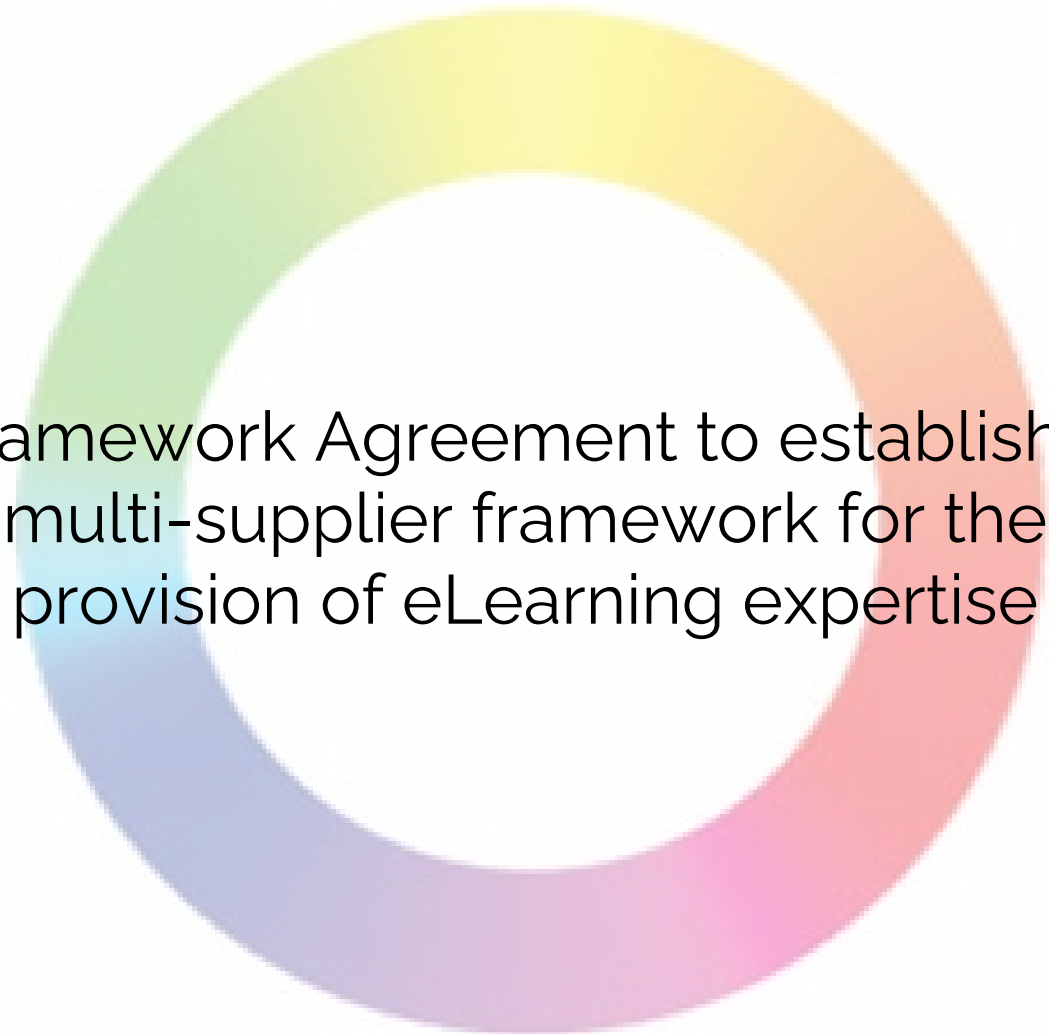


# Call for Tender Document



Framework Agreement to establish a  
multi-supplier framework for the  
provision of eLearning expertise



Tender Reference: 2625-SF-N

eTenders ID: 9150898

Issue Date: 05 October 2026

# Table of Contents

|                                                                              |           |
|------------------------------------------------------------------------------|-----------|
| <b>Part 2: Instructions to Tenderers .....</b>                               | <b>3</b>  |
| 2.1 Introduction to this CfT.....                                            | 3         |
| 2.2 Compliant Tenders .....                                                  | 4         |
| 2.3 Services Contract.....                                                   | 5         |
| 2.4 Acceptance of CfT Requirements.....                                      | 5         |
| 2.5 Consortia and Prime / Subcontractors.....                                | 5         |
| 2.6 Tender Submission Requirements.....                                      | 6         |
| 2.7 Queries and Clarifications .....                                         | 7         |
| 2.8 Tendering Costs.....                                                     | 8         |
| 2.9 Confidentiality.....                                                     | 8         |
| 2.10 Pricing .....                                                           | 8         |
| 2.11 Environmental, Social and Labour Law .....                              | 9         |
| 2.12 Publicity.....                                                          | 10        |
| 2.13 Registrable Interest.....                                               | 10        |
| 2.14 Anti-Competitive Conduct.....                                           | 10        |
| 2.15 Industry Terms Used in this CfT .....                                   | 11        |
| 2.16 Freedom of Information .....                                            | 11        |
| 2.17 Tax Clearance.....                                                      | 11        |
| 2.18 Conflicts of Interest.....                                              | 12        |
| 2.19 Withdrawal from this Public Procurement Competition.....                | 12        |
| 2.20 Site Visit .....                                                        | 12        |
| 2.21 Insurance .....                                                         | 13        |
| <b>Part 3: Selection and Award Criteria.....</b>                             | <b>15</b> |
| 3.1 Compliant Tenders .....                                                  | 15        |
| 3.2 Selection Criteria.....                                                  | 15        |
| 3.3 Award Criteria .....                                                     | 17        |
| 3.4 Verification of Proposals .....                                          | 19        |
| 3.5 Standstill Period .....                                                  | 19        |
| 3.6 Return of Signed Framework Agreement .....                               | 20        |
| 3.7 Replacement Personnel .....                                              | 20        |
| <b>Appendix 1: Requirements and Specifications.....</b>                      | <b>21</b> |
| <b>Appendix 2: Pricing Schedule .....</b>                                    | <b>25</b> |
| <b>Appendix 3: Tenderers' Statement .....</b>                                | <b>26</b> |
| <b>Appendix 4: Declaration as to Personal Circumstances of Tenderer.....</b> | <b>28</b> |
| <b>Appendix 5: Framework Agreement.....</b>                                  | <b>31</b> |
| <b>Appendix 6: Service Contract .....</b>                                    | <b>46</b> |

