



Coimisiún na Scrúduithe Stáit
State Examinations Commission

Call for Tender dated 18 September 2026

For the Provision of Services to

Print and Supply Scannable Answer Books and
Scannable Documents

to the

State Examinations Commission

Tender Deadline 15:00 hours on 21 October 2026

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**Tender Response Document (TRD), Annexes 1 to 14 are separate documents accompanying this CFT on eTenders site*

PART 1: INTRODUCTION

1. INTRODUCTION

- 1.1** The State Examinations Commission (the “Contracting Authority”) invites tenders (“Tenders”) to this Request for Tender (CFT) from operators for the provision of the goods/services as described in Appendix 1 of this CFT (the “Goods/Services”).
- 1.2** In summary, the Service comprises the provision of Print and Supply of Scannable Answer books and Scannable Documents to the State Examinations Commission (SEC) . Full requirements are listed in Appendix 1 of this CFT.
- 1.3** This public procurement Competition (the “Competition”) will be conducted in accordance with the open procedure under the European Union (Award of Public Authority Contracts) Regulations 2016 (Statutory Instrument 284 of 2016) (the “Regulation”). Any Contract that will result from this Competition (the “Goods/Services Contract”) will be issued to a single services provider for 36 months (“the Term”).
- 1.4** The Contracting Authority reserves the right to extend for a period or periods of up to 12 months with a maximum of two such extensions or extensions on the same terms and conditions, subject to the Contracting Authority’s obligations at law.
- 1.5** The Contracting Authority estimates that the expenditure on the Goods and Services to be covered by the proposed Goods/Services Contract may amount to some €1,200,000 (excluding VAT) over the Term. Tenderers must understand that this figure is an estimate only based on current, and future expected, usage. The Goods/Services Contract will be awarded on a fixed fee basis, following the Most Economically Advantageous Tender (MEAT) tender award process.
- 1.6** The Contracting Authority policy seeks to encourage participation on a fair and equal basis by Small and Medium Enterprises (“SMEs”) in this Competition. SMEs that believe the scope of this Competition is beyond their technical or business capacity are encouraged 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 contracts, agreements or arrangements that result from this Competition and therefore increase their social and economic benefits.

Larger enterprises are also encouraged to consider the practical ways that SMEs can be included in their proposals to maximise the social and economic benefits of the contracts that result from this tendering exercise.

PART 2: INSTRUCTION TO TENDERERS

2.1 INTRODUCTION TO THIS CFT

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. Tenders must form their own conclusions about the solution needed to meet the requirements set out in this CFT and may wish to consult their legal advisors.

2.1.2 The Contracting Authority does not bind itself to accept the lowest priced, or any, tender.

This CFT does not constitute an offer or commitment to enter into a Goods/Service Contract.

No contractual rights in relation to the Contracting Authority will exist unless, and until, a formal written Goods/Service 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 Goods/Services Contract being executed by, or on behalf of, the Contracting Authority.

The award of a Goods/Service Contract does not confer exclusivity on the successful Tenderer.

2.1.3 This CFT supersedes, and replaces, all previous documentation, communications and correspondence between the Contracting Authority and Tenders. 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 or practice issued by the Office of the Data Protection Commissioner or other supervisory authority for the 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 CFT.

The Tenderer, as Data Controller in respect of any Personal Data provided by it in its Tender, is required to confirm in the statement necessary 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 www.etenders.gov.ie website, for the purposes of the participation of the Tenderer in this Competition or that the Tenderer otherwise has a legal basis for providing such Personal Data to the Contracting Authority for the purposes of its participation in this Competition.

2.1.5 The Contracting Authority would refer Tenderers in particular to the provisions of Regulation (EU) 2022/1031 on the access of third country economic operators, Services and services to the Union’s public procurement and concession markets and procedures supporting negotiations on access of Union economic operators, Services 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 5 of the CFT.

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 that 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 CFT requires to be submitted with their Tender;
- (c)** To follow the format of this CFT and respond to each element in the order as set out in this CFT;
- (d)** To conform to and comply with all instructions and requirements set out in this CFT;
- (e)** To submit the statement required under paragraph 2.4 below; and
- (f)** Not to alter or edit this CFT **in any** way.
- 2.2.2** Without prejudice to the generality of paragraph 2.2.1, failure to comply with paragraphs 2.6.1, 2.6.2 or 2.6.3 below will render the Tender non-compliant and it will be rejected.

2.3 SERVICE CONTRACT

- 2.3.1** Tenderers should note the terms and conditions of the Goods/Service Contract at Appendix 6 to this CFT.
- 2.3.2** Tenderers are required to confirm their acceptance of the terms and conditions of the Goods/Service Contract in the Tender Statement at Appendix 3, when returning their tender in the Tender Response Document. Tenderers may not amend the Goods/Services Contract.

2.4 ACCEPTANCE OF CFT REQUIREMENTS

Each Tenderer is required to accept the provisions of this CFT. **All TENDERERS MUST RETURN**, with their Tender, a scanned signed 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 or decipher the content of the TRD, Tenders may be requested to re-submit. Tenders may not amend the Tenderer's Statement.

2.5 CONSORTIA AND PRIME/SUB-CONTRACTORS

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 CFT, 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 Goods/Services Contract, the successful Tenderer shall be required to designate a single entity who will carry overall responsibility for the Goods/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 post box available on www.etenders.gov.ie. Only Tenders submitted to the electronic post box will be accepted. Tenders submitted by any other means (including but not limited to by email, fax, post or hand delivery) will not be accepted.

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

Tenderers must note 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.

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, if 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 **15:00 hours on 21 October 2026** (the “Tender Deadline”). Tenders that are received late WILL NOT be considered in this competition.
- 2.6.3** Tenders must be submitted in English.
- 2.6.4** Tenderers may submit more than one Tender. However, any second or subsequent tender must be prepared and presented under separate cover in a separate Tender.
- 2.6.5** All Tenders submitted in soft copy must be compiled such that they can be read easily. The Contracting Authority is not responsible for corruption in electronic documents. Tenders 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 this CFT must be directed to the messaging facility on www.etenders.gov.ie. Queries will not be accepted later than, **15:00 hours on 7 October 2026** unless otherwise published by the Contracting Authority. For the avoidance of doubt, Tenderers may not contact the Contracting Authority directly regarding any aspect of this Competition.
- 2.7.2** All responses to queries will be issued by the Contracting Authority via the messaging facility on www.etenders.gov.ie. Where appropriate, questions may be amalgamated. Tenderers should note that the Contracting Authority will not make responses to individual Tenderers privately.
- 2.7.3.** The Contracting Authority reserves the right to issue or seek written clarifications.
- 2.7.4** The Contracting Authority reserves the right, at any time before the Tender Deadline, to update or amend the information contained in this document and/or to extend the Tender Deadline. Participating Tenderers will be informed of any such amendment or extension through the eTenders website.
- 2.7.5** Tenderers should ensure that they register their interest in this Competition, by clicking on the “Accept” button on www.etenders.gov.ie, in order to receive all responses to queries and other updates in relation to this Competition.

2.8 TENDERING COSTS

- 2.8.1** All costs and expenses incurred by Tenderers relating to their participation in this Competition including, but not limited to, site visits, demonstrations and /or presentations shall be borne by and are a matter for discharge by the Tenderers exclusively.
- 2.8.2** Without prejudice to the generality of paragraph 2.8.1, all costs and expenses relating to the supply of samples for purposes of tendering and their return after evaluation or participation in field trials (if any) will be borne exclusively by the Tenderer.

2.9 CONFIDENTIALITY

- 2.9.1** All documents, drawings, data, statistics, information, patterns, samples, or material disclosed or furnished by the Contracting Authority to Tenderers during the course of this public procurement Competition:
- a) Are furnished for the sole purpose of replying to this CFT 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 sub-contractors) engaged or consulted by the Tenderer; and
 - d) Must be returned immediately by the Contracting Authority upon cancellation or completion of this Competition if so, requested by the Contracting Authority.

2.10 PRICING

- 2.10.1** All Tenderers must complete the Pricing Schedule, indicated in Appendix 2 to this CFT, and attached as a separate document for submission with the TRD.
- 2.10.2** All prices quoted must be all-inclusive (i.e., including but not being limited to, all costs/expenses/indexation), 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 90 days commencing from the Tender Deadline.
- 2.10.4** Any currency variation occurring over the Term of the Goods/Services Contract shall be borne by the Tenderer.
- 2.10.5** Payments for the Goods and Service provided pursuant to this CFT shall be subject to, and be made in accordance with, the terms and conditions set out Goods/Service Contract at Appendix 6 to this CFT.
- 2.10.6** Tenderers should note that prices may be increased or decreased only on the first anniversary of the Effective Date of the Goods/Services Contract (as defined in the Goods/Services Contract) and on subsequent anniversaries of the Effective Date thereafter, and then only by the percentage by which the Harmonised Consumer Price Index has increased or decreased in the edition of that index published by the Central Statistics Office most recently prior to that anniversary.

2.11 ENVIRONMENTAL, SOCIAL AND LABOUR LAW

- 2.11.1.** In the performance of any Goods/Service Contract awarded, the successful Tender(s), and their sub-contractors (if any) shall be required to comply with all applicable obligations in the field of environmental, social, and labour law that apply at the place where the Goods and Service is 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.** Tenders 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 transfer of undertakings, business or parts of undertaking of business and as implemented in Irish law by statutory Instrument S.I. No. 131 of 2003 European Communities (Protection of Employees on Transfer of Undertakings) Regulations 2003 and to indemnify the Contracting Authority for any claim arising or loss of 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 the 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 Goods/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 Goods/Services.

