Call-Off Contract to agree milestones, compliance schedules and operational protocols as required by the Contracting Authority from time to time. If requested in writing by the Contracting Authority, the Framework Member shall meet formally with the Contracting Authority to report on progress and shall comply with all written directions of the Contracting Authority.

8 Termination of Appointment

- 8.1 This Agreement may be terminated by the Contracting Authority, without liability for compensation or damages, by serving three (3) months written notice to the Framework Member. This Agreement may be terminated by the Framework Member, without liability for compensation or damages, by serving six (6) months written notice to the Contracting Authority.
- 8.2 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 Member forthwith and without liability by giving notice at any time if:
- 8.2.1 The Member commits a material breach of any term or condition of this Framework Agreement, or a contract concluded under the Framework Agreement;
- 8.2.2 The Member fails to perform any obligation or responsibility under this Agreement, or a contract concluded under the Framework Agreement, 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 Member to do so;
- 8.2.3 The Member convenes a meeting for the purposes of, or proposes to enter into any arrangement or composition for the benefit of its creditors;
- 8.2.4 The Member is unable to pay its debts within the meaning of Section 570 of the Companies Act, 2014 or any analogous provision of law;
- 8.2.5 An order is made, or an effective resolution is passed for the winding up of the Member's company other than for the purpose of restructuring the terms of which have been agreed by the Contracting Authority;
- 8.2.6 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 Member's company;
- 8.2.7 An encumbrancer takes possession, or a receiver is appointed, of any of the property or assets of the Member;
- 8.2.8 The Contracting Authority reasonably believes that any of the events mentioned above is about to occur in relation to the Member and notifies the Member;
- 8.2.9 The Member 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;
- 8.2.10 Any representation made by the Member 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.

9 Termination of Framework Agreement

- 9.1 In circumstances outlined in Clause 8.1 and 8.2, the Contracting Authority reserves the right to terminate this Agreement by providing **three (3) months'** notice in writing to the Framework Member. The Framework Member shall have no claim for damages or otherwise against the Contracting Authority as a result of the Contracting Authority terminating this Framework Agreement in accordance with this Clause.
- 9.2 The Contracting Authority also reserves the right to terminate the framework agreement in the following circumstances:
- 9.2.1 Where improved value for money in terms of cost and/or quality is available through an alternative public procurement process established by the sector or at Government level.
- 9.2.2 Where the business needs of the organisation have changed, and the framework no longer meets those needs and/or where the budget available for the requirements defined by the framework agreement has substantially altered (increased or decreased).
- 9.3 In circumstances outlined in Clause 9.2, the Contracting Authority reserves the right to terminate this Agreement by providing fourteen (14) days' notice in writing to the Framework Member. The Framework Member shall have no claim for damages or otherwise against the Contracting Authority as a result of the Contracting Authority terminating this Framework Agreement in accordance with this Clause.
- 9.4 Termination of the Framework Agreement pursuant to Clause 9.1, Clause 9.2 and Clause 9.3 shall not relieve or discharge the Framework Member from any obligations which may have accrued prior to such termination.
- 9.5 For the avoidance of doubt, termination of this Framework Agreement shall not affect the validity of any contract entered into by the Contracting Authority and any provider of the service pursuant to that Framework Agreement.
- 9.6 It shall be the sole responsibility of the Framework Member to fulfil its obligations under the Framework Agreement and any and all contracts awarded thereunder, notwithstanding any changes in circulars, laws, regulations, taxation, duties or other factors which might arise following the withdrawal of the United Kingdom from membership of the EU. Failure to comply with this requirement may result in the termination of the Framework Agreement and / or any contract associated with the Framework Agreement, at the absolute discretion of the Contracting Authority.