## Part 1: Introduction

- 1.1 SOLAS invites responses ("Tenders") to this Call for Tender ("CfT") from economic operators ("Tenderers") for the provision of the services as described in Appendix 1: Requirements and Specifications, to this CfT, ("the Services"). Long Name is SOLAS for this public procurement competition ("SOLAS").
- 1.2 The title of this CfT is Call for Tender to establish a multi-supplier framework for the provision of eLearning expertise.
- 1.3 This public procurement competition relates to a multi-supplier framework for the provision of eLearning expertise.
- 1.4 Any Framework Agreements that may result from this public procurement competition will be issued for a term of 36 months ("the Term").
- 1.5 SOLAS may award contracts (each a "Services Contract" – set out at Appendix 6) by way of supplementary competition ("Mini Competition"). In accordance with clauses 5 and 6 of the Framework Agreement (set out at Appendix 5), all Framework Members will be invited to respond by way of a supplementary Call for Tender ("SCfT"). Mini-Competitions shall be conducted by SOLAS.

The award criteria for any Mini-Competition will be:

| Award Criteria | Sub-Criteria                                                                                                                                                | Weighting (range) |
|----------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------|
| Cost:          |                                                                                                                                                             | 20%               |
| Quality:       | <ul style="list-style-type: none"> <li>Environmental and Social Considerations</li> <li>Project Management &amp; Availability</li> <li>Expertise</li> </ul> | 80%               |

- 1.6 It is anticipated that a minimum of two (2) and maximum of six (6) members (each a "Framework Member") will be appointed to the Framework.
- 1.7 Tenders must be received not later than **13:00** on **Monday 02 November 2026**. Tenders that are received after this time WILL NOT be considered in this public procurement competition.

## Part 2: Instructions to Tenderers

### 2.1 Introduction to this CfT

2.1.1 While every effort has been made to provide comprehensive and accurate background information and requirements and specifications, Tenderers must form their own conclusions about the solution needed to meet the requirements set out in this CfT. Tenderers and recipients of this CfT may wish to consult their own legal advisers in relation to this CfT or the subject matter thereof.

2.1.2 SOLAS 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 Framework Agreement and/or a Services Contract. The conclusion of a Framework Agreement with a Framework Member does not guarantee the award of any Services Contract.

No enforceable commitment of any kind will exist unless and until a formal written Framework Agreement has been executed by or on behalf of SOLAS.

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

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

SOLAS may cancel this Competition (or, for the avoidance of doubt, any individual Lot) at any time prior to a formal written Framework Agreement being executed by or on behalf of SOLAS.

The award of a Framework Agreement or a Services Contract under the Framework Agreement does not confer exclusivity on the successful Tenderer(s).

Tenderers should note that SOLAS shall be under no obligation to purchase any minimum value of Services under any Framework Agreement.

2.1.3 This CfT supersedes and replaces all previous documentation, communications and correspondence between SOLAS and Tenderers, and Tenderers should place no reliance on such previous documentation and correspondence. Tenderers to this CfT should study the contents of this CfT carefully, including the information and documents contained in the Tender Response Document (TRD).

2.1.4 In this clause 2.1.5, "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 Data Protection Commission of Ireland or other supervisory authority for data protection in Ireland from time to time.

SOLAS will be a Data Controller (such term having the meaning given to it in the General Data Protection Regulation) in respect of any Personal Data (such term having the meaning given to it in the General Data Protection Regulation) required to be provided by the Tenderer in response to this CfT.

The Tenderer will be a Data Controller in respect of any Personal Data provided by it in its Tender and is required to comply with its obligations under the Data Protection Laws including (without limitation) to confirm in the statement required under paragraph 2.4 below that it has a legal basis (or legal bases) for sharing such Personal Data and has complied with its transparency obligations under the Data Protection Laws so that all Data Subjects whose Personal Data are provided by the Tenderer have been provided with appropriate transparency information from the Tenderer in relation to its processing of Personal Data by the Tenderer, SOLAS, the Evaluation Team and the supplier of the etenders.gov.ie website, for the purposes of the participation of the Tenderer's participation in this Competition.

