

**Request for Tenders dated 14/09/2026  
for the provision of a:**

**Air Service from Aerfort Chonamara, Na Mine, Co na Gaillimhe  
to  
Oileáin Árann, Co. na Gaillimhe,  
Ireland 2026 -2030**

**Tender procedure: Open procedure OJEU**

**Tender Deadline: 12/10/2026 at 13:00**

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## Part 1: Introduction

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- 1.1 The Minister for Rural and Community Development and the Gaeltacht (the “Contracting Authority”) invites tenders (“Tenders”) to this Request for Tenders (“RFT”) from economic operators (“Tenderers”) for the provision of the Services as described in Appendix 1 to this RFT (the “Services”).
- 1.2 In summary, the Services comprise the operation of an air service between Aerfort Chonamara, Na Mine, Connemara, County Galway, Ireland and Oileáin Árann (Árainn, Inis Meáin and Inis Oírr), County Galway, Ireland. The Service is to commence in Q4 2026.
- 1.3 This public procurement competition (the “Competition”) will be conducted in accordance with the European Union (Award of Public Authority Contracts) Regulations 2016 (Statutory Instrument 284 of 2016) (the “Regulations”). Any contract that may result from this Competition (the “Services Contract”) will be issued for a term of 4 years (“the Term”).
- 1.4 *Not used*
- 1.5 The Contracting Authority reserves the right to extend the Term for a period or periods of up to six months with a maximum of two (2) such extensions on the same terms and conditions, subject to the Contracting Authority’s obligations at law.
- 1.6 The Contracting Authority estimates that the expenditure on the Services to be covered by the proposed Services Contract may amount to some **€5,741,083.57** (excl. VAT) over the Term and any possible extensions. Tenderers must understand that this figure is an estimate only based on current and future expected usage.
- 1.7 Contracting Authority policy seeks to encourage participation on a fair and equal basis by Small and Medium Enterprises (“SME”s) in this Competition. SMEs that believe the scope of this Competition is beyond their technical or business capacity are encouraged, subject to paragraph 2.5, to explore the possibilities of forming relationships with other SMEs or with larger enterprises. Through such relationships they can participate and contribute to the successful implementation of any Services Contract that may result from this Competition and therefore increase their social and economic benefits.

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

## Part 2: Instructions to Tenderers

### 2.1 Important Notices

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

2.1.2 The Contracting Authority does not bind itself to accept the lowest priced or any Tender. This RFT does not constitute an offer or commitment to enter into a Services Contract.

No contractual rights in relation to the Contracting Authority will exist unless and until a formal written Services Contract has been executed by or on behalf of the Contracting Authority.

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

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

The award of a Services Contract does not confer exclusivity on the successful Tenderer.

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

2.1.4 In this clause 2.1.4, “Data Protection Laws” means all applicable national and EU data protection laws, regulations and guidelines including but not limited to Regulation (EU) 2016/679 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (the “General Data Protection Regulation”), and any guidelines and codes of practice issued by the Office of the Data Protection Commission or other supervisory authority for data protection in Ireland from time to time.

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

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

Competition or that the Tenderer otherwise has a legal basis for providing such Personal Data to the Contracting Authority for the purposes of its participation in this Competition.

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

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

- 2.1.6 Tenderers are referred to the provisions of Regulation (EU) 2022/2560 of the European Parliament and of the Council on Foreign Subsidies distorting the Internal Market, in addition to Commission Implementing Regulation (EU) 2023/1441, and their obligation to comply therewith. In particular, tenderers and candidates should note the requirements in Articles 28 and 29 of Regulation (EU) 2022/2560 relating to the prior notification or declaration of foreign financial contributions, where the estimated value of the public procurement procedure is equal to or greater than the applicable financial thresholds set out therein. In that regard, Tenderers and Candidates are referred to Appendix 3A of the RFT.

## 2.2 Compliant Tenders

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

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

Tenderers are required:

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

## 2.3 Services Contract

- 2.3.1** Tenderers should note the terms and conditions of the Services Contract at Appendix 6 to this RFT.
- 2.3.2** Tenderers are required to confirm their acceptance of the terms and conditions of the Services Contract by signing the Tenderer's Statement at Appendix 3. Tenderers may not amend the Services Contract.

## 2.4 Acceptance of RFT Requirements

Each Tenderer is required to accept the provisions of this RFT. ALL TENDERERS MUST RETURN, with their Tender, a scanned signed copy of the Tenderer's Statement, as set out in Appendix 3, printed on

the Tenderer's letterhead. The Contracting Authority must be able to read the scanned signature of the Tenderer. If possible, please sign documents using blue ink. If the Contracting Authority cannot read the scanned signature, Tenderers may be requested to re-submit. Tenderers may not amend the Tenderer's Statement.

## 2.5 Consortia and Prime / Subcontractors

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

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

## 2.6 Tender Submission Requirements

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

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

Tenderers should not that in the electronic tenderbox, there is a file size limit of 250MB for each single file uploaded, with a maximum total limit of 500MB for all documentation (combined) in the Tender submitted.

In order to submit a Tender to the electronic tenderbox, Tenderers must click on the "paper plane" icon first and then on the "Submit" button. After the "Submit" button has been clicked, in the event that Tenderers need to modify or change any aspect of their Tender before the Tender Deadline, the Tender in its entirety will need to be re-submitted. Tenderers should be aware that the "Submit" button will be disabled automatically at the Tender Deadline.

- 2.6.2** Tenders must be received not later than **13:00** on **12/10/2026** the ("Tender Deadline"). Tenders that are received after **13:00** on **12/10/2026** WILL NOT be considered in this Competition.

- 2.6.3** Tenders must be submitted in English AND/OR Irish.

- 2.6.4 Subject to paragraph 2.14 and 2.18, each Tenderer is limited to submitting one Tender in its own capacity and one Tender as part of a consortium/group of undertakings under this RFT
- 2.6.5 All Tenders submitted in soft copy must be compiled such that they can be read immediately using Microsoft Word, Excel or PDF readers. The Contracting Authority is not responsible for corruption in electronic documents. Tenderers must ensure electronic documents are not corrupt.

## 2.7 Queries and Clarifications

- 2.7.1 All queries relating to any aspect of this Competition or of this RFT must be made **only** via the messaging facility on e-tenders at <http://www.etenders.gov.ie>. Queries will be accepted no later than **13:00** on **28/09/2026** unless otherwise published by the Contracting Authority. For the avoidance of doubt, Tenderers may not contact the Contracting Authority directly or indirectly regarding any aspect of this Competition.
- 2.7.2 All responses to queries will be issued by the Contracting Authority to all Tenderers via the messaging facility on <http://www.etenders.gov.ie>. Where appropriate, queries may be amalgamated. Tenderers should note that the Contracting Authority will not respond to individual Tenderers privately.
- 2.7.3 The Contracting Authority reserves the right to issue or seek written clarifications.
- 2.7.4 The Contracting Authority reserves the right at any time before the Tender Deadline, to update or amend the information contained in this document and/or to extend the Tender Deadline. Participating Tenderers will be informed of any such amendment or extension through the e-Tenders website.
- 2.7.5 Tenderers should ensure that they register their interest in this Competition, by clicking on the “Accept” button on [www.etenders.gov.ie](http://www.etenders.gov.ie), in order to receive all responses to queries and other updates in relation to this Competition.

## 2.8 Tendering Costs

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

## 2.9 Confidentiality

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

- (d) must be returned immediately to the Contracting Authority upon cancellation or completion of this public procurement competition if so requested by the Contracting Authority.

## 2.10 Pricing

- 2.10.1 All Tenderers must complete the Pricing Schedule at Appendix 2 to this RFT.
- 2.10.2 All prices quoted must be all-inclusive (i.e. including but not being limited to shipping, packaging, delivery, ancillary costs and all other costs/expenses), be expressed in Euro only and exclusive of VAT. The VAT rate(s) where applicable should be indicated separately.
- 2.10.3 Tenderers must confirm that all prices quoted in the Tender will remain valid for one year commencing from the Tender Deadline.
- 2.10.4 Any currency variations occurring over the term of the Services Contract shall be borne by the Tenderer.
- 2.10.5 Payments for Services provided pursuant to this RFT shall be subject to and made in accordance with the Services Contract at Appendix 6 to this RFT.
- 2.10.6 Tenderers should note that prices may be increased or decreased only on the first anniversary of the Effective Date of the Services Contract (as defined in the Services Contract) and only with the agreement of the Contracting Authority.

## 2.11 Environmental, Social and Labour Law

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

Agency Workers (within the meaning of the 2012 Act), Tenderers should ensure that they consider their obligations under the 2012 Act when pricing their Tender. The Contracting Authority shall have no liability for any increase in salaries that may be payable as a result of the application of the 2012 Act to the provision of the Services.

#### 2.12 Publicity

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

#### 2.13 Registrable Interest

Any Registrable Interest involving any Tenderer or Subcontractor and the Contracting Authority, members of the Government, members of the Oireachtas, or employees and officers of the Contracting Authority and their relatives must be fully disclosed in the Tender or, in the event of this information only coming to the notice of the Tenderer or Subcontractor after the submission of a Tender, must be communicated to the Contracting Authority immediately upon such information becoming known to the Tenderer or Subcontractor.

The terms “Registrable Interest” and “Relative” shall be interpreted as per Section 2 of the Ethics in Public Office Acts 1995 and 2001, copies of which are available at [www.irishstatutebook.ie](http://www.irishstatutebook.ie). The Contracting Authority will, at its absolute discretion, decide on the appropriate course of action, which may in appropriate circumstances include eliminating a Tenderer from this Competition or terminating any Services Contract entered into by a Tenderer.

#### 2.14 Anti-Competitive Conduct

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

#### 2.15 Industry Terms Used in this RFT

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

#### 2.16 Freedom of Information

- 2.16.1 Tenderers should be aware that, under the Freedom of Information Act 2014 and the European Communities (Access to Information on the Environment) Regulations 2007 to 2014, information provided by them during this Competition may be liable to be disclosed.

**2.16.2** Tenderers are asked to consider if any of the information supplied by them in their Tender should not be disclosed because of its confidentiality or commercial sensitivity. If Tenderers consider that certain information is not to be disclosed because of its confidentiality or commercial sensitivity, Tenderers must, when providing such information, clearly identify the specific sections of their Tender containing such information and specify the reasons for its confidentiality or commercial sensitivity. For the avoidance of doubt Tenderers may not assert confidentiality or commercial sensitivity over the entire Tender but must clearly identify the specific section containing such information. If Tenderers do not identify information as confidential or commercially sensitive, it is liable to be released in response to a request under the above legislation without further notice to or consultation with the Tenderer. The Contracting Authority will, where possible, consult with Tenderers about confidential or commercially sensitive information so identified before making its decision on a request received. The Contracting Authority accepts no liability whatsoever in respect of any information provided which is subsequently released (irrespective of notification) or in respect of any consequential damage suffered as a result of such obligations.

#### **2.17 Tax Clearance**

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

#### **2.18 Conflicts of Interest**

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

#### **2.19 Withdrawal from this Competition**

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

#### **2.20 Site Visit**

2.20.1 Not used

2.20.2 The Contracting Authority reserves the right to visit the Tenders' premises. The details of any potential site visit will be agreed between the Contracting Authority and the Tenderers.

## 2.21 Insurance

2.21.1 The successful Tenderer shall be required to hold for the term of the Services Contract the following insurances

| Type of Insurance                                                                       | Indemnity Limit                                                                                                                                                                                                                                                 |
|-----------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Employer's Liability</b>                                                             | €12,700,000 million for any one claim or series of claims arising out of a single occurrence.<br><br>The employer's liability policy should include an indemnity to principals clause and these documents should be made available to the Contracting Authority |
| <b>Public Liability</b>                                                                 | See 'Other Insurances' below                                                                                                                                                                                                                                    |
| <b>Professional Indemnity</b>                                                           | See 'Other Insurances' below                                                                                                                                                                                                                                    |
| <b>Other Insurances:</b><br><b>Public Liability/Passenger and Third-Party Liability</b> | €6,500,000                                                                                                                                                                                                                                                      |

2.21.2 By signing the Tenderer's Statement at Appendix 3, Tenderers confirm that, if awarded a Services Contract under this Competition,

- (i) they will, from the Effective Date of the Services Contract (as defined in the Services Contract), obtain and hold the types and levels of insurance as specified at paragraph 2.21.1
- (ii) the territorial limits and jurisdiction of its insurance policies include Ireland and;
- (iii) they are not aware of any exclusions, restrictions, conditions or warranties or, in the case of policies with an aggregate limit of indemnity, any outstanding claims, which could have a material adverse impact on the level of coverage specified above. A formal confirmation from the Tenderer's insurance company or broker to this effect will be requested from the successful Tenderer(s) prior to the award of (and shall be a condition of) any Services Contract.

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

- (a) immediately advise the Contracting Authority of any material change to its insured status;
- (b) produce proof of current premiums paid upon request;
- (c) produce valid certificates of insurance upon request.
- (d) Indemnify the Minister, the Department, its agents and representative on its insurance policies held by it for this service.

## Part 3: Selection and Award Criteria

### 3.1 Compliant Tenders

#### 3.1 Only those Tenderers who have: -

- (a) Submitted compliant Tenders pursuant to paragraph 2.2 above, and
- (b) Declared by way of e-ESPD that either:
  - (i) no mandatory grounds for exclusion of the Tenderer pursuant to Regulation 57 of the Regulations apply to them, or
  - (ii) in circumstances where any mandatory exclusion grounds apply to the Tenderer (and where the Tenderer is not precluded from doing so under Regulation 57(17) of the Regulations), that it can provide evidence to the effect that measures taken by it are sufficient to demonstrate its reliability despite the existence of any such relevant exclusion ground, and
- (c) Declared by way of e-ESPD that they satisfy the selection criteria for this Competition as set out in part 3.2 below (*"Tender Selection and Evaluation Criteria"*), will be evaluated in accordance with the Award Criteria at part 3.3 below.

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

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

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

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

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

However, notwithstanding anything to the contrary in this part 3.1, the Contracting Authority reserves the right to ask Tenderers at any moment during the Competition

to submit any or all of the following for the purposes of verification of the status of the Tenderer (including the Prime Contractor and any Subcontractor):

- (i) a Declaration in the form attached at Appendix 4;
- (ii) evidence to the effect that measures taken by the entity concerned are sufficient to demonstrate its reliability despite the existence of a relevant Exclusion Ground;
- (iii) in the case of the Prime Contractor and any Subcontractor on whose capacity the Prime Contractor relies, all or any of the supporting documents specified at paragraph 3.2 below;
- (iv) information concerning the Tenderer, and any proposed subcontractors, for the purposes of Regulation (EU) No 833/2014 (as amended by EU Regulation 2022/576 or any subsequent amendments to same) including, but not limited to, in respect of natural persons, copies of identity documents and, in respect of legal persons, a certificate or extract from the commercial register or other competent authority of the country in which the legal person is established; and
- (v) information concerning the origin of goods, if any, for the purposes of assessing compliance with Regulation (EU) No 833/2014 (as amended by EU Regulation 2022/576 or any subsequent amendments to same).

If a Tenderer does not, upon request by the Contracting Authority, provide evidence which is considered by the Contracting Authority as sufficient to demonstrate (i) its fulfilment of the Selection Criteria (or any one of them) in accordance with this RFT and (ii) the absence of Exclusion Grounds, or its reliability despite the existence of a relevant Exclusion Ground and (iii) that it does not come within the category of prohibited economic operators identified in Regulation (EU) No 833/2014 of 31 July 2014 (as amended by EU Regulation 2022/576) and (iv) that the origin of goods, if any, are not subject to the prohibitions set out in Regulation (EU) No 833/2014 (as amended by EU Regulation 2022/576 or any subsequent amendments to same) then it shall be excluded from further participation in this Competition.

If a Tenderer does not, upon request by the Contracting Authority, provide evidence which is considered by the Contracting Authority as sufficient to demonstrate (i) the fulfilment by any Subcontractor on whose capacity the Prime Contractor relies of the Selection Criteria (or any one of them) in accordance with this RFT and (ii) the absence of Exclusion Grounds in respect of any Subcontractor, or the reliability of any Subcontractor despite the existence of a relevant Exclusion Ground and (iii) that any proposed Subcontractor on whose capacity the Tenderer relies (where the value of that subcontract exceeds 10% of the value of the Services Contract) does not come within the category of prohibited economic operators identified in Regulation (EU) No 833/2014 of 31 July 2014 (as amended by EU Regulation 2022/576) then, it shall be excluded from further participation in this Competition unless it replaces the Subcontractor with one which meets all relevant requirements of this RFT.

Tenderers will either Pass **OR** Fail each of the Selection Criteria in this part 3.2(a) and 3.2(b). In the event of one or more of the Selection Criteria achieving a **Fail**, the Tenderer **will be excluded** from participating in this Competition.

### 3.2(a) Economic and Financial Standing – (Financial Fitness)

Tenderers must declare, including by way of ESPD, that they satisfy the financial and economic standing requirement(s) set out below. Tenderers must provide the supporting documentation specified below to the Contracting Authority in each case. The documentation provided to satisfy the requirements below must be clearly marked as responding to Section 3.2(a). The Contracting Authority reserves the right to disregard documentation if it is not marked with a label stating clearly which section of the RFT it responds to. If a Tenderer is relying on a single document to satisfy multiple requirements of the RFT, this must be clearly stated.

#### 1.1 *Financial Fitness Qualification Requirement*

Tenderers must show that they have sufficient financial capacity to successfully provide the Service as outlined in Appendix 1 '*Requirements and Specifications*' of this document.

In order to fulfil this requirement Tenderers must provide:

- (i) have a minimum turnover in excess of €1,255,620 in at least one of the Tenderer's last three financial years, or reassurance on company's financial and operational bona fides.
- (ii) Copies of their audited accounts for the 3 most recent years. In cases where the Tenderer is a subsidiary, the parent company's audited accounts for the 3 most recent financial years should also be included or reassurance of company's financial and operational bona fides if trading less than three years.
- (iii) A declaration, certified by their auditors where audited accounts are being provided, confirming the details of any financial or other circumstances relevant to the Tenderer which could interfere with their ability to provide the Service. If no such circumstances exist, a declaration to this effect should be provided. In the case where a Tenderer meets the criteria for, and has actually claimed audit exemption, they must supply a statement provided by their bank or a suitably qualified accountant as to the current financial standing of the Tenderer. The declaration must be provided on headed paper.

Tenderers must provide the supporting documentation specified above. However, where the Tenderer does not, for a valid reason, provide the specified documentation, and if the Contracting Authority considers the reason given by the Tenderer to be valid, the Tenderer must provide the documentation or other suitable alternative documentation to prove, without delay and upon request, to the satisfaction of the Contracting Authority, their economic and financial capacity.

### 3.2(b) Professional and Technical Ability

Tenderers must declare, including by way of ESPD, that they satisfy the professional and technical ability requirement(s) set out below. Tenderers must provide the supporting documentation specified below to the Contracting Authority in each case. The documentation provided to satisfy the requirements below must be clearly marked as responding to Section 3.2(b). The Contracting Authority reserves the right to disregard documentation if it is not marked with a label stating clearly which section of the RFT it responds to. If a Tenderer is relying on a single document to satisfy multiple requirements of the RFT, this must be clearly stated.

#### 1.2 *Organisational and Managerial Bona Fides*

Tenderers must demonstrate that they are an appropriately authorised airline, which has successfully operated scheduled or charter services within the EU in the last 3 years and which is appropriately experienced and suitably qualified in this regard to operate the air service in accordance with all applicable safety standards and requirements imposed by law and relevant regulatory bodies.