10 Notices

- 10.1 The address, email and telephone numbers of the parties for the purpose of the giving of notices under this Agreement are as follows:

The Contracting Authority

E-mail address:

The Framework Member

E-mail address: []

Tel:

- 10.2 Any notice or other communication whether required or permitted to be given by one party hereto to the other shall be in writing and shall be deemed to have been duly given if signed by or on behalf of a duly authorised officer of the party giving the notice and:
- 10.2.1 if delivered, at the time of delivery to the addressee or its duly authorised agent;
- 10.2.2 if sent by pre-paid post, four (4) days after posting if addressed to the party to whom such notice is to be given at the address set forth for such party in this Agreement (or such other address as is from time to time notified to the other party hereto);
- 10.2.3 if transmitted electronically on receipt of 'read receipt' or equivalent.
- 10.3 All notices to the Contracting Authority or the Framework Member from the other party under this Agreement or the relevant contract shall be in writing and sent to the appropriate address set out above.
- 10.4 All notices, documents and communications provided under this Agreement or the relevant contract shall be in the English language.

SIGNED:

On behalf of the CONTRACTING AUTHORITY

Name:

(Block letters)

Position:

Signature:

Date:

Witnessed by:

(signature)

Witness name:

(Block letters)

On behalf of the Framework Member

Name:

(Block letters)

Position:

Signature:

Date:

Witnessed by:

(signature)

Witness name:

(Block letters)

Schedules to this agreement:

Schedule 1: Form of Tender – from the Framework Member's tender response

Schedule 2: Resources – from the Framework Member's tender response

Schedule 3: Insurances – evidence of insurances in place as per levels required for the framework

Schedule 4: Proposed Contract Terms and Conditions

Schedule 5: Data Protection

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Schedule 1: Form of Tender

DRAFT

Schedule 2: Resources

DRAFT

Schedule 3: Insurances

DRAFT

Schedule 4: Contract Terms and Conditions

OGP Services Contract

DRAFT

Schedule 5: Service Requirements from TRD Response

DRAFT

Schedule 6: Data Protection

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Data Processing Agreement

BETWEEN:

- (1) **ATLANTIC TECHNOLOGICAL UNIVERSITY (“ATU”)**, Port Rd, Gortlee, Letterkenny, Co. Donegal, F92 FC93, and
- (2) **[INSERT DETAILS] (“The Supplier”)**
(together the **Parties** and each a **Party**).

RECITALS

- (A) This Data Processing Agreement sets out the framework for the disclosure of Personal Data by ATU as Data Controller to the Supplier as Data Processor.
- (B) In order to ensure compliance with their respective obligations under the General Data Protection Regulation (GDPR) (EU) 2016/679 (“**GDPR**”), the Parties have agreed to enter into this agreement (“**the Agreement**”).

IN CONSIDERATION of the mutual benefit to the Parties of the arrangements referred to in this Agreement and for other valuable consideration the receipt of which is hereby acknowledged by both Parties, **IT IS AGREED** as follows:

1. INTERPRETATION

- 1.1 In this Agreement, unless the contrary intention is stated, a reference to:

Data Controller, Data Processor, Data Subject, Personal Data, Special Categories of Personal Data, Personal Data Breach, processing and appropriate technical and organisational measures shall have the meanings given to them in the GDPR;

- 1.2 **Other Defined Terms:**

“Agreed Purpose” means the provision of the Services by the Supplier to ATU under the Existing Agreement [and any other purposes specifically identified in Schedule 1].

“Applicable Data Protection Laws” means any and all legislation and regulations relating to the protection of Personal Data in force during the term of this Agreement, including (without limitation) the Data Protection Acts, the GDPR and all other industry guidelines (whether statutory or non-statutory) or codes of practice or guidance issued

by the Data Protection Commission relating to the processing of Personal Data or privacy or any amendments and re-enactments thereof;

“Business Day” means a day which is not a Saturday, Sunday or public holiday in Ireland.

“Data Protection Commission” or **“DPC”** means the data protection authority in the territory of Ireland.

