

Land Development Agency

and

[Service Provider]

Services Contract

This **CALL-OFF CONTRACT** is made on [dd - month - year]

BETWEEN:

LAND DEVELOPMENT AGENCY, a body established by statute, having its offices at Second Floor, Ashford House, 18-23 Tara Street, Dublin 2, D02 VX67 (**"the LDA"**) which expression shall include its successors and assigns;

and

[**INSERT NAME OF SERVICE PROVIDER'S FULL LEGAL NAME**], a company registered in [insert jurisdiction] with company number [insert CRO number] whose registered office is at [address] (the **"Service Provider"**)

(each a **"Party"** and together **"the Parties"**)

WHEREAS:

- A. By Request for Tender entitled "[]" [advertised in the supplement to the Official Journal of the European Union, OJEU Notice Number [] of [] dated [insert date of RFT] (**"the RFT"**)] [advertised on eTenders with unique ID []], the LDA invited tenders from economic operators (**"Tenderers"**) for the provision of the services described in Schedule 1 to the RFT (the **"Services"**). References to the RFT shall include any clarifications issued by the LDA via the messaging facility on www.etenders.gov.ie between [insert date] and [insert date] (the **"RFT Clarification"**). The RFT (including the RFT Clarifications) is hereby incorporated by reference into this Call-Off Contract.
- B. The Service Provider submitted a response to the RFT dated the [date of tender submission] (the **"Submission"**). References to the Submission shall include any clarifications issued by the Service Provider by email (the **"Submission Clarifications"**). The Submission (including the Submission Clarifications) is hereby incorporated by reference into this Call-Off Contract.
- C. The Service Provider executed a multi-party framework agreement with the LDA (the **"Framework Agreement"**). In accordance with clause 4 of the Framework Agreement, the LDA wishes to enter this Call-Off Contract with the Service Provider.

IT IS HEREBY AGREED AS FOLLOWS:

1. This Call-Off Contract consists of the following documents, and in the case of conflict of wording, in the following order of priority:
 - (i) This Call-Off Contract and Schedules A to E attached hereto;
 - (ii) The RFT;
 - (iii) The Submission.

save to the extent any of the above documents specifies a better performance specification, quality or delivery (**"Greater Specification"**) than is provided in a document of higher precedence, then the document containing the Greater Specification shall take precedence in this respect only.

2. The Service Provider agrees to provide the Services described in Schedule B (the **"Services"**) to the LDA in accordance with this Call-Off Contract (the **"Call-Off Contract"**). Schedule B details the nature, quality, time of delivery, key personnel and functional specifications of the Services (the **"Specification"**).

3. Subject to the terms and conditions of this Call-Off Contract, the LDA agrees to pay to the Service Provider the charges as stipulated in Schedule C (the “**Charges**”). The Charges are exclusive of VAT which shall be due at the rate applicable on the date of the VAT invoice.
4. For the purposes of this Call-Off Contract, the LDA’s Contact is [Insert Name] of the LDA, Second Floor, Ashford House, 18-23 Tara Street, Dublin 2, D02 VX67; the Service Provider’s Contact is [Service Provider contact name: to be completed on signing] of [Service Provider contact address: to be completed on signing].
5. This Call-Off Contract shall take effect on the date of this Call-Off Contract (the “**Effective Date**”) and shall expire after [insert number] years, unless it is otherwise terminated in accordance with the provisions of this Call-Off Contract or otherwise lawfully terminated or otherwise lawfully extended as agreed between the Parties (the “**Term**”).
6. Headings are included for ease of reference only and shall not affect the construction of this Call-Off Contract.
7. Unless the context requires otherwise, words in the singular may include the plural and vice versa.
8. 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.
9. In the event that any ambiguity or question of intent or interpretation arises in relation to this Call-Off Contract, this Call-Off Contract 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 Call-Off Contract.