2.12 PUBLICITY

No publicity regarding this Competition, or any Goods/Service contract, pursuant to this Competition is permitted unless, and until, the Contracting Authority has given their prior consent to the relevant communication.

2.13 REGISTERABLE INTEREST

Any Registerable Interest involving the 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 'Registerable 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 to download at www.irishstatutebook.ie. The Contracting Authority will, in its absolute discretion, decide on the appropriate course of action, which may in appropriate circumstances include eliminating a Tenderer from this Competition or terminating any Goods/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 CFT

Where reference is made in this CFT to a particular make, source, process, trademark, type or patent, this is not to be regarded as a de facto requirement. All such references are to be given the meaning

generally understood in the relevant industry and operational environment. In all such cases it should be understood that the reference in question is accompanied by the words "or equivalent".

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 Goods/Services Contract(s) pursuant to this Competition that the successful Tenderer(s) shall, for the term of any such contract(s), comply with all EU and domestic taxation law. Tenderers are referred to www.revenue.ie for further information. Prior to the award of any Goods/Services Contract(s) arising out of this Competition the successful Tenderer shall be required to produce a 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 Tender 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, Sub-contractor or individual employee(s) or agent(s) of a Tenderer or Sub-contractor(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 Goods/Services Contract entered into by a Tenderer.

2.19 WITHDRAWAL FROM THIS PUBLIC PROCUREMENT COMPETITION

Tenderers are required to notify the Contracting Authority immediately via the eTenders website at any stage they decide to withdraw from this Competition.

2.20 INSURANCE

2.20.1 The successful Tenderer shall be required to hold for the Term of the Goods/Service Contract the following insurances:

Type of Insurance	Indemnity Limit
Employer's Liability	€12.7ml limit for any one claim or series of claims arising out of a single occurrence, per insurance year.
Public Liability	€6.5ml limit for any one claim or series of claims arising out of a single occurrence, per insurance year.
Product Liability	€1.2ml limit for any one claim or series of claims arising out of a single occurrence, per insurance year.
Professional Indemnity	€1.2ml for any one claim or series of claims arising out of a single occurrence, per insurance year (for each and every claim excluding defence costs).
Cyber Liability	€1.2ml for any one claim or series of claims arising out of a single occurrence, per insurance year.

2.20.2 By signing the Tender's Statement at Appendix 3 Tenderers confirm that if awarded a Goods/Service Contract under this Competition they will:

- a) from the effective date of the Goods/Service Contract (as defined in the Goods/Service contract), obtain and hold the types and levels of insurance as specified at Paragraph 2.20.1;
- b) operate within the territorial limits and jurisdiction of its insurance policies including the Republic of Ireland;
- c) confirm that they are not aware of an exclusion, 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;

Submit 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 Goods/Service contract.

2.20.3 The successful Tenderer will, during the Term of the Goods/Services Contract, be required to:

- a) Immediately advise the Contracting Authority and if applicable the Client of any material change to its insured status;
- b) Produce proof of current premiums paid upon request;
- c) Produce valid certificate of insurance.

2.21 SITE VISIT

“Not Used”

2.22 SAMPLES

2.22.1 For evaluation purposes Tenderers must supply 50 hard copy samples of four scannable documents as detailed below and in **Annex 3** to this CFT:

- (i) LC Generic 36-page A4 Answer book with barcodes on every page;
- (ii) LC Supplementary lined 4-page A4 Answer book with barcodes on every page;
- (iii) LC WP LA Script Form A4 Duplex with barcodes on every page;
- (iv) JC Graph Paper 4-page A4 with barcodes on every page.

The samples must be:

- A full print of the PDF sample file(s) supplied by the Contracting Authority;
- Incorporate all scannable features specified by the Contracting Authority;
- Incorporate the required barcodes and barcode sequences; and
- Otherwise comply with the sample requirements specified in **Annex 3**.

The samples provided as part of the evaluation process will be submitted to our On-line Marking Service (OLM) Team for evaluation. These samples will be assessed for their suitability by processing and scanning for test purposes. It is a minimum requirement of this tender that all samples scan on the first pass without issue.

All samples should be shrink wrapped in batches as specified in **Annex 3**. Where the sample is a one-page document it needs to be packaged appropriately to ensure it does not bend and is fully scannable.

Samples must be received by the Contracting Authority no later than the Tender Deadline: **15:00 hours on 21 October 2026**. Samples received after the Tender Deadline may not be considered.

Samples must be securely packaged and clearly marked:

SAMPLES – PROCUREMENT COMPETITION

CFT for the Print and Supply of Scannable Answer books and Scannable Documents

DO NOT OPEN – PROCUREMENT COMPETITION

and delivered to:

Procurement Section

State Examinations Commission

Cornamaddy

Athlone

Co. Westmeath

N37 TP65

Ireland

Requirements (a) to (i) below not used

In circumstances where there is a requirement to provide samples under the Qualification Criteria, Tenderers must, when submitting any sample(s), furnish such documentation and manuals (if any) relating to (but not being limited to) the:

- a). operation;
- b). certification;
- c). quality control;
- d). installation;
- e). care;
- f). maintenance;
- g). repair;
- h). testing;
- i). training;
- j). safety;
- k). storage; and Disposal of samples

2.22.2 The Tenderer must in its Tender, provide a clear and complete list of all documentation and manuals applicable to any sample, or alternatively, where no such documentation

or manuals exist, the Tenderer must provide a statement to that effect. All documentation and manuals submitted (where requested) must be in either the Irish or the English language only.

2.22.3 The Tenderer will be responsible for the insurance and transportation of samples used in presentations, demonstrations or field trials.

2.22.4 Any samples required must be furnished upon written request of the Contracting Authority.

PART 3: COMPLIANT TENDERS AND AWARD CRITERIA

3.1 COMPLIANT TENDERS

Only those Tenders who have:

- a)** submitted compliant Tenders pursuant to paragraph 2.2 above; and
- b)** Declared by way of eESPD 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 the Tenderer are sufficient to demonstrate its reliability despite the existence of any such relevant exclusion ground, and
- c)** Declared by way of eESPD that they satisfy the selection criteria for this Competition as set out in part 3.2 below (the "Selection Criteria")

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

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

Tenders 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 eESPD 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 Goods/Services 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 submit a separate eESPD in respect of such Subcontractor completing those sections of the ESPD which are specified in section 2.D of the ESPD for this Competition.

The Contracting Authority may decide to examine Tenders before verifying the absence of exclusion grounds in Regulation 57 of the Regulation (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 5;

- (ii) Evidence to the effect that measures taken by the entity concerned are sufficient to demonstrate its reliability despite the existence of a relevant Exclusion Ground; and
- (iii) 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.

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 CFT and
- (ii) the absence of Exclusion Grounds, or its reliability despite the existence of a relevant Exclusion Ground,

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 CFT; 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,

it shall be excluded from further participation in this competition *unless* it replaces the Subcontractor with one which meets all relevant requirements of this CFT.

3.2 SELECTION CRITERIA

Tenders will either pass OR fail each of the Selection Criteria set out in this Part 3.2 below. 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 (PASS/FAIL)

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

(i) ANNUAL TURNOVER (PASS/FAIL)

Tenderers must declare in the Tender Response Document or by way of eESPD that they satisfy the minimum annual turnover thresholds set out below and that they are able, upon request and without delay, to provide the supporting documentation specified below to the Contracting Authority in each case:

Tenderers who are applying must have a minimum annual turnover of not less than €1.2m for each of the last three (3) financial years (or, if the date of establishment was more recent, for the years the Tenderer has been established).

Failure to demonstrate that this minimum annual turnover requirement is satisfied will result in the Tenderer being awarded a **fail** and will be excluded from participating any further in this Competition.

Tenderers must provide the supporting documentation specified above without delay when requested by the Contracting Authority. However, where the Tenderer is unable, for a valid reason, to provide the specified documentation, the Tenderer must inform the Contracting Authority of the valid reason as to why the documentation cannot be supplied and, if the Contracting Authority considers the reason given to be valid, provide such other suitable alternative documentation to prove, to the satisfaction of the Contracting Authority, their economic and financial capacity.

3.2. B TECHNICAL & PROFESSIONAL ABILITY (PASS/FAIL)

Tenderers must declare in the Tender Response Document or by way of eESPD that they satisfy the technical and professional requirements set out below and provide the supporting documentation specified below to the Contracting Authority in each case with their Tender:

(i) PREVIOUS EXPERIENCE (PASS/FAIL)

Tenderers must declare in the TRD that they have successfully delivered a minimum of **two (2)** example contracts for Goods/Services of a similar in nature and scope to the Goods/Services required in the relevant described at Appendix 1 of this CFT.

The entity that provided the goods and performed the Services under the relevant reference contract must be the entity proposed to provide the relevant Goods/Services under the Goods/Services Contract.

Tenderers must ensure that they provide sufficient information to allow the Contracting Authority to judge the similarity of the reference contracts to the Goods/Services required under Appendix 1 of this CFT. For the avoidance of doubt, the contract examples provided must provide a comparability narrative that demonstrates the Tenderer's previous experience relating to the Goods/Service required as set out in Appendix 1 of this CFT. Where Goods/Services are on-going, contracts which have been performed up to the closing date for receipt of tenders will be considered for evaluation.

Tenderers must provide in respect of each contract example cited at Paragraph 3.2.B(i) above, Tenderers must declare in the TRD that a satisfactory reference can be provided from the customer organisation confirming the information provided by the Tenderer is true and accurate. The contact's name and details of each referee must be completed in the TRD.