## 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, SOLAS 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 SOLAS's view, is non-material or procedural.

Tenderers are required:

- a) To submit all documentation which this CfT requires to be submitted with their Tender.

- b) To follow the format of this CfT and respond to each element in the order as set out in this CfT.
- c) To conform to and comply with all instructions and requirements set out in this CfT.
- d) To submit the statement required under paragraph 2.4 below; and
- e) Not to alter or edit this CfT in any way.

2.2.2 Without prejudice to the generality of paragraphs 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 Services Contract**

2.3.1 The award of Services Contracts under a Framework Agreement shall be made in accordance with the rules set out in the Framework Agreement at Appendix 5 to this CfT.

2.3.2 Tenderers should also note the terms and conditions of the Services Contract set out at Appendix 6 to this CfT.

2.3.3 Tenderers are required to confirm their acceptance of the terms and conditions of the Framework Agreement at Appendix 5 to this CfT and the Services Contract at Appendix 6 to this CfT in the Tenderer's Statement at Appendix 3. Tenderers may not amend the Framework Agreement or the Services Contract.

## **2.4 Acceptance of CfT Requirements**

2.4.1 Each Tenderer is required to accept the provisions of this CfT. ALL TENDERERS MUST RETURN, with their Tender, a scanned signed copy of the Tenderer's Statement as set out in Appendix 3 and Declaration as set out in Appendix 4 which are provided in the TRD. SOLAS must be able to read the scanned signature of the Tenderer. If possible, please sign documents using blue ink. If SOLAS cannot read the scanned signature, Tenderers may be requested to resubmit. Tenderers may not amend the Tenderer's Statement.

## **2.5 Consortia and Prime / Subcontractors**

2.5.1 Where a group of undertakings submit a Tender in response to this CfT SOLAS will deal with all matters relating to this public procurement competition through the

entity who will carry overall responsibility for the performance of the Contract only ("Prime Contractor"), irrespective of whether tasks are to be performed by a subcontractor and/or consortium members. The Tenderer must clearly set out:

- a) The full legal name of the Prime Contractor together with its registered business address (where applicable), registered business name (where applicable), company registration number (where applicable), telephone and e-mail contact details.
- b) The names of all subcontractors and/or consortium members who will be involved in the provision of the Services.
- c) A description of the role to be fulfilled by each subcontractor and/or consortium member; and
- d) The name, title, telephone number, postal address, and e-mail address of the nominated contact personnel authorised to represent the Prime Contractor, within the organisation of the Prime Contractor, to whom all communications shall be directed and accepted until this public procurement competition has been completed or terminated. Correspondence from any other person (including from any subcontractor and/or consortium member) will NOT be accepted, acknowledged, or responded to.

## 2.6 Tender Submission Requirements

**2.6.1** Tenders must be submitted via the eAuctions available on [www.etenders.gov.ie](http://www.etenders.gov.ie). Only Tenders submitted electronically via etenders 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.

Tenderers 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.

To submit a document to eAuctions, please note that you must follow the instructions on eTenders (available in the *User Manual for Economic Operators* available in the [Information Area \(etenders.gov.ie\)](http://www.etenders.gov.ie) – *Companies Manual, Detailed User Manual for Companies*). After submitting you can still modify and re-send your response up until the response deadline. Tenderers will not be able to submit a document after the response deadline.

Tenders must be received no later than **13:00** on **Monday 02 November 2026** (the "Tender Deadline"). Tenders that are received late WILL NOT be considered in this public procurement competition.

2.6.2 Tenders must be submitted in English.

2.6.3 SOLAS reserves the right to check all information supplied for accuracy (but without any obligation to do so). Statements which are subsequently found to be incorrect, or incapable of fulfilment may be considered by SOLAS as a reason to exclude that tenderer from the process.

2.6.4 SOLAS reserves the right to check all information supplied for accuracy (but without any obligation to do so). Statements which are subsequently found to be incorrect, or incapable of fulfilment may be considered by SOLAS as a reason to exclude that tenderer from the process.

2.6.5 SOLAS reserves the right to request clarification of any matter set out in a Tenderer's tender or to request additional information from the Tenderer after the final date for submission of tenders. Failure to provide a satisfactory response may lead to the Tenderer's exclusion from the procurement process.

2.6.6 All Tenders submitted in soft copy must be compiled such that they can be read immediately. SOLAS 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 or requests for clarification relating to any aspect of this public procurement competition or of this CFT must be directed to the messaging facility on [www.etenders.gov.ie](http://www.etenders.gov.ie). Queries or requests for clarifications will be accepted no later than **15:00** on **Thursday 22 October 2026** unless otherwise published by SOLAS.

2.7.2 All clarifications and responses to queries/requests for clarification will be issued via the messaging facility on [www.etenders.gov.ie](http://www.etenders.gov.ie). Where appropriate, questions may be amalgamated. Tenderers should note that SOLAS will not make responses or clarifications to individual Tenderers privately.