SIGNED for and on behalf of the LDA

SIGNED for and on behalf of the Service Provider

(being a duly authorised officer)

Witness

Witness

SCHEDULE A - TERMS AND CONDITIONS

1. CONTRACTOR'S OBLIGATIONS

- 1.1. The Service Provider 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 Call-Off Contract and in the appointment, monitoring and retention of its agents and Subcontractors. The Service Provider shall require its agents and Subcontractors to exercise due care, skill and diligence in the provision of the Services and generally in the carrying out of obligations allocated by the Service Provider to its agents and Subcontractors under this Call-Off Contract.
- 1.2. In consideration of the payment of the Charges and subject to clause 3 the Service Provider shall:
 - 1.2.1. provide the Services in accordance with the Specification, the LDA's directions and the terms of this Call-Off Contract;
 - 1.2.2. comply with and implement any policies, guidelines and/or any project governance protocols issued by the LDA from time to time and notified to the Service Provider in writing;
 - 1.2.3. comply with all local security and health and safety arrangements as notified to it by the LDA; and
 - 1.2.4. provide the Services in accordance with good industry practice and comply with all applicable laws including but not limited to all obligations in the field of environmental, social and labour law that apply at the place where the Services are provided, that have been established by EU law, national law, collective agreements and by international, environmental, social and labour law listed in Schedule 7 of the European Union (Award of Public Authority Contracts) Regulations 2016 (Statutory Instrument 284 of 2016) (the "**Regulations**"). The Service Provider 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 Call-Off Contract.
- 1.3. The Service Provider is deemed to be the prime contractor under this Call-Off Contract and the Service Provider assumes full responsibility for the discharge of all obligations under this Call-Off Contract and shall assume all the duties, responsibilities and obligations associated with the position of prime contractor. The Service Provider as prime contractor hereby assumes liability for its Subcontractors and shall ensure that its Subcontractors shall comply in all respects with the relevant terms of this Call-Off Contract, including but not limited to clause 1.2.4, to the extent that it or they are retained by the Service Provider. Subject to clause 14, the Service Provider shall notify the LDA as soon as possible of any changes to the name, contact details and legal representatives of its Subcontractors.
- 1.4. Without prejudice to clause 1.3, where the LDA becomes aware that any of the exclusion grounds set out in Regulation 57 of the Regulations apply to any Subcontractor, the LDA reserves the right to require the Service Provider to immediately replace such Subcontractor, and the Service Provider shall comply with such requirement. The Service Provider shall include in every sub-contract a right for the Service Provider 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.

- 1.5. During this Call-Off Contract the Service Provider shall be an independent contractor and not the employee of the LDA. 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 Service Provider are not and shall not hold themselves out to be (and shall not be held out by the Service Provider as being) servants or agents of the LDA for any purposes whatsoever.
- 1.6. The LDA acknowledges that the Service Provider may from time to time be dependent on the LDA to facilitate the Service Provider in the carrying out of its duties under this Call-Off Contract. The LDA agrees to use its reasonable endeavours to so facilitate the Service Provider within the timescales and in the manner agreed by it in writing in accordance with clause 10.
- 1.7. The Service Provider agrees that any information relating to this Call-Off Contract and / or the performance of this Call-Off Contract may be passed by the LDA 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.
- 1.8. The Service Provider 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 Call-Off Contract. The Service Provider shall indemnify, save harmless and keep the LDA 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.

2. KEY PERSONNEL

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

3. PAYMENT

- 3.1 Subject to the provisions of this clause 3 the LDA 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.
- 3.2 Discharge of the Charges is subject to:
 - 3.2.1 Compliance by the Service Provider with the provisions of this Call-Off Contract including but not limited to any milestones, compliance schedules and/or operational protocols in place pursuant to clause 10.1 from time to time;