Upon request and without delay, references must be provided on the reference organisation's official/company letter head(s). The customer organisation should be informed that the example contract has been used, and the Contracting Authority may contact the referee for verification purposes without prior notice being given to the Tenderer.

Tenderers may use the same example contracts and references if applicable to a Core Consulting Practice Area(s) provided that the example contracts meet the requirements of the relevant Core Consulting Practice Area(s).

Tenderers must declare by way of this TRD that they satisfy the technical and professional requirements set out in (a) to (g) below:

- (a) all Tenderers provide a statement of the resources, including staff skill levels, premises, plant or technical equipment available for carrying out all the operations required for the supply and delivery of scannable answer books and scannable documents. Tick box if in agreement [☐]
- (b) The Tenderers must indicate the site(s) where it is intended to carry out all typesetting, printing, finishing, packing and storage pending delivery to the SEC. Tick box if in agreement [☐]
- (c) The Tenderer must provide a statement of the company's technical facilities, including their approach to quality management. The Tenderer must declare that they have the technical capacity to undertake the contract in accordance with this CFT and detailed memorandum of procedures. Tick box if in agreement [☐]
- (d) The Tenderer must provide a detailed statement of the company's security system and protocol governing the confidential and secure typesetting, printing, finishing, storage and delivery of scannable answer books and scannable documents. Tick box if in agreement [☐]
- (e) The Tenderer must have the capacity to typeset and work in the Irish language Tick box if in agreement [☐]
- (f) The Tenderer must outline in their tender, their ability and arrangements for the provision of acceptable alternative backup resources to meet the requirements and delivery schedule of the contract, in the event of, for example unforeseen machinery failure, industrial action or natural disaster. Specific details of alternative resources, including an outline of capacity and security arrangements must be outlined. Confirmation of disaster recovery and business continuity processes should be provided Tick box if in agreement [☐]
- (g) The successful tenderer may be requested to submit a price for the operation not covered by the contract. If such a request is made, a price for the operation shall be agreed between the successful Tenderer and the SEC prior to the work being put in hands. Tick box if in agreement [☐]

Note Tenderers must agree to A -G inclusive. Tenderers must supply supporting documentation specified above without delay when requested by the Contracting Authority. Tick box if in agreement [☐]

Where the Tenderer fails or is unable to provide the specified documentation or if the information provided does not demonstrate that the Tenderer has provided the Goods/Services as described above within the last five (5) years, the Tenderer will be eliminated from the Competition.

(ii) COMPANY PROFILE AND ORGANISATIONAL CAPACITY (MANPOWER) (PASS/FAIL)

Using the template provided in the Tender Response Document, Tenderers are required to provide the following information about their business and the personnel who will be involved in carrying out any Goods/Service Contract awarded, including:

- Company profile and background regarding current business activities.
- Address of office from which the proposed Goods/Services may be provided.
- Details of organisation structure

(iii) HEALTH & SAFETY (PASS/FAIL)

Tenderers must confirm that they have a Health and Safety Policy and provide a copy of their organisation's Health and Safety Policy and Statement on request.

Using the template provided in the Tender Response Document, Tenderers must demonstrate that they have a procedure that ensures all staff have completed health and safety training and have access to on-going health and safety training.

(iv) ENVIRONMENTAL POLICIES (PASS/FAIL)

Tenderers must confirm that they have an environmental policy and systems and provide a copy of their organisation's environmental policies and systems on request.

Using the template provided in the Tender Response Document, Tenderers must demonstrate that they have a procedure that ensures compliance with all environmental and waste management legislation, and that all staff or third parties are aware of the procedures and are implementing them.

(v) QUALITY (PASS/FAIL)

An outline of the Tenderer's documented quality system. If no documented system exists, define how conformance to customer requirements is assured.

Using the template provided in the Tender Response Document, Tenderers must demonstrate that they have policies and procedures for ensuring a high level of customer service, including how they handle and resolve any complaints.

3.2. B Failure to demonstrate to the Contracting Authorities' satisfaction the successful delivery of two (2) contract of a similar nature as set out in Appendix 1 of this CfT, provide a company profile and organisational capacity, confirm that they have a Health and Safety Policy and outline their quality standards within the timeframe specified will result in the tenderer being awarded a fail and will be eliminated from the Competition.

In the event of a fail being awarded for this question, the Tenderer or Candidate will be excluded from the Competition. The Contracting Authority may contact any or all referees/contractors whose details are provided below without prior notice being given to the Tenderer.

3.3 AWARD CRITERIA

Only those Tenderers who have qualified in accordance with Paragraph 3.1 and 3.2 of this CFT will proceed to be evaluated under this Paragraph 3.4. In submitting a TRD, the onus is on the Tenderer to ensure that their application clearly communicates how it meets specified criteria, as per Appendix 1.

The Goods/Service Contract will be awarded on the basis of the Most Economically Advantageous Tender (MEAT).

Print and Supply of Scannable Answer Books and Scannable Documents to the State Examinations Commission.

No.	Award Criteria	Weighting	Maximum Marks Available	Minimum marks Required (60%)
A	Proposed project methodology to meet SEC requirements (See Appendix 1 and sections 3.2b of the CFT)	20%	200	120
B	Methodology for the Delivery of Quality Samples - Tenderers must supply 50 samples of four scannable documents to meet SEC requirements (See Section 2.22 of the CFT)	15%	150	90
C	Methodology for Delivery and Turnaround times (see Appendix 1, of this CFT)	15%	150	90
D	Quality of Tenderer's approach in relation to Contract Management.	10%	100	60
E	Sustainable approach to the production and distribution of Scannable Answer books and Scannable documents. Please include in your response to this CFT your proposal to meet this criterion.	5%	50	N/A
F	Proposed costs in the format set out in Pricing Schedule (Annex 2 and Appendix 2, of this CFT.	35%	350	N/A
	Total	100.00%	1000	

3.4 EVALUATION OF QUALITATIVE AWARD CRITERIA

- 3.4.1** The quality criteria will be evaluated solely against the information provided by Tenderers in the Tender Response Document ("TRD"). No reference will be made to information from any other source.
- 3.4.2** Each of the award criteria will be assessed on an overall basis. A mark will be awarded to each criterion in accordance with the scoring methodology set out below. The individual mark within each band will be allocated based on the respective merit of the response within the category. A minimum score of 60% is required to pass each criterion. **A Tenderer not receiving the minimum 60% score required for any criterion will not be evaluated further and will be eliminated from the Competition.**

- 3.4.3** Qualitative award criteria will be assessed first. Tenderers that have not achieved the required minimum % score for any of qualitative award criteria will be eliminated from the Competition without having their costs assessed and their proposed prices will not be considered for the purposes of cost evaluation.
- 3.4.4** Those Tenderers that score a mark equal to or in excess of the minimum % score required for each of the award criteria will proceed to have their Cost evaluated.

Figure 2: Scoring Methodology

BAND	SCORE RANGE	MEANING
5	90-100%	A response that demonstrates an excellent understanding of the requirements of the CFT. The response provides great clarity and gives a comprehensive, detailed and convincing assurance that the Tenderer will deliver goods/service to an excellent standard. The response that fully meets and exceeds requirements.
4	80-89%	A response that demonstrates a very good understanding of the requirements of the CFT. The response is of a high standard and provides comprehensive detail and convincing assurance that the Tenderer will deliver goods/service to a very high standard but contains a few, mostly minor, weaknesses and/or does not provide sufficiently comprehensive or convincing assurance to award a higher mark.
3	70-79%	A response that demonstrates a good understanding of the requirements of the CFT. The response gives detailed and mostly convincing assurance that the Tenderer will deliver goods/service to a high standard but contains a number of weaknesses and/or does not provide sufficiently comprehensive or convincing assurance to award a higher mark.
2	60-69%	A response that demonstrates a reasonable understanding of the requirements of the CFT. The response gives acceptable assurance that the Tenderer will deliver goods/service to an adequate standard but contains a number of weaknesses, that does not provide convincing assurance to award a higher mark.
Less than 60% is unacceptable and considered ineligible from further consideration		
1	1-59%	A response where serious reservations exist in relation to the delivery of the goods. The response lacks convincing detail and there is a significant risk that the contract would be unsuccessful. This may be because, there is insufficient detail in relation to service to be provided, has fundamental flaws, or seriously lacks credibility with a high risk of non-delivery.

3.4.5 EVALUATION OF COST

The Tender whose Total Cost of the Pricing Schedule in Appendix 2 is the lowest will be awarded the maximum marks available for the award criterion cost. All other Tenders will be marked relative to the lowest Total Cost by using the following formulas.

Evaluation of Cost Formula	$\frac{\text{Lowest Tendered Rate}}{\text{Tendered Rate under evaluation}} \times \text{Maximum Marks available}$
---------------------------------------	---

Where a Tenderer has NOT submitted a compliant response to the cost element of the Award Criteria, it will be eliminated from the Competition. Examples of non-compliant responses include:

- Tenderers failing to complete the Pricing Schedule at Appendix 2 in accordance with the requirements set out therein.

3.4.6 Subject to paragraphs 2.1 (Important Notices) and 3.7 (Standstill Period) of this CFT, appointment to the framework of the highest ranked Tenderer(s) (as determined by paragraph 3.3.1) will be conditional upon:

- (a) the Tenderer submitting the following evidence in respect of the Tenderer (including the Prime Contractor and any Subcontractors, as applicable in accordance with paragraph 3.1 above) to the extent not already provided, within seven (7) days of request by the Contracting Authority: (i) a Declaration in the form attached at Appendix 4; (ii) if applicable, evidence to the effect that measures taken by the entity concerned are sufficient to demonstrate its reliability despite the existence of a relevant Exclusion Ground; (iii) all or any of the supporting documents specified at paragraph 3.2; and
- (b) the evidence specified at paragraph 3.5.6(a) above demonstrating that each entity concerned meets the Selection Criteria and the compliance requirements specified at paragraph 3.1 above.
- (c) The award of any contract is subject to the successful tenderer meeting the required specifications and standards set out in this CFT. Should the required specifications and standards not be met, the Contracting Authority reserves the right to award any contract to the next highest-ranked Tenderer.