In order to fulfil this requirement Tenderers must provide:

- (i) A current valid Air Operator Certificate (under EASA regulations (EU) 965/2012) issued by the Irish Aviation Authority, or equivalent EU body; or documentation to demonstrate that such a certificate will be in place by the air-service start date.
- (ii) A current valid Operating Licenses issued by the Commission for Aviation Regulation, or equivalent EU body.
- (iii) A brief description of scheduled and / or charter air services operated within the last 3 years
- (iv) A relevant reference from at least one business client (public or private sector) which has utilised your services within the last 3 years.

### 1.3 *Capability to provide an air service*

Tenderers must demonstrate a capability to successfully and safely operate all aspects of the air service including the provision of sufficient aircrafts, to fulfil the flying programme and provide locally based aircraft back-up and resilience, with a minimum of 9 passenger seats, capable of carrying 10kg of luggage for each passenger and suitable for the aerodromes' infrastructure and operating environment as described in Appendix 1

Tenderers **must** submit;

Details of the proposed aircrafts they will use to provide this service including.

- (a) Aircraft type
- (b) Make and Model
- (c) Aircraft's Certificate of Airworthiness
- (d) Seating capacity
- (e) Luggage capacity
- (f) Evidence of ownership interest (owned, dry/wet leased etc)

### 1.4 *Qualified Pilots*

Tenderers must demonstrate that they have suitably qualified commercial pilots to successfully deliver the services on the aircraft proposed.

In order to fulfil this requirement Tenderers must:

- (i) Identify the chief pilot (Providing copies of pilot licence and flying experience). The Chief pilot may be required to attend contract review meetings with Contracting Authority
- (ii) Submit copies of pilot licences for each pilot which will be involved in the provision of the air service and identify any additional pilots who may be needed to be recruited and how this will be timeously accomplished.

### 1.5 *Ability to sell and distribute flight tickets*

Tenderers must demonstrate the ability to sell and distribute flight tickets by phone (during normal office hours), online, and at aerodromes up to at least 30 minutes prior to the scheduled departure time

There must also be a facility for purchase of tickets by passengers turning up at least 30 minutes before the scheduled departure time at the relevant airport, although this does not guarantee seat availability. Please note that the management company at Oileáin Árann aerodromes is already required to make personnel available in this regard.

The successful tenderer will be required to accept and honour flight bookings made before the contract start date and will be furnished with the necessary booking details and revenue, as appropriate, from the current operator of the service

Tenders **must**:

Provide a declaration confirming that they will sell and distribute tickets by phone, online and at the aerodromes.

Evidence of access to the required capability will be required to be provided by the successful Tenderer prior to contract award.

### 1.6 *Air Service Security*

Tenderers must demonstrate the capability to manage all aspects of security related to the air service.

Tenders must:

Provide a declaration confirming that they have, or can timeously produce, an appropriate security manual in place relevant to the operation of the air service as outlined in Appendix 1.

A copy of the security manual will be required to be provided by the successful Tenderer prior to contract award

### 1.7 *Monthly Invoices and Regular Reports*

Tenderers must demonstrate the capability to provide monthly invoices and regular reports as per the requirements of the Contracting Authority.

Tenders must:

Provide a declaration confirming that they can provide daily flight logs, monthly invoices and monthly reports, including flight logs and reports on all flights, as per the samples provided in Appendix 1, section 14.

This information will be verified with the Successful Tenderer prior to contract award.

Tenderers must provide the supporting documentation specified above. However, where the Tenderer does not, for a valid reason, provide the specified documentation, and if the Contracting Authority considers the reason given by the Tenderer to be valid, the Tenderer must provide the documentation or other suitable alternative documentation to prove, without delay and upon request, to the satisfaction of the Contracting Authority, their professional and technical ability.

### 3.3 Award Criteria

- 3.3.1** The Services Contract will be awarded on the basis of the most economically advantageous tender(s) as identified in accordance with sections 3.3.2(a) and 3.3.2 (b) below:

Submissions will be scored against a maximum **1400 marks**.

Eligible submissions will be subjected to two scoring modules. **1000 marks** being assigned to the *Quality of Offer* and **400 marks** to the *Cost* element of the submission.

Marks will be awarded on the quality of the offer made in accordance with section 3.3.1 (a) below, on a comparative basis and using the following scoring methodology:

**Outstanding Response:** (90% -100% of available marks)

A response with very few or no weaknesses that fully meets or exceeds requirements and provides comprehensive, detailed and convincing assurance that the Tenderer will deliver to an outstanding standard

**Excellent Response:** (80% - 89% of available marks)

A response with very few or no weaknesses that fully meets or exceeds requirements and provides comprehensive, detailed and convincing assurance that the Tenderer will deliver to an outstanding standard

**Very Good Response:** (70% – 79% of available marks)

A good response that demonstrates a real understanding of requirements and assurance that the Tenderer will deliver to a good or high standard

**Good Response:** (55% – 69% of available marks)

A response that demonstrates a reasonable understanding of requirements and gives reasonable assurance of delivery to an adequate standard but does not provide sufficiently convincing assurance to award a higher mark

**Fair Response:** (40% – 54% of available marks)

A response where reservations exist and have not been addressed by clarification. Lacks full credibility/convincing detail and there is significant risk that the response will not be successful

**Poor Response:** (25% – 39% of available marks)

A response where serious reservations exist. This may be because, for example, insufficient detail is provided (even post clarification), and the response has fundamental flaws, or is seriously inadequate or seriously lacks credibility with a high risk of non-delivery

**No Evidence: (Below 25%)**

A response that fails to address the criterion under consideration

A minimum rating of Good (55-69%) is required in each criterion; failure of a tenderer to achieve the minimum score under any of the criteria may result in elimination from the competition.

Clarity and quality of the presentation under each category will be assessed within the category scoring. A well-prepared submission will, all other things being equal, score higher than a sloppy presentation. Any documentation provided to satisfy each requirement below must be clearly marked as responding the relevant section or sections. The Contracting Authority reserves the right to disregard documentation if it is not marked with a label stating clearly which section or sections of the RFT it responds to. If a Tenderer is relying on a single document to satisfy multiple requirements of the RFT, this must be clearly stated. It is the sole responsibility of Tenderers to ensure their Tender is clearly laid out and labelled. The Contracting Authority accepts no responsibility for failing to consider documentation or information under a specific criterion if it is not clearly marked as referring to that specific criterion.

Tenderers are encouraged to submit concise and comprehensive answers for each criterion. A comprehensive submission that exceeds expectations will, all other things being equal, score higher than a submission with minimal information, however, Tenderers are encouraged to submit responses of a reasonable length. Excessive material, that is difficult to analyse, will score poorly. Tenderers must ensure that information provided in their submission is consistent throughout. Responses which are inconsistent with other sections of the submission will score poorly.

Tenderers should note that the requirements each criterion may differ from previous competitions. Tenderers should not rely on their experience of previous competitions in order to fulfil the requirements of this competition. Responses should be designed to fully meet or exceed the requirements of this specific competition.

**3.3.2(a) Quality of Offer:**

This section outlines the award criteria that will be used to evaluate tenders submitted in response to this RFT. The Contracting Authority will assess tenders based on these criteria to determine the most economically advantageous tender. The aim is to select a tender that best meets the requirements of this RFT, demonstrating both value for money and the technical and professional ability to deliver the specified PSO air services.

The quality of the submission will be scored under the following criteria:

| Quality of Offer (1000 marks) |       |                                         |
|-------------------------------|-------|-----------------------------------------|
| Criteria                      | Marks | In accordance with                      |
| Manpower Plan                 | 120   | <a href="#">Appendix 1, Section 3.1</a> |
| Resilience Planning           | 120   | <a href="#">Appendix 1, Section 3.2</a> |

|                                                   |             |                                          |
|---------------------------------------------------|-------------|------------------------------------------|
| Marketing Plan and Route Development              | 100         | <a href="#">Appendix 1, Section 4</a>    |
| Online Visibility / Utility /Channels             | 50          | <a href="#">Appendix 1 Section 5</a>     |
| Yield Management and Patronage Maximisation Plans | 50          | <a href="#">Appendix 1, Section 6</a>    |
| Communications: Stakeholder Consultation          | 40          | <a href="#">Appendix 1, Section 8.1</a>  |
| Communications: Complaints Procedures             | 40          | <a href="#">Appendix 1, Section 8.2</a>  |
| Passengers with reduced Mobility                  | 60          | <a href="#">Appendix 1 Section 9</a>     |
| Risk Management                                   | 70          | <a href="#">Appendix 1, Section 10.1</a> |
| Environmental Considerations                      | 70          | <a href="#">Appendix 1 section 10.2</a>  |
| Service Mobilisation Plan                         | 70          | <a href="#">Appendix 1, Section 11</a>   |
| An Ghaeilge                                       | 90          | <a href="#">Appendix 1, Section 12</a>   |
| Local Benefits                                    | 50          | <a href="#">Appendix 1, Section 13</a>   |
| Reporting and Invoicing                           | 70          | <a href="#">Appendix 1, Section 14</a>   |
| <b>Total</b>                                      | <b>1000</b> |                                          |

### 3.3.2(b) Cost of proposed service:

The cost element of the submission will be scored at a maximum of **400** marks.

Tenderers are required to provide costings for a minimum service as outlined in Appendix 1 section 2 and also for a range of additional seating capacity on the island routes according to five different options (also set out in Section 2 Operations - 'Additional Capacity')

When evaluating a tenderer's submission, the Department will assess, compare and score each additional capacity option supplied against its equivalent option from all other tenderers.

For each option the tendered additional seating capacity will be evaluated in the following manner.

| Extra Seating Capacity above the minimum Service |                    |                    |                    |                    |                    |       |
|--------------------------------------------------|--------------------|--------------------|--------------------|--------------------|--------------------|-------|
|                                                  | Option 1           | Option 2           | Option 3           | Option 4           | Option 5           | Marks |
|                                                  | 46,386<br>seats PA | 42,786<br>seats PA | 37,386<br>seats PA | 35,586<br>seats PA | 33,786<br>seats PA |       |
| Year One<br>Subsidy<br>Request                   |                    |                    |                    |                    |                    | 100   |
| Year Two -<br>scored in                          |                    |                    |                    |                    |                    | 70    |

|                                           |  |  |  |  |  |            |
|-------------------------------------------|--|--|--|--|--|------------|
| relation to year 1                        |  |  |  |  |  |            |
| Year Three - scored in relation to year 2 |  |  |  |  |  | 70         |
| Year Four - scored in relation to year 3  |  |  |  |  |  | 70         |
| Total Combined Four-Year Price estimate   |  |  |  |  |  | 90         |
|                                           |  |  |  |  |  | <b>400</b> |

**3.3.3** Subject to paragraphs 2.1 (Important Notices) and 3.5 (Standstill Period) of this RFT, award of the Services Contract to the highest ranked Tenderer (as determined by paragraph 3.3.2) will be conditional upon:

- (a) the Tenderer submitting the following evidence in respect of the Tenderer (including the Prime Contractor and any Subcontractors, as applicable in accordance with paragraph 3.1 above) to the extent not already provided, within seven (7) days of request by the Contracting Authority: (i) a Declaration in the form attached at Appendix 4; (ii) if applicable, evidence to the effect that measures taken by the entity concerned are sufficient to demonstrate its reliability despite the existence of a relevant Exclusion Ground; (iii) all or any of the supporting documents specified at paragraph 3.2; and
- (b) the evidence specified at paragraph 3.3.3(a) above demonstrating that each entity concerned meets the Selection Criteria and the compliance requirements specified at paragraph 3.1(b) and (c) above.

### 3.4 Presentation of Proposals

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

### 3.5 Standstill Period

- 3.5.1** In circumstances where the European Communities (Public Authorities' Contracts) (Review Procedures) Regulations 2010 (Statutory Instrument 130 of 2010), as amended by the European Communities (Public Authorities' Contracts) (Review Procedures) (Amendment)

Regulations 2015 (Statutory Instrument 192 of 2015) and the European Communities (Public Authorities' Contracts (Review Procedures) (Amendment) Regulation 2017 (Statutory Instrument 327 of 2017) apply, no contract can or will be executed or take effect until at least fourteen (14) calendar days after the day on which the Tenderers have been sent a notice informing them of the result of this Competition ("Standstill Period") if such notice is sent by electronic means. The Standstill Period shall be sixteen (16) calendar days if such notice is sent by other means. The preferred bidder will be notified of the decision of the Contracting Authority and of the expiry date of the Standstill Period.

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

### 3.6 Return of Signed Contracts

- 3.6.1 The successful Tenderer must sign and return the Services Contract and the Confidentiality Agreement, both in duplicate, to the Contracting Authority no later than 30 calendar days from the date of expiry of the Standstill Period unless notified otherwise in writing by the Contracting Authority. A signed Services Contract returned by the successful Tenderer is not binding on the Contracting Authority until the Contracting Authority has signed the Services Contract in accordance with paragraph 2.1.2 above.
- 3.6.2 Where the signed Services Contract and the Confidentiality Agreement have not been received by the Contracting Authority within the period as specified at paragraph 3.6.1 then the Contracting Authority may proceed to award the Services Contract to the next highest-ranked Tenderer in accordance with paragraph 3.6.1 above.

# Appendix 1: Requirements and Specifications

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Tenderers must address each of the issues and requirements in this part of the RFT and submit a detailed description in each case which demonstrates how these issues and requirements will be dealt with / met and their approach to the proposed delivery of the Service. A mere affirmative statement by the Tenderer that it can/will do so or a reiteration of the tender requirements is NOT sufficient in this regard.

## 1. Introduction.

### 1.1 Background.

Our offshore islands are an integral part of the fabric of rural Ireland. Although they support a relatively small proportion of our population, they make an important contribution to our national economy, our culture and our heritage. Although these communities have the same challenges as other rural communities in Ireland, they have additional challenges because they are separated from the mainland.

Access to year-round reliable and affordable transport services is a fundamental issue of concern to those living on the islands. It impacts on every aspect of island life, from mainland connectivity to the sustainability of small indigenous island manufacturers and businesses, to tourism, shops, hotels and small farmers.

The Department of Rural and Community Development and the Gaeltacht (DRCDG) leads in the provision of these essential transport services to our offshore islands. Its current strategy focuses on getting the best value to maintain and improve the quality of the service within the financial resources available to it.

One such service is the Public Service Obligation (PSO) air service to Oileáin Árann. Established in the 1970's, this service provides essential connectivity for the island communities, having regard to their location on Ireland's periphery and the need to promote economic growth, including tourism. It provides an essential means of access and has, to date, made a significant contribution to the overall economic and social development of Oileáin Árann.

In order to guarantee the service, and in pursuance of Article 16 of Regulation (EC) 1008/2008 on common rules for the operation of air services in the Community, Ireland has imposed a Public Service Obligation (PSO) in respect of a scheduled air service operated between Aerfort Chonamara, na Mine, Indreabhán, Co na Gaillimhe and Oileáin Árann, Co na Gaillimhe.

### 1.2 Oileáin Árann.

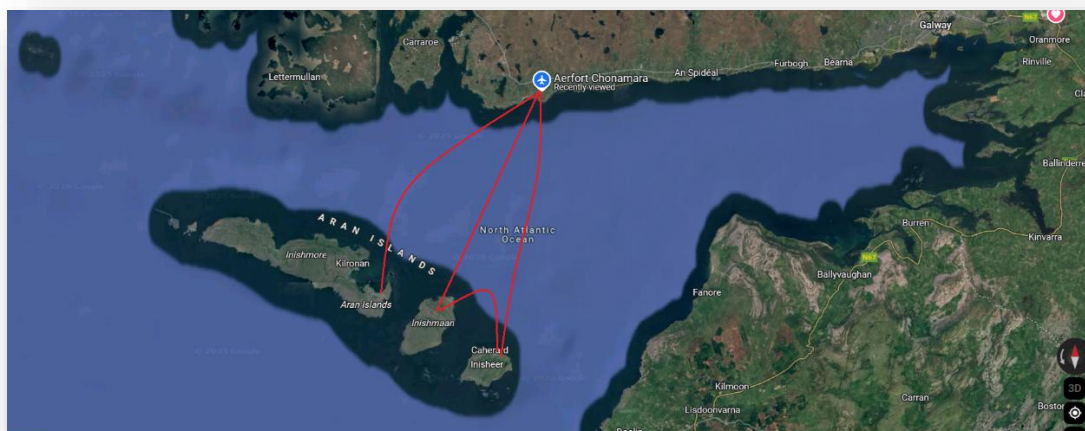
Oileáin Árann are situated off the Connemara coast in Galway Bay and comprises of 3 islands; Árann (Inis Mór), Inis Meáin and Inis Oírr.

The islands are the most inhabited islands in the state (Árainn 820, Inis Meáin 184 and Inis Oírr 343)<sup>1</sup> and form part of An Gaeltacht, where Irish is the primary spoken language.

The islands are of outstanding beauty and contain historical sites, churches and forts dating back thousands of years and attract many thousands of tourists each year.

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<sup>1</sup> Census 2022



The Islands are formed from limestone pavements, similar to those in the Burren in County Clare, and the land holdings are traditionally very small, averaging about 6.5 hectares (16 acres) to each household, much of which is rock.

**Árainn (Inis Mór)**, by far the largest of the islands, is approximately 12 kilometres (8 miles) long and 3 kilometres (2 miles) wide, with a land mass of 3,090 hectares. **Inis Meáin**, the middle island, has a land mass of 910 hectares and **Inis Oírr**, the smallest island has a land mass of 566 hectares. The three islands depend largely on traditional activities such as agriculture, fishing, fish farming and tourism.

### 1.3 Aerfort Chonamara & Aeradróim Oileáin Árann.

The Department for Rural and Community Development and the Gaeltacht owns Aerfort Chonamara (H91 DC80). The aerodromes on Oileáin Árann are owned by Údarás na Gaeltachta, Na Forbacha, Contae na Gaillimhe.

A services contract, that provides day-to-day management of Aerfort Chonamara and Oileáin Árann aerodromes was agreed between the DRCDG and Galway Aviation Services Limited (GASL), trading as Aer Arann Islands, for the period **01/05/2026 – 30/04/2031**.

Tenderers' attention is drawn to the '*DRCDG-Oileáin Árann PSO-Aerodromes Information and General Specifications*' accompanying this RFT. This dossier provides general information on facilities available at the aerodromes used to provide the proposed PSO.