- 3.2.2 The furnishing by the Service Provider of a valid invoice and such supporting documentation as may be required by the LDA from time to time. Any Service Provider pre-printed terms and conditions are hereby disallowed;
- 3.2.3 Invoices being submitted to the LDA's Contact (as set out in this Call-Off Contract 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 LDA'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 LDA or upon such deemed acceptance the invoice shall be payable by the LDA. Payment is subject to any rights reserved by the LDA under any other provision of this Call-Off Contract; and
- 3.2.4 The LDA being in possession of the Service Provider's current Tax Clearance Certificate. The Service Provider shall comply with all applicable EU and domestic taxation law and requirements.
- 3.3 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.
- 3.4 Wherever under this Call-Off Contract any sum of money is recoverable from or payable by the Service Provider (including any sum which the Service Provider is liable to pay to the LDA in respect of any breach of this Call-Off Contract), the Parties may agree to deduct that sum from any sum then due, or which at any later time may become due to the Service Provider under this Call-Off Contract or under any other agreement or contract with the LDA. 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.
- 3.5 The Charges shall include any and all costs or expenses incurred by the Service Provider, its employees, servants and agents in the performance of its obligations under this Call-Off Contract. The Service Provider shall be responsible for and shall bear any increases which may occur in the cost of materials, goods, insurances, plant and machinery and all other costs involved with the provisions of the Services.
- 3.6 The Charges shall be discharged as provided for in this clause subject to the retention by the LDA in accordance with section 523 of the Taxes Consolidation Act 1997 of any Professional Services Withholding Tax payable to the Service Provider. Any and all taxes applicable to the provision of the Services will be the sole responsibility of the Service Provider and the Service Provider so acknowledges and confirms.
- 3.7 Subject to Clause 3.8 of this Call-Off Contract, the Charges may be indexed from the first anniversary of the Commencement Date and every anniversary thereafter for the Term of the Contract (the "**Indexation Date**") to reflect any changes in the most recently published means the Consumer Price Index as published by the Central Statistics Office (the "**Index**"). For the avoidance of doubt, where the application of the Index would result in a reduction in the Charges, no such reduction will take place.
- 3.8 The Service Provider, no later than sixty (60) days prior to the Indexation Date, shall indicate if it wishes to agree an increase in the Charges in accordance with Clause 3.7 (such increase not to exceed the Index). If a Service Provider elects to follow this procedure, the Parties will use best efforts to agree the relevant uplift in the Charges. If the Service Provider has not agreed

the relevant uplift in the Charges thirty (30) days prior to the Indexation Date, the Charges will not be indexed.

4. WARRANTIES, REPRESENTATIONS AND UNDERTAKINGS

4.1 The Service Provider acknowledges, warrants, represents and undertakes that:

- 4.1.1 it has the authority and right under law to enter into, and to carry out its obligations and responsibilities under this Call-Off Contract and to provide the Services hereunder;
- 4.1.2 it is entering into this Call-Off Contract with a full understanding of its material terms and risks and is capable of assuming those risks;
- 4.1.3 it is entering into this Call-Off Contract with a full understanding of its obligations with regard to taxation, employment, social and environmental protection and is capable of assuming and fulfilling those obligations;
- 4.1.4 it has acquainted itself with and shall comply with all legal requirements or such other laws, recommendations, guidance or practices as may affect the provision of the Services as they apply to the Service Provider;
- 4.1.5 it has taken all and any action necessary to ensure that it has the power to execute and enter into this Call-Off Contract;
- 4.1.6 the status of the Service Provider, as declared in the Submission, which confirms that none of the excluding circumstances listed in Regulation 57 of the Regulations apply to the Service Provider, remains unchanged;
- 4.1.7 it owns, has obtained or is able to obtain, valid licences for all Intellectual Property Rights (as defined in clause 6 below) that are necessary for the performance of its obligations under this Call-Off Contract and for the LDA to obtain the benefit of the Services for its business purposes;
- 4.1.8 Not Used.
- 4.1.9 the LDA shall be under no obligation to purchase any minimum number or value of Services; and
- 4.1.10 it retains and shall maintain for the Term insurances for the nature and amount specified in the Specification. The Service Provider undertakes to advise the LDA 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 Service Provider shall carry out all directions of the LDA regarding compliance with this clause 4.1.10.

4.2 The Service Provider undertakes to notify the LDA forthwith of any material change to the status of the Service Provider regarding the warranties, acknowledgements representations and undertakings as set out at clause 4.1 and to comply with all reasonable directions of the LDA with regard thereto which may include termination of this Call-Off Contract.