2.7.3 SOLAS reserves the right to issue or seek written clarifications.

- 2.7.4 SOLAS 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.

## 2.8 Tendering Costs

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

## 2.9 Confidentiality

- 2.9.1 All documentation, data, statistics, drawings, information, patterns, samples, or material disclosed or furnished by SOLAS to Tenderers during 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 SOLAS.
  - c) shall be treated as confidential by the Tenderer and by any third parties (including subcontractors) engaged or consulted by the Tenderer; and
  - d) must be returned immediately to SOLAS upon cancellation or completion of this public procurement competition if so, requested by SOLAS.

## 2.10 Pricing

- 2.10.1 All Tenderers must complete Section 3 Part 1: Cost in the Tender Response Document Pricing Schedule.
- 2.10.2 All daily rates must be inclusive of out of pocket (i.e. mileage, subsistence, phone, postage, etc.) and account / contract management related costs.
- 2.10.3 All prices quoted must be all-inclusive (i.e. including but not being limited to shipping, packaging, delivery, ancillary costs, and all other costs/expenses).
- 2.10.4 All prices must be expressed in Euro only and exclusive of VAT. The VAT rate(s) where applicable should be indicated separately.

- 2.10.5 Tenderers must confirm that all prices quoted in the Tender will remain valid for 6 months commencing from the Tender Deadline.
- 2.10.6 Any currency variations occurring over the term of the Services Contract shall be borne by the Tenderer.
- 2.10.7 Where there is a discrepancy between the unit price and the total amount derived from the multiplication of the unit price and the quantity, the unit price as quoted will govern.
- 2.10.8 Payments for Services provided pursuant to this CfT shall be subject to and made in accordance with the Services Contract at Appendix 5 to this CfT.

## **2.11 Environmental, Social and Labour Law**

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

shall have no liability for any increase in salaries that may be payable because of the application of the 2012 Act to the provision of the Services.

- 2.11.4 In compliance with the Public Sector Equality and Human Rights Duty, public bodies bound by the Duty are responsible for ensuring that equality and human rights obligations equivalent to the Duty are included in all agreements with contractual partners. Further information and resources regarding the obligations of public bodies concerning the Duty are available from [Public Sector Equality and Human Rights Duty - IHREC - Irish Human Rights and Equality Commission](#).

## 2.12 Publicity

- 2.12.1 No publicity regarding this public procurement competition, the award of a contract or the execution of the Services Contract is permitted unless and until SOLAS has given its prior written consent to the relevant communication.

## 2.13 Registrable Interest

- 2.13.1 Any registrable interest involving the Tenderer/subcontractor and SOLAS, members of the Government, members of the Oireachtas, or employees and officers of SOLAS and their relatives must be fully disclosed in the Tender or, in the event of this information only coming to their notice after the submission of a Tender and prior to the award of the contract, it should be communicated to SOLAS immediately upon such information becoming known to the Tenderer/subcontractor. The terms 'Registrable Interest' and 'Relative' shall be interpreted as per Section 2 of the Ethics in Public Office Act 1995 & 2001 (Ethics Acts), a copy of which is available to download at [www.finance.gov.ie](http://www.finance.gov.ie). SOLAS will, at its absolute discretion, decide on the appropriate course of action, which may in appropriate circumstances include eliminating a Tenderer from the competition or terminating any contract entered into by a Tenderer.

## 2.14 Anti-Competitive Conduct

- 2.14.1 Tenderers attention is drawn to the application of the Competition Act 2002 and Competition & Consumer Protection Act 2014. These Acts make 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

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

## 2.16 Freedom of Information

- 2.16.1 Tenderers should be aware that, under the Freedom of Information Act 2014 and the European Communities (Access to Information on the Environment) Regulations 2007 to 2014, information provided by them during this Competition may be liable to be disclosed.
- 2.16.2 Tenderers are asked to consider if any of the information supplied by them in their Tender should not be disclosed because of its confidentiality or commercial sensitivity. If Tenderers consider that certain information is not to be disclosed because of its confidentiality or commercial sensitivity, Tenderers must, when providing such information, clearly identify the specific sections of their Tender containing such information and specify the reasons for its confidentiality or commercial sensitivity. For the avoidance of doubt, Tenderers may not assert confidentiality or commercial sensitivity over the entire Tender but must 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. SOLAS will, where possible, consult with Tenderers about confidential or commercially sensitive information so identified before making its decision on a request received. SOLAS 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 because of such obligations.

## 2.17 Tax Clearance

- 2.17.1 It will be a condition of any Services Contract pursuant to this Competition that the successful Tenderer(s) shall, for the term of such contract(s), comply with all applicable EU and domestic tax laws. Tenderers are referred to [www.revenue.ie](http://www.revenue.ie) for further information. Prior to the award of any Services Contract arising out of this Competition the successful Tenderer shall be required to supply its Tax Clearance Access Number and Tax Reference Number to facilitate online verification of their

tax status by SOLAS. By supplying these numbers, the successful Tenderer acknowledges and agrees that SOLAS has the permission of the successful Tenderer to verify its tax cleared position online. Please note that successful individuals will be paid for these services in line with Revenue guidelines, classed as PAYE workers and subject to statutory deductions, as required.