“Data Protection Acts” or **“DPA”** means the Data Protection Acts 1988-2018 as amended, revised, modified or replaced from time to time;

“Data Subject Request” has the meaning given to the term in Clause 3.8.1 (4)

“Effective Date” means the date the Supplier commences providing Services under the Existing Agreement.

“Existing Agreement” means the related agreement made between the parties which involves the disclosure of Personal Data as appended to this Agreement.

“Personnel” means the officers, employees, agents and contractors (including sub- contractors and sub-processors) of the Supplier;

“Services” means the services provided by the Supplier to ATU as set out in Schedule 1;

“Shared Data” has the meaning given to the term in Clause 3.1.

“Sub Processor” means any third party engaged by the Supplier to assist in fulfilling its obligations under the Existing Agreement and also has or will have access to the Shared Data.

“Third Country” means any country that is not within the European Economic Area.

2. GENERAL PROVISIONS

- 2.1 **Notices:** Notices and other communications under or in connection with this Agreement may be given in writing by hand, by ordinary pre-paid post or by e-mail. Any such notice, if so given, shall be deemed to have been served:

- (a) if sent by hand, when delivered;
 - (b) if sent by post, one business day after posting; and
 - (c) if sent by e-mail, upon production by the sender's email system of a delivery receipt (or equivalent) confirming delivery of the communication to the correct e-mail address.
- 2.2 **Severability:** If the whole or any part of a provision of this Agreement is or becomes illegal, invalid or unenforceable, that will not affect the legality, validity or enforceability of any other provision of this Agreement.
- 2.3 **Binding on Successors:** This Agreement and all of its provisions shall be binding upon and inure to the benefit of the parties and their respective heirs, executors, administrators, successors and permitted assigns.
- 2.4 **Accrued Rights:** Termination of this Agreement shall not affect any rights of the Parties accrued up to the date of termination.
- 2.5 **Further Assurance:** Each Party shall (at its own cost) do and execute, or arrange for the doing and executing of, each necessary act, document and thing as may be reasonably requested of it by any other party to implement this Agreement.
- 2.6 **Costs:** Each Party will pay its own costs in connection with or incidental to the preparation, negotiation and execution of this Agreement.
- 2.7 **No Partnership or Agency:** Nothing in this Agreement shall create, or be deemed to create, a partnership, joint venture, or the relationship of principal and agent, between the Parties, and neither of the Parties shall have any right or authority to act on behalf of the other or to bind the other in any way.
- 2.8 **Assignment:** The Data Processing Agreement is personal to the Supplier and the Supplier shall not assign or transfer any of its rights or obligations under the Data Processing Agreement without ATU's prior written consent.
- 2.9 **Counterparts:** This Agreement may be executed in two or more counterparts, each of which shall be deemed to be an original, but all of which together shall constitute one and the same instrument.
- 2.10 **Governing Law and Jurisdiction:** This Agreement shall be governed by, and construed in accordance with, the laws of Ireland and the Parties irrevocably agree that the courts of Ireland shall have exclusive jurisdiction to hear and determine any suit, action or proceedings, and to settle any disputes, which may arise out of or in connection with this

Agreement and, for such purposes, irrevocably submits to the exclusive jurisdiction of such courts.

- 2.11 **Entire Agreement:** This Agreement [and the Existing Agreement] contains the entire agreement and understanding between the Parties with respect to the processing of personal data for the Agreed Purpose and supersedes and replaces all prior agreements and understandings, whether written or oral, with respect to the same subject matter. [With regard to the processing of Personal Data, in the event of any conflict or inconsistency between the terms of this Agreement and the Existing Agreement, the terms of this Agreement shall prevail. Except as modified by this Agreement, the Existing Agreement shall remain in full force and effect.
- 2.12 **Waivers, Rights Cumulative:** Each of the rights of each Party under this Agreement may be exercised as often as is necessary, is cumulative and not exclusive of any other rights which that Party may have under this Agreement, law or otherwise; and may be waived only in writing and specifically. Delay by a Party in exercising, or the non-exercise by a Party of, any such right will not constitute a waiver of that right.
- 2.13 **Amendments:** ATU may at any time amend, replace or vary the terms of this Agreement and/or its Schedules (if necessary) to reflect any changes in Applicable Data Protection Laws or a new requirement under such law or ATU policy or where risks to the rights of data subjects are identified as a result of the processing. Any amendment to this Agreement must be in writing and duly signed for and on behalf of each of the Parties to this Agreement.
- 2.14 **Schedules:** The Schedules form part of this Agreement and shall have effect as if set out in full in the body of this Agreement. Any reference to this Agreement includes the Schedules.