5. REMEDIES

5.1 The Service Provider shall be liable for and shall indemnify the LDA for and in respect of all and any losses, claims, demands, damages or expenses which the LDA 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 Service Provider, its employees, Subcontractors or agents or any of them or as a result of the Service Provider's failure to exercise skill, care and diligence as outlined in clause 1. The terms of this clause 5.1 shall survive termination of this Call-Off Contract for any reason.

- 5.2 Save in respect of fraud or for death or personal injury or damage, destruction or loss of property caused by its negligence, or any other liability to the extent such liability may not be excluded or limited as a matter of law, in respect of the Service Provider's indemnity under clause 6.7 (for which no limit applies), 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.
- 5.3 Should the LDA find itself obliged to order elsewhere in consequence of the failure of the Service Provider to deliver Services, the LDA shall be entitled to recover from the Service Provider any excess prices which may be paid by the LDA.
- 5.4 Except as otherwise expressly provided by this Call-Off Contract, all remedies available to either Party for breach of this Call-Off Contract are cumulative and may be exercised concurrently or separately, and the exercise of any one remedy shall not be deemed an election of such remedy to the exclusion of other remedies.
- 5.5 Save in respect of fraud or for death or personal injury or damage, destruction or loss of property caused by its negligence, or any other liability to the extent such liability may not be excluded or limited as a matter of law, in respect of the Service Provider's indemnity under clause 6.7 (for which no limit applies), the limit of the Service Provider's aggregate liability to the Client under this Call-Off Contract whatsoever and howsoever arising shall not under any circumstances exceed €10,000,000 regardless of the number of claims.
- 5.6 Time of delivery shall be of the essence and if the Service Provider fails to deliver the Services within the time period promised or specified in the Specification, the LDA may by notice in writing to the Service Provider's Contact release itself from any obligation to accept and pay for the Services and / or terminate this Call-Off Contract in either case without prejudice to any other rights and remedies of the LDA.

6. **INTELLECTUAL PROPERTY**

- 6.1 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.
- 6.2 Pre-existing IPR means all IPR existing prior to the date of this Call-Off Contract and all IPR in any materials, acquired or developed by or for Service Provider or LDA independently of this Call-Off Contract, and any IPR in Service Provider's standard hardware and software products or modifications or updates to such products.
- 6.3 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

Call-Off Contract (collectively “**the Materials**”) (or any part or parts thereof) shall vest in the LDA and the Service Provider so acknowledges and confirms. For the avoidance of doubt the Service Provider hereby assigns all Intellectual Property Rights, title and interest in the Materials (including by way of present assignment of future copyright) to the extent that any such Intellectual Property Rights title or interest may be deemed by law to reside in it in the Materials to the LDA absolutely.

- 6.4 The LDA grants to the Service Provider a royalty-free non-exclusive licence to use the LDA’s Pre-existing IPR for the Term to the extent necessary to enable the Service Provider to fulfil its obligations under this Call-Off Contract. 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.
- 6.5 The Service Provider shall waive or procure a waiver of any moral rights subsisting in copyright produced under or in performance of this Call-Off Contract.
- 6.6 Nothing in this Call-Off Contract shall prohibit or be deemed to prohibit the Service Provider from providing services similar to the Services to any party other than the Parties hereto. In no event shall the Service Provider 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.
- 6.7 The Service Provider 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 Call-Off Contract (to include but not be limited to ensuring that the LDA shall be vested with all necessary rights so as to enable the LDA to enjoy the benefit of the Services for its business purposes). The Service Provider hereby indemnifies the LDA and shall keep and hold the LDA 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 Call-Off Contract.

At the request of the LDA for and in respect of any such breach, the Service Provider shall at its expense and option:

- (i) procure the necessary rights for the LDA 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 Service Provider cannot obtain the remedies in (i), (ii) or (iii) above, it may direct the return of the deliverable and refund to the LDA Charges paid for such deliverable less a reasonable amount for the LDA’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 LDA as a result of the breach.
- 6.8 Upon the termination of this Call-Off Contract for whatever reason, the Service Provider shall immediately deliver up to the LDA all the Materials prepared up to the date of termination. The provisions of this clause 6 will survive the expiration or termination of this Call-Off Contract for any reason.