### 1.4 Summary of Passenger Statistics

The following tables outline the passenger numbers that have availed of the air service to Oileáin Árann in each of the last 3 years. For convenience it shows the number of scheduled and non-scheduled Public Service Obligation flights carried out as well as a breakdown of the categories of passengers that have used the service.

|      | Flights |         | Passengers |              |            |              |           |              |       |
|------|---------|---------|------------|--------------|------------|--------------|-----------|--------------|-------|
|      | Flights |         | Árainn     |              | Inis Meáin |              | Inis Oírr |              | Total |
| 2023 | PSO     | Non-PSO | Islander   | Non Islander | Islander   | Non-Islander | Islander  | Non-Islander |       |
| Jan  | 364     | 2       | 632        | 140          | 237        | 67           | 440       | 110          | 1,626 |

|                            |              |           |               |               |              |              |               |              |               |
|----------------------------|--------------|-----------|---------------|---------------|--------------|--------------|---------------|--------------|---------------|
| Feb                        | 460          | 4         | 846           | 352           | 268          | 61           | 583           | 132          | 2,242         |
| Mar                        | 604          | -         | 929           | 730           | 314          | 69           | 566           | 222          | 2,830         |
| Apr                        | 770          | 2         | 988           | 1,457         | 374          | 163          | 659           | 378          | 4,019         |
| May                        | 746          | 8         | 933           | 1,471         | 386          | 200          | 657           | 411          | 4,058         |
| Jun                        | 792          | 4         | 894           | 1,707         | 286          | 260          | 627           | 587          | 4,361         |
| Jul                        | 888          | 8         | 896           | 1,955         | 363          | 384          | 712           | 734          | 5,044         |
| Aug                        | 1,018        | 2         | 1,078         | 2,350         | 424          | 328          | 914           | 881          | 5,975         |
| Sept                       | 612          | -         | 777           | 1,262         | 284          | 166          | 444           | 328          | 3,261         |
| Oct                        | 570          | 2         | 1,040         | 762           | 280          | 122          | 572           | 250          | 3,026         |
| Nov                        | 506          | 2         | 934           | 346           | 278          | 113          | 567           | 169          | 2,407         |
| Dec                        | 300          | -         | 529           | 95            | 163          | 36           | 413           | 76           | 1,312         |
| <b>Total Flights</b>       | <b>7,630</b> | <b>34</b> |               |               |              |              |               |              |               |
| <b>Islander – Total</b>    |              |           | <b>10,476</b> |               | <b>3,657</b> |              | <b>7,154</b>  |              | <b>21,287</b> |
| <b>Non-Islander -Total</b> |              |           |               | <b>12,627</b> |              | <b>1,969</b> |               | <b>4,278</b> | <b>18,874</b> |
| <b>Total</b>               | <b>7,664</b> |           | <b>23,103</b> |               | <b>5,626</b> |              | <b>11,432</b> |              | <b>40,161</b> |

|      | Flights |         | Passengers 2024 |              |            |              |           |              |              |
|------|---------|---------|-----------------|--------------|------------|--------------|-----------|--------------|--------------|
| 2024 | Flights |         | Árainn          |              | Inis Meáin |              | Inis Oírr |              | Iomlán       |
|      | PSO     | Non-PSO | Islander        | Non-islander | Islander   | Non-Islander | Islander  | Non-Islander |              |
| Jan  | 440     | -       | 862             | 227          | 286        | 37           | 605       | 114          | <b>2,131</b> |
| Feb  | 392     | 2       | 761             | 226          | 242        | 56           | 531       | 84           | <b>1,900</b> |
| Mar  | 692     | 2       | 1,152           | 871          | 411        | 107          | 744       | 236          | <b>3,521</b> |
| Apr  | 702     | -       | 898             | 1,196        | 310        | 212          | 650       | 329          | <b>3,595</b> |
| May  | 870     | 6       | 1,048           | 1,654        | 437        | 308          | 719       | 579          | <b>4,745</b> |
| Jun  | 938     | -       | 1,029           | 2,029        | 337        | 302          | 810       | 815          | <b>5,322</b> |
| Jul  | 1,090   | 2       | 1,196           | 2,268        | 504        | 371          | 813       | 1,034        | <b>6,186</b> |
| Aug  | 1,022   | 6       | 1,122           | 2,403        | 392        | 337          | 756       | 864          | <b>5,874</b> |
| Sept | 704     | 4       | 877             | 1,332        | 292        | 247          | 538       | 404          | <b>3,690</b> |

|                            |              |           |               |               |              |              |               |              |               |
|----------------------------|--------------|-----------|---------------|---------------|--------------|--------------|---------------|--------------|---------------|
| Oct                        | 528          | -         | 880           | 705           | 303          | 104          | 566           | 202          | <b>2,760</b>  |
| Nov                        | 398          | 2         | 686           | 341           | 191          | 64           | 479           | 110          | <b>1,871</b>  |
| Dec                        | 412          | 2         | 798           | 211           | 206          | 53           | 589           | 116          | <b>1,973</b>  |
| <b>Total Flights</b>       | <b>8,188</b> | <b>26</b> |               |               |              |              |               |              |               |
| <b>Islander - Total</b>    |              |           | <b>11,309</b> |               | <b>3,911</b> |              | <b>7,800</b>  |              | <b>23,020</b> |
| <b>Non-Islander -Total</b> |              |           |               | <b>13,463</b> |              | <b>2,198</b> |               | <b>4,887</b> | <b>20,548</b> |
| <b>Total</b>               | <b>8,214</b> |           | <b>24,772</b> |               | <b>6,109</b> |              | <b>12,687</b> |              | <b>43,568</b> |

|                            | Flights        |           | Passengers 2025 |               |                |              |               |              |               |
|----------------------------|----------------|-----------|-----------------|---------------|----------------|--------------|---------------|--------------|---------------|
| 2025                       | Eitiltí Singil |           | Árainn IOR      |               | Inis Meáin IIA |              | Inis Oírr INQ |              | Total         |
|                            | PSO            | Non-PSO   | Islander        | Non-Islander  | Islander       | Non-Islander | Islander      | Non-Islander |               |
| Jan                        | 412            | 4         | 676             | 204           | 249            | 74           | 537           | 95           | <b>1,835</b>  |
| Feb                        | 530            | 2         | 923             | 409           | 312            | 72           | 622           | 96           | <b>2,434</b>  |
| Mar                        | 676            | 4         | 1,175           | 872           | 309            | 203          | 648           | 191          | <b>3,398</b>  |
| Apr                        | 898            | -         | 1,153           | 1,541         | 414            | 262          | 761           | 463          | <b>4,594</b>  |
| May                        | 864            | 10        | 1,107           | 1,464         | 391            | 320          | 764           | 416          | <b>4,462</b>  |
| Jun                        | 812            | -         | 963             | 1,604         | 282            | 280          | 662           | 630          | <b>4,421</b>  |
| Jul                        | 902            | -         | 1,127           | 1,988         | 307            | 281          | 880           | 756          | <b>5,339</b>  |
| Aug                        | 958            | 4         | 1,032           | 1,975         | 357            | 288          | 859           | 876          | <b>5,387</b>  |
| Sept                       | 682            | 2         | 834             | 1,148         | 364            | 243          | 638           | 386          | <b>3,613</b>  |
| Oct                        | 588            | 4         | 1,037           | 705           | 331            | 108          | 575           | 176          | <b>2,932</b>  |
| Nov                        | 408            | 2         | 721             | 262           | 222            | 97           | 605           | 87           | <b>1,994</b>  |
| Dec                        | 474            | -         | 923             | 181           | 292            | 84           | 577           | 88           | <b>2,145</b>  |
| <b>Total Flights</b>       | <b>8,204</b>   | <b>32</b> |                 |               |                |              |               |              |               |
| <b>Islander – Total</b>    |                |           | <b>11,671</b>   |               | <b>3,830</b>   |              | <b>8,128</b>  |              | <b>23,629</b> |
| <b>Non-Islander -Total</b> |                |           |                 | <b>12,353</b> |                | <b>2,312</b> |               | <b>4,260</b> | <b>18,925</b> |

|              |  |  |               |              |               |               |
|--------------|--|--|---------------|--------------|---------------|---------------|
| <b>Total</b> |  |  | <b>24,024</b> | <b>6,142</b> | <b>12,388</b> | <b>42,554</b> |
|--------------|--|--|---------------|--------------|---------------|---------------|

### 1.5 Alternative Access to Oileáin Árann.

The Department currently subsidises a daily passenger ferry service from Oileáin Árann to Ros a' Mhíl harbour. It provides 2 return sailings per day. A cargo service from Galway city is also subsidised, sailing twice weekly in the winter months and 3 times per week during the summer months.

A private ferry service that originates from Doolin in County Clare to all three islands operates in the summer months and focuses primarily on the tourist passenger trade.

## 2. Operations.

### 2.1 PSO Service base and Commencement Date.

The PSO Service will be based at the Contracting Authority's aerodrome, **Aerfort Chonamara, na Mine, Indreabhán, Co na Gaillimhe** (H91 DC80). The service is to commence on **01/11/2026**.

### 2.2 Minimum Service

Tenderers must provide a minimum service of:

**Inis Meáin & Inis Oírr:** Two return flights a day, seven days a week between Aerfort Chonamara and Inis Meáin – Inis Oírr. There will be one in the morning and one in the evening. Single departures, a thru-flight from Aerfort Chonamara → Inis Meáin → Inis Oírr → Aerfort Chonamara may serve both islands.

**Árainn (Inis Mór):** Three return flights, Monday – Friday between Aerfort Chonamara and Árainn (Inis Mór) morning, afternoon and evening and two return flights on Saturday and Sunday.

This core mandated capacity (both directions combined) required to meet these two destinations is:

|                        |                        |
|------------------------|------------------------|
| Árainn (Inis Mór)      | 17,784 seats per annum |
| Inis Meáin – Inis Oírr | 13,104 seats per annum |

The minimum flight schedules must operate between the hours as follows:

| <b>Aerfort Chonamara</b>                      |                 |                |
|-----------------------------------------------|-----------------|----------------|
|                                               | <b>Mon- Sat</b> | <b>Sun</b>     |
| 1 <sup>st</sup> March – 30 <sup>th</sup> Sept | 08:00 to 17:30  | 09:00 to 17:30 |
| 1 <sup>st</sup> Oct – 28 <sup>th</sup> Feb    | 08:00 to 17:00  | 09:00 to 17:00 |

| <b>Aerodrome Árann (Inis Mór)</b> |                 |            |            |
|-----------------------------------|-----------------|------------|------------|
|                                   | <b>Mon -Fri</b> | <b>Sat</b> | <b>Sun</b> |

|                                              |                |                |                |
|----------------------------------------------|----------------|----------------|----------------|
| 1 <sup>st</sup> March – 30 <sup>th</sup> Sep | 08:15 to 17:00 | 08:45 to 17:00 | 09:00 to 17:00 |
| 1 <sup>st</sup> Oct – 28 <sup>th</sup> Feb   | 08:15 to 17:00 | 08:45 to 17:00 | 09:00 to 17:00 |

| <b>Aerodrome Inis Meáin &amp; Aerodrome Inis Oírr</b> |                 |                |                |
|-------------------------------------------------------|-----------------|----------------|----------------|
|                                                       | <b>Mon -Fri</b> | <b>Sat</b>     | <b>Sun</b>     |
| 1 <sup>st</sup> March – 30 <sup>th</sup> Sep          | 08:45 to 17:00  | 08:45 to 17:00 | 09:00 to 17:00 |
| 1 <sup>st</sup> Oct – 28 <sup>th</sup> Feb            | 08:45 to 17:00  | 08:45 to 17:00 | 09:00 to 17:00 |

There is no service obligation on Christmas Day or New Year's Day.

On 'Lá 'le Stiofán' and 'Oíche Chinn Bhliana' the service will be allowed to operate a reduced flight schedule such that the traffic on each route will be equivalent to that on a Saturday or Sunday according to the approved flight schedule

### 2.3 Additional Capacity

Tenderers are required to provide a cost for a range of additional capacity on the island routes according to the following five options:

| <b>Additional Capacity Options</b> | <b>Additional Seats</b> |
|------------------------------------|-------------------------|
| Option 1                           | 46,386 seats per annum  |
| Option2                            | 42,786 seats per annum  |
| Option3                            | 37,386 seats per annum  |
| Option4                            | 35,586 seats per annum  |
| Option5                            | 33,786 seats per annum  |

As the Department's budget is finite and depending upon submissions, an affordable amount of additional capacity will be committed to.

The Department and the successful tenderer will decide how to assign the additional capacity throughout the year – mainly assigned in the summer and shoulder months (March – October). It is anticipated that approx. 60% of the extra capacity will be directed at the Árainn (Inis Mór) route.

### 2.4 Scheduling of PSO Offering

Tenderers must provide details of their proposed flight schedule, which must comply with the above minimum requirement, for each month of the proposed contract. They must show how the total number of additional seats offered could be applied for each month. The schedule must be planned on an annual basis with the inherent flexibility to adjust deployment of this annual total (in consultation with the Department) during the year.

The Department acknowledges the difficulties faced by operators in managing long range fixed schedules in a dynamic environment. To ensure that an operator can offer an optimum service the Department will allow for the following process that will provide greater flexibility when scheduling flights:

At the end of each month the operator will be required to submit their planned schedule for the upcoming month (bearing in mind the annual total), to the Department. Once agreed, the operator will be required to publish that schedule on all its flight scheduling outlets (primarily their website). This will become the scheduled PSO timetable upon which the monthly subsidy will be calculated. Additional capacity demand, during the month, will be met by the operator by providing ad-hoc and scheduled non-PSO flights.

The Department will, however, provide the operator with an opportunity to apply for an amendment to the agreed monthly schedule where weather forecast predicts adverse flying conditions. In such circumstances the operator may request that the schedule be amended to reschedule flights that may be affected. It is important that amendments are sought and agreed prior to the scheduled flight time, and that the new schedule be published. A scheduled PSO flight that has been cancelled or missed due to adverse weather conditions will be treated by the Department as a Force Majeure event and will be processed as a 'relief event'. Missed or cancelled flights will lose their PSO status and cannot be 'banked' for later use.

## **2.5 Scheduled Non-PSO Flights**

Scheduled non-PSO flights will be permitted. If an operator intends to carry out such flights, it will be required to forward a schedule of same to the Contracting Authority in advance of such flights being carried out. The Direct Cost associated with these flights will be borne entirely by the operator. An apportionment of the indirect costs' common to both contracted flights and these scheduled additional flights will be deducted from the subsidy to a formula that will be agreed between the Department and the successful tenderer. It is envisaged that any extra capacity demand that falls outside the agreed PSO schedule will be delivered in this manner.

## **2.6 Ad Hoc Flights**

The provision of non-scheduled ad hoc flights will also be permitted. Such flights must be operated on a full cost recovery basis with no apportionment of costs to the Department in a manner and to a formula that will be agreed between the Department and the successful tenderer.

## **2.7 Profits**

The Department considers that a profit of **8%** of turnover is reasonable and may be incorporated in the pricing summaries provided as part of the bid.

The Department, however, wishes to create a mechanism for incentivising efficiency improvements that are based on objective and measurable criteria set and subject to transparent retrospective assessment<sup>2</sup>

If the operator can save the Department subsidy payments beyond the subsidy requests in their bid, the Department will share any such savings on a 50% – 50% basis with the operator. Savings may be delivered either by, or a combination of, above-projected income and below-estimated costs. This potential payment will be agreed on a retrospective annual basis.

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<sup>2</sup> <sup>2</sup> SGEI Framework [https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=CELEX:52012XC0111\(03\)](https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=CELEX:52012XC0111(03)) paras 39-42

***The Department reserves the right to arbitrate on the amount of savings reported and hence of awards under this scheme.***

## **2.8 Embarking / Dis-Embarking**

Tenderers should note that it will be a contractual requirement that aircraft engines should be in a safe mode (e.g. idle) during passenger embarking and disembarking.

## **3. Manpower and Resilience Planning**

### **3.1 Manpower Planning**

**Marks under the criterion ‘Manpower Plan’ will be awarded based on the below:**

Tenderers should provide the following:

**Organisational Chart:** An Organisational Chart showing the roles, responsibilities and location of key personnel involved in the operation, and delivery of the proposed service

**Qualifications and Experience:** A brief description of the suitability of all key operational personnel named in the organisation chart that operate elements of the Service including references to previous experience. The submission of qualifications/CVs etc. under this heading is not required.

**Health and Safety:** The Tenderer must also provide the name of the person who will be responsible for the management of Health and Safety.

**Manning Plan:** This should contain details of the manning scale which will be maintained and the hours of work of staff delivering the PSO service. Staffing during periods of annual leave, seasonal variation etc. should be considered and clearly described.

Tenderers should note that during the Term of any contract resulting from this competition the successful Tenderer shall be required to ensure that manning levels be such as to satisfy the requirements of the Irish Aviation Authority

**Pay Scales** Details of pay scales for all personnel providing the PSO service. It is a condition that staff are paid in accordance with the pay scales quoted in the submission and will be at a level equal to or above the Irish national minimum wage.

**Training:** A training matrix for PSO staff showing the level of ongoing training which will be in place for each staff member, including details of ongoing and recurring training.

**Personnel Table:** Tenderers are required to complete the following table to show the Company’s Personnel who will be involved in the provision of the required air service. In the case of part-time employees, please count as fractions based pro-rata on their average hours / week / year. Staff costs must be assigned based on percentage usage within the PSO requirement.

| PSO Contract Fulfilment Category <sup>3</sup> | Full Time | Part time FTE (%) |
|-----------------------------------------------|-----------|-------------------|
| Pilots                                        |           |                   |
| Cabin                                         |           |                   |
| Managerial                                    |           |                   |
| Administrative                                |           |                   |
| Engineering                                   |           |                   |
| Other (please specify)                        |           |                   |
| <b>TOTAL</b>                                  |           |                   |

Marks for Manpower Planning will be awarded under the following sub-headings:

| Service Manpower Plan         | Marks |
|-------------------------------|-------|
| Organisation Chart            | 10    |
| Qualifications and Experience | 20    |
| Health and Safety             | 5     |
| Manning Plan                  | 30    |
| Pay Scales                    | 10    |
| Training                      | 20    |
| Personnel Table               | 5     |

### 3.2 Resilience Planning

Resilience planning is an essential business component that ensures day-to-day continuity of service as well as the ability to withstand, adapt to, and recover quickly from internal or external failures.

Tenderers should have robust back-up arrangements and plans in place that provide operational resilience that minimise disruptions to the service.

**Marks under the criterion ‘Resilience Planning’ will be awarded based on the below:**

The Tenderer should provide their documented Resilience Plan. Estimated service recovery times from failures should be highlighted. The plan should address such eventualities as:

- (a) aircraft becoming non-operational,
- (b) scheduled and unscheduled staff absenteeism or
- (c) or any other operational risk that impacts the service.

The plan should cover the following areas:

**Replacement Aircraft Plans<sup>4</sup>:** In terms of planned and unplanned withdrawals from service. Realistic time estimates for recovery of service should be provided.

<sup>3</sup> Tenderers should note that both Pilots and Management are considered ‘Key Personnel’ for the purposes of this contract.

<sup>4</sup> If, for whatever reason, the operator’s aircraft is non-operational, the operator shall be required to provide a back-up service as soon as is reasonably possible - within 24 hours or less.

**Crewing and Staffing Plan:** Including cover for sickness and holidays with response times for unplanned absences. Tenderers should submit a list of flight crew with licenses, ratings, total flying hours, hours on type.

**Engineering Support Plans:** including line and base maintenance arrangements, spares, storage, staffing plan with recovery times in case of key staff absence and other information of relevance.

#### 4. Marketing Plan & Route Development

The Contracting Authority's intent is that passenger traffic levels on the PSO routes are developed over the Term and will positively evaluate bids that have superior and persuasive marketing plans and budgets.

**Marks under the criterion '*Marketing Plan & Route Development*' will be awarded based on the below:**

Tenderers should provide their marketing plan that will underpin the route development over the Term. The DRCDG expects an appropriate and justified marketing budget allocation to the service and will be keen to ensure that this budget is devoted to the purposes declared or reassigned in light of experience and as mutually agreed.

The plan should incorporate the following themes:

**Traffic Volume:** Growth in traffic volumes on the route over the Term.

**Revenue:** The plan to increase revenues over the Term.

**Inclusivity:** Making the service more accessible to user groups that do not currently avail of the service.

**Subsidy:** A systemic, progressive and sustainable plan that increases service usage and yield during the term and reduces future subsidy demands.