3. DATA PROTECTION

- 3.1 For the purposes of the Services, the Parties acknowledge and agree that it will be necessary for the Supplier to receive from ATU and to process certain Personal Data relating to the categories of Data Subject specified in Schedule 1 (**Shared Data**).
- 3.2 For the purposes set out at clause 3.1 herein, ATU acknowledges and agrees that it is Data Controller and that it retains control of the Personal Data and remains responsible for its compliance obligations under Applicable Data Protection Laws including but not limited to providing any required notices and obtaining required consents and for written processing instructions it gives to the Supplier and the Supplier acknowledges and agrees that it is Data Processor and agrees to comply with its relevant obligations under Applicable Data Protection Laws and with this Agreement.

3.3 Processing of Shared Data by the Supplier:

3.3.1 The Supplier shall (and shall procure that its Personnel):

- (1) comply with Applicable Data Protection Laws;
- (2) ensure that its internal operating systems only permit properly authorised Personnel to access the Shared Data;
- (3) maintain detailed, accurate and up-to-date records regarding the processing of any Personal Data for the Agreed Purpose;
- (4) provide to ATU such details as it may require of its procedures and records for complying with and demonstrating compliance with Applicable Data Protection Laws; and
- (5) immediately inform ATU if, in its opinion, an instruction from ATU infringes Applicable Data Protection Laws.
- (6) at the direction of ATU, fully cooperate and assist ATU in conducting a data protection impact assessment and related consultations with any supervisory authority, if applicable, pursuant to Article 35 and 36 of GDPR, respectively.

3.3.2 The Supplier shall provide appropriate training to its Personnel with respect to:

- (1) the correct handling of the Shared Data so as to minimise the risk of a Personal Data Breach; and
- (2) the requirements of Applicable Data Protection Laws.

3.4 The Supplier's use of Shared Data:

3.4.1 The Supplier shall (and shall procure that its Personnel):

- (1) only process the Shared Data in accordance with Schedule 1 and in accordance with ATU's written instructions, unless required to process the Shared Data other than as instructed pursuant to some legal obligation to do so, in which case the Supplier shall inform ATU, except where prohibited by such law from doing so, and where required to disclose Shared Data, the Supplier shall comply with 3.6.1;
- (2) only process the Shared Data to the extent necessary for the Agreed Purpose;
- (3) not modify, amend or alter the Shared Data, except as directed by ATU; and
- (4) implement and maintain a system for logging and identifying all Supplier personnel accessing the Shared Data and if requested by ATU, provide a copy of the access log to the ATU.

3.4.2 The Supplier shall implement appropriate technical and organisational measures to assure a level of security appropriate to the risk to the Shared Data, in particular, from a Personal Data Breach, including as appropriate and as notified in advance to ATU:

- (1) the pseudonymisation/encryption of the Shared Data;

- (2) the ability to ensure the ongoing confidentiality, integrity and availability of the Shared Data on the Supplier's information technology systems and any other systems used to process the Shared Data;
- (3) the ability to restore the availability and access to the Shared Data in the event of a physical or technical incident; and
- (4) a process for regularly testing, assessing and evaluating the effectiveness of technical and organisational measures for ensuring the security of processing of the Shared Data.

The security measures implemented by the Supplier are detailed in Schedule 1 hereto.