7. CONFIDENTIALITY

- 7.1 The Service Provider confirms it will comply with the provisions of clause 17 of the Framework Agreement in respect of its data protection obligations and clause 17 of the Framework Agreement is hereby incorporated into the Call-Off Contract (together with all necessary definitions for this Clause only).
- 7.2 The Parties acknowledge that for the purposes of the Data Protection Laws, the LDA is the Data Controller, and the Service Provider is the Data Processor in respect of Confidential Information which is Personal Data. Schedule E sets out the scope, nature and purpose of Processing by the Service Provider, the duration of the Processing and the types of Personal Data and categories of Data Subject.
- 7.4 In circumstances where the LDA 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 LDA receiving a request for information related to this Call-Off Contract, the LDA shall consult with the Service Provider in respect of the request. The Service Provider 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 LDA will consult the Service Provider about this confidential or commercially sensitive information before making a decision on any request received under the above legislation. The Contracting Authority accepts no liability whatsoever in respect of any information provided which is subsequently released (irrespective of notification) or in respect of any consequential damage suffered as a result of such obligations.
- 7.5 The terms of this clause 7 shall survive expiry, completion or termination for whatever reason of this Call-Off Contract.

8. FORCE MAJEURE

- 8.1 A “**Force Majeure Event**” has the meaning given to it in the Framework Agreement.
- 8.2 In the event of any failure, interruption or delay in the performance of either Party’s obligations (or of any of them) resulting from any Force Majeure Event, that Party (“**the Affected Party**”) shall promptly notify the other Party in writing specifying:
- (i) the nature of the Force Majeure Event;
 - (ii) the anticipated delay in the performance of obligations;
 - (iii) the action proposed to minimise the impact of the Force Majeure Event;
- and the Affected Party shall not be liable or have any responsibility of any kind for any loss or damage thereby incurred or suffered by the other Party; provided always that the Affected Party shall use all reasonable efforts to minimise the effects of the same and shall resume the performance of its obligations as soon as reasonably possible after the removal of the cause.
- 8.3 If the Force Majeure Event continues for 30 calendar days either Party may terminate at 14 days’ notice.
- 8.4 In circumstances where the Service Provider is the Affected Party, the LDA shall be relieved from any obligation to make payments under this Call-Off Contract save to the extent that payments are properly due and payable for obligations actually fulfilled by the Service Provider in accordance with the terms and conditions of this Call-Off Contract.

9. TERMINATION

- 9.1 This Call-Off Contract may be terminated by the LDA (in whole or in part), without liability for compensation or damages, by serving thirty (30) days' written notice to the Service Provider. This Call-Off Contract may be terminated by the Service Provider, without liability for compensation or damages, by serving six (6) months' written notice to the LDA.
- 9.2 The LDA shall have the right (in addition to its rights under clause 9.1 and any other rights which it has at law) to terminate this Call-Off Contract immediately and without liability for compensation or damages on the happening of any of the following:
- 9.2.1 if the Service Provider commits any serious breach or a series of breaches of any provision of this Call-Off Contract 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;
 - 9.2.2 if the Service Provider 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;
 - 9.2.3 in circumstances where the LDA becomes aware of any conflict of interest on the part of the Service Provider which cannot, in the opinion of the LDA, be removed by other means;
 - 9.2.4 in circumstances where the LDA becomes aware of any registrable interest on the part of the Service Provider;
 - 9.2.5 If the LDA becomes aware that any of the exclusion grounds set out in Regulation 57 of the Regulations apply to the Service Provider; or
 - 9.2.6 if the Framework Agreement is terminated in accordance under clauses 19.3 to 19.7 of the Framework Agreement.
- 9.3 The LDA shall have the right, in addition to any other rights which it has at law, to terminate this Call-Off Contract immediately and without liability for compensation or damages in circumstances where the LDA becomes aware that any of the exclusion grounds set out in Regulation 57 of the Regulations apply to the Service Provider.
- 9.4 Termination of this Call-Off Contract shall not affect any antecedent and accrued rights, obligations or liabilities of either Party, nor shall it affect any provision of this Call-Off Contract which is expressly or by implication intended to come into or continue in force on or after such termination.
- 9.5 If requested by the LDA, the Service Provider 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 LDA ("**Employment Information**"). The Service Provider agrees that the LDA 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 Call-Off Contract for whatever cause.