## 2.18 Conflicts of Interest

2.18.1 Any conflict interest or potential conflict of interest on the part of a Tenderer, Subcontractor or individual employee(s) or agent(s) of a Tenderer or Subcontractor(s) must be fully disclosed to SOLAS 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, SOLAS may invite Tenderers to propose means by which the conflict of interest might be removed and in circumstances where there are links between Tenderers, SOLAS may seek further information to confirm the Tenders have been prepared independently. SOLAS will, at its absolute discretion, decide on the appropriate course of action, which may in appropriate circumstances include eliminating a Tenderer from this Competition or any Mini-Competition or terminating any Framework Agreement or Services Contract entered into by a Tenderer.

## 2.19 Withdrawal from this Public Procurement Competition

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

## 2.20 Site Visit

2.20.1 **This Clause DOES NOT apply to this Cft.**

Should it be deemed necessary for tendering, SOLAS will facilitate Tenderers by permitting an inspection of SOLAS's premises. A site visit to view SOLAS's premises or facilities at [insert relevant addresses] shall be organised on [date] between the hours of [x and y]. Tenderers wishing to make an appointment to avail of this opportunity must confirm their attendance by contacting [name of person] at [insert email address] by [insert date and time]. Attendance at SOLAS's premises will be subject to compliance with local security arrangements.

## 2.21 Insurance

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

| Insurance Type                                                                                                                                                               | SOLAS Requirement                                                               |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------|
| <b>Professional Liability</b>                                                                                                                                                | €1m for any one claim or series of claims arising out of a single occurrence    |
| <b>Public Liability</b>                                                                                                                                                      | €6.5m for any one claim or series of claims arising out of a single occurrence  |
| <b>Employers Liability</b>                                                                                                                                                   | €12.7m for any one claim or series of claims arising out of a single occurrence |
| <b>Cyber Liability</b>                                                                                                                                                       | €1m for any one claim or series of claims arising out of a single occurrence    |
| The Tenderer is required to confirm that they will increase their level of insurance to those required by SOLAS prior to the award of any business arising from this tender. |                                                                                 |

*Note: Please note that a valid certificate of insurance will be required before the finalisation of any contract. Please complete the Insurance table in Tender Response Document.*

2.21.2 By signing the Tenderer's Statement at Appendix 3, Tenderers confirm that, if awarded a Services Contract under this Competition, (i) they will, from the Effective Date of the Services Contract (as defined in the Services Contract), obtain and hold the types and levels of insurance as specified at paragraph 2.21.1, (ii) the territorial limits and jurisdiction of its insurance policies include the Republic of Ireland and (iii) they are not aware of any exclusions, restrictions, conditions or warranties or, in the case of policies with an aggregate limit of indemnity, any outstanding claims, which could have a material adverse impact on the level of coverage specified above. A formal confirmation from the Tenderer's insurance company or broker to

this effect will be requested from the successful Tenderer(s) prior to the award of (and shall be a condition of) any Services Contract.

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

- a) immediately advise SOLAS of any material change to its insured status.
- b) produce proof of current premiums paid upon request.
- c) produce valid certificates of insurance upon request.

## Part 3: Selection and Award Criteria

### 3.1 Compliant Tenders

- 3.1.1 Only those Tenderers who have submitted compliant Tenders under paragraph 2.2 above and have not been excluded under Article 57 of EU Council Directive 2004/24/EU as implemented into Irish law by Regulation 57 of the European Union (Award of Public Authority's Contracts) Regulations 2016 will be evaluated in accordance with the Selection and Award Criteria in this Part 3.

### 3.2 Selection Criteria

#### 3.2.1 Economic and Financial Standing

All Tenderers must demonstrate that they can meet the following financial and economic standing requirement(s) and must be able to furnish the following documentation. Tenderers will either pass OR fail this selection criterion.

Tenderers must provide satisfactory evidence of each of the following.

- Compliance with Article 57 of Council Directive 2014 / 24 / EU as per Appendix 4.
- **Annual Turnover Requirement**

That they have achieved a Turnover of €200,000 for each of the last 3 years (see Section 2 – Selection Criteria of the Tender Response Document) or pro-rata if more recently established.

#### **Rule: Pass/Fail**

Financial & Economic Considerations. Tenderers must provide financial accounts when requested by SOLAS. However, where the Tenderer is unable, for a valid reason, to provide the specified documentation, the Tenderer must inform SOLAS of that valid reason as to why the documentation cannot be supplied and provide such other suitable alternative documentation to prove, to the satisfaction of SOLAS, their economic and financial capacity.

Tenderers should note that economic operators relying on the capacity of other entities must, when requested by SOLAS, submit an undertaking, duly

evidenced, from those entities that they will place the necessary resources at the disposal of the Tenderer.

- **Insurance**

Tenderers must confirm agree to hold for the term of the Services Contract the the insurance requirements as per Section 2.21.

**Rule: Pass/Fail**

### 3.2.2 Technical and Professional Ability

All Tenderers must demonstrate that they have the following technical and professional ability and must furnish the following documentation with their Tenders. Tenderers will either pass OR fail this selection criterion:

- **Evidence of Previous Experience**

Using the template provided in the Tender Response Document, Tenderers are required to submit contact details of three (3) most relevant contracts to whom you have provided eLearning design expertise within the last three (3) years before the tender submission deadline.