3.5 The Disclosure/Dissemination of the Shared Data:

Without limiting the Supplier's other obligations under this Agreement, the Supplier:

3.5.1 may disclose Shared Data to its Personnel who:

- (a) need to know it for the Agreed Purpose (and only to that extent);
- (b) have been adequately and appropriately trained in accordance with clause 3.3.2;
- (c) are subject to a binding contract to keep the Shared Data confidential
(or are under a statutory obligation of confidentiality) and to only process the Shared Data in accordance with this Agreement.

3.5.2 may disclose the Shared Data to any other person only with the prior written consent of ATU, and, where ATU provides its consent, only where the person is subject to a binding commitment to keep the Shared Data confidential (or are under a statutory obligation of confidentiality) and to only process the Shared Data on the terms of ATU's consent.

3.6 Disclosure of Shared Data pursuant to a legal obligation:

3.6.1 If the Supplier is required by law to disclose the Shared Data, so far as permitted by law, the Supplier shall first:

- (1) give ATU notice of the details of the proposed disclosure;
- (2) give ATU a reasonable opportunity to take any steps it considers necessary to protect the confidentiality of the Shared Data; and
- (3) give ATU an opportunity to inform the Data Subject of the proposed disclosure, where ATU feels it is necessary to do so.

3.7 Third Party Processing: Without limiting Supplier's other obligations under this Agreement and the other provisions of this clause: -

- 3.7.1 The Supplier shall not engage any Sub- Processor, other than those set out at Schedule 1 hereto, to process the Shared Data without prior written consent or the prior written instructions of ATU.
- 3.7.2 Where ATU consents to the Supplier engaging any Sub-Processor, other than those set out at Schedule 1 hereto, to process the Shared Data, the Supplier shall impose on that Sub- Processor, by means of a legal contract, the same data protection obligations as set out in this Agreement and which shall ensure that if that Sub- Processor in turn engages another entity to process the Shared Data on its behalf that that entity is also required to comply with such obligations.
- 3.7.3 The Supplier shall inform ATU of any intended changes concerning the addition or replacement of those Sub-Processors set out in Schedule 1 hereto and shall not make any such changes without the prior written consent of ATU.
- 3.7.4 The Supplier shall remain liable to ATU for processing by Sub-Processors as if the processing was being conducted by the Supplier themselves.

3.8 Provision of assistance from the Supplier to ATU in relation to the Shared Data:

3.8.1 The Supplier shall:-

- (1) co-operate with ATU to the extent necessary to enable ATU to comply with any requests of the DPC or other competent supervisory authority;
- (2) make available to ATU all information necessary to demonstrate compliance with the obligations set out in Article 28 of the GDPR and allow for and contribute to audits, including inspections, conducted by ATU and its third party representatives;
- (3) comply with clause 3.3.1(4);
- (4) provide such co-operation and assistance as ATU may require in responding to requests from Data Subject's pursuant to their rights laid down in Chapter 3 of the GDPR and ensure that appropriate technical and organisational measures are put in place so as to be in a position to do so without undue delay;
- (5) provide such co-operation and assistance as ATU requires to enable ATU to comply with its obligations under Articles 32-36 of the GDPR, including without limitation, notifying ATU within 24 hours of becoming aware of any Personal Data Breach (including any suspected Personal Data Breach) in respect of the Shared Data and including in such notification, at least the applicable information referred to in Article 33(3) of the GDPR and the Supplier shall not communicate with the

DPC or any Data Subject in respect of the said Personal Data Breach or any third party without the prior written consent of ATU.

- 3.8.2 If the Supplier receives any direct request from a Data Subject pursuant to Chapter 3 of the GDPR or any other provision under Applicable Data Protection Laws, the Supplier shall, within 2 Business Days of receiving such request, notify ATU, including in such notification full details of the request and provide such information, co-operation and assistance as ATU may require in order to assess and respond to the request.