3.5 PRESENTATION OF PROPOSAL

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.

3.6 STANDSTILL

- 3.6.1** 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) 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 (the "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.
- 3.6.2** 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.

3.7 RETURN OF SIGNED CONTRACTS

- 3.7.1** The successful Tenderer must sign and return the Goods/Services Contract and the Confidentiality Agreement, both in duplicate, to the Contracting Authority no later than fourteen (14) calendar days from the date of expiry of the Standstill Period unless notified otherwise in writing by the Contracting Authority. A signed Goods/Services Contract returned by the successful Tenderer is not binding on the Contracting Authority until the Contracting Authority has signed the Goods/Services Contract in accordance with paragraph 2.1.2 above.
- 3.7.2** Where the signed Goods/Services Contract and the Confidentiality Agreement have not been received by the Contracting Authority within the period as specified at paragraph 3.7.1 then the Contracting Authority may proceed to award the Goods/Services Contract to the next highest-ranked Tenderer in accordance with paragraph 3.7.1 above.

APPENDIX 1: REQUIREMENTS AND SPECIFICATIONS

Tenders must address each of the issues and requirements in this part of the CFT and submit a detailed description in each case within the separate Tender Response (TRD) document which demonstrates how these issues and requirements will be dealt with/met and their approach to the proposed delivery of the Goods/Services. 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

The Selection and Award Criteria are set out at Part 3 of this CFT

1. OVERVIEW

The State Examinations Commission (SEC) is a non-departmental public body under the aegis of the Department of Education and Youth. Based in Cornamaddy, Athlone, Co. Westmeath, the SEC is responsible for the operation of all aspects of the Leaving Certificate established, Leaving Certificate Applied and Junior Cycle Examinations including written, oral, aural and practical components and assessed coursework in some subjects.

2. GOODS/SERVICES REQUIRED APPROACH AND METHODOLOGY

The Contracting Authority requires the Goods/Services of a single provider, with suitable experiences and qualified resources, to provide Scannable Answer Books and Scannable Documents to the State Examinations Commission.

The required Goods/Services must meet the requirements as set out in Appendix 1 to this CFT and the relevant Annexes forming part of the Competition Documents.

The successful Tenderer shall be responsible for ensuring that all Goods supplied under the Contract are produced consistently in accordance with the approved specifications and are suitable for their intended purpose, including processing through the SEC's scanning and Online Marking processes.

3. WARRANTY /POST WARRANTY /SUPPORT

The items should come with a 2-year or best standard warranty to cover the integrity of the product. Tenderers must supply the following details:

- a)** Level of cover and term of warranty on all products.
- b)** Details of after-sales service provided.

3.1 Post Warranty /Support

Tenders should detail their post warranty support and are required to outline their after-sales service where items do not meet 2 year or best standard warranty as detailed at Paragraph 3 above.

4 DELIVERY

All products should be delivered within designated timeframes of receipt of a purchase order.

Tenders should detail the delivery time for standard and urgent supplies as set out at Paragraph 6 in Appendix 1 of this CFT.

3. RESOURCES PROPOSED

The Tenderer should provide details of the proposed key personnel to be allotted to the provision of the required Goods/Service. In doing so, the tenderer should show a commitment to continuous professional development to ensure staff are sufficiently skilled in new technologies and approaches.

Tenderers must demonstrate that the person(s) proposed for delivering the required Goods/Services have the necessary experience and qualifications. In order to satisfy that requirement, tenderers must provide the following with their tender in the format outlined in the TRD:

- A short biographical summary for each person who will be involved in the delivery and/or co-ordination of the Goods/Services including name, length of time and position held with the tenderer company, relevant qualifications and training.
- List of previous contracts delivered by each person that the tenderer believes is of direct relevance and benefit to the Contracting Authority's requirements. Please include no more than a maximum of four (4) such examples for each person.
- The proposed role of each person.

Tenderers are required to show how the team will be balanced to provide the full scope of the Goods/Services required and have the breadth and range of experience and expertise to deliver the required Goods/Services.

4. CONTRACT MANAGEMENT

Tenderers must describe in a clear and comprehensive manner their proposed methodology for how they will effectively and efficiently manage the proposed Goods/Services Contracts

Responses should take into account your contract management, change management and conflict resolution methodologies, but not be limited to the following:

- a. Describe your contract management methodology, demonstrating your proposed approach to performance measurement, time management, quality assurance mechanisms, issues management and escalation procedures.
- b. Explain how you would manage Contracting Authority's expectations concerning:
 - changing requirements during a project and/or a programme,
 - project and/or programme deadlines, outcomes and ownership, and
 - how value for money would be achieved in relation to Goods/Service deliverables.

- c. Briefly outline your conflict resolution methodology, including any escalation procedures and remedial actions, demonstrating how these proposed corrective actions would prevent future re-occurrences over the lifetime of the proposed contract.
- d. Please provide a simple flowchart for above procedures.
- e. Provide details of how your organisation's daily work practices are in line with any external Quality Management system (QMS) e.g. ISO 9001 or equivalent the prior written consent of the Contracting Authority

Contracting Authority requires tenderers to nominate a dedicated contract manager who will act as the main point of contact for the duration of the contract. This person shall have the authority to deal with all matters in relation to the contract and be responsible for the satisfactory delivery of the Goods/Services required. The duties of the account manager will include the following:

- Overall responsibility for a good working relationship with Contracting Authority;
- Meet as and when required to review the relationship and examine performance;
- Deal with disputes, complaints or concerns that cannot be adequately resolved;
- Regularly give and receive both formal and informal feedback on the relationship, workloads, processes, areas and suggestions for improvement and cost savings;
- Proactively discuss with Contracting Authority ways of improving efficiency regarding Goods/Service delivery in general.

NOTE: Tenderers will note that account management activities will be non-billable (i.e. Contracting Authority will not pay separately for account management activities). Contracting Authority will nominate authorised staff to liaise with the successful tenderer and delegate as required.

Where possible, there should be continuity of personnel for the full Term of any Goods/Service Contract awarded. Contingency arrangements must be immediately put in place for unforeseen occurrences involving Key Personnel at each Professional Grade Level. No change shall be made to the identity of the dedicated Key Personnel without the prior written consent of the Contracting Authority

5. SUSTAINABILITY

The State Examinations Commission wishes to comply with the government's Green Public Procurement strategies and action plans in all their procurement. (See <https://www.gov.ie/en/publication/7b1f8-green-public-procurement-strategy-and-action-plan-2024-2027/>)

To this end, tenderers should demonstrate how their environmentally sustainable processes will be embedded in their approach and methodology to the delivery requirements set out in Appendix 1 of this CfT. Where possible tenderers should detail if there are measurable environmental impacts in their approach to the delivery of the Goods/Services that will positively affect the natural environment and climate change.

Tenderers should describe the environmental measures and measurable commitments they propose to apply to the performance of the Contract in relation to:

- Sustainable paper and materials;
- Production waste and recycling;
- Packaging and
- Transport and delivery.

Marks will be awarded for specific, measurable, and verifiable environmental commitments that demonstrate environmental benefits in the performance of the Contract.

Tenderers shall provide supporting evidence for material environmental claims.

General environmental policies or statements that do not demonstrate measurable benefits specific to this Contract will attract limited marks.

6. SPECIFIC REQUIREMENTS IN RELATION TO PRINT AND SUPPLY OF SCANNABLE ANSWER BOOKS AND SCANNABLE DOCUMENTS

The requirement is for the Print and Supply of Scannable Answer Book and Scannable Documents as detailed below. (Note: The Contracting Authority further reserves the right to withdraw individual Scannable Answer Books or Scannable Documents from the contract and/or add new Scannable Answer Books or Scannable Documents if required).

Specifications are outlined in Appendix 1 to this CFT, and **Annex 3 (Excel Document)**. Scannable Features Required are outlined in **Annex 4** to this CFT. The soft copy samples (PDF) of each scannable answer book/document, **Annex 5 to Annex 14** will be uploaded with this CFT to e-tenders. Under no circumstances will variations from the specification be considered.

A. Samples required for Evaluation purposes as per Section 2.22:

IMPORTANT: For evaluation purposes we will need 50 hard copy samples of four scannable documents as detailed below and in **Annex 3** to this CFT:

- LC Generic 36-page A4 Answer book with barcodes on every page;
- LC Supplementary lined 4-page A4 Answer book with barcodes on every page;
- LC WP LA Script Form A4 Duplex with barcodes on every page;
- JC Graph Paper 4-page A4 with barcodes on every page.

The samples must be:

- A full print of the PDF sample file(s) supplied by the Contracting Authority;
- Incorporate all scannable features specified by the Contracting Authority;
- Incorporate the required barcodes and barcode sequences; and
- Otherwise comply with the sample requirements specified in **Annex 3**.

The samples provided as part of the evaluation process will be submitted to our On-line Marking Service (OLM) Team for evaluation. These samples will be assessed for their suitability by processing and scanning for test purposes. It is a minimum requirement of this tender that all samples scan on the first pass without issue.

All samples should be shrink wrapped in batches as specified in **Annex 3**. Where the sample is a one-page document it needs to be packaged appropriately to ensure it does not bend and is fully scannable.