The DRCDG is aware that tension can develop between maximising revenue and maximising patronage and would point out that increased patronage is also important for DRCDG's longer term aims for the route.

The success of any investment in marketing, public relations and route development should be reflected in the Financial Projections. Reducing grant requirements in each of the subsequent three years will be evaluated positively in the tender competition. However, growth in passenger patronage will also be scored positively even if it does not result in significant income growth.

It should be noted that confidence (both by Tenderer and DRCDG) in the operator's route development plan will be reflected in the forecasts of future subsidy requests during the Term. Decreasing subsidy requests, year on year, will attract higher evaluation scoring and will reflect the operator's confidence in their own route development plan.

#### 5. Online Visibility / Utility / Channels

Multi-channel visibility is essential for the PSO service to be discovered by potential customers. Easy access to traditional and online channels builds brand credibility and can lead to higher revenues. By maintaining a professional presence on these channels, the successful Tenderer can increase brand recognition and reduce its reliance on the subsidy over the Term.

**Marks under the criterion '*Online Visibility / Utility / Channels*' will be awarded based on the below:**

Tenderers should provide details on the number of sales channels they can offer, be it formal interlining, online, offline, direct, indirect e.g. Web, Phone, and any other positive marketing tactics such as visibility on online sites. Tenderers should document the various channels they offer with an assessment of their relative importance

## 6. Yield Management and Patronage Maximisation Plan.

**Marks under the criterion ‘Yield Management and Maximisation Plan’ will be awarded based on the below:**

Tenderers are required to outline a ticketing yield management plan that:

- (a) Provides discounted tickets fares to identified groups (e.g. Island residents, Old Age Pensioners, Students, Charities, Compassionate).
- (b) Provides collective measures and actions that would directly increase revenues per flight and consequently lower required subsidy.
- (c) Permits very affordable tickets to be made available for most flights, subject to various conditions, so that affordability is attained for groups that may historically be largely excluded from using the service.
- (d) Provides season tickets or multiple ticket sales (more suitable for residents).
- (e) Encourages local initiatives, working with school groups or SMEs that provide affordable day trips, sightseer flights.

The strong seasonal component and variations in weekly usage will enable the operator to identify predictable troughs in demand that can be better filled through a special discounting plan.

## 7. Responding to Peak Demand.

**By signing the Tenderers’ Statement (Appendix 3 of this RFT), the tenderer is accepting the following conditions:**

The dynamic scheduling process adopted in the running of this contract aims to provide the Contracting Authority and the operator with the opportunity to optimally manage the service offering against varying consumer demand.

This contract will permit the successful operator to provide extra flights on the route. These are normally scheduled flights and are known as ‘*Scheduled non-PSO flights*’. The operator may also provide Ad-Hoc flights which are ‘one off’ non-scheduled non-PSO flights

It will be a condition of this contract that the successful operator may offer additional non-PSO scheduled flights to respond to further, usually short term, demands that are made of the service

In the event that a PSO allocated aircraft, and staff are used in the fulfilment of any non-PSO work the Department will deduct an apportionment of the costs for providing such a flight, from the subsidy, for the use of these resources.

The Contracting Authority is interested in receiving reasonable suggestions with regard to the apportionment of costs, although it is under no obligation to accept the terms offered in the bid, but will take such proposals into account, especially if they are reflected in the pricing submissions / reduced subsidy requests estimated.

**Clear ground rules and reporting obligations on this matter will be agreed with the preferred tenderer prior to contract award**

Tenderers will also provide an ad hoc charter price for the aircraft on these routes should the DRCDG (or other government departments) require a non-scheduled movement in concert with the operator's ability to deliver.

## 8. Communications: Stakeholder Consultation & Complaints Procedures.

### 8.1 Stakeholder Consultation.

Scheduled contract review meetings will be agreed with the successful tenderer and its performance in contract delivery will be reviewed. Issues raised by the Irish Aviation Authority, the Department of Transport, or any other relevant body will form part of the review.

The Contracting Authority may require the successful Tenderer to attend ad-hoc review meetings as required, should it be necessary to discuss specific aspects of the contract at short notice.

**Marks under the criterion: 'Stakeholder Consultation' will be awarded based on the below:**

Tenderers should provide details of their arrangements to ensure robust management of the contract and effective communication with DRCDG. This should include:

- (a) Tenderers should nominate a contract manager who will be responsible for the management of the contract and outline how contract reporting and communications requirements with DRCDG will be delivered.
- (b) Procedures for dealing with press and media enquiries (and DRCDG) in relation to public comments on the route and its performance

Tenderers must provide details of their proposed procedures for periodic ongoing consultation with Islanders and their representative groups, on matters affecting service quality and delivery and also their proposals on ongoing service improvement.

### 8.2 Complaints Procedures.

**Marks under the criterion 'Complaints Procedures' will be awarded based on the below:**

Tenderers should provide details of their proposed procedures for dealing with customer complaints. Tenderers should address the following at a minimum:

- (a) The process from receipt and logging of the initial complaint.
- (b) How the complaint is recorded.
- (c) Who is the responsible contact person for complaints handling.
- (d) The mechanism for escalation, if required.
- (e) The timelines for the process.

## 9. Passengers with Reduced Mobility

It shall be a requirement of the contract resulting from this competition that Tenderers make adequate provisions for the safe and comfortable handling of passengers with reduced mobility.

**Marks under the criterion ‘Passengers with Reduced Mobility’ will be awarded based on the below:**

Tenderers should provide details of their proposed procedures of how it will assist passengers with reduced mobility during each of the following stages of service provision:

- (a) When embarking and disembarking from aircraft.
- (b) During the flight itself.

Responses should provide details of any processes and/or procedures which Tenderers propose to put in place in this regard including but not limited to any policy on how staff will be supported in assisting such passengers (e.g. by way of training or otherwise).

## 10. Risk Management & Environmental Considerations

### 10.1 Risk Management.

**Marks under the criterion ‘Risk Management’ will be awarded based on the below:**

The range of risk covered by this assessment must include those which might jeopardise the operational feasibility and / or continuity of the service - for example, risk affecting air and fleet operations, ground operations, staffing and any other perceived risks.

Tender responses must address the following:

**Identification:** The range of risks which have been examined should be provided along with the process which is intended to employ in the on-going identification of risks relevant to the successful delivery of the air service.

**Analysis:** Details should be provided as to perceived level of risk associated with each identified risk along with the process by which the risk level is analysed.

**Mitigation:** For risks which have been identified at the higher end of the spectrum, risk mitigation measures should be suggested

### 10.2 Environmental Considerations

The Climate Action and Low Carbon Development (Amendment) Bill 2021 has committed the Irish State to net-zero greenhouse gas emissions by 2050. Through a ‘National 2050 Climate Objective’ the State will pursue the transition to a climate resilient and climate neutral economy by the end of the year 2050.

The Contracting Authority recognises the importance of having due regard for the ongoing climate crisis in its provision of services. Furthermore, the area in which the PSO service operates is one of great natural beauty and it is the intention of the Contracting Authority that this service shall have a minimal environmental impact on the area it services.

**Marks under the criterion ‘Environmental Considerations’ will be awarded based on the below:**

Tenderers should provide full information on their proposed environmental protection policy and of any specific steps they intend to take to safeguard the operating environment

Environmental protection policies should address, but not be limited to issues such as the following:

- (a) How Tenderers will ensure compliance with relevant environmental legislation and/or other requirements such as appropriate codes of practice
- (b) How environmental impact will be measured.
- (c) How staff will be supported in ensuring they are aware of environmental impact of the business.
- (d) Specific measures to be employed regarding the reduction of pollution, emissions and waste
- (e) Environmental measures employed in the wider supply chain are relevant to this contract.

In addition, Tenderers must provide details of their proposed noise abatement procedures in their submissions which should address any relevant procedures which will be employed during approach and departure and during ground operations.

#### 11. Service Mobilisation Plan.

Service mobilisation ensures a seamless transition to the new service. It prevents service delivery failures and protects the existing strong stakeholders relationships during the start of the new contract. A service mobilisation plan involves organising resources, personnel, and systems to ensure operational efficiency, cost control, and immediate, high-quality performance is achieved in a timely manner.

**Marks under the criterion ‘*Service Mobilisation Plan*’ will be awarded based on the below:**

Tenderers should provide a mobilisation plan which demonstrates their ability to commence all required services as soon as possible after the contract award, including timelines for each specific deliverable identified.

#### 12. An Ghaeilge.

Oileáin Árann are a living stronghold where an Ghaeilge is a daily community language, crucial for maintaining Ireland’s national, cultural, and linguistic identity. Its use preserves a unique, intangible heritage—song, dance, and tradition—while supporting local economic stability on the islands

**Marks under the criterion ‘*An Ghaeilge*’ will be awarded based on the below**

Having regard to the primacy of the Irish language amongst the inhabitants of Oileáin Árann and the prevalence and importance of the Irish language in general, Tenderers should set out their proposals for ensuring that all staff and crew provided for the air service will be competent and willing at all times to converse and to conduct business in the Irish language.

Tenderers should submit information regarding how they intend to use and promote the use of Irish language as part of the Service including, but not limited to, matters such as conversing with each other and with the public, written and website materials, and involvement with local and national initiatives promoting the language, for example the local Language Plan.

**By signing the Tenderers' Statement (Appendix 3 of this RFT), the tenderer is accepting the following conditions:**

- (a) The operator will comply with reasonable bilingual signage and advertising requirements as notified by the Minister from time to time, with respect to signage on the aircraft and at relevant interface points with service users and customer service offices.
- (b) The Operator shall advise the Minister from time to time of its policy in relation to the use of the Irish language in the marketing of the service and shall take into consideration all reasonable recommendations of the Minister in relation to this.

### 13. Local Benefits.

**Marks under the criterion 'Local benefits' will be awarded based on the below:**

Tenderers are encouraged to design and highlight a plan that provides added value, and community benefits through the delivery of the PSO.

This could include matters such as local employment, training, recruitment, skills, educational awareness such as work experience for school children; apprenticeship and training schemes; promotion of local products; or sponsorship of relevant local events.

### 14. Reports and Invoicing.

**Marks under the criterion 'Reports and Invoicing' will be awarded based on the below:**

In order to qualify for a monthly subsidy (to be calculated in accordance with the Pricing Schedule), the successful tenderer must submit detailed monthly invoices, together with daily flight logs, submitted on a monthly basis, similar to the sample format provided below, see sample report 1 (unless otherwise agreed by the Contracting Authority).

Tenderers must provide details of their systems that enable detailed monthly invoices and reports to be generated, and that can:

- (i) Calculate levels of cost incurred, revenue generated and profit/loss made
- (ii) Identify all revenues and costs relating to the operation of the PSO service.
- (iii) Maintain passenger numbers and route operating statistics on a "per flight" basis.
- (iv) Provide any other financial and operating information relating to operation of the route/service as may be required by the Contracting Authority
- (v) Provide other information the Contracting Authority may require in writing to certify compliance with relevant governing legislation

### Sample Report – Monthly Operations Performance Report

| Category                                                | Estimated | Actual |
|---------------------------------------------------------|-----------|--------|
| <b>Airline Revenue Breakdown</b>                        |           |        |
| Number of sectors to be operated                        | #         | #      |
| Passengers                                              | #         | #      |
| Flown passenger revenue                                 | €         | €      |
| Un-flown passenger revenue                              | €         | €      |
| Ancillary revenue from passengers                       | €         | €      |
| Other ancillary revenue                                 | €         | €      |
| <b>Airline Direct Operating Costs</b>                   |           |        |
| Fuel                                                    | €         | €      |
| On-Route Navigation charges                             | €         | €      |
| Costs of sale                                           | €         | €      |
| Direct Aircraft maintenance costs                       | €         | €      |
| Other direct operating costs                            | €         | €      |
| <b>Fixed Cost Allocation</b>                            |           |        |
| Aircraft fixed costs                                    | €         | €      |
| Flight crew                                             | €         | €      |
| Cabin crew                                              | €         | €      |
| Maintenance fixed costs                                 | €         | €      |
| Operations                                              | €         | €      |
| Marketing                                               | €         | €      |
| Administrative staff                                    | €         | €      |
| Other related costs                                     | €         | €      |
| Central overheads (allocation)                          | €         | €      |
| <b>Subvention</b>                                       |           |        |
| Quarterly Loss (Quarterly Costs less Quarterly Revenue) | €         |        |
| Required profit                                         | €         |        |
| <b>Subvention Sought</b>                                | €         |        |

## Appendix 2: Pricing Schedule

### 1. Fares, Aerodrome Charges and Subvention Levels

#### 2.1 Fares

Tenders must be priced based on the fares listed in the following table.

The fares specified in the table below are set maximum fares charged for one passenger carrying a maximum of 10kg of luggage on the agreed contracted service but excluding any ancillary charges to passengers (if any) for additional services which may be provided over and above the minimum requirement.

| Max Air Fares to be charged for Scheduled Flights |        |
|---------------------------------------------------|--------|
|                                                   | Return |
| <b>Standard</b>                                   |        |
| Islander                                          | €42.25 |
| Non-Islander / Tourist                            | €63.50 |
| <b>Student (U.26)</b>                             |        |
| Islander                                          | €29.00 |
| Non-islanders / Tourist                           | €52.50 |
| <b>Under 18's</b>                                 |        |
| Islander                                          | €29.00 |
| Non-islander / Tourist                            | €36.00 |

#### 2.2 Aerodrome Charges

The following landing charges and passenger departing fees are applicable for Aerfort Chonamara and island aerodromes. They are payable to Galway Aviation Services Limited (GASL):

| Aerfort Chonamara & Aerodrome Oileán Árann Charges |                       |                             |
|----------------------------------------------------|-----------------------|-----------------------------|
|                                                    | Scheduled PSO Flights | Non – PSO Scheduled Flights |
| <b>Fee per Aircraft Landing</b>                    | €0.00                 | €10.00                      |
| <b>Fee per Departing Passenger</b>                 | €0.00                 | €1.00                       |

The successful tenderer will not be charged for use of Aerfort Chonamara or Oileán Árann Aerodromes in delivering the PSO service.

Tenderers should note that aerodrome charges which relate to flights outside of the contracted services will **not** be paid by the Contracting Authority and will be for the sole account of the successful Tenderer.

## 2. Subvention Levels

*Not used*

## 3. Fuel Price Variation Clause

The successful Tenderer should note that provision shall be made to take account of movements in the aviation fuel price.

In the event that the fuel price for the previous 3 months is more than 10% greater than the price submitted in the submission (proof of price per litre must be submitted) , then the Minister shall, upon receipt and certification of a balancing statement produced by the successful tenderer - which details the fuel usage (in the previous 3 months) and proof of the price paid [excluding VAT] for the fuel, pay the operator the cost difference above the 10%..

In the event that the fuel price for the previous 3 months is more than 10% below the price submitted in the tender submission, then the Minister shall make the appropriate deductions to the subsidy .

## 4. Operating Projections

### 4.1 Projection Rules & Requirements

- (a) Tenderers must complete and attach a copy of the operating projections for the proposed service. A projection for the mandated service plus each of the extra seating capacities options (1 – 5) is required for year 1 of the contract.
- (b) **Tenderers should note that supporting documentation and calculations must be provided for all projected income and operational costs for the term.** The Contracting Authority may seek further information from Tenderers in order to verify or clarify any aspects of the operating projections and to ensure the projections are not abnormally low or abnormally high.
- (c) The Contracting Authority reserves the right to exclude Tenderers that fail to provide sufficient information to support their operating projections or otherwise, to demonstrate the credibility of their projections to the satisfaction of the Contracting Authority.

Tenderers may abide by the table format below or, with the Department's approval, submit their own table capturing all revenues and costs. The Department reserves the right to revert to the table format below at any time during the term of this contract.

| Category                         | Unit | Detail Required | Clarification |
|----------------------------------|------|-----------------|---------------|
| <b>Airline Revenue Breakdown</b> |      |                 |               |
| Number of sectors to be operated | #    |                 |               |

|                                            |   |                                                                              |                                                                                                                                             |
|--------------------------------------------|---|------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------|
| Passengers                                 | # |                                                                              |                                                                                                                                             |
| Flown passenger revenue                    | € |                                                                              | Ticket revenue from passengers flying on each Island route.                                                                                 |
| Un-flown passenger revenue                 | € |                                                                              | Non-refundable ticket revenue from passengers which did not use booked flight.                                                              |
| Ancillary revenue from passengers (if any) | € | Breakdown by main categories, including explanation /definitions.            | Additional revenue from passengers (excluding ticket revenue and airport related purchases).                                                |
| Other ancillary revenue                    | € | Breakdown by main categories, including explanation / definitions.           | E.g. An Post mail contract.                                                                                                                 |
| <b>Airline Direct Operating Costs</b>      |   |                                                                              |                                                                                                                                             |
| Fuel                                       | € | Assumptions on fuel price and throughput charges                             |                                                                                                                                             |
| On-Route Navigation charges                | € |                                                                              |                                                                                                                                             |
| Costs of sale                              | € | Breakdown by main categories, including explanation / definitions.           | E.g. Commission, Charges for ticketing, use of reservations system, GDS distribution, yield management systems and reservations call centre |
| Direct Aircraft maintenance costs          | € |                                                                              |                                                                                                                                             |
| Other direct operating costs               | € | Breakdown by main categories, including explanation / definitions.           |                                                                                                                                             |
| <b>Fixed Cost Allocation</b>               |   |                                                                              |                                                                                                                                             |
| Aircraft fixed costs                       | € | <u>For each category:</u><br><br>Total cost (segmented into main categories) | Ownership / lease costs, insurance etc.                                                                                                     |
| Flight crew                                | € |                                                                              | Wages, pension, national insurance, training etc.                                                                                           |
| Cabin crew                                 | € |                                                                              |                                                                                                                                             |
| Maintenance fixed Costs                    | € |                                                                              | Hangar rental, staff costs, spares etc.                                                                                                     |

## 4.2 Operating Projections Year 1

Tenderers are required to submit annual operating projections for the mandated service including each of the 5 extra seating capacity options for Year 1 of the service.

For clarity projections for each option will be prepared separately and all options include the mandated capacity.

|                                                                                                                                                              |                         |  |  |  |  |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------|--|--|--|--|
| The core mandated capacity (both directions combined) required to meet these two destinations is                                                             |                         |  |  |  |  |
| Inis Mór                                                                                                                                                     | 17,784 seats per annum  |  |  |  |  |
| Inis Meán – Inis Oírr                                                                                                                                        | 13,104 seats per annum  |  |  |  |  |
| <i>Please note this only refers to the capacity between Aerfort Chonamara and the islands, and does not include any capacity on any inter island flights</i> |                         |  |  |  |  |
| Tenderers are required to provide a cost for a range of additional capacity on the island routes according to the following five options                     |                         |  |  |  |  |
| <b>Additional Capacity Options</b>                                                                                                                           | <b>Additional Seats</b> |  |  |  |  |
| Option 1                                                                                                                                                     | 46,386 seats per annum  |  |  |  |  |
| Option2                                                                                                                                                      | 42,786 seats per annum  |  |  |  |  |
| Option3                                                                                                                                                      | 37,386 seats per annum  |  |  |  |  |
| Option4                                                                                                                                                      | 35,586 seats per annum  |  |  |  |  |
| Option5                                                                                                                                                      | 33,786 seats per annum  |  |  |  |  |

A Spreadsheet template, 'PSO- Oileáin Árann Forecast of Income and Expense and Max Subsidy Claim' has been prepared and is published alongside this tender document. It is expected to be completed and submitted alongside the word-processed tender submission.