These client references may be contacted on a confidential basis to verify the said contract was carried out by the tenderer and the service delivered to the client was of a very high standard.

**Rule: Pass/Fail**

Failure to submit three (3) valid Client Reference details in the specified timeframe to SOLAS's satisfaction will result in the Tenderer being awarded a **fail**.

Tenderers should note that economic operators relying on the capacity of other entities must, when requested by SOLAS, submit an undertaking, duly evidenced, from those entities that they will place the necessary resources at the disposal of the Tenderer.

The documentation required under this paragraph 3.2.1 will be requested by SOLAS prior to (and shall be a condition of) the award of any contract.

### 3.3 Award Criteria

- 3.3.1 Only those Tenderers who have qualified in accordance with paragraph 3.2.1 and 3.2.2 of this CfT will proceed to be evaluated under this paragraph 3.3.

No commitment of any kind, contractual or otherwise shall exist unless and until a formal written contract has been executed by or on behalf of SOLAS. Any award of notification of preferred bidder status by SOLAS shall not give rise to any enforceable rights by the Tenderer. SOLAS may cancel this public procurement competition at any time before a formal written contract is executed by or on behalf of SOLAS. SOLAS does not bind itself to accept the lowest priced or any Tender.

- 3.3.2 The contract will be awarded based on the most economically advantageous tender. SOLAS will apply the following award criteria:

| Award Criteria |                                         | Maximum Marks Available | Minimum Marks Required |
|----------------|-----------------------------------------|-------------------------|------------------------|
| <b>1</b>       | Cost                                    | <b>300</b>              | <b>N/A</b>             |
| <b>2</b>       | Expertise                               | <b>300</b>              | <b>180</b>             |
| <b>3</b>       | Environmental and Social Considerations | <b>50</b>               | <b>30</b>              |
| <b>4</b>       | Understanding of requirements           | <b>150</b>              | <b>90</b>              |
| <b>5</b>       | Methodology                             | <b>200</b>              | <b>120</b>             |
|                | <b>Total</b>                            | <b>1,000</b>            |                        |

Scoring Methodology for criteria 2, 3, 4 and 5

| Weighting         | Meaning                                                                                                                                                                                                                                             |
|-------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>91% - 100%</b> | Excellent response with very few or no weaknesses exceeds requirements, and provides comprehensive, detailed, and convincing assurance that the Tenderer will deliver to an excellent standard.                                                     |
| <b>80% - 90%</b>  | A very good response that demonstrates real understanding and fully meets the requirements and assurance that the Tenderer will deliver to high standard.                                                                                           |
| <b>60% - 79%</b>  | A satisfactory response which demonstrates a reasonable understanding of requirements and gives reasonable assurance of delivery to an adequate standard but does not provide sufficiently convincing assurance to award a higher mark.             |
| <b>30% - 59%</b>  | A response where reservations exist. Lacks full credibility/convincing detail, and there is a significant risk that the response will not be successful.                                                                                            |
| <b>1% - 29%</b>   | A response where serious reservations exist. This may be because, for example, insufficient detail is provided, and the response has fundamental flaws, or is seriously inadequate or seriously lacks credibility with a high risk of non-delivery. |
| <b>0%</b>         | No Response                                                                                                                                                                                                                                         |

### Calculation of Total Cost (criteria 1)

The lowest price that meets all the minimum requirements of the qualitative award criteria will receive the maximum score achievable under this criterion. The scores of the other valid tenders will be calculated by using the formula outlined overleaf:

|                                     |                                             |                     |
|-------------------------------------|---------------------------------------------|---------------------|
| <b>A</b>                            | Cost from lowest submission                 |                     |
| <b>B</b>                            | Cost for submission being considered        |                     |
| <b>C</b>                            | Maximum points available for this criterion | 300                 |
| <b>Formula for awarding scores:</b> |                                             | $\frac{300 * A}{B}$ |

3.3.3 The award of contract (if any) to the highest ranked Tenderer (as determined by paragraph 3.3), will be conditional upon:

- a. the Tenderer submitting the documentation if required under paragraph 3.2.1 within **one week** of notification by SOLAS; and
- b. if required, the documentation submitted demonstrating that such Tenderer has the economic and financial capacity required under paragraph 3.2.1.

## 3.4 Verification of Proposals

3.4.1 Tenderers may be required to attend a verification/clarification meeting of the proposal contained in their Tender. SOLAS will not be responsible for the cost of such meetings per paragraph 2.8). Performance at such meetings will NOT be evaluated. It would be essential that the key personnel assigned to this contract should be available and present at this meeting.

## 3.5 Standstill Period

3.5.1 No contract will be executed or take effect until Seven (7) calendar days after the day on which the unsuccessful Tenderers have been sent the appropriate notice informing them of the result of this public procurement competition ("Standstill Period"). The preferred bidder will be notified of the decision of SOLAS and of the expiry date of the Standstill Period.