10. CONTRACT MANAGEMENT

- 10.1 The LDA's Contact and the Service Provider's Contact shall liaise on a regular basis to address any issues arising which may impact on the performance of this Call-Off Contract and to agree

milestones, compliance schedules and operational protocols as required by the LDA from time to time. If requested in writing by the LDA the Service Provider shall meet formally with the LDA to report on progress and shall comply with all written directions of the LDA.

10.2 The Service Provider agrees to:

10.2.1 liaise with and keep the LDA's Contact fully informed of any matter which might affect the observance and performance of the Service Provider's obligations under this Call-Off Contract;

10.2.2 maintain such records and comply with such reporting arrangements and protocols as required by the LDA from time to time;

10.2.3 comply with all reasonable directions of the LDA; and

10.2.4 comply with the service levels and performance indicators set out in Schedule D.

10.3 The LDA or its authorised representative may inspect the Service Provider's premises, lands and facilities (or such part or parts thereof relating solely to this Call-Off Contract) with due access to relevant personnel and records upon reasonable notice in writing to ensure compliance with the terms of this Call-Off Contract. The Service Provider shall comply with all reasonable directions of the LDA thereby arising. The cost of inspection shall be borne by the LDA.

11. DISPUTES

11.1 In the event of any dispute arising out of or relating to this Call-Off Contract (the "**Dispute**"), the provisions of clause 37 of the Framework Agreement shall apply.

11.2 For the avoidance of doubt, the obligations of the Parties under this Call-Off Contract shall not cease, or be suspended or delayed by the operation of the disputes provision under clause 37 of the Framework Agreement. The Service Provider shall comply fully with the requirements of this Call-Off Contract at all times.

12. GOVERNING LAW, CHOICE OF JURISDICTION AND EXECUTION

12.1 This Call-Off Contract 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 Call-Off Contract.

12.2 This Call-Off Contract shall be executed in duplicate and each copy of this Call-Off Contract shall be signed by all the Parties hereto. Each of the Parties to this Call-Off Contract confirms that this Call-Off Contract is executed by their duly authorised officers.

13. NOTICES

13.1 Any notice or other written communication to be given under this Call-Off Contract shall either be delivered personally or sent by registered post or email. The Parties will from time to time agree primary and alternative contact persons and details for the purposes of this clause 13.

13.2 All notices shall be deemed to have been served as follows:

(i) if personally delivered, at the time of delivery;

- (ii) 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
- (iii) if communicated by email, at the time of acknowledgement of transmission.

14. ASSIGNMENT AND SUBCONTRACT

- 14.1 Subject to the Service Provider's obligations at law, any assignment to a third party or other transfer of the Service Provider's rights or obligations under this Call-Off Contract (the "**Assignment**") requires the prior written consent of the LDA, which consent may be withheld at the LDA's absolute discretion. Subject to the LDA's obligations at law, any assignment to a third party or other transfer of the LDA's rights or obligations under this Call-Off Contract does not require the prior written consent of the Service Provider. Prior to any such Assignment, the assignee will be obliged to sign an undertaking to comply with all obligations under this Call-Off Contract. Any attempted Assignment not complied with in the manner prescribed herein shall be null and void.
- 14.2 The Service Provider may not sub-contract any element of the Services without the prior written consent of the LDA, which consent may be withheld at the LDA's absolute discretion. In instances where a Framework Member requires, and the LDA consents, to the use of international offices or affiliates in the delivery of the Services, the Framework Member shall be responsible for the project management and delivery of the Services.

15. ENTIRE AGREEMENT

- 15.1. This Call-Off Contract (together with the documents incorporated herein) 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 Call-Off Contract (save where fraudulently made) are hereby excluded.