This spreadsheet will not only provide a transparent summary of how each bidders subsidy request has been calculated for the four-year period, but It will also provide a reference document for future negotiations between the airline and department both prior to service commencement and to support the periodic contract reviews that will be undertaken. It will also provide the baseline for the service improvement incentive scheme.

The request is that the spreadsheet (and its constituent worksheets) is laid out as clearly as possible so that the Department can understand the dynamics of the cost and revenue assumptions. Tenderers are required to provide a four-year financial forecast for each capacity option requested.

As a minimum, they must show their workings and details for the following key items:

### Costs:

- Air operation costs - divided into broken-down fixed and variable cost categories
- Fuel burn rate per rotation - itemised separately
- Marketing/Route Development costs - itemised separately.

### Income

- Pax Nos Forecasts and average yield forecasts (8% project profit is permitted in calculations of subsidy request).
- Please refer to the "Forecasts Instructions" tab in the spreadsheet template for more detail.

Tenders are required to provide supporting commentary and, where applicable, documentation for their Forecasts of Costs and Income for each option. The supporting commentary where possible be appended to the relevant worksheets and cost categories, with assumptions/justifications or other explanatory notes made clear. As there are several capacity options and worksheets to be prepared, we further ask to provide some simplifying overview of your commentary in your narrative.

Projections are to provide an overview of:

- What is included in each cost and revenue category.
- The rationale behind the calculation / apportionment of costs.
- Any significant year on year changes for a cost category.
- Any synergy benefits from offering both flight options together should be clearly identified
- Assumptions on future cost increases- These should be documented, as this can inform any annual review, although for the purposes of clarity the air operator must make a fixed estimate for these cost elements at the outset.

## 5. Bid For Subsidy

The Tenderer's bid for compensation should be made in the format provided below.

### **Oileáin Árann PSO AIR TRANSPORT SERVICE**

I/We the undersigned offer to provide the PSO Air Transport Service for Oileáin Árann in accordance with the tender submission, its appendices, and the Contract documentation.

This bid for subsidy is expressed as a maximum subsidy (that will not be exceeded and can be improved upon) for each option is based on the financial projections shown in the Financial Plan spreadsheet and worksheets (summarised here below).

|                         | <b>Maximum Subsidy Requested</b> |        |        |        | <b>Total</b> |
|-------------------------|----------------------------------|--------|--------|--------|--------------|
| Mandate & Extra Seating | Year 1                           | Year 2 | Year 3 | Year 4 |              |
| Option 1                |                                  |        |        |        |              |
| Option 2                |                                  |        |        |        |              |
| Option 3                |                                  |        |        |        |              |
| Option 4                |                                  |        |        |        |              |
| Option 5                |                                  |        |        |        |              |

We accept that payment of compensation will be in accordance with the terms of the contract.

Signed ..... Name ..... Date .....

Position in organisation.....

Authorised signatory, on behalf of: .....

## Appendix 3: Tenderer's Statement

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

### **TENDERERS' STATEMENT**

**To: The Minister for Rural and Community Development and the Gaeltacht**

**Air Service from Aerfort Chonamara, Na Mine, Co na Gaillimhe to  
Oileáin Árann, Co. na Gaillimhe, 2026 -2030**

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

1. We understand the nature and extent of the Services required to be delivered as described in Requirements and Specifications at Appendix 1 to the RFT.
2. We accept all of the Terms and Conditions of the RFT, the Services Contract and the Confidentiality Agreement and agree if awarded a Services Contract to execute the Services Contract at Appendix 6 to the RFT and the Confidentiality Agreement at Appendix 7 to the RFT.
3. We accept all the Selection and Award Criteria as set out in Part 3 of the RFT.
4. We agree to provide the Contracting Authority with the Services in accordance with the RFT and our Tender.
5. We agree that, if awarded any Services Contract, we shall, in the performance of such contract, comply with all applicable obligations in the field of environmental, social and labour law.
6. We confirm that we have complied with all requirements as set out at Part 2 of the RFT.
7. We confirm that all prices quoted in our Tender will remain valid for the period of time commencing from the Tender Deadline, as specified at paragraph 2.10.3 of the RFT.
8. We shall, if awarded any Services Contract under the RFT, have in place on the Effective Date of the Services Contract all insurances (if any) as required by paragraph 2.21.1 of the RFT.
9. We confirm that all Data Subjects whose Personal Data is provided in our Tender have consented to the processing of such Personal Data by us, the Contracting Authority, the Evaluation Team and the supplier of the [www.etenders.gov.ie](http://www.etenders.gov.ie) website, for the purposes of our participation in this Competition or that we otherwise have a legal basis for providing such Personal Data to the Contracting

Authority for the purposes of our participation in this Competition and that we will provide evidence of such consent and / or legal basis to the Contracting Authority upon request.

|                   |                |
|-------------------|----------------|
| <b>SIGNED</b>     | <b>Company</b> |
| <b>Print name</b> | <b>Address</b> |
| <b>Date</b>       |                |

## **Appendix 3A Foreign Subsidies Regulation**

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

Where the estimated value of the public procurement procedure is equal to or greater than the financial threshold set out at Article 28 of Regulation (EU) 2022/2560, economic operators are required to comply in full with their obligations under both that Regulation and Implementing Regulation (EU) 2023/1441. In that regard, economic operators are required to complete the relevant form of declaration or notification that apply to their particular circumstances.

## **Appendix 3A: Schedule A – Declaration of no foreign financial contributions**

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[To be completed by notifying parties where the value of the procurement procedure is equal to or greater than the financial thresholds in Article 28 of Regulation (EU) 2022/2560 and where the notifying party has not been in receipt of any foreign financial contributions]

TO: [Insert name of Contracting Authority] (the “Contracting Authority”)

RE: Request for Tenders for the Supply of [Insert type of services required]

We hereby declare that none of the notifying parties has been in receipt of any foreign financial contributions within the meaning of Regulation (EU) 2022/2560.

SIGNED

Notifying Party

(Authorised Signatory)

Print name

Address

Date

## **Appendix 3A: Schedule B – Declaration that any foreign financial contributions are non-notifiable having regard to the de minimis threshold**

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[To be completed by notifying parties where the value of the procurement procedure is equal to or greater than the financial thresholds in Article 28 of Regulation (EU) 2022/2560 and where the notifying party has been in receipt of foreign financial contributions that do not exceed de minimis aid as defined in Article 3(2) of Regulation (EU) 1407/2013 (i.e. €200,000) per third country over any consecutive three period]

### **Form FS-PP relating to the notification of financial contributions in the context of public procurement procedures pursuant to Regulation (EU) 2022/2560**

#### **1. Description of the public procurement (Section 1 of Form FS-PP)**

#### **2. Information about notifying parties (Section 2 of Form FS-PP)**

#### **3. Declaration (Section 7 of Form FS-PP)**

None of the notifying parties have received foreign financial contributions notifiable under Chapter 4 of Regulation (EU) 2022/2560

#### **4. Attestation (Section 8 of Form FS-PP)**

The notifying party(ies) confirm(s) that, to the best of their knowledge and belief, the information given in this declaration is true, correct, and complete, that true and complete copies of documents required by this Form FS-PP have been supplied, that all estimates are identified as such and are their best estimates of the underlying facts, and that all the opinions expressed are sincere.

The notifying party(ies) confirm that they are aware of the provisions of Article 33 of Regulation (EU) 2022/2560 concerning fines and periodic penalty payments.

Date:

[Signatory 1]

[Signatory 2]

Name:

Name:

Organisation:

Organisation:

Position:

Position:

Address:

Address:

Phone Number:

Phone Number:

Email:

Email:

Signed:

Signed:

## **Appendix 3A: Schedule C – Declaration of non-notifiable foreign financial contributions (valued between €200,000 and €999,000 in the last three years preceding the declaration)**

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[To be completed by notifying parties where the value of the procurement procedure is equal to or greater than the financial thresholds in Article 28 of Regulation (EU) 2022/2560 and where the notifying party has been in receipt of foreign financial contributions which are valued between €200,000 and €999,000 in the last three (3) years preceding the declaration. Notifying parties are required to complete Table 2 below and they may aggregate the foreign financial contributions without indicating their values.]

**Form FS-PP relating to the notification of financial contributions in the context of public procurement procedures pursuant to Regulation (EU) 2022/2560**

### **1. Description of the public procurement (Section 1 of Form FS-PP)**

### **2. Information about notifying parties (Section 2 of Form FS-PP)**

### **3. Declaration (Section 7 of Form FS-PP)**

None of the notifying parties have received foreign financial contributions notifiable under Chapter 4 of Regulation (EU) 2022/2560

### **4. Attestation (Section 8 of Form FS-PP)**

The notifying party(ies) confirm(s) that, to the best of their knowledge and belief, the information given in this declaration is true, correct, and complete, that true and complete copies of documents required by this Form FS-PP have been supplied, that all estimates are identified as such and are their best estimates of the underlying facts, and that all the opinions expressed are sincere.

The notifying party(ies) confirm that they are aware of the provisions of Article 33 of Regulation (EU) 2022/2560 concerning fines and periodic penalty payments.

Date:

[Signatory 1]

[Signatory 2]

Name:

Name:

Organisation:

Organisation:

Position:

Position:

Address:

Address:

Phone Number:

Phone Number:

Email:

Email:

Signed:

Signed:

## Table 2

For reporting of foreign financial contributions which are of a value between €200,000 and €999,000 in the last three (3) years preceding the declaration

| Third Country | Brief description of the financial contributions |
|---------------|--------------------------------------------------|
| Country A     |                                                  |
| Country B     |                                                  |
| Country C     |                                                  |
| Country D     |                                                  |

## **Appendix 3A: Schedule D – Declaration of non-notifiable foreign financial contributions (valued between €1,000,000 and €3,999,000 in the last three years preceding the declaration)**

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[To be completed by notifying parties where the value of the procurement procedure is equal to or greater than the financial thresholds in Article 28 of Regulation (EU) 2022/2560 and where the notifying party has been in receipt of foreign financial contributions which are valued between €1,000,000 and €3,999,000 in the last three (3) years preceding the declaration. Notifying parties are required to complete the table below. They must list all foreign financial contributions received, to include all non-notifiable foreign contributions received in the last three (3) years preceding the declaration.]

**Form FS-PP relating to the notification of financial contributions in the context of public procurement procedures pursuant to Regulation (EU) 2022/2560**

### **1. Description of the public procurement (Section 1 of Form FS-PP)**

### **2. Information about notifying parties (Section 2 of Form FS-PP)**

### **3. Declaration (Section 7 of Form FS-PP)**

None of the notifying parties have received foreign financial contributions notifiable under Chapter 4 of Regulation (EU) 2022/2560

### **4. Attestation (Section 8 of Form FS-PP)**

The notifying party(ies) confirm(s) that, to the best of their knowledge and belief, the information given in this declaration is true, correct, and complete, that true and complete copies of documents required by this Form FS-PP have been supplied, that all estimates are identified as such and are their best estimates of the underlying facts, and that all the opinions expressed are sincere.

The notifying party(ies) confirm that they are aware of the provisions of Article 33 of Regulation (EU) 2022/2560 concerning fines and periodic penalty payments.

Date:

**[Signatory 1]**

**[Signatory 2]**

Name:

Name:

Organisation:

Organisation:

Position:

Position:

Address:

Address:

Phone Number:

Phone Number:

Email:

Email:

Signed:

Signed:

### **Table**

For reporting of foreign financial contributions which are of a value between €1,000,000 and €3,999,000 in the last three (3) years preceding the declaration, to include all non-notifiable foreign contributions.

| <b>Third Country</b> | <b>Type of Financial Contribution (FC)</b> | <b>Brief description of the purpose of the FC and the granting entity</b> | <b>Estimated value of the FC</b> |
|----------------------|--------------------------------------------|---------------------------------------------------------------------------|----------------------------------|
| Country A            |                                            |                                                                           |                                  |
| Country B            |                                            |                                                                           |                                  |
| Country C            |                                            |                                                                           |                                  |
| Country D            |                                            |                                                                           |                                  |

## Appendix 3A: Schedule E – Notification of Foreign Financial Contributions

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[To be completed by notifying parties where the value of the procurement procedure is equal to or greater than the financial thresholds in Article 28 of Regulation (EU) 2022/2560 and where the notifying party has been in receipt of aggregated foreign financial contributions in the three (3) years prior to notification, valued equal to or greater than €4M per third country].

### 1. Description of the public procurement (Section 1 of Form FS-PP)

### 2. Information about notifying parties (Section 2 of Form FS-PP)

### 3. Foreign Financial Contributions (Section 3 of Form FS-PP)

3.1 For the purposes of this section 3.1, the notifying party(ies) should report foreign financial contributions falling into the scope of Article 5(1), points (a), (b), (c) and (e) of Regulation (EU) 2022/2560, which are amongst the most likely to distort the internal market.

3.1.1. In order to allow the Commission to determine whether a foreign financial contribution has been granted to an undertaking that was ailing within the meaning of Article 5(1)(a) of Regulation (EU) 2022/2560, notifying parties should indicate whether any of the following conditions were met at any point of time in the three years prior to the notification.

3.1.1.1. Is the notifying party a limited liability company, where more than half of its subscribed share capital has disappeared as a result of accumulated losses?

☐ yes ☐ no

3.1.1.2. Is the notifying party a company where at least some members have unlimited liability for the debt of the company, and where more than half of its capital as shown in the company accounts has disappeared as a result of accumulated losses?

☐ yes ☐ no

3.1.1.3. Is the notifying party subject to collective insolvency proceedings or does it fulfil the criteria under its domestic law for being placed in collective insolvency proceedings at the request of its creditors?

☐ yes ☐ no

3.1.1.4. In the case the notifying party in question is not an SME:

3.1.1.4.1. has the notifying party's book debt to equity ratio been greater than 7,5 for the past two years

and

3.1.1.4.2. has the notifying party's EBITDA interest coverage ratio been below 1,0 for the past two years?

☐ yes ☐ no

3.1.1.5. If the reply to any of the questions in sections 3.1.1.1 to 3.1.1.4 was 'yes' in relation to any of the notifying parties, please indicate whether during the period in which the undertaking in question was ailing, it received any foreign financial contributions that may have contributed to restore its long-term viability (including any temporary liquidity assistance designed to support that restoration of viability) or to keep that party afloat for the short time needed to work out a restructuring or liquidation plan.

Notifying party(ies) ☐ yes ☐ no

3.1.1.6. If the reply to any of the questions in sections 3.1.1.1 to 3.1.1.4 was 'yes' in relation to any of the notifying parties, indicate if there is a restructuring plan capable of leading to the long-term viability of that party and if this restructuring plan includes a significant own contribution by the notifying party and provide details of that plan.

3.1.1.7. If the reply to any of the questions in points 3.1.1.1 to 3.1.1.4 was 'yes', please substantiate the answer, including references in the answer to the supporting evidence or documents that are to be provided in annexes (such documents may include, but are not limited to, the notifying party's latest profit and loss account statements with balance sheets, or court decision opening collective insolvency proceedings on the company or documents providing evidence that the criteria for being placed under insolvency proceedings at the request of creditors under national company law are met, etc.).

3.1.2. Has the notifying party been in receipt of a foreign financial contribution in the form of an unlimited guarantee for the debts or liabilities of the undertaking, namely without any limitation as to the amount or the duration of such guarantee (Article 5(1)(b)) of Regulation (EU) 2022/2560.

☐ yes ☐ no

3.1.3 Has the notifying party been in receipt of an export financing measure that is not in line with the OECD Arrangement on officially supported export credits (Article 5(1)(c)) of Regulation (EU) 2022/2560.

☐ yes ☐ no

3.1.4. Has the notifying party been in receipt of a foreign financial contribution enabling an undertaking to submit an unduly advantageous tender on the basis of which the undertaking could be awarded the relevant contract (Article 5(1)(e)) of Regulation (EU) 2022/2560.

☐ yes ☐ no

**3.2.** For each foreign financial contribution equal to or in excess of EUR 1 million granted to the notifying parties in the three years prior to the notification that may fall into any of the categories of Article 5(1), points (a) to (c) and (e) of Regulation (EU) 2022/2560, the notifying party must provide the following information and provide supporting documents:

3.2.1. Form of the financial contribution (e.g. loan, tax exemption, capital injection, fiscal incentive, contributions in kind, etc.).

3.2.2. Third country granting the financial contribution. Specify also the granting public authority or entity.

3.2.3. Amount of each financial contribution.

3.2.4. Purpose and economic rationale for granting the financial contribution to the party

3.2.5. Whether there are any conditions attached to the financial contributions as well as its use.

3.2.6. Describe the main elements and characteristics of those financial contributions (e.g. interest rates and duration in the case of a loan).

3.2.7. Explain whether the financial contribution confers a benefit within the meaning of Article 3 of Regulation (EU) 2022/2560 to the undertaking to which the foreign financial contribution has been granted. Please explain why, with reference to the supporting documents provided under Section 6 (below).

3.2.8. Explain whether the financial contribution is limited in law or in fact, within the meaning of Article 3 of Regulation (EU) 2022/2560, to certain undertakings or industries. Please explain why, with reference to the supporting documents provided under Section 6 (below).

3.2.9. Explain if the financial contribution is granted only for operating costs exclusively linked with the public procurement at stake.

**3.3** Having regard to foreign financial contributions not falling within the categories set out in Section 3.1 above, notifying parties are required to provide an overview of the foreign financial contributions equal to or in excess of EUR 1 million granted to the notifying parties in the three years prior to the notification that do not fall into any of the categories of Article 5(1), points (a) to (e) of Regulation (EU) 2022/2560. In that regard, notifying parties are required to complete Table 1 below. Notifying parties should follow the instructions provided at Section 8 (Annex II) of Commission Implementing Regulation (EU) 2023/1441.

#### **Table 1**

Information to be included in Table 1 below by notifying parties.

(i) Group the different financial contributions per third country and per type, such as direct grant, loan/financing instrument/repayable advances, tax advantage, guarantee, risk capital instrument, equity intervention, debt write-off, contributions provided for the non-economic activities of an undertaking (see recital 16 of Regulation (EU) 2022/2560), or other.

(ii) Include only those countries where the estimated aggregate amount of all financial contributions per country granted in the three years prior to the notification (calculated according to point (iv) below) is EUR 4 million or more.

(iii) For each type of financial contribution, provide a brief description of the purpose of the financial contributions and the granting entities.

(iv) Quantify the estimated aggregate amount of financial contributions granted by each third country in the three years prior to the notification in the form of ranges, as specified in the notes to the Table below. For the calculation of this amount, the following considerations are relevant:

(a) Take into account foreign financial contributions falling into the categories of Article 5(1) of Regulation (EU) 2022/2560 and on which information has been provided under Sections 3.1 and 3.2 (above) and;

(b) do not take into account foreign financial contributions excluded according to points (v) and (vi) below

(v) Notifying Parties do not need to include (in the Table below) a description of the following foreign financial contributions:

(a) Deferrals of payment of taxes and/or of social security contributions, tax amnesties and tax holidays as well as normal depreciation and loss-carry forward rules that are of general application. If these measures are limited, for example, to certain sectors, regions or (types of) undertakings, they have to be included.