Samples must be received by the Contracting Authority no later than the Tender Deadline: **15:00 hours on 21 October 2026**. Samples received after the Tender Deadline may not be considered.

Samples must be securely packaged and clearly marked:

SAMPLES – PROCUREMENT COMPETITION

CFT for the Print and Supply of Scannable Answer books and Scannable Documents

DO NOT OPEN – PROCUREMENT COMPETITION

and delivered to:

Procurement Section

State Examinations Commission

Cornamaddy

Athlone

Co. Westmeath

N37 TP65

Ireland

B. Quantities of Scannable Answer Books and Scannable Documents required

Quantities of Scannable Answer Books and Scannable Documents required will vary from year to year and price should be based on the projected Year 1 order detailed in **ANNEX 1 – PRODUCT DESCRIPTIONS AND PROJECTED YEAR 1 ORDER** to this CFT.

The quantities are estimates provided for tendering and evaluation purposes and do not constitute a commitment by the SEC to purchase any minimum quantity. Actual quantities may vary having regard to candidate numbers, stock levels and the operational requirements of the SEC.

The SEC will confirm required product types and quantities to the contractor shortly after the award of contract.

For the successful bidder:

Print ready versions of documents will be supplied. 100 Hard Copy samples will be required of each item and 300 copies of the LC Generic Answer book within 7 days of the contract being awarded.

Following approval to proceed to print delivery will be expected promptly. A full specification of the final printed documents will be required upon completion of the print job.

C. Specification of Requirements

There may be adjustments to artwork, colour, content etc. required throughout the lifetime of the contract. By agreement between the Contracting Authority and the successful tenderer(s) the SEC may, during the period of the contract require a complete redesign on some goods. This may incur an additional cost outside of this contract and should involve a Change Management Process.

By agreement between the Contracting Authority and the successful tenderer(s) and subject to the Contracting Authority's obligations at law, the Contracting Authority may, during the period of the contract add or substitute goods of a similar kind to the Initial Contract and would expect the price will be similar to prices states in the Tenderers' response to this CFT. Goods may also be withdrawn.

a. Detailed Specifications

The detailed specifications for each of the SEC's current categories of "Scannable Answer books and Scannable Documents" are outlined below:

Category 1

Leaving Certificate Generic 36-page A4 Answer book

- Printed on 80gsm Bond Paper

- 3 colours - Black, Pink and Blue
- Saddle Stitch Finish
- Shrink Wrapped in 25's and Boxed
- Scannable Features to be included
- 12-character barcode to be printed on the top right of the front cover – Sequence to be supplied
- 16-character barcode to be printed on the bottom right of each page – Sequence to be supplied

Category 2

Leaving Certificate Supplementary Lined 4-page A4 Answer book

- Printed on 80gsm Bond Paper
- 3 colours - Black, Pink and Blue
- Shrink Wrapped in 50's and Boxed
- Scannable Features to be included
- 12-character barcode to be printed on the top right of the front cover – Sequence to be supplied
- 16-character barcode to be printed on the bottom right of each page – Sequence to be supplied

Junior Cycle Supplementary Lined 4-page A4 Answer book

- Printed on 80gsm Bond Paper
- 3 colours Black, Pink and Blue
- Shrink Wrapped in 50's and Boxed
- Scannable Features to be included
- 12-character barcode to be printed on the top right of the front cover – Sequence to be supplied
- 16-character barcode to be printed on the bottom right of each page – Sequence to be supplied
- Green wash on front cover but data capture areas remain white

Accounting 4-page A4 Answer book

- Printed on 80gsm Bond Paper
- 3 colours - Black, Pink and Blue
- Shrink Wrapped in 25's and Boxed
- Scannable Features to be included
- 12-character barcode to be printed on the top right of the front cover – Sequence to be supplied
- 16-character barcode to be printed on the bottom right of each page – Sequence to be supplied

Category 3

Leaving Certificate WP L A Script Form A4 Duplex

- Printed on 80gsm Bond Paper
- 2 colours Black and Pink
- Shrink Wrapped in 25's and Boxed
- Scannable Features to be included
- 12-character barcode to be printed on the top right of the front cover – Sequence to be supplied
- 16-character barcode to be printed on the bottom right of each page – Sequence to be supplied

Leaving Certificate WP L B Script Form A4 Duplex

- Printed on 80gsm Bond Paper
- 2 colours Black and Pink
- Shrink Wrapped in 25's and Boxed
- Scannable Features to be included
- 12-character barcode to be printed on the top right of the front cover – Sequence to be supplied
- 16-character barcode to be printed on the bottom right of each page – Sequence to be supplied

Junior Cycle WP J A Script Form A4 Duplex

- Printed on 80gsm Bond Paper
- 2 colours Black and Pink
- Shrink Wrapped in 25's and Boxed
- Scannable Features to be included
- 12-character barcode to be printed on the top right of the front cover – Sequence to be supplied
- 16-character barcode to be printed on the bottom right of each page – Sequence to be supplied
- Green wash on front cover but data capture areas remain white

Junior Cycle WP J B Script Form A4 Duplex

- Printed on 80gsm Bond Paper
- 2 colours Black and Pink
- Shrink Wrapped in 25's and Boxed
- Scannable Features to be included
- 12-character barcode to be printed on the top right of the front cover – Sequence to be supplied
- 16-character barcode to be printed on the bottom right of each page – Sequence to be supplied
- Green wash on front cover but data capture areas remain white

Category 4

Leaving Certificate Graph Paper 4-page A4

- Printed on 100gsm Bond Paper
- 3 colours Black, Pink and Green
- Shrink Wrapped in 50's and Boxed
- Scannable Features to be included
- 12-character barcode to be printed on the top right of the front cover – Sequence to be supplied
- 16-character barcode to be printed on the bottom right of each page – Sequence to be supplied

Junior Cycle Graph Paper 4-page A4

- Printed on 100gsm Bond Paper
- 3 colours Black, Pink and Green
- Shrink Wrapped in 50's and Boxed
- Scannable Features to be included
- 12-character barcode to be printed on the top right of the front cover – Sequence to be supplied
- 16-character barcode to be printed on the bottom right of each page – Sequence to be supplied
- Green wash on front cover but data capture areas remain white

b. Standard Specifications and Notes

- Product Barcode Specifications are outlined in **Annex 3** to this CFT.
- Scannable Features required are outlined in **Annex 4** to this CFT.

Proofs:

- Proofing instructions will be provided with the PDF to the successful tenderer. Colour laser proofs (PDFs) when required must issue within three working days of the request.
- All proofs should be subject to SEC and Contractors approval before orders are progressed to printing.

Stock Management:

- Scannable Answer Books and Scannable Documents must be boxed with a label(s) affixed describing contents (title, size, item number, SEC Purchase Order number and counting

quantities. Counting quantities for the purpose of this CFT means the number of Scannable Answer Books/Scannable Documents in plastic bags/shrink wrapped, in bundles/batches as specified in **Annex 3**. Where the scannable document is a one-page document it needs to be packaged appropriately to ensure it does not bend and is fully scannable.

- The boxes will need to be stacked on non-returnable euro pallets (approx. one metre high) and secured in such a manner to allow for safe transport and subsequent storage.
- In future additional information may be required on the boxes for entry on our stock management system.

D. Other Requirements:

Quality Assurance:

Quality assurance measures must be in place to ensure consistency of scale, print quality and visual quality, including colour, to the standard of the “passed for press” proof throughout each print run and/or machine proofs.

Work of the highest quality is required by the SEC, which must be always executed under conditions of maximum security.

Delivery & Security Arrangements:

The latest delivery date for receipt of Scannable Answer Books and Scannable Documents is set out in **Annex 1 – Product Description and Projected Year 1 Order** to this CFT.

All the material relating to this contract is for use during the State Examinations and consequently is extremely confidential.

Arrangements for the secure delivery of supplies must be agreed with a nominated officer from the SEC in advance of each delivery.

Due to the schedule driven nature of its business activity, the SEC requires a reliable, flexible and prompt delivery service to SEC HQ or its off-site warehouse facilities in Athlone.

The SEC will confirm its first schedule of works shortly after the award of this contract.

Typically, in any given year the bulk of the orders will be placed between September and Year End with deliveries required between Year End and Quarter 1 of the subsequent year.

The successful Tenderer(s) will be expected to deliver supplies of Scannable Answer Books and Scannable Documents to the SEC in accordance with the Schedule of Service Requirements set out below:

- The **standard service** level will require deliveries within 8 weeks of proof approval.
- **Urgent requirements** will require delivery to SEC/off-site warehouse facilities within 4 weeks of proof approval.

Tenderers must confirm in their tender response whether the turnaround timeframes outlined above can be achieved and that they have no difficulty in meeting the expected urgent timeframe requirement for delivery set out above.

If there are any additional costs associated with urgent deliveries these should be attached to your proposal.

Environmental Requirements

In support of the Irish Government's policy on Green Procurement, the Contracting Authority wishes to contract with a firm that demonstrates leadership in building sustainable practices into its own business and the business of its key subcontractors, being both environmentally aware and environmentally responsible.

The Tenderer will need to clearly outline the company's environmental management system, how it is managed and its impact as an example on energy consumption and/or the environment – other examples include materials, manufacturing processes, transport, energy, and water consumption.

Requirement Details

The Contracting Authority requires the Tenderer to have a robust Environmental Management System in operation. Tenderers are required to describe the EMS. Additional marks will be given to Tenderers with ISO 14001 and or the EU Eco-Management and Audit Scheme (EMAS).