16. SEVERABILITY

- 16.1. 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

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

18. NON-EXCLUSIVITY

- 18.1. Nothing in this Call-Off Contract shall preclude the LDA from purchasing services (or Services) from a third party at any time during the Term.

19. MEDIA

- 19.1. No media releases, public announcements or public disclosures relating to this Call-Off Contract or its subject matter, including but not limited to promotional or marketing material, shall be made by the Service Provider without the prior written consent of the LDA.

20. CONFLICTS, REGISTRABLE INTERESTS AND CORRUPT GIFTS

- 20.1. The Service Provider 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 Call-Off Contract. The Service Provider hereby undertakes to notify the LDA immediately should any conflict or potential conflict of interest come to its attention during the currency of this Call-Off Contract and to comply with the LDA's directions in respect thereof. In the event of such notification, the LDA shall have the right (in addition to any other rights which it has at law) to terminate this Call-Off Contract immediately and without liability for compensation or damages.
- 20.2. Any registrable interest involving the Service Provider (and any Subcontractor or agent as the case may be) and the LDA, the Ceann Comhairle (Speaker), or any member of the Government, or any member of the Oireachtas, or their relatives must be fully disclosed to the LDA immediately upon such information becoming known to the Service Provider (Subcontractor or agent as the case may be) and the Service Provider shall comply with the LDA's directions in respect thereof, to the satisfaction of the LDA. In the event of such disclosure, the LDA shall have the right (in addition to any other rights which it has at law) to terminate this Call-Off Contract immediately and without liability for compensation or damages. The terms "registrable interest" and "relative" shall be interpreted as per section 2 of the Ethics in Public Office Act 1995 (as amended) a copy of which is available on request.
- 20.3. The Service Provider 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 20.3 or the commission of any offence by the Service Provider, any Subcontractor, agent or employee under the Criminal Justice (Corruption Offences) Act 2018 shall entitle the LDA to terminate this Call-Off Contract 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 Service Provider of the amount or value of any such gift, consideration or commission.

21. ACCESS TO PREMISES

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

22. EQUIPMENT

- 22.1. The Service Provider shall provide all equipment and materials necessary for the provision of the Services ("**Equipment**").
- 22.2. All Equipment brought onto the LDA's premises shall be at the Service Provider's own risk and the LDA shall have no liability for any loss of, caused by or damage to any Equipment. The Service Provider shall provide for the haulage or carriage thereof to the LDA'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 Service Provider.

- 22.3. The Service Provider shall maintain and store all items of Equipment within the LDA's premises in a safe, serviceable and clean condition.
- 22.4. The Service Provider shall, at the LDA's written request, at its own expense and as soon as reasonably practicable:
- (i) remove from the LDA's premises any Equipment which in the reasonable opinion of the LDA is either hazardous, noxious or not in accordance with this Call-Off Contract; and
 - (ii) replace such item with a suitable substitute item of Equipment.
- 22.5. On completion of the Services the Service Provider shall remove the Equipment used by the Service Provider to provide the Services and shall leave the LDA's premises in a clean, safe and tidy condition. The Service Provider is solely responsible for making good any damage to the LDA's premises or any objects contained thereon, other than fair wear and tear, which is caused by the Service Provider or any of its employees or Subcontractors.

23. NON SOLICITATION

- 23.1. The Service Provider acknowledges clause 25 of the Framework Agreement.

24. CHANGE CONTROL PROCEDURE

- 24.1. The provisions of schedule 6 of the Framework Agreement shall apply and the terms are incorporated into this Call-Off Contract.

SCHEDULE B - SERVICES: THE SPECIFICATION

[Insert when completing contract. List applicable insurance requirements here, including Insurance requirements]

SCHEDULE C - CHARGES

[Insert when completing contract]

SCHEDULE D - SERVICE LEVELS

[Insert, if applicable, when completing contract]

SCHEDULE E - DATA PROTECTION

[complete when completing the contract]

Processing, Personal Data and Data Subjects

- 1. Processing by the Service Provider**
 - 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**