(b) Application of tax reliefs for avoidance of double taxation in line with the provisions of bilateral or multilateral agreements for avoidance of double taxation as well as unilateral tax reliefs for avoidance of double taxation applied under national tax legislation to the extent they follow the same logic as the provisions of bilateral or multilateral agreements.

(c) Provision/purchase of goods/services (except financial services) at market terms in the ordinary course of business, for example the provision/purchase of goods or services carried out following a competitive, transparent and non-discriminatory tender procedure.

(d) Foreign financial contributions below the individual amount of EUR 1 million.

(vi) The foreign financial contributions that may be relevant for the assessment of each public procurement may depend on a number of factors such as the sectors or activities involved, the type of financial contributions or other specificities of the case. In light of these specificities, the Commission may request additional information where it considers such information necessary for its assessment.

| Third Country | Type of Financial Contribution (FC)* | Brief description of the purpose of the FC and the granting entity** | Total Estimated value of the FC granted*** |
|---------------|--------------------------------------|----------------------------------------------------------------------|--------------------------------------------|
| Country A     |                                      |                                                                      |                                            |
| Country B     |                                      |                                                                      |                                            |
| Country C     |                                      |                                                                      |                                            |

|           |  |  |  |
|-----------|--|--|--|
| Country D |  |  |  |
|-----------|--|--|--|

Note: please provide a separate table for each of the notifying parties. Third countries and, where possible, types of contributions, should be ordered by total amount of foreign financial contribution, from the highest to the lowest.

\* Identify the financial contributions grouping them by type: such as direct grant, loan/financing instrument/repayable advances, tax advantage, guarantee, risk capital instrument, equity intervention, debt write-off, contributions provided for the non-economic activities of an undertaking (see recital 16 of Regulation 2022/2560), or other. (

\*\* General description of the purpose of the financial contributions included in each type and of the granting entity(ies). For instance, 'tax exemption for the production of product A and R & D activities', 'several loans with State-owned banks for purpose X', 'several financing measures with State investment agencies to cover operating expenses/for R & D activities', 'public capital injection in Company X'.

\*\*\* Use the following ranges: 'EUR 45-100 million', 'EUR > 100-500 million', 'EUR > 500-1 000 million', 'more than EUR 1000 million'

#### **4. Justification for absence of unduly advantageous tender – (Section 4 of Form FS-PP)**

4.1 For any of the foreign financial contributions enabling an undertaking to submit an unduly advantageous tender on the basis of which the undertaking could be awarded the relevant contract (Article 5(1)(e) of Regulation (EU) 2022/2560), are there any elements which can be adduced to demonstrate that the tender is not unduly advantageous directly or indirectly due to the financial contribution(s) received, including the elements referred to in Article 69(2) of Directive 2014/24/EU.

In that regard, notifying parties should detail any elements that in their view may demonstrate that their tender is not unduly advantageous.

4.2 The elements may in particular refer to:

- 4.2.1. The economics of the manufacturing process, of the services provided or of the construction method;
- 4.2.2. The technical solutions chosen or any exceptionally favourable conditions available to the tenderer for the supply of the products or services or for the execution of the work;
- 4.2.3. The originality of the work, supplies or services proposed by the tenderer;
- 4.2.4. Compliance with applicable obligations in the fields of environmental, social and labour law;
- 4.2.5. Compliance with obligations regarding subcontracting.

#### **5. Possible Positive Effects - (Section 5 of Form FS-PP)**

5.1 If applicable, notifying parties should list and substantiate any possible positive effects on the development of the relevant subsidised economic activity on the internal market. Notifying parties should also list and substantiate any other positive effects of the foreign subsidies, such as broader

positive effects in relation to the relevant policy objectives, in particular those of the Union, and specify when and where those effects have or are expected to take place. Notifying parties should provide a description of each of those positive effects.

## **6. Supporting Documentation – (Section 6 of Form FS-PP)**

Notifying parties are required to provide the following for each notifying party:

6.1. Copies of all the supporting official documents relating to the financial contributions that may fall into any of the categories of Article 5(1), points (a) to (c) and (e) of Regulation (EU) 2022/2560 pursuant to Section 3.1.

6.2. Copies of the following documents prepared by or for or received by any member of the board of management, the board of directors or the supervisory board:

Analyses, reports, studies surveys, presentations and any comparable documents discussing the purpose, use and economic rationale of the foreign financial contributions that may fall into any of the categories of Article 5(1), points (a) to (c) and (e) of Regulation (EU) 2022/2560.

Provide the same documents prepared by or for or received by the entity granting the foreign financial contribution to the extent that they are in your possession or that they are publicly available.

6.3. An indication of the internet address, if any, at which the most recent annual accounts or reports of the notifying party(ies) are available, or if no such internet address exists, copies of the most recent annual accounts and reports.

6.4. Where the notifying party(ies) provide(s) justifications of the absence of an undue advantage of the tender by filling in Section 4 of this form, they also need to provide documentation for the period covering the three years preceding the notification, substantiating the adduced elements. Such documentation may include, inter alia, as relevant: (a) tax declarations for the period under review, including copies of company tax returns and VAT returns, (b) business plans and market research underlying the decision to participate in the public procurement procedure.

## **7. Attestation (Section 8 of Form FS-PP)**

The notifying party(ies) confirm(s) that, to the best of their knowledge and belief, the information given in this declaration is true, correct, and complete, that true and complete copies of documents required by this Form FS-PP have been supplied, that all estimates are identified as such and are their best estimates of the underlying facts, and that all the opinions expressed are sincere.

The notifying party(ies) confirm that they are aware of the provisions of Article 33 of Regulation (EU) 2022/2560 concerning fines and periodic penalty payments.

Date:

**[Signatory 1]**

**[Signatory 2]**

Name:

Name:

Organisation:

Organisation:

Position:

Position:

Address:

Address:

Phone Number:

Phone Number:

Email:

Email:

Signed:

Signed:

## **Appendix 4: European Single Procurement Document (ESPD)**

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Please see ESPD request attached.

## Appendix 5: Declaration as to Personal Circumstances of Tenderer

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Re: Request for Tenders dated 14/09/2026 for the provision of an Air Service from Aerfort Chonamara, Na Mine, Co na Gaillimhe to Oileáin Árann, Co. na Gaillimhe

**NAME:** \_\_\_\_\_

**ADDRESS:** \_\_\_\_\_

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

1. I am a [insert role of Declarant] of [insert name of entity] and am authorized by [insert name of entity] to make this declaration which relates to a tender (“the Tender”) submitted by [insert name of entity] in response to an RFT dated titled [insert description of competition] published by [insert name of contracting authority] (“the Contracting Authority”).

2. Neither [insert name of entity] nor any person who is a member of the administrative, management or supervisory body of [insert name of entity] nor any person who has powers of representation, decision or control in [insert name of entity] has:

a. ever been the subject of a conviction for participation in a criminal organisation, as defined in Article 2 of Council Framework Decision 2008/841/JHA.

b. ever been the subject of a conviction for corruption, as defined in Article 3 of the Convention on the fight against corruption involving officials of the European Communities or officials of Member States of the European Union and Article 2(1) of Council Framework Decision 2003/568/JHA as well as corruption as defined in the national law of the Contracting Authority or the law of the state in [Click here and insert name of entity] is established.

c. ever been the subject of a conviction for fraud within the meaning of Article 1 of the Convention on the protection of the European Communities’ financial interests.

d. ever been the subject of a conviction for terrorist offences or offences linked to terrorist activities, as defined in Articles 1 and 3 of Council Framework Decision 2002/475/JHA respectively, or for inciting or aiding or abetting or attempting to commit an offence, as referred to in Article 4 of that Framework Decision.

e. ever been the subject of a conviction for money laundering or terrorist financing, as defined in Article 1 of Directive 2005/60/EC of the European Parliament and of the Council.

f. ever been the subject of a conviction for child labour and other forms of trafficking in human beings as defined in Article 2 of Directive 2011/36/EU of the European Parliament and of the Council.

3. [insert name of entity]:

- a. is not in breach and has not breached its obligations relating to the payment of taxes or social security contributions.
- b. has carried out the preparation of the Tender independently.

4. [insert name of entity]:

- a. has, in the performance of all public contracts, complied with applicable obligations in the field of environmental social and labour law that apply at the place where the works are carried out or the services provided, that have been established by EU law, national law, collective agreements or by international, environmental, social and labour law listed in Schedule 7 of the European Union (Award of Public Authority Contracts) Regulations 2016 (Statutory Instrument 284 of 2016).
- b. is not bankrupt or the subject of insolvency or winding-up proceedings, its assets are not being administered by a liquidator or by the court, it is not in an arrangement with creditors, its business activities are not suspended nor is it in any analogous situation arising from a similar procedure under national laws and regulations.
- c. is not guilty of grave professional misconduct.
- d. has not entered into agreements with other economic operators aimed at distorting competition.
- e. is not aware of any conflict of interest due to its participation in the Competition.
- f. has not had any prior involvement in the preparation of the Competition.
- g. has not shown significant or persistent deficiencies in the performance of a substantive requirement under a prior public contract, a prior contract with a contracting entity, or a prior concession contract, which led to early termination of that prior contract, damages or other comparable sanctions.
- h. is not guilty of serious misrepresentation in supplying the information required for the verification of the absence of grounds for exclusion or the fulfilment of the Selection Criteria for this Competition and did not withhold such information and did not fail or is not able to submit supporting documents in respect of this Competition as required under Regulation 59 of the European Union (Award of Public Authority Contracts) Regulations 2016 (Statutory Instrument 284 of 2016).
- i. has not undertaken to unduly influence the decision-making process of the Contracting Authority in respect of the Competition or obtain confidential information that may confer upon its undue advantages in respect of the Competition; or negligently provided misleading information that may have a material influence on decisions concerning exclusion, selection or award.

5. [insert name of entity] does not come within the category of prohibited economic operators identified in Regulation (EU) No 833/2014 of 31 July 2014 (as amended by EU Regulation 2022/576 or any subsequent amendments to same);

6. The origin of goods connected to the Tender, if any, are not subject to the prohibitions set out in Regulation (EU) No 833/2014 (as amended by EU Regulation 2022/576 or any subsequent amendments to same).

7. Any subcontractor, supplier or other entity on whose capacity [insert name of entity] relies as part of the Tender does not come within the category of prohibited economic operators identified in Regulation (EU) No 833/2014 of 31 July 2014 (as amended by EU Regulation 2022/576 or any subsequent amendments to same).

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

|                                      |                                                     |
|--------------------------------------|-----------------------------------------------------|
| _____                                | _____                                               |
| <b>Signature of Declarant</b>        | <b>Name of Declarant in print or block capitals</b> |
| <br>                                 |                                                     |
| Declared before me by _____          | who is personally                                   |
| known _____                          | to _____ me                                         |
| (or who is identified to me by _____ | who is personally                                   |
| known _____                          | to _____ me)                                        |
| at _____                             | this _____ day of _____ 20__                        |

\_\_\_\_\_  
(signed)  
Practising Solicitor/Commissioner for Oaths

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

## Appendix 6: Services Contract

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The Minister for Rural and Community Development and the Gaeltacht

and

[Insert successful Tenderer's full legal name]

### AGREEMENT

Relating to the provision of Services pursuant  
to

Request for Tenders dated 14/09/2026  
for the provision of an Air Service from Aerfort Chonamara, Na Mine, Co na Gaillimhe to  
Oileáin Árann, Co. na Gaillimhe

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

The Minister for Rural and Community Development and the Gaeltacht, of (“the Client”); Trinity Point, 10-11 South Leinster Street, Dublin 2, D02 EF85

and

[Contractor's full legal name], of [address] (“the Contractor”)

**WHEREAS:**

A.

By Request for Tender entitled “Insert title of RFT” advertised in the supplement to the Official Journal of the European Union, OJEU Notice Number \_\_\_\_\_ of \_\_\_\_\_ dated insert date of RFT (“the RFT”) the Contracting Authority invited tenders from economic operators (“Tenderers”) for the provision of the services described in Appendix 1 to the RFT (the “Services”). References to the RFT shall include any clarifications issued by the Contracting Authority via the messaging facility on [www.etenders.gov.ie](http://www.etenders.gov.ie) between [insert date] and [insert date] (the “RFT Clarifications”). The RFT (including the RFT Clarifications) is hereby incorporated by reference into this Agreement.

B. The Contractor submitted a Tender to the RFT dated [insert date of Tender] (“the Submission”). References to the Submission shall include any clarifications issued by the Contractor in writing to the Contracting Authority between [insert date] and [insert date] (the “Submission Clarifications”). The Submission (including the Submission Clarifications) is hereby incorporated by reference into this Agreement.

**IT IS HEREBY AGREED AS FOLLOWS:**

1. This Agreement consists of the following documents, and in the case of conflict of wording, in the following order of priority:
  - (i) This Agreement and Schedules A to E attached hereto;
  - (ii) The RFT;
  - (iii) The Submission.
2. The Contractor agrees to provide the Services described in Schedule B (“the Services”) to the Client in accordance with this Agreement (“Agreement”). Schedule B details the nature, quality, time of delivery, key personnel and functional specifications of the Services in accordance with the RFT and the Submission (“the Specification”).
3. Subject to the terms and conditions of this Agreement, the Client agrees to pay to the Contractor the charges as stipulated in Schedule C (“the Charges”). The Charges are exclusive of VAT which shall be due at the rate applicable on the date of the VAT invoice.

4. For the purposes of this Agreement, the Client's Contact is Colm Mac Donncha of Rannóg na n-Oileán, An Roinn Forbartha Tuaithe agus Pobail agus Gaeltachta, na Forbacha, Co. na Gaillimhe, H91 KX39 ; the Contractor's Contact is [Contractor contact name] of [Contractor contact address.]
5. This Agreement shall take effect on the date of this Agreement ("the Effective Date") and shall expire on [insert date], unless it is otherwise terminated in accordance with the provisions of this Agreement or otherwise lawfully terminated or otherwise lawfully extended as agreed between the Parties ("the Term").

The Client reserves the right to extend the Term for a period or periods of up to six months with a maximum of 2 such extensions permitted subject to its obligations at law.

6. Unless otherwise specified herein, a defined term used in this Agreement shall have the same meaning as assigned to it in the RFT.
7. Headings are included for ease of reference only and shall not affect the construction of this Agreement.
8. Unless the context requires otherwise, words in the singular may include the plural and vice versa.
9. References to any statute, enactment, order, regulation or other legislative instrument shall be construed as a reference to the statute, enactment, order, regulation or instrument as amended, unless specifically indicated otherwise.
10. In the event that any ambiguity or question of intent or interpretation arises in relation to this Agreement, this Agreement shall be construed as if drafted jointly by the Parties and no presumption or burden of proof shall arise favouring or disfavouring any Party by virtue of the authorship of any of the provisions of this Agreement

|                                        |                                            |
|----------------------------------------|--------------------------------------------|
| SIGNED for and on behalf of the Client | SIGNED for and on behalf of the Contractor |
| Witness                                | Witness                                    |

# Schedule A: Terms and Conditions

## 1. Contractor's Obligations

- A. The Contractor undertakes to act with due care, skill and diligence in the provision of the Services and generally in the carrying out of its obligations under this Agreement and in the appointment, monitoring and retention of its agents and Subcontractors. The Contractor shall require its agents and Subcontractors to exercise due care, skill and diligence in the provision of the Services and generally in the carrying out of obligations allocated by the Contractor to its agents and Subcontractors under this Agreement.
- B. In consideration of the payment of the Charges and subject to clause 3 the Contractor shall:
  - 1. provide the Services in accordance with the Specification, the RFT, the Client's directions and the terms of this Agreement;
  - 2. comply with and implement any policies, guidelines and/or any project governance protocols issued by the Client from time to time and notified to the Contractor in writing;
  - 3. comply with all local security and health and safety arrangements as notified to it by the Client; and
  - 4. provide the Services in accordance with good industry practice and comply with all applicable laws including but not limited to all obligations in the field of environmental, social and labour law that apply at the place where the Services are provided, that have been established by EU law, national law, collective agreements and by international, environmental, social and labour law listed in Schedule 7 of the European Union (Award of Public Authority Contracts) Regulations 2016 (Statutory Instrument 284 of 2016) (the "Regulations") . The Contractor shall be responsible for compliance with all statutory requirements of an employer and without prejudice to the generality of the foregoing shall be solely responsible in law for the employment, remuneration, taxes, immigration and work permits of all personnel retained for the purposes of complying with this Agreement.
- C. The Contractor is deemed to be the prime contractor under this Agreement and the Contractor assumes full responsibility for the discharge of all obligations under this Agreement and shall assume all the duties, responsibilities and obligations associated with the position of prime contractor. The Contractor as prime contractor under the Submission hereby assumes liability for its Subcontractors and shall ensure that its Subcontractors shall comply in all respects with the relevant terms of this Agreement, including but not limited to clause 1B(4) above, to the extent that it or they are retained by the Contractor. Subject to clause 14, the Contractor shall notify the Client as soon as possible of any changes to the name, contact details and legal representatives of its Subcontractors.
- D. Without prejudice to clause 1C, where the Client becomes aware that any of the exclusion grounds set out in Regulation 57 of S.I. No. 284 of 2016, the European Union (Award of Public Authority Contracts) Regulations 2016 apply to any Subcontractor, the Client reserves the

right to require the Contractor to immediately replace such Subcontractor and the Contractor shall comply with such requirement. The Contractor shall include in every sub-contract a right for the Contractor to terminate the sub-contract where any of the exclusion grounds apply to the Subcontractor and a requirement that the Subcontractor, in turn, includes a provision having the same effect in any sub-contract which it awards.

- E. During this Agreement the Contractor shall be an independent contractor and not the employee of the Client. Neither Party shall have any authority to bind or commit the other. Nothing herein shall be deemed or construed to create a joint venture, partnership, and/or fiduciary or other relationship between the Parties for any purpose. The officers, employees or agents of the Contractor are not and shall not hold themselves out to be (and shall not be held out by the Contractor as being) servants or agents of the Client for any purposes whatsoever.
- F. The Client acknowledges that the Contractor may from time to time be dependent on the Client to facilitate the Contractor in the carrying out of its duties under this Agreement. The Client agrees to use its reasonable endeavours to so facilitate the Contractor within the timescales and in the manner agreed by it in writing in accordance with clause 10.
- G. The Contractor agrees that any information relating to this Agreement and / or the performance of this Agreement may be passed by the Client to the Office of Government Procurement (“OGP”) and that the OGP may use this information in the analysis and reporting of spend data including the preparation and publishing of reports.
- H. The Contractor shall comply with all applicable obligations arising pursuant to the European Communities (Protection of Employees’ Rights on Transfer of Undertakings) Regulations 2003 (S.I. No. 131 of 2003) and Council Directive 2001/23/EC (together the “TUPE Regulations”) and failure to so comply shall constitute a serious breach of this Agreement. The Contractor shall indemnify, save harmless and keep the Client indemnified from and against any claim arising or loss or costs incurred as a result of its failure or incapacity to fulfil its obligation under the said TUPE Regulations.
- I. In the case of public procurement procedures which are subject to an IPI measure within the meaning of Regulation (EU) 2022/1031, the Contractor shall comply with the following obligations:
  - (i) not to subcontract more than 50% of the total value of the contract to economic operators originating in a third country which is subject to an IPI measure;
  - (ii) or contracts whose subject matter covers the supply of goods, to ensure for the duration of the contract that goods or services supplied or provided in the execution of the contract and originating in the third country which is subject to the IPI measure represent no more than 50% of the total value of the contract, irrespective of whether such goods or services are supplied or provided directly by the successful tenderer or by a subcontractor;
  - (iii) to provide to the Client, upon request, adequate evidence corresponding to point

- (i) or (ii) above;
- (iv) to pay a proportionate charge, in the event of non-observance of the obligations referred to at point (i) or (ii) above, of between 10% and 30% of the total value of the contract.