APPENDIX 2: PRICING SCHEDULE

Tenderers shall complete and return Annex 2, the Pricing Worksheet, attached in a separate excel document to this CFT.

The pricing schedule must be completed.

1. The Costs quoted in ANNEX 2 MUST include all costs for the Goods/Service for the Print and Supply of Scannable Answer Books and Scannable Documents (i.e. including but not limited to shipping, customs duties, tariffs, packing, delivery, ancillary costs and all other costs/expenses).
2. The Costs must be presented in Euro (€) and exclusive of VAT.
3. Detailed descriptions of products proposed are outline in **Annex 2 – PRICING SCHEDULE**;
4. Details of any other costs, charges, etc. should be attached to your proposal.
5. Payment for all Goods/Services will be on foot of appropriate invoices and invoicing arrangements will be agreed with the successful tenderer(s).
6. The SEC will not be liable for any expenses or costs incurred either in formulating tenders or any associated work effort.

APPENDIX 3: TENDERER'S STATEMENT

Tenderers shall complete and return the **Tenderer's Statement within the separate TRD document**, printed on the Tenderer's headed note paper, and signed by the Tenderer. This is essential for a compliant Tender.

TO: State Examinations Commission (the Contracting Authority)

RE: Call for Tender for the Provision of Services to Print and Supply Scannable Answer Books and Scannable Documents to the State Examinations Commission.

Having examined your Call for Tenders (CFT) including the Instructions to Tenderers, Qualification and Award Criteria, Requirements and Specifications, we hereby agree and declare the following:

1. We understand the nature and extent of the Goods/Services required to be delivered as described in Requirements and Specifications at Appendix 1 to the CFT.
2. We accept all the Terms and Conditions of the CFT, the Goods/Services Contract, and the Confidentiality Agreement and agree, if awarded a Goods/Services Contract, to execute the Goods/Services Contract at Appendix 6 to the CFT
3. We accept all the Selection and Award Criteria as set out in Part 3 of the CFT.
4. We agree to supply the Contracting Authority with the Goods/Services in accordance with the CFT and our Tender.
5. We agree that, if awarded any Goods/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 CFT.
7. We confirm that all prices quoted in our Tender will remain valid for the period of time, commencing from the Tender Deadline, specified at paragraph 2.10.3 of the CFT.
8. We shall, if awarded any Goods/Services Contract under the CFT, have in place on the Effective Date of the Goods/Services Contract all insurances (if any) as required by paragraph 2.20.1 of the CFT.
9. We confirm that all Data Subjects whose Personal Data is provided in our Tender have consented to the processing of such Personal Data by us, the Contracting Authority, the Evaluation Team and the supplier of the etenders.gov.ie website, for the purposes of our participation in this Competition or that we otherwise have a legal basis for providing such Personal Data to the Contracting Authority for the purposes of our participation in this Competition and that we will provide evidence of such consent and / or legal basis to the Contracting Authority upon request.
10. We do not come within the category of prohibited economic operators identified in Regulation (EU) No 833/2014 of 31 July 2014 (as amended by EU Regulation 2022/576 or any subsequent amendments to same).

- 11.** The origin of Goods/Services connected to our Tender, if any, are not subject to the prohibitions set out in Regulation (EU) No 833/2014 (as amended by EU Regulation 2022/576 or any subsequent amendments to same).
- 12.** The subcontractor(s) on whose capacity we rely as part of our Tender (where the value of that subcontract exceeds 10% of the value of the Goods/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 or any subsequent amendments to same).

SIGNED	COMPANY
(Authorised Signatory)	
PRINT NAME	ADDRESS
Date	

APPENDIX 4: Declaration as to Personal Circumstances to Tender

NAME: Click here to insert name Name

ADDRESS: Click here to insert address

I, Click here to insert name of Declarant having been duly authorised by Click here to insert name of entity, sincerely declare that Click here to insert name of entity itself or any person who has is a member of the administrative, management or supervisory body of Click here to insert name of entity or has powers of representation, decision or control in Click here to insert name of entity

- (a) Has never 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) Has never 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 Click here to insert name of entity
- (c) Has never 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) Has never 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) Has never 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) Has never 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
- (g) Is not in breach of its obligations relating to the payment of taxes or social security contributions.
- (h) 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 Goods/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).
- (i) 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.
- (j) Is not guilty of grave professional misconduct.

- (k) Has not entered into agreements with other economic operators aimed at distorting competition.
- (l) Is not aware of any conflict of interest due to its participation in the Competition.
- (m) Has not had any prior involvement in the preparation of the Competition.
- (n) 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.
- (o) 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)
- (p) Has not undertaken to unduly influence the decision-making process of the Contracting Authority in respect of the Competition or obtain confidential information that may confer upon it undue advantages in respect of the Competition; or negligently provided misleading information that may have a material influence on decisions concerning exclusion, selection, or award.

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

Signature of Declarant

Name of Declarant in print or block capitals

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 of20.....

 (signed) Practising Solicitor/Commissioner for Oaths

APPENDIX 5: FOREIGN SUBSIDIES REGULATION

Candidates 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.

State Examinations Commission

AND

[Click here to insert sucessful Tenderer's full legal name](#)

AGREEMENT

Relating to the Supply of Goods/Service pursuant to

Call for Tender for the

**Provision of Print and Supply of Scannable Answer Books and
Scannable Documents**

THIS AGREEMENT is made on [Click Here To Insert Date](#) day of [Click Here To Insert Month](#) [Click Here To Insert Year](#)

BETWEEN;

[Insert name of Contracting Authority], of [address] (“the Client”);and

Click Here To Insert Contractor's Full Legal Name of Click Here To Insert Full Address
 (“the Contractor”) (each a “Party” and together “the Parties”)

WHEREAS:

- A. By Request for Tender entitled “[Insert title of CFT](#)” advertised in the supplement to the Official Journal of the European Union, OJEU Notice Number of dated [insert date of CFT](#) (“the CFT”) the Contracting Authority invited tenders from economic operators (“Tenderers”) for the provision of the services described in Appendix 1 to the CFT (the “Services”). References to the CFT shall include any clarifications issued by the Contracting Authority via the messaging facility on www.etenders.gov.ie between [\[insert date\]](#) and [\[insert date\]](#) (the “CFT Clarifications”). The CFT (including the CFT Clarifications) is hereby incorporated by reference into this Agreement.
- B. The Contractor submitted a response to the CFT 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 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 D attached hereto;
 - ii. The CFT; and
 - 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 CFT 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 inclusive 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 Contracting Authority’s Contact is [Click Here To Insert Name Of Contact Person](#) of [Click Here To Insert Address Of Contact Person](#); the Contractor’s Contact is [Click Here To Insert Name Of Contractors Contact Person](#) of [Click Here To Insert Contractors Address](#).
- 5 This Agreement shall take effect on the date of this Agreement (“the Effective Date”) and shall expire on [Click Here To Insert Date](#) unless it is otherwise terminated in accordance with the provisions of

this Agreement, or otherwise lawfully terminated, or otherwise lawfully extended as agreed between the Parties (“the Term”).

Delete and replace with “Not Used” if not applicable.

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

- 6 Unless otherwise specified herein, a defined term used in this Agreement shall have the same meaning as assigned to it in the CFT.
- 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 behalf of the Contracting
Authority**

(Being a duly authorised officer)

(Witness)

SIGNED for and behalf of the Contractor

(Witness)

SCHEDULE A: TERMS AND CONDITIONS

1. CONTRACT 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 agent and Subcontractors to exercise due care, skill and diligence in the provision of the Services and generally in the carrying out of its obligations allocated by the Contractor to its agents and Subcontractors under this Agreement.
- B.** In consideration of the payments of the Charges and subject to clause 3 the Contractor shall;
1. provide the Services in accordance with the Specification, the CFT, the Contracting Authority'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 Contracting Authority 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 Contracting Authority; 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 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 Contracting Authority as soon as possible of any changes to the name, contact details and legal representative of its Subcontractors.
- D.** Without prejudice to clause 1C, where the Contracting Authority becomes aware that any of the exclusion grounds set out in Regulation 57 of the Regulations apply to any Subcontractor, the Contracting Authority 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 Contracting Authority. 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 Contracting Authority for the purposes whatsoever.
- F. The Contracting Authority acknowledges that the Contractor may from time to time be dependent on the Contracting Authority to facilitate the Contractor in the carrying out of its duties under this Agreement. The Contracting Authority 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 Contracting Authority 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. for contracts whose subject matter covers the supply of goods, to ensure for the duration of the contract that goods or services supplied or provided in the execution of the contract and originating in the third country which is subject to the IPI measure represent no more than 50% of the total value of the contract, irrespective of whether such goods or services are supplied or provided directly by the successful tenderer or by a subcontractor;
 - iii. to provide to the Client, upon request, adequate evidence corresponding to point (i) or (ii) above;
- J. 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. THE GOODS

- A. The Contractor shall deliver the Goods within the time frame, to the location and on the date(s) specified in the specification or otherwise agreed in writing between the Parties
- B. Unless otherwise stated in the specification or in the special Conditions
 - 1. Where the goods are delivered by the Contractor, the point of delivery shall be when the goods are removed from the transporting vehicle at the Customer's premises as notified to the Contractor, where the Goods are collected by the Customer, the point of delivery shall be when the Goods are loaded on the Customer's vehicle
 - 2. Delivery shall include the unloading, stacking or installation of the Goods by the Contractor's staff, agent or carriers at such place as the customer or a duly authorised person shall reasonably direct.
 - 3. The Goods shall be packed and marked in a proper manner and in accordance with the Client's instructions and any statutory requirements and any requirements of the carriers and manufacturers. In particular the Goods shall be marked with the contract number (or other reference number if appropriate) and the net, gross and tare weights. The name of the contents shall be clearly marked on each container and all containers of hazardous Goods (and all documents relating thereto) shall bear prominent and adequate warnings.
 - 4. Unless expressly agreed to the contrary, the Client shall not be obliged to accept delivery by instalments. If, however, the Client does specify or agree to delivery by instalments, delivery of any instalment later than the date specified or agreed for its delivery shall, without prejudice to other rights or remedies of the Client, entitle the Client to terminate the whole of any unfulfilled part of the Agreement without further liability to the Client.
 - 5. The Client shall be under no obligation to accept or pay for any Goods delivered in excess of the quantity ordered. The risk in any over-delivered Goods shall remain with the Contractor.
 - 6. The Client shall be under no obligation to accept or pay for any Goods supplied earlier than the date for delivery stated in the Specification
- C. Any Contractor pre-printed terms and conditions produced, signed or stamped by either Party and for whatever purpose during the Term are hereby disallowed.
Select either D or E and replace with "Not Used" if not applicable
- D. Time of delivery shall be of the essence and if the Contractor fails to deliver the Goods within the time period promised or specified in the Specification, the Client may by notice in writing to the

Contractor's Contact release itself from any obligation to accept and pay for the Goods and / or terminate this Agreement in either case without prejudice to any other rights and remedies of the Client.