3.5.2 Tenderers should note that SOLAS may, when notifying unsuccessful Tenderers of the results of this public procurement 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 SOLAS.

### 3.6 Return of Signed Framework Agreement

3.6.1 The successful Tenderer must sign and return the Framework Agreement to SOLAS no later than seven (7) calendar days from the date of issue unless notified otherwise in writing by SOLAS. A signed Framework Agreement returned by the successful Tenderer is not binding on SOLAS until SOLAS has signed the Framework Agreement in accordance with paragraph 2.1.2 above.

3.6.2 Where the signed Framework Agreement has not been received by SOLAS within the period as specified at paragraph 3.6.1 then SOLAS may proceed to award the Services Contract to the next highest-ranked Tenderer in accordance with paragraph 3.6.1.

### 3.7 Replacement Personnel

At any stage prior to or during the contract delivery, notification must be sent in writing as soon as possible to SOLAS on any proposed change of nominated personnel, such change to be subject to the written approval of SOLAS. Replacement personnel must be of equal or better standing than the existing personnel in terms of qualifications and experience.

## Appendix 1: Requirements and Specifications

### Background Information

SOLAS is the state agency responsible for planning, funding and coordinating Further Education and Training (FET) in Ireland. Its mandate is to ensure the provision of 21st century high-quality, learner focused, education and training programmes, primarily delivered by Education and Training Boards (ETBs). SOLAS' core functions are to research, plan, fund, strategically direct and co-ordinate the delivery of over 400,000 Further Education and Training places annually. More information on SOLAS functions is available at [www.solas.ie](http://www.solas.ie).

### The Further Education and Training Sector

SOLAS funds 16 Education and Training Boards (ETBs), to provide a wide range of programmes and services for a diverse range of individuals over sixteen years of age. The ETBs are one of the main providers of skills development, re-skilling and up-skilling programmes for those who are school leavers, job seekers and for employees. An array of programmes and services relevant to enterprise is available in FET, including apprenticeships, traineeships, work placements, Skills to Advance, evening training, specific skills training and Post Leaving Certificate (PLC) courses.

### Enterprise Engagement in the FET Sector

The 2026 - 2030 Further Education and Training (FET) Strategy highlights the role of FET in supporting enterprise by aligning skills development with the evolving needs of the economy. Building on previous strategies, it emphasises workforce transformation through skills development to ensure that employees and jobseekers can upskill and reskill in response to technological change, digitalisation, changes in work processes, and the AI and green transition. Collaboration with employers and industry enables identification of skills gaps and design of relevant programmes and services to meet these industry needs.

The ambition is to cohere enterprise services offered by Education and Training Boards to provide consistent, professional, accessible skills development, reskilling and upskilling opportunities for employees and enterprise. The range of provision spans Skills to Advance, Traineeships, Apprenticeship, Post Leaving Cert, and services such as learner supports, recruitment and guidance.

### Skills to Advance

The Supporting Working Lives and Enterprise Growth in Ireland FET 2018-2021 Policy Framework for Skills Development of People in Employment aims to provide support to both employees and small and medium enterprises (SMEs) who need assistance to develop their workforce. It draws on a vision whereby further education and training is flexible and relevant to the changing needs of employees, the economy and industry.

In alignment with this framework, Skills to Advance is a policy initiative, developed by SOLAS in conjunction with the Department of Education and Skills and in consultation with ETBs and other stakeholders. It offers up-skilling and reskilling opportunities to employees with lower-level skills in both vulnerable and emerging sectors. Skills to Advance provides a dual approach to skills development for employees and employers. Two of the three access routes to FET provision for employees and employers involve employees accessing further education and training through their employer partnering with an ETB. ETBs work with companies to identify their skills and training needs and develop agile training to upskill their workforce.

### **FET Micro-Qualifications**

A model for FET Micro-Qualifications was developed collaboratively by SOLAS, the ETBs, QQI and enterprise partners. It was launched in January 2024 to provide a new FET offer for enterprise. FET micro-qualifications provide bite sized, QQI accredited upskilling opportunities which are available from ETBs across the country in person, blended and online formats.

### **Business Requirement**

The SOLAS Enterprise, Employees & Skills Unit, supports the development and implementation of the FET policy framework in skills development for the employed, to enable upskilling and reskilling of people in lower skilled employment and in emerging sectors.

SOLAS Enterprise, Employees & Skills, requests tenders from suitably experienced and qualified experts in eLearning design resources for initiatives such as Artificial Intelligence, Sustainability, Transversal Skills and other areas to be identified. The programmes will be delivered in person, online and in blended learning formats.

The successful contractor will create digital resources / tools to support the delivery skills programmes in the above areas.

## Digital Resource Requirements

Initial content for the various initiatives will be developed by Subject Matter Experts contracted by SOLAS. The contractor will be required to liaise with these Subject Matter Experts in the above areas to develop digital interactive content that will complement the programme content of the initiatives. The digital/interactive elements of each initiative will be hosted on an interactive learning platform by each ETB that can be accessed on multiple devices (Phone, Tablet etc.) and will incorporate Universal Design Principles (UDL)\* into all aspects of the digital content design.