## 2. Key Personnel

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

## 3. Payment

- A. Subject to the provisions of this clause 3 the Client shall pay and discharge the Charges (plus any applicable VAT), in the manner specified at Schedule C. Invoicing arrangements shall be on such terms as may be agreed between the Parties
- B. Discharge of the Charges is subject to:
  - 1. Compliance by the Contractor with the provisions of this Agreement including but not limited to any milestones, compliance schedules and/or operational protocols in place pursuant to clause 10A from time to time;
  - 2. The furnishing by the Contractor of a valid invoice and such supporting documentation as may be required by the Client from time to time. Any Contractor pre-printed terms and conditions are hereby disallowed;
  - 3. Invoices being submitted to the Client's Contact (as set out in this Agreement or such other alternative contact as may be agreed between the Parties). All and any queries relating to the invoice and/or the Services for any billing period (including whether or not Services have been accepted, rejected, satisfactorily re-performed or as the case may be) must be raised by the Client's Contact within 14 calendar days of receipt of invoice. In circumstances where no queries are raised within the said 14 day period the invoice shall be deemed accepted. Upon resolution of any queries on the invoice to the satisfaction of the Client or upon such deemed acceptance the invoice shall be payable by the Client. Payment is subject to any rights reserved by the Client under any other provision of this Agreement; and
  - 4. The Client being in possession of the Contractor's current Tax Clearance Certificate. The Contractor shall comply with all applicable EU and domestic taxation law and requirements.

- C. *Not used*
- D. Wherever under this Agreement any sum of money is recoverable from or payable by the Contractor (including any sum which the Contractor is liable to pay to the Client in respect of any breach of this Agreement), the Parties may agree to deduct that sum from any sum then due, or which at any later time may become due to the Contractor under the Agreement or under any other agreement or contract with the Client. Any overpayment by either Party, whether of the Charges or of VAT or otherwise, shall be a sum of money recoverable by the Party who made the overpayment from the Party in receipt of the overpayment.
- E. The Charges shall include any and all costs or expenses incurred by the Contractor, its employees, servants and agents in the performance of its obligations under this Agreement.
- F. The Charges shall be discharged as provided for in this clause subject to the retention by the Client in accordance with section 523 of the Taxes Consolidation Act, 1997 of any Professional Services Withholding Tax payable to the Contractor. Any and all taxes applicable to the provision of the Services will be the sole responsibility of the Contractor and the Contractor so acknowledges and confirms.

#### 4. Warranties, Representations and Undertakings

- A. The Contractor acknowledges, warrants, represents and undertakes that:
  - 1. it has the authority and right under law to enter into, and to carry out its obligations and responsibilities under this Agreement and to provide the Services hereunder;
  - 2. it is entering into this Agreement with a full understanding of its material terms and risks and is capable of assuming those risks;
  - 3. it is entering into this Agreement with a full understanding of its obligations with regard to taxation, employment, social and environmental protection and is capable of assuming and fulfilling those obligations;
  - 4. it has acquainted itself with and shall comply with all legal requirements or such other laws, recommendations, guidance or practices as may affect the provision of the Services as they apply to the Contractor;
  - 5. it has taken all and any action necessary to ensure that it has the power to execute and enter into this Agreement;
  - 6. the status of the Contractor, as declared in the "Declaration as to Personal Circumstances of Tenderer" dated [insert date] , which confirms that none of the excluding circumstances listed in Regulation 57 of the Regulations apply to the Contractor, remains unchanged;
  - 7. it owns, has obtained or is able to obtain, valid licences for all Intellectual Property Rights (as defined in clause 6 below) that are necessary for the performance of its obligations under this Agreement and for the Client to obtain the benefit of the Services for its business purposes;
  - 8. *Not used*

9. it retains and shall maintain for the Term insurances for the nature and amount specified in the RFT. The Contractor undertakes to advise the Client forthwith of any material change to its insured status, to produce proof of current premiums paid upon written request and where required produce valid certificates of insurance for inspection. The Contractor shall carry out all directions of the Client with regard to compliance with this clause 4A.9; and
  10. the Client shall be under no obligation to purchase any minimum number or value of Services.
- B. The Contractor undertakes to notify the Client forthwith of any material change to the status of the Contractor with regard to the warranties, acknowledgements, representations and undertakings as set out at clause 4A and to comply with all reasonable directions of the Client with regard thereto which may include termination of this Agreement.

## 5. Remedies

- A. The Contractor shall be liable for and shall indemnify the Client for and in respect of all and any losses, claims, demands, damages or expenses which the Client may suffer due to and arising directly as a result of the negligence, act or omission, breach of contract, breach of duty, insolvency, recklessness, bad faith, wilful default or fraud of the Contractor, its employees, Subcontractors or agents or any of them or as a result of the Contractor's failure to exercise skill, care and diligence as outlined in clause 1. The terms of this clause 5A shall survive termination of this Agreement for any reason.
- B. Save in respect of fraud (including fraudulent misrepresentation), personal injury or death or in respect of the Contractor's indemnity under clause 6(G), neither Party will be liable for any indirect losses (including loss of profit, loss of revenue, loss of goodwill, indirectly arising damages, costs and expenses) of any kind whatsoever and howsoever arising even if such Party has been advised of their possibility.
- C. Should the Client find itself obliged to order elsewhere in consequence of the failure of the Contractor to deliver Services, the Client shall be entitled to recover from the Contractor any excess prices which may be paid by the Client.
- D. Except as otherwise expressly provided by this Agreement, all remedies available to either Party for breach of this Agreement are cumulative and may be exercised concurrently or separately, and the exercise of any one remedy shall not be deemed an election of such remedy to the exclusion of other remedies.
- E. Save in respect of fraud, personal injury or death or in respect of the Contractor's indemnity under clause 6(G) (for which no limit applies), the limit of the Contractor's aggregate liability to the Client under this Agreement whatsoever and howsoever arising shall not under any circumstances exceed 100 per cent of the Charges paid or projected to be paid (whichever is higher) under this Agreement] regardless of the number of claims.

- F. If for any reason the Client is dissatisfied with the performance of the Contractor, a sum may be withheld from any payment otherwise due calculated as follows:
  - (i) The cost of a sailing or sailings, such cost being determined by reference to the total number of contracted sailings and total subvention.
- G. Time of delivery shall be of the essence and if the Contractor fails to deliver the Services within the time period promised or specified in the Specification, the Client may by notice in writing to the Contractor's Contact release itself from any obligation to accept and pay for the Services and / or terminate this Agreement in either case without prejudice to any other rights and remedies of the Client.
- H. *Not used*

## 6. Intellectual Property

- A. Intellectual Property Rights ("IPR") means all patents and patent rights, trademarks and trademark rights, trade names and trade name rights, service marks and service mark rights, service names and service name rights, brand names, copyrights and copyright rights, trade dress, business and product names, logos, slogans, trade secrets, industrial models, utility models, design models, designs, rights in confidential information, know-how, rights in the nature of unfair competition rights and rights to sue for passing off, and all pending applications for and registrations of patents, trademarks, service marks, and copyrights together with all connected and similar or analogous rights in any country or jurisdiction for the full term thereof.
- B. Pre-existing IPR means all IPR existing prior to the date of this Agreement and all IPR in any materials, acquired or developed by or for Contractor or Client independently of this Agreement, and any IPR in Contractor's standard hardware and software products or modifications or updates to such products.
- C. All IPR title and interest in all reports, data manuals and/or other materials (other than software) (including without limitation all and any audio or audio visual recordings, transcripts, books, papers, records, notes, illustrations, photographs, diagrams) produced for the purposes of this Agreement (collectively "the Materials") (or any part or parts thereof) shall vest in the Client and the Contractor so acknowledges and confirms. For the avoidance of doubt the Contractor hereby assigns all Intellectual Property Rights, title and interest in the Materials (including by way of present assignment of future copyright) to the extent that any such Intellectual Property Rights title or interest may be deemed by law to reside in it in the Materials to the Client absolutely.
- D. The Client grants to the Contractor a royalty-free non-exclusive licence to use the Client's Pre-existing IPR for the Term to the extent necessary to enable the Contractor to fulfil its obligations under this Agreement. Save as expressly set out in this clause 6 all Pre-Existing IPR shall remain the sole property of the party who owned, acquired or developed such intellectual property.

- E. The Contractor shall waive or procure a waiver of any moral rights subsisting in copyright produced under or in performance of this Agreement.
- F. Nothing in this Agreement shall prohibit or be deemed to prohibit the Contractor from providing services similar to the Services to any party other than the Parties hereto. In no event shall the Contractor be precluded from independently developing for itself, or for others, materials which are competitive with, or similar to, the Services and to use its general knowledge, skills and experience, and any ideas, concepts, know-how, formats, templates, methodologies and techniques that are acquired or used in the course of providing the Services.
- G. The Contractor shall ensure that all and any necessary consents and/or licences for any software, instrument, modality or methodology are obtained and in place before use for the purposes of this Agreement (to include but not be limited to ensuring that the Client shall be vested with all necessary rights so as to enable the Client to enjoy the benefit of the Services for its business purposes). The Contractor hereby indemnifies the Client and shall keep and hold the Client harmless from and in respect of all and any losses (whether direct, indirect or consequential) liability, damages, claims, costs or expenses which arise by reason of any breach of third party Intellectual Property Rights in so far as any such rights are used for the purposes of this Agreement.

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

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

## 7. Confidentiality

- A. Each of the Parties to this Agreement agrees to hold confidential all information, documentation and other material received, provided or obtained arising from their participation in this Agreement (“Confidential Information”) and shall not disclose same to any third party except to:-
1. its professional advisers subject to the provisions of this clause 7; or
  2. as may be required by law; or
  3. as may be necessary to give effect to the terms of this Agreement subject to the provisions of this clause 7; or
  4. in the case of the Client by request of any person or body or authority whose request the Client or persons associated with the Client (including but not limited to the Legislature and/or the Executive and/or the Civil Service) considers it necessary or appropriate to so comply.
- B. The Contractor undertakes to comply with all reasonable directions of the Client with regard to the use and application of all and any of its Confidential Information and shall comply with the confidentiality agreement as exhibited at Appendix 6 to the RFT (“the Confidentiality Agreement”).
- The obligations in this clause 7 will not apply to any Confidential Information:
1. in the receiving Party’s possession (with full right to disclose) before receiving it from the other Party; or
  2. which is or becomes public knowledge other than by breach of this clause; or
  3. is independently developed by the disclosing Party without access to or use of the Confidential Information; or
  4. is lawfully received by the disclosing Party from a third party (with full right to disclose).
- C. The Contractor acknowledges that the security of the State and its information is of paramount importance to the Client. Accordingly, the Contractor confirms that it will, if requested by the Client, from time to time, submit full personal details (including those of Subcontractors) who are assigned to provide the Services (or any part thereof) under this Agreement. The Contractor further acknowledges that checks may be carried out in relation to all such personnel by police authorities and the Contractor shall comply with all reasonable directions of the Client arising therefrom.
- D. In circumstances where the Client is subject to the provisions of the Freedom of Information Act 2014 or the European Communities (Access to Information on the Environment) Regulations 2007 to 2014, then in the event of the Client receiving a request for information related to this Agreement, the Client shall consult with the Contractor in respect of the request. The Contractor shall identify any information that is not to be disclosed on grounds of confidentiality or commercial sensitivity, and shall state the reasons for this sensitivity. The Client will consult the Contractor about this confidential or commercially sensitive information before making a decision on any request received under the above legislation. The Contracting Authority accepts no liability whatsoever in respect of any information provided which is subsequently released (irrespective of notification) or in respect of any consequential damage suffered as a result of such obligations.

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

## 8. Force Majeure

- A. A 'Force Majeure Event' means an event or circumstance or combination of events and/or circumstances not within the reasonable control of the Affected Party (as defined in clause 8B below) which has the effect of delaying or preventing that Party from complying with its obligations under this Agreement including but not limited to acts of God, war, out-break of disease, insurrection, riot, civil disturbance, rebellion, acts of terrorism, government regulations, embargoes, explosions, fires, floods, tempests, or failures of supply of electrical power, or public telecommunications equipment or lines, excluding industrial action of whatever nature or cause (strikes, lockouts and similar) occurring at the Contractor (or Subcontractor or agent) places of business.
- B. In the event of any failure, interruption or delay in the performance of either Party's obligations (or of any of them) resulting from any Force Majeure Event, that Party ("the Affected Party") shall promptly notify the other Party in writing specifying:
  - 1. the nature of the Force Majeure Event;
  - 2. the anticipated delay in the performance of obligations;
  - 3. the action proposed to minimise the impact of the Force Majeure Event;and the Affected Party shall not be liable or have any responsibility of any kind for any loss or damage thereby incurred or suffered by the other Party, provided always that the Affected Party shall use all reasonable efforts to minimise the effects of the same and shall resume the performance of its obligations as soon as reasonably possible after the removal of the cause.
- C. If the Force Majeure Event continues for 20 calendar days either Party may terminate at 14 days' notice.
- D. In circumstances where the Contractor is the Affected Party, the Client shall be relieved from any obligation to make payments under this Agreement save to the extent that payments are properly due and payable for obligations actually fulfilled by the Contractor in accordance with the terms and conditions of this Agreement.

## 9. Termination

- A. This Agreement may be terminated by the Client, without liability for compensation or damages, by serving Three (3) written notice to the Contractor. This Agreement may be terminated by the Contractor, without liability for compensation or damages, by serving Three (3) written notice to the Client.

- B. Either Party shall have the right (in addition to its rights under clause 9(a) and any other rights which it has at law) to terminate this Agreement immediately and without liability for compensation or damages on the happening of any of the following:
1. if the other Party commits any serious breach or a series of breaches of any provision of this Agreement and fails to remedy such breach(es) (if the breach(es) are capable of remedy) within 30 days after receipt of a request in writing from the other Party;
  2. if the other Party becomes insolvent, becomes bankrupt, enters into examinership, is wound up, commences winding up, has a receiving order made against it, makes any arrangement with its creditors generally or takes or suffers any similar action as a result of debt, or an event having an equivalent effect;
  3. in circumstances where the Client becomes aware of any conflict of interest on the part of the Contractor which cannot, in the opinion of the Client, be removed by other means; and
  4. in circumstances where the Client becomes aware of any registrable interest on the part of the Contractor.
- C. The Client shall have the right, in addition to any other rights which it has at law, to terminate this Agreement immediately and without liability for compensation or damages in circumstances where the Client becomes aware:
- (i) that any of the exclusion grounds set out in Regulation 57 of the Regulations apply to the Contractor;
  - (ii) that the Contractor (on its own or resulting from its sub-contractors, suppliers or entities on which it relies) comes within the category of prohibited economic operators identified in Regulation (EU) No 833/2014 of 31 July 2014 (as amended by EU Regulation 2022/576 or any subsequent amendments to same).
- D. Termination of this Agreement shall not affect any antecedent and accrued rights, obligations or liabilities of either Party, nor shall it affect any provision of this Agreement which is expressly or by implication intended to come into or continue in force on or after such termination.
- E. If requested by the Client, the Contractor shall promptly furnish such anonymised information relating to the terms and conditions of the employment of all persons providing the Services as may be required by the Client ("Employment Information"). The Contractor agrees that the Client may release the Employment Information to third parties for the purposes of any procurement competition for the provision of the Services upon expiry of the Term or earlier termination of this Agreement for whatever cause.

## 10. Contract Management

- A. The Client's Contact and the Contractor's Contact shall liaise on a regular basis to address any issues arising which may impact on the performance of this Agreement and to agree milestones, compliance schedules and operational protocols as required by the Client from time to time. If requested in writing by the Client the Contractor shall meet formally with the Client to report on progress and shall comply with all written directions of the Client.
- B. The Contractor agrees to:
  - 1. liaise with and keep the Client's Contact fully informed of any matter which might affect the observance and performance of the Contractor's obligations under this Agreement;
  - 2. maintain such records and comply with such reporting arrangements and protocols as required by the Client from time to time;
  - 3. comply with all reasonable directions of the Client; and
  - 4. comply with the service levels and performance indicators set out in Schedule D.
- C. The Client or its authorised representative may inspect the Contractor's premises, lands and facilities (or such part or parts thereof relating solely to this Agreement) with due access to relevant personnel and records upon reasonable notice in writing to ensure compliance with the terms of this Agreement. The Contractor shall comply with all reasonable directions of the Client thereby arising. The cost of inspection shall be borne by the Client.
- D. If at some future stage, the Minister decides to introduce an online ticketing/monitoring system on the Service, the operator shall implement the introduction of the system at no extra cost to the Operator

## 11. Disputes

- A. In the event of any dispute arising out of or relating to this Agreement (the "Dispute"), the Parties shall first seek settlement of the Dispute as set out below.
- B. The Dispute shall be referred as soon as practicable to [insert Contractor contact] within the Contractor and to [insert Client contact] within the Client respectively.
- C. If the Dispute has not been resolved within fifteen (15) Business Days (or such longer period as may be agreed in writing by the Parties) of being referred to the nominated representatives, then either Party may refer the Dispute to an independent mediator, the identity of whom shall be agreed in advance by the Parties
- D. If the Parties are unable to agree on a mediator or if the mediator agreed upon is unable or unwilling to act, either Party may within twenty-one (21) days from the date of the proposal to appoint a mediator or within twenty-one (21) days of notice to either Party that the mediator is unable to act, apply to the Chairman of the Chartered Institute of Arbitrators, Irish Branch to appoint a mediator.

- E. Any submissions made to and discussions involving the mediator, of whatever nature, shall be treated in strict confidence and without prejudice to the rights and/or liabilities of the Parties in any legal proceedings and, for the avoidance of doubt, are agreed to be without prejudice and legally privileged. The Parties shall make written submissions to the mediator within ten (10) Business Days of his/her appointment.
- F. The Parties shall share equally the cost of the mediator. The costs of all experts and any other third parties who, at the request of any Party, shall have been instructed in the mediation, shall be for the sole account of, and shall be discharged by that Party.
- G. For the avoidance of doubt, the obligations of the Parties under this Agreement shall not cease, or be suspended or delayed by the reference of a dispute to mediation. The Contractor shall comply fully with the requirements of the Agreement at all times.

## 12. Governing Law, Choice of Jurisdiction and Execution

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

## 13. Notices

- A. Any notice or other written communication to be given under this Agreement shall either be delivered personally or sent by registered post or email. The Parties will from time to time agree primary and alternative contact persons and details for the purposes of this clause 13.
- B. All notices shall be deemed to have been served as follows:
  - 1. if personally delivered, at the time of delivery;
  - 2. if posted by registered post, at the expiration of 48 hours after the envelope containing the same was delivered into the custody of the postal authorities (and not returned undelivered); and
  - 3. if communicated by email, on the next calendar day following transmission.

## 14. Assignment and Subcontract

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

with in the manner prescribed herein shall be null and void. For the purposes of Regulation (EU) No 833/2014 of 31 July 2014 (as amended by EU Regulation 2022/576 or any subsequent amendments to same), the Client may require information from the Contractor in relation to the status of the proposed subcontractor(s) including, but not limited to, in respect of natural persons, copies of identity documents and, in respect of legal persons, a certificate or extract from the commercial register or other competent authority of the country in which the person is established.