3.9 Breach of the provisions of this clause and/or the Applicable Data Protection Laws

- 3.9.1 If the Supplier becomes aware that any unauthorised or unlawful processing of the Shared Data is taking place or has taken place, the Supplier shall give ATU notice of the full details of the contravention without undue delay.
- 3.9.2 The Supplier acknowledges and agrees that ATU's knowledge of, or response to, any notice given pursuant to clause 3.9.1, whatever form that may take, does not affect any other rights of ATU under this Agreement.

3.10 Return or Destruction of the Shared Data

On termination or expiry of this Agreement for whatever reason (or at any other time on request by ATU), the Supplier shall cease processing the Shared Data and, at ATU's choice, either return or securely destroy all copies of the Shared Data unless subject to a legal obligation to retain same.

3.11 Third Country Transfers:

- 3.11.1 The Supplier acknowledges and agrees that neither it, nor any of its Personnel may: -

- (1) transfer the Shared Data to any Third Country except to the extent that the transfer is expressly permitted by ATU in writing; and
- (2) the transfer is lawful on the basis of either Article 45, 46 and/or 47 of the GDPR.

- 3.11.2 In the event that any transfer mechanism entered into under clause 3.11 (2) ceases to be valid, the Supplier shall at ATU's discretion:-

- (1) enter into and/or procure that any relevant Sub-Processor enters into an appropriate alternative data transfer mechanism;
- (2) destroy any Personal Data in its and/or its Sub-Processor's possession; or

(3) return any Personal Data in its and/or its Sub-Processor's possession to ATU.

3.12 The Supplier warrants and represents that: -

- (1) its employees, agents and any other person or persons accessing the Personal Data on its behalf are reliable and trustworthy and have received the required training on Applicable Data Protection Laws;
- (2) it and anyone operating on its behalf will process the Personal Data in compliance with Applicable Data Protection Laws and other applicable law;
- (3) it has no reason to believe that Applicable Data Protection Laws prevent it from providing any of the Existing Agreement's contracted services; and
- (4) it will take appropriate technical and organisational measures to prevent the accidental, unauthorised or unlawful processing of Personal Data and the loss or damage to, the Personal Data.

3.13 The Supplier agrees to indemnify, keep indemnified and defend at its own expense ATU against all costs, claims, damages or expenses incurred by ATU or for which ATU may become liable due to any failure by the Supplier or its employees, subcontractors or agents to comply with any of its obligations under this Agreement and/or Applicable Data Protection Laws. Any limitation of liability set forth in the Existing Agreement will not apply to this Agreement's indemnity obligations.

4.0 TERM AND TERMINATION

This Agreement shall commence on the Effective Date and shall continue until the date on which the Processor ceases to process Personal Data on behalf of ATU under the Existing Agreement or by ATU at any time by serving written notice on the Supplier to terminate the Agreement at any time. For the avoidance of doubt termination of this Agreement, for whatever reason, shall not affect the accrued rights and obligations of either Party arising out of this Agreement and all provisions which are expressed to survive this Agreement (or impliedly do so) remain in full force and effect.

IN WITNESS OF WHICH, this Agreement has been duly executed by the undersigned signatories on behalf of the parties on the date below written, and each signatory represents and warrants to the party (other than that which he or she represents) that he or she has the authority to sign on behalf of the party which he or she purports to bind.

SIGNED for and on
behalf of ATU

By:

Name:

Title: Data
Protection Officer

SIGNED for and on behalf of the Supplier

By:

Name:

Title:

Contact Information

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

Schedule 1

(i)	Nature of Supplier's Services to ATU	
(ii)	Duration of the processing	
(iii)	Nature & Purpose of the Processing	
(iv)	Categories of Data	

	Subjects	
(v)	Types of Personal Data processed pursuant to this Agreement	
(vi)	Sub-Processors (per clause 3.7)	
(vii)	Security Measures implemented by the Supplier	
(ix)	Other relevant information	