Select either D or E and replace with "Not Used" if not applicable

- E. Without prejudice to any general right to damages under this Agreement where the Contractor does not deliver the ordered amount within delivery dates or lead times in accordance with this Agreement, the Client may, at his discretion, deduct [insert amount] per week/day, or part thereof, for each week/day of late delivery of the value of the entire relevant invoice or order as liquidated damages up to a maximum amount of [insert amount]. Where the Liquidated Damages Threshold is met or exceeded (being that delivery continues not to be performed after the Liquidated Damages Threshold is met), the Client shall be entitled to:
1. claim any remedy available to it (whether under this Agreement or otherwise) for loss or damage incurred or suffered by it after the end of the Liquidated Damages Period; and;
 2. without prejudice to sub-clause (1), the Client shall be entitled to terminate the Agreement with immediate effect by giving notice in writing to the Contractor

4. INSPECTION OF GOODS

- A. The Client or its authorised representative may inspect (to include a call for advance samples) or test the Goods either completed or in the process of manufacture, during normal business hours on reasonable notice at the Contractor's premises (including the premises of any subcontractor or agent) and the Contractor shall provide all reasonable assistance in relation to any such inspection or test free of charge. A failure to make a complaint at the time of any such inspection or test and / or the approval given during or after such inspection or test shall not constitute a waiver by the Client of any rights or remedies in respect of the Goods and the Client reserves the right to reject the Goods in accordance with clause 3B.
- B. The Client may by written notice to the Contractor reject any of the Goods which fail to conform to the approved sample or fail to meet the Specification. Such notice shall be given within a reasonable time after delivery to the Client of such Goods. If the Client rejects any of the Goods pursuant to this clause the Client may (without prejudice to other rights and remedies) either;
1. treat the Agreement as discharged by the Contractor's breach and obtain a refund (if payment for the Goods has already been made) from the Contractor in respect of the Goods concerned together with payment of any additional expenditure reasonably incurred by the Client in obtaining other Goods in replacement provided that the Client uses its reasonable endeavours to mitigate any additional expenditure in obtaining replacement Goods.
- or
2. have such Goods promptly, and in any event within [insert number] calendar days, either repaired by the Contractor or replaced by the Contractor with Goods which conform in all respects with the approved sample or with the Specification and due delivery shall not be deemed to have taken place until such repair or replacement has occurred.

- C. Rejected Goods shall be removed by the Contractor from the Client within [insert number] calendar days from the date of the notification to the Contractor of their rejection. In the event of failure by the Contractor to remove Goods within [insert number] calendar days of such notification, the Client may dispose of such Goods as he sees fit and pending such removal, the Goods will remain with the Client at the risk of the Contractor. Any costs incurred by the Client relating to such disposal shall at the option of the Client be borne by the Contractor.
- D. For the avoidance of doubt, the Client will be deemed to have accepted the Goods if it expressly states the same in writing or fails to reject the Goods in accordance with clause 3B.
- E. The issue by the Client of a receipt note for the Goods shall not constitute any acknowledgement of the condition, quantity or nature of those Goods, or the Client's acceptance of them.
- F. The Contractor hereby guarantees the Goods for [insert period] from the date of delivery (the "Guarantee Period") against faulty materials or workmanship. The Client shall within such Guarantee Period, or within 14 calendar days thereafter, give notice in writing to the Contractor of any defect in any of the Goods as may have arisen during such Guarantee Period under proper and normal use. The Contractor shall (without prejudice to any other rights and remedies which the Client may have) promptly remedy such defects (whether by repair or replacement as the Client shall elect) free of charge, which replaced or repaired Goods shall also have the benefit of this clause for the Guarantee Period.

5. RISK AND TITLE

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

6. 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 10.A from time to time;

2. The furnishing by the Contractor of a valid invoice within ten working days from the end of each preceding month 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 Contracting Authority'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 Contracting Authority'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 Contracting Authority. 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 EU and domestic taxation law and requirements.
- C. The European Communities (Late Payment in Commercial Transactions) Regulations, 2012 shall apply to all payments. Incorrect invoices will be returned for correction with consequential effects on the due date of payment.
- D. Wherever under this Agreement any sum of money is recoverable from or payable by the Contractor (including any sum which the Contractor is liable to pay to the Client in respect of any breach of this Agreement), the Client may decide at its sole discretion to deduct the 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 Contracting Authority, provided the amount owing by the Contractor is undisputed. 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 expenses incurred by the Contractor, its employees, servants and agents in the performance of its obligations under this Agreement.
- F. 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 withholding taxes 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.

7. WARRANTIES, REPRESENTATIONS AND UNDERTAKINGS

- A. The Contractor 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 and employment and environmental protection and is capable of assuming and fulfilling those obligations;
4. it has acquainted itself with and shall comply with 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 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 Click Here To Insert Date, which confirms that none of the excluding circumstances listed in Regulation 57 of the Regulation apply to the Contractor, remains unchanged;
7. it owns, has obtained or is able to obtain, valid licenses for all Intellectual Property Rights (as defined in clause 6 below) that are necessary for the performance of its obligations under this Agreement and for the Client to obtain the benefit of the Services for its business purposes;

8. *Delete and replace with "Not Used" if not applicable:*

it has inspected the Client's premises, lands and facilities before submitting its Submission and has made appropriate enquiries so as to be satisfied in relation to all matters connected with the performance of its obligations under this Agreement;

9. it retains and shall maintain for the Term of the Agreement insurances for the nature and amount specified in the CFT. 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.

10. the Client shall be under no obligation to purchase any minimum number or value of Services.

- B. The Contractor shall be and undertakes to be responsible for and to take due precautions for the safe custody of any Goods on his premises which are the property of the Contractor and shall insure the same against any form of loss or damage and the Contractor so acknowledges and confirms.
- C. The Contractor confirms and undertakes that the Goods supplied will, at the time of delivery (and for the Guarantee Period), correspond to the description given by the Contractor in accordance with the Submission (to include any samples furnished thereunder) and the Specification (Schedule B) and that the manufacture, distribution and processes employed will comply in all material respects with the representations made in the Submission. None of the provisions of the Sale of Goods Acts 1893 and 1980 shall be excluded or limited under this Agreement.
- D. The Contractor undertakes to ensure that all and any necessary consents and/or licenses are obtained and in place for the purposes of this Agreement. 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.

- E. 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

Prior to publication, please ensure to insert amounts/figures where applicable. When finished, delete these instructions

- 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, sub-Contractors or agents or any of them or as a result of the Contractor's failure to exercise care as outlined in Clause 1. The terms of this Clause 6.A 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 Contracting Authority.
- 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 remedy shall not be deemed an election of such remedy to the exclusion of the other remedies.

Delete and replace with "Not Used" if not applicable:

- 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 [insert amount – eg: [number] 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:

10% ("the Retention Amount") which Retention Amount shall not at any given time exceed 30% of the Charges. In such event the Client shall identify the particular Services with which it is dissatisfied together with the reasons for such dissatisfaction. Payment of the Retention Amount will be made upon replacement and/or remedy of the said Services as identified by the Client or resolution of outstanding queries. The Client shall hold the Retention Amount on behalf of the

Contractor but without any obligation to invest. The terms of this clause 5F shall be without prejudice to and not be in substitution for any remedy of the Client under this Agreement.

You must select one or the other of either G or H. Delete and replace with "Not Used" if not applicable:

- 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 Contracting Authority.

- H.** *You must select one or the other of either G or H. Delete and replace with "Not Used" if not applicable:*

Without prejudice to any general right to damages under this Agreement where the Contractor does not provide the Services within delivery dates or lead times in accordance with this Agreement, the Client may, at his discretion, deduct [insert amount] per week/day, or part thereof, for each week/day of late delivery as liquidated damages up to a maximum amount of [insert amount] (the "Liquidated Damages Threshold").