#### 15. Entire Agreement

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

#### 16. Severability

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

#### 17. Waiver

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

#### 18. Non Exclusivity

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

#### 19. Media

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

#### 20. Conflicts, Registerable Interests and Corrupt Gifts

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

- B. Any registrable interest involving the Contractor (and any Subcontractor or agent as the case may be) and the Client, the Ceann Comhairle (Speaker), or any member of the Government, or any member of the Oireachtas, or their relatives must be fully disclosed to the Client immediately upon such information becoming known to the Contractor (Subcontractor or agent as the case may be) and to comply with the Client's directions in respect thereof, to the satisfaction of the Client. In the event of such disclosure, the Client shall have the right (in addition to any other rights which it has at law) to terminate this Agreement immediately and without liability for compensation or damages. The terms "registrable interest" and "relative" shall be interpreted The terms "registrable interest" and "relative" shall be interpreted as per section 2 of the Ethics in Public Office Act, 1995 (as amended) a copy of which is available on request.
- C. The Contractor shall not offer or agree to give any public servant or civil servant any gift or consideration or commission of any kind as an inducement or reward for doing or forbearing to do or for having done or forborne to do any action in relation to the obtaining or execution of this or any other public contract. Any breach of this clause 20C or the commission of any offence by the Contractor, any Subcontractor, agent or employee under the Criminal Justice (Corruption Offences) Act 2018 shall entitle the Client to terminate this Agreement immediately and without liability for compensation or damages and to recover the amount of any loss resulting from such cancellation, including but not limited to recovery from the Contractor of the amount or value of any such gift, consideration or commission.

## 21. Access to Premises

- A. Any of the Client's premises made available from time to time to the Contractor by the Client in connection with this Agreement, shall be made available to the Contractor on a non-exclusive licence basis and shall be used by the Contractor solely for the purpose of performing its obligations under this Agreement. The Contractor shall have use of such premises as licensee and shall vacate the same on completion, termination or abandonment of this Agreement.
- B. The Contractor shall upon reasonable notice by the Client allow the Client access to its premises (including the premises of any Subcontractor or agent) where the Services are being performed for the Client under this Agreement.

## 22. Equipment

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

- B. All Equipment brought onto the Client's premises shall be at the Contractor's own risk and the Client shall have no liability for any loss of, caused by or damage to any Equipment. The Contractor shall provide for the haulage or carriage thereof to the Client's premises and the removal of Equipment when no longer required at its sole cost. Unless otherwise agreed, Equipment brought onto the premises will remain the property of the Contractor.
- C. The Contractor shall maintain and store all items of Equipment within the Client's premises in a safe, serviceable and clean condition.
- D. The Contractor shall, at the Client's written request, at its own expense and as soon as reasonably practicable:
  - (i) remove from the Client's premises any Equipment which in the reasonable opinion of the Client is either hazardous, noxious or not in accordance with this Agreement; and
  - (ii) replace such item with a suitable substitute item of Equipment.
- E. On completion of the Services the Contractor shall remove the Equipment used by the Contractor to provide the Services and shall leave the Client's premises in a clean, safe and tidy condition. The Contractor is solely responsible for making good any damage to the Client's premises or any objects contained thereon, other than fair wear and tear, which is caused by the Contractor or any of its employees or Subcontractors.

#### 23. Non-Solicitation

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

#### 24. Change Control Procedure

- A. At any time during the Term of this Agreement, either Party may propose a change or changes to any part or parts of this Agreement.
- B. The change control procedures set out in this Schedule will apply to all changes irrespective of whether the Contractor or the Client proposes the change.
- C. A change control notice ("Change Control Notice") shall be prepared for all change requests. The Change Control Notice will provide an outline description of the change requested, the rationale for the change, the effect that the change will have on the Services (where known) and an estimate of the effort and cost required to prepare an impact assessment ("Impact Assessment").
- D. All Change Control Notices proposing changes to this Agreement must be submitted for review to the other Party's Contact.
- E. The Parties must indicate their acceptance or rejection of the change control request and/or Impact Assessment within a reasonable timeframe of its completion and Tender Submission for review, subject to a maximum of twenty (20) calendar days or such other period agreed between the Parties.

- F. On approval of an Impact Assessment, this Agreement and/or the Schedules should be updated and revised as appropriate and in writing
- G. In the event that either Party rejects the Impact Assessment, the change(s) shall not take place and the Parties shall continue to perform their obligations under this Agreement.
- H. The Contractor and the Client will agree a reasonable charge in advance for investigating each proposed variation and preparing each estimate, whether or not the variation is implemented. If the Client's request for any variation is subsequently withdrawn but results in a delay in the performance of the Services, then the Contractor will not be liable for such delay and will be entitled to an extension of time equal to not less than the period of the delay.

## 25. Data Protection and Security

- A. In this Agreement the following terms shall have the meanings respectively ascribed to them: "Data" means all Confidential Information, whether in oral or written (including electronic) form, created by or in any way originating with the Client (including but not limited to his employees, agents, independent contractors and/or Sub-contractors) and all information that is the output of any computer processing, or other electronic manipulation of any information that was created by or in any way originating with the Client provided under this Agreement and includes any Personal Data;

"Data Controller" has the meaning given under the Data Protection Laws;

"Data Processor" has the meaning given under the Data Protection Laws;

"Data Protection Laws" means all applicable national and EU data protection laws, regulations and guidelines, including but not limited to Regulation (EU) 2016/679 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (the "General Data Protection Regulation"), and any guidelines and codes of practice issued by the Office of the Data Protection Commission or other supervisory authority for data protection in Ireland.

"Data Subject" has the meaning given under the Data Protection Laws;

"Data Subject Access Request" means a request made by a Data Subject in accordance with rights granted under the Data Protection Laws to access his or her Personal Data;

"Personal Data" has the meaning given under Data Protection Laws; "Processing" has the meaning given under the Data Protection Laws;

"Processing" has the meaning given under the Data Protection Laws;

- B. The Contractor shall comply with all applicable requirements of the Data Protection Laws.
- C. The Parties acknowledge that for the purposes of the Data Protection Laws, the Client is the Data Controller and the Contractor is the Data Processor in respect of Data which is Personal Data. Schedule E sets out the scope, nature and purpose of Processing by the Contractor, the duration of the Processing and the types of Personal Data and categories of Data Subject.
- D. Without prejudice to the generality of clause 25B, the Contractor shall, in relation to any Personal Data processed in connection with the performance by the Contractor of its obligations under this Agreement:-
- (1) Process that Personal Data only on the written instructions of the Client;
  - (2) Ensure that it has in place appropriate technical and organisational measures, reviewed and approved by the Client, to protect against unauthorised or unlawful processing of Personal Data and against accidental loss or destruction of, or damage to, Personal Data, appropriate to the harm that might result from the unauthorised or unlawful processing or accidental loss, destruction or damage and the nature of the data to be protected, having regard to the state of technological development and the cost of implementing any measures (those measures may include, where appropriate, pseudonymising and encrypting Personal Data, ensuring confidentiality, integrity, availability and resilience of its systems and services, ensuring that availability of and access to Personal Data can be restored in a timely manner after an incident, and regularly assessing and evaluating the effectiveness of the technical and organisational measures adopted by it);
  - (3) Ensure that all personnel who have access to and/or process Personal Data are obliged to keep the Personal Data confidential;
  - (4) not transfer any Personal Data outside of the European Economic Area unless the prior written consent of the Client has been obtained and the following conditions are fulfilled;
    - i. appropriate safeguards are in place in relation to the transfer, to ensure that Personal Data is adequately protected in accordance with Chapter V of Regulation 2016/679 ( General Data Protection Regulation);
    - ii. the data subject has enforceable rights and effective legal remedies;
    - iii. The Contractor complies with its obligations under the Data Protection Laws by providing an adequate level of protection to any Personal Data that is transferred; and

- iv. The Contractor complies with reasonable instructions notified to it in advance by the Client with respect to the processing of the Personal Data;
- E. The Contractor shall promptly notify the Client if it receives a Data Subject Access Request to have access to any Personal Data or any other complaint, correspondence, notice, request any order of the Court or request of any regulatory or government body relating to the Client's obligations under the Data Protection Laws and provide full co-operation and assistance to the Client in relation to any such complaint, order or request (including, without limitation, by allowing Data Subjects to have access to their data).
- F. The Contractor shall without undue delay report in writing to the Client any data compromise involving Personal Data, or any circumstances that could have resulted in unauthorised access to or disclosure of Personal Data.
- G. The Contractor shall assist the Client in ensuring compliance with its obligations under the Data Protection Laws with respect to security, impact assessments and consultations with supervisory authorities and regulators.
- H. The Contractor shall at the written direction of the Client, amend, delete or return Personal Data and copies thereof to the Client on termination of this Agreement unless the Contractor is required by the laws of any member of the European Union or by the laws of the European Union applicable to the Contractor to store the Personal Data.
- I. The Contractor shall permit the Client, the Office of the Data Protection Commission or other supervisory authority for data protection in Ireland, and/ or their nominee to conduct audits and or inspections of the Contractor's facilities, and to have access to all data protection, confidentiality and security procedures, data equipment, mechanisms, documentation, databases, archives, data storage devices, electronic communications and storage systems used by the Contractor in any way for the provision of the Services. The Contractor shall comply with all reasonable directions of the Client arising out of any such inspection, audit or review
- J. The Contractor shall fully comply with, and implement policies which are communicated or notified to the Contractor by the Client from time to time.
- K. The Contractor shall maintain complete and accurate records and information to demonstrate its compliance with this clause 25 and allow for inspections and contribute to any audits by the Client or the Client's designated auditor.
- L. The Contractor shall:-
  - (1) take all reasonable precautions to preserve the integrity of any Personal Data which it processes and to prevent any corruption or loss of such Personal Data;

- (2) ensure that a back-up copy of any and all such Personal Data is made [insert frequency] and this copy is recorded on media from which the data can be reloaded if there is any corruption or loss of the data; and
  - (3) in such an event and if attributable to any default by the Contractor or any Sub-contractor, promptly restore the Personal Data at its own expense or, at the Client's option, reimburse the Client for any reasonable expenses it incurs in having the Personal Data restored by a third party
- M. The Client does not consent to the Contractor appointing any third party processor of Personal Data under this agreement
- N. Save for clauses 25B, 25C, 25D (4) and 25E, all the obligations on the Contractor in this clause 25 relating to the processing of Personal Data shall apply to the processing of all Data.
- O. The provisions of this clause 25 shall survive termination and or expiry of this Agreement for any reason.

## 26. Additional Conditions

*Not used*

## **Schedule B: Services: The Specification**

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[ Insert when completing contract]

## Schedule C: Charges

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[Insert when completing contract]

## Schedule D: Service Levels

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

## Schedule E: Data Protection

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[complete when completing the contract]

Processing, Personal Data and Data Subjects

1. Processing by the Contractor

1.1 Subject matter of processing

1.2 Nature of processing

1.3 Purpose of processing

1.4 Duration of the processing

2. Types of personal data

3. Categories of data subject

## Appendix 7: Confidentiality Agreement

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

The Minister for Rural and Community Development and the Gaeltacht of Trinity Point, 10-11 South Leinster Street, Dublin 2, D02 EF85 (hereinafter “the Contracting Authority”) of the one part; and

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

### WHEREAS

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

The Contractor has been identified as the preferred bidder in the Competition.

- B. For the purposes of the Competition and any subsequent contract awarded thereunder (if any) (“the Contract”), certain confidential information as defined at clause 2 of this Agreement, will be furnished to the Contractor. The Confidential Information is confidential to the Contracting Authority.

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

1. The Contractor acknowledges that Confidential Information may be provided to them by the Contracting Authority and that each item of Confidential Information shall be governed by the terms of this Agreement.
2. For the purposes of this Agreement "Confidential Information" means:
  - 2.1 unless specified in writing to the contrary by the Contracting Authority all and any information (whether in documentary form, oral, electronic, audio-visual, audio-recorded or otherwise including any copy or copies thereof and whether scientific, commercial, financial, technical, operational or otherwise) relating to the Contracting Authority, the provision of services under the Contract and all and any information supplied or made available to the Contractor (to include agents, Subcontractors, customers and suppliers) for the purposes of the Contract (s); including personal data within the meaning of the Data Protection Laws; and
  - 2.2 any and all information which has been derived or obtained from information described in sub-paragraph 2.1.

3. For the purposes of this Agreement “Data Protection Laws” means all applicable national and EU data protection laws, regulations and guidelines, including but not limited to Regulation (EU) 2016/679 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (the “General Data Protection Regulation”), and any guidelines and codes of practice issued by the Office of the Data Protection Commission or other supervisory authority for data protection in Ireland from time to time
4. Save as may be required by law, the Contractor agrees in respect of the Confidential Information:
  - 4.1 to treat such Confidential Information as confidential and to take all necessary steps to ensure that such confidentiality is maintained;
  - 4.2 not, without the prior written consent of the Contracting Authority, to communicate or disclose any part of such Confidential Information to any person except:
    - i. to those employees, agents, Subcontractors and other suppliers on a need to know basis; and/or
    - ii. to the Contractor’s auditors, professional advisers and any other persons or bodies having a legal right or duty to have access to or knowledge of the Confidential Information in connection with the business of the Contractor

PROVIDED ALWAYS that the Contractor shall ensure that all such persons and bodies are made aware, prior to disclosure, of the confidential nature of the Confidential Information and that they owe a duty of confidence to the Contracting Authority; and shall use all reasonable endeavours to ensure that such persons and bodies comply with the provisions of this Agreement.

5. The obligations in this Agreement will not apply to any Confidential Information:
  - i. in the Contractor’s possession (with full right to disclose) before receiving it from the Contracting Authority; or
  - ii. which is or becomes public knowledge other than by breach of this clause; or
  - iii. is independently developed by the Contractor without access to or use of the Confidential Information; or
  - iv. is lawfully received from a third party (with full right to disclose).
6. The Contractor undertakes:
  - 6.1 to comply with all directions of the Contracting Authority with regard to the use and application of all and any Confidential Information or data (including personal data as defined in the Data Protection Laws);
  - 6.2 to comply with all directions as to local security arrangements deemed reasonably necessary by the Contracting Authority including, if required, completion of documentation under the Official Secrets Act 1963 and comply with any vetting requirements of the Contracting Authority including by police authorities;

- 6.3 upon termination of the Competition (or the Contract) for whatever reason to furnish to the Contracting Authority all Confidential Information or at the written direction of the Contracting Authority to destroy in a secure manner all (or such part or parts thereof as may be identified by the Contracting Authority) Confidential Information in its possession and shall erase any Confidential Information held by the Contractor in electronic form. The Contractor will upon request furnish a certificate to that effect should the Contracting Authority so request in writing. For the avoidance of doubt "document" includes documents stored on a computer storage medium and data in digital form whether legible or not.
7. The Contractor shall not obtain any proprietary interest or any other interest whatsoever in the Confidential Information furnished to them by the Contracting Authority and the Contractor so acknowledges and confirms.
8. The Contractor shall, in the performance of the Contract, access only such hardware, software, infrastructure, or any part of the databases, data or ICT system(s) of the Contracting Authority as may be necessary for the purposes of the Competition (and obligations thereunder or arising therefrom) and only as directed by the Contracting Authority and in the manner agreed in writing between the Parties.
9. The Contractor agrees that this Agreement will continue in force notwithstanding any court order relating to the Competition or termination of the Contract (if awarded) for any reason.
10. The Contractor agrees that this Agreement shall in all aspects be governed by and construed in accordance with the laws of Ireland and the Contractor hereby further agrees that the courts of Ireland have exclusive jurisdiction to hear and determine any disputes arising out of or in connection with this Agreement.
11. A. In this Agreement, the following terms shall have the meanings respectively ascribed to them:
- "Data Controller" has the meaning given under the Data Protection Laws;
- "Data Processor" has the meaning given under the Data Protection Laws;
- "Data Subject" has the meaning given under the Data Protection Laws;
- "Data Subject Access Request" means a request made by a Data Subject in accordance with rights granted under the Data Protection Laws to access his or her Personal Data;
- "Personal Data" has the meaning given under Data Protection Laws;
- "Processing" has the meaning given under the Data Protection Laws;
- B. The Contractor shall comply with all applicable requirements of the Data Protection Laws.

- C. The Parties acknowledge that for the purposes of the Data Protection Laws, the Contracting Authority is the Data Controller and the Contractor is the Data Processor in respect of Confidential Information which is Personal Data. Schedule A sets out the scope, nature and purpose of Processing by the Contractor, the duration of the Processing and the types of Personal Data and categories of Data Subject.
- D. Without prejudice to the generality of clause 11(B), the Contractor shall, in relation to any Confidential Information which is Personal Data:-
1. process that Personal Data only on the written instructions of the Contracting Authority;
  2. ensure that it has in place appropriate technical and organisational measures, reviewed and approved by the Contracting Authority, to protect against unauthorised or unlawful processing of Personal Data and against accidental loss or destruction of, or damage to, Personal Data, appropriate to the harm that might result from the unauthorised or unlawful processing or accidental loss, destruction or damage and the nature of the data to be protected, having regard to the state of technological development and the cost of implementing any measures (those measures may include, where appropriate, pseudonymising and encrypting Personal Data, ensuring confidentiality, integrity, availability and resilience of its systems and services, ensuring that availability of and access to Personal Data can be restored in a timely manner after an incident, and regularly assessing and evaluating the effectiveness of the technical and organisational measures adopted by it);
  3. ensure that all personnel who have access to and/or process Personal Data are obliged to keep the Personal Data confidential;
  4. not transfer any Personal Data outside of the European Economic Area unless the prior written consent of the Contracting Authority has been obtained and the following conditions are fulfilled;
    - i. appropriate safeguards are in place in relation to the transfer, to ensure that Personal Data is adequately protected in accordance with Chapter V of Regulation 2016/679 (General Data Protection Regulation);
    - ii. the data subject has enforceable rights and effective legal remedies;
    - iii. The Contractor complies with its obligations under the Data Protection Laws by providing an adequate level of protection to any Personal Data that is transferred; and
    - iv. The Contractor complies with reasonable instructions notified to it in advance by the Contracting Authority with respect to the processing of the Personal Data;

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

1. take all reasonable precautions to preserve the integrity of any Personal Data which it processes and to prevent any corruption or loss of such Personal Data;
  2. ensure that a back-up copy of any and all such Personal Data is made [insert frequency] and this copy is recorded on media from which the data can be reloaded if there is any corruption or loss of the data; and
  3. in such an event and if attributable to any default by the Contractor or any Sub- contractor, promptly restore the Personal Data at its own expense or, at the Contracting Authority's option, reimburse the Contracting Authority for any reasonable expenses it incurs in having the Personal Data restored by a third party.
- M. The Contracting Authority does not consent to the Contractor appointing any third party processor of Personal Data under this agreement.
- N. Save for clauses 11B, 11C, 11D(4) and 11E, all the obligations on the Contractor in this clause 11 relating to the processing of Personal Data shall apply to the processing of all Confidential Information

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

## **Schedule A to the Confidentiality Agreement: Data Protection**

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*[complete when completing the confidentiality agreement]*

### Processing, Personal Data and Data Subjects

1. Processing by the Contractor
  - 1.1 Subject matter of processing
  - 1.2 Nature of processing
  - 1.3 Purpose of processing
  - 1.4 Duration of the processing
2. Types of personal data
3. Categories of data subject