Where the Liquidated Damages Threshold is met or exceeded (being that delivery continues not to be performed after the Liquidated Damages Threshold is met), the Client shall be entitled to:

1. claim any remedy available to it (whether under this Agreement or otherwise) for loss or damage incurred or suffered by it after the end of the Liquidated Damages Period; and
2. without prejudice to sub-clause (1), the Client shall be entitled to terminate the Agreement with immediate effect by giving notice in writing to the Contractor

6. INTELLECTUAL PROPERTY

- A.** Intellectual Property Rights ("IPR") means all patents and patent rights, trademarks and trademark rights, trade names and trade name rights, service marks and service mark rights, service names and service name rights, brand names, copyrights and copyright rights, trade dress, business and product names, logos, slogans, trade secrets, industrial models, utility models, design models, designs, rights in confidential information, know-how, rights in the nature of unfair competition rights and rights to sue for passing off, and all pending applications for and registrations of patents, trademarks, service marks, and copyrights together with all connected and similar or analogous rights in any country or jurisdiction for the full term thereof;
- B.** Pre-Existing IPR means all IPR existing prior to the date of this Agreement and all IPR in any materials, acquired or developed by or for the Contractor or Client independently of this Agreement, and any IPR in Contractor's standard hardware and software products or modifications or updates to such product.
- 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 IPR, title and interest in the Materials (including by way of present assignment of future copyright) to the extent that any such IPR 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 Contracting Authority’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 to be limited to ensure 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 indemnify the Client and shall keep and hold the Client harmless from and in respect of all and any liability loss damages claims costs or expenses which arise by reason of any breach of third party Intellectual Property Rights in so far as any rights are used for the purposes of this Agreement.

At the option 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 the Client Charges paid for such deliverable less a reasonable amount for the Contracting Authority’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
- I.** 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 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 Confidential Information and shall comply with the confidentiality agreement as exhibited in Appendix 6 to the CFT (“the Confidentiality Agreement”). The obligation in this Clause 7 will not apply to any Confidential Information
- 1.** in the recipient'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 from the disclosing party from a third party (with full right of disclose)
- C.** The Contractor acknowledges that the Security of the State and its information is of paramount importance to the Contracting Authority. Accordingly, the Contractor confirms that it will from time to time during the currency of this Agreement as may be requested by the Client submit, full personal details (including sub-Contractors) 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 the police authorities’ and the Contractor shall comply with all reasonable directions of the Client arising therefrom.
- D.** In circumstances where the Client is subject to the provisions of the Freedom of Information Act 2014 or the European Communities (Access to Information on the Environment) Regulations 2007 to 2014, then in the event of the Client receiving a request for information related to this Agreement, the Client shall consult with the Contractor in respect of the request. The Contractor shall specifically identify any information that is not to be disclosed on grounds of confidentiality or commercial sensitivity and shall state the reasons for this sensitivity. The Client will consult the Contractor about this confidential or commercially sensitive information before making a decision on any request received under the above legislation. The Client 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 9 B 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, strikes, labour disputes, lockout, 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 the Parties’ 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 and
 2. of the anticipated delay in the performance of obligations;
 3. the actions 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 50 days either Party may terminate at 14 days’ notice.
- D.** In the 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 the 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 Contracting Authority, without liability for compensation or damages, by serving 1 months’ written notice to the Contractor. Subject to the provisions of sub-clause 9B, this Agreement may be terminated by the Contractor, without liability for compensation or damages, by serving 1 months’ written notice to the Contracting Authority.
- B.** Either Party 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 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 Contracting Authority, be removed by other means;
 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, obligation, 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 Contracting Authority, 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 Contracting Authority'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 Contracting Authority.
- B. The Contractor agrees to:
1. liaise with and keep the Contracting Authority'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 Contracting Authority; 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 Contracting Authority.
- D. The Contractor shall be required to hold for the Term insurances of the nature and amount as set out in the RFT and shall immediately advise the Client of any material change to its insured status. The Contractor shall produce proof of current premiums paid upon 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 11D

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 senior 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 CEDR Ireland 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 clause13.
- 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 obligation by law, any assignment to a third party, sub-contract or other transfer of a Party's rights or obligations under this Agreement requires the prior written consent of the other Party. Prior to any such assignments, 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 obligation at law, any sub-contract of a party's rights or obligations under this Agreement requires the prior written consent of any 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. or 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 in exercising any right, power or remedy shall operate as a waiver of it, nor shall any single or 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 nor 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 Contracting Authority.

20 CONFLICTS, REGISTRABLE INTERESTS AND CORRUPT GIFTS

- A.** The Contractor confirms that it has carried out a conflicts of interest check and is satisfied that neither it nor any Subcontractor nor agent as the case may be has any conflicts in relation to the Services and its obligations undertaken under this Agreement. The Contractor hereby undertakes to notify the Client immediately should any conflict or potential conflict of interest come to its attention during the currency of this Agreement and to comply with the Contracting Authority's directions in respect thereof. In the event of such notification, the Client shall have the right (in addition to any other right which it has at law) to terminate this Agreement immediately and without liability for compensation or damages
- B.** Any registerable interest involving the Contractor (and any sub-Contractor or agent as the case may be) and the Contracting Authority, the Ceann Comhairle (Speaker), or any member of the Government, or any member of the Oireachtas (Parliament), or their relatives must be fully disclosed to the Client immediately upon such information becoming known to the Contractor (Subcontractor or agent as the case may be) and the Contractor shall comply with the Contracting Authority's directions in respect thereof, to the satisfaction of the Contracting Authority. In the event of such disclosure, the Contracting Authority, shall have the right (in addition to any rights which it has at law) to terminate this Agreement immediately and without liability for compensation or damages The terms 'registerable 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

Defences) 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 gifts, consideration, or commission.

21 ACCESS TO PREMISES

- A.** Any of the Contracting Authority'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 Contracting Authority'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 Contracting Authority'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 Contracting Authority's premises in a safe, serviceable and clean condition.
- D.** The Contractor shall, at the Contracting Authority's written request, at its own expense and as soon as reasonably practicable:
 - i.** remove from the Contracting Authority'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 Contracting Authority's premises in a clean, safe, and tidy condition. The Contractor is solely responsible for making good any damage to the Contracting Authority'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

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 its 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) Business 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 the Client 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 Contracting Authority'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 meaning 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 law, 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 the Data Subject in accordance with rights granted the Data Protection Laws to access his or her Personnel Data;

“Personal Data” 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 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, duration of the Processing and the types of Personal Data and the 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 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 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 Contracting Authority'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 Contracting Authority, 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 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 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 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 Client for any reasonable expenses it incurs in having the Personal Data restored by a third party.

M. IF YOU ARE NOT CONSENTING TO A THIRD-PARTY PROCESSOR – DELETE IF NOT IN USE)

The Client does not consent to the Contractor appointing any third-party processor of Personal Data under this agreement

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

the Client consents to the Contractor appointing [insert third-party processor] as a third-party processor of Personal Data under this Agreement. The Contractor confirms that it has entered or (as the case may be) will enter into a written agreement incorporating terms which are substantially similar to those set out in this clause 25 as between the Client and the Contractor.

The Contractor shall remain fully liable for all acts or omissions of any third-party processor appointed by it pursuant to this clause 25.

- 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(s)

Delete and replace with "Not Used" if not applicable:

This is a free text area to allow the Client to include any additional conditions to the Contract, for example a price review clause. Such additional conditions can be set out here by the Client.

SCHEDULE B: GOODS / SERVICE - THE SPECIFICATION

[INSERT WHEN COMPLETING CONTRACT]

SCHEDULE C: CHARGES

[INSERT WHEN COMPLETING CONTRACT]

SCHEDULE D: SERVICE LEVELS

[INSERT WHEN COMPLETING CONTRACT]

SCHEDULE E: DATA PROTECTION

[Insert when completing 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

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

BETWEEN:

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

and

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

WHEREAS

By Request for Tenders dated [insert date] entitled [insert title] (the “RFT”) the Client 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.

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 Client 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:
 - (i) unless specified in writing to the contrary by the Client all and any
 - (ii) information (whether in documentary form, oral, electronic, audio-visual, audio-recorded or otherwise including any copy or copies thereof and whether scientific, commercial, financial, technical, operational or otherwise) relating to the Contracting Authority, the supply of Services under the Contract and all and any information supplied or made available to the Contractor (to include employees, agents, sub-contractors and other suppliers) for the purposes of the Contract(s) including Personal Data within the meaning of the Data Protection Laws; and
 - (iii) 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, sub-contractors, 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 Client 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 Client including, if required, completion of documentation under the Official Secrets Act 1963 and comply with any vetting requirements of the Client including by police authorities;
 - 6.3** upon termination of the Competition (or the Contract) for whatever reason to furnish to the Client all Confidential Information or at the written direction of the Client 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 Client 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 Client 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 Client as may be necessary for the purposes of the Competition (and obligations thereunder or arising therefrom) and only as directed by the Client 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 Client 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 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 Contracting Authority'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 Contracting Authority, 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 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 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 11 and allow for inspections and contribute to any audits by the Client 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 Subcontractor, promptly restore the Personal Data at its own expense or, at the Contracting Authority's option, reimburse the Client for any reasonable expenses it incurs in having the Personal Data restored by a third party.

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

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

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

The Contracting Authority consents to the Contractor appointing [insert third-party processor] as a third-party processor of Personal Data under this Agreement. The Contractor confirms that it has entered or (as the case may be) will enter into a written agreement incorporating terms which are substantially similar to those set out in this clause 11 as between the Contracting Authority and the Contractor. The Contractor shall remain fully liable for all acts or omissions of any third-party processor appointed by it pursuant to this clause 11.

N. Save for Clauses 11B, 11C, 11D (4) and 11E, all the obligations on the Contractor in this Clause 11 relating to the processing of Personal Data shall apply to the processing of all Confidential Information.

SIGNED for and behalf of the Contracting Authority

(Being a duly authorised officer)

(Witness)

SIGNED for and behalf of the Contractor

(Witness)

Schedule A to the Confidentiality Agreement: Data Protection

[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