The digital content will be interactive, accessible and engaging and will be based directly on the subject areas covered by the Artificial Intelligence, Sustainability and Transversal Skills initiatives. Digital content for each programme will have a duration of up to 10 hours, depending on programme requirements. The contractor will develop and deploy various types of tools and interactive, accessible digital content to engage the learner, as appropriate, in the delivery of these supports in an online environment. Examples of such content may include:

- PowerPoint slide decks
- Animations
- Videos
- Images
- Interactive formative assessments/quizzes
- Interactive case studies
- Interactive Toolkits
- Infographics

The successful contractor will provide training to SOLAS/ETB staff on the deployment of the tools and digital resources, as required.

The successful contractor will be referred to *The Universal Design Guidelines for FET Practitioners 2021*. All content developed should meet WCAG 2.1 standards.

## Contractor Requirements

The successful contractor will be expected to display the following:

- Proof of qualifications and prior experience in similar projects
- Expertise in e-learning methodologies and practices

- Proven capacity to design digital learning resources for various subject matter areas
- A proven ability to project manage the design and development of digital/blended learning methodologies and resources, within agreed timeframes
- An understanding of the Irish Further Education and Training Sector, specifically the role of the Education and Training Boards
- An understanding of Universal Design Principles and a plan to incorporate the *Universal Design Guidelines for FET Practitioners 2021* into the design and development of digital resources.

All the work produced as part of this tender will remain the property of SOLAS. SOLAS retains the right to adjust and amend any of the work produced, both during the development process and after the work has been completed and paid for.

SOLAS reserves the right, separate from this process, to seek procurement of additional learning design services as the need arises during this period.

## Appendix 2: Pricing Schedule

**Complete in Tender Response Pricing Document Provided**

### Tender Response Pricing Schedule

#### Criteria 1: Cost

#### Mark Available: 200

The tenderer must provide pricing in the table below for the duration of this contract. Changing the table/failing to provide the price in the format requested may result in disqualification from the competition. Blended Daily Rates provided are inclusive of all costs.

Must be Completed – Please check that all calculations are accurate prior to submitting.

**Cost must be submitted in Euro (€) only. All figures should be submitted ex VAT**

Any additional information inserted into this document will be disregarded.

| Project team roles<br>(insert team roles below – add rows as you need)                                                                                                          | € Cost per hour<br>(ex VAT) | € Cost per 8-hour<br>day (ex VAT) |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------|-----------------------------------|
|                                                                                                                                                                                 | €Insert here                | €Insert here                      |
|                                                                                                                                                                                 | €Insert here                | €Insert here                      |
|                                                                                                                                                                                 | €Insert here                | €Insert here                      |
|                                                                                                                                                                                 | €Insert here                | €Insert here                      |
|                                                                                                                                                                                 | €Insert here                | €Insert here                      |
|                                                                                                                                                                                 | €Insert here                | €Insert here                      |
| Total cost of project team's daily rate (ex VAT)                                                                                                                                |                             | €Insert here                      |
| Number of team roles proposed (add number of team roles listed above)                                                                                                           |                             |                                   |
| Fixed Blended Daily Rate for the term of the Contract (ex. VAT) <i>This is calculated by dividing the total cost of project team daily rate by the number of roles proposed</i> |                             | €Insert here                      |

Tenderer is required to provide a cost breakdown for their proposed team's roles and a fixed blended daily rate for the proposed team.

- The fixed blended daily rate is calculated by dividing the total cost of project team's daily rate (ex VAT) by the number of team roles proposed.

Price for this project to include:

- Meetings with SOLAS and other stakeholders
- Design/Development of resources
- Review

For Evaluation: SOLAS will use the Blended Daily Rate for the term of the contract. The costs per role provided in the table will be the **maximum cost per role** for the duration of the contract.

**Signed:**

**Print Name:**

## Appendix 3: Tenderers' Statement

### Complete in Tender Response Document Provided

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

#### TENDERERS' STATEMENT

**TO: SOLAS**

**RE:** Call for Tenders for **Insert Title**

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

1. We understand the nature and extent of the Services required to be delivered as described in Appendix 1: Requirements and Specifications to the CfT.
2. We accept all the Terms and Conditions of:
  - a) the CfT,
  - b) the Framework Agreement and agree that, if offered appointment to the framework, we will execute the Framework Agreement at Appendix 5 of the CfT;
  - c) the Services Contract and agree if awarded any contract pursuant to the Framework Agreement to execute the 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 provide SOLAS with the Services per the CfT and our Tender.
5. We confirm that we have complied with all requirements as set out at Part 2: Instructions to Tenderers, of the CfT.
6. We confirm that all prices quoted in our Tender will remain valid for the period commencing from the closing date for the receipt of Tenders as specified at paragraph 2.10.5 of the CfT.

7. We agree that, if awarded any Services Contract, we shall, in the performance of such contract, comply with all applicable obligations in the field of environmental, social, and labour law.
8. We shall, if awarded any contract under the CfT, have in place on the Effective Date of the Services Contract all insurances (if any) as required by paragraph 2.21.1 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, SOLAS, 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 SOLAS for the purposes of our participation in this Competition and that we will provide evidence of such consent and / or legal basis to SOLAS upon request.

Signed: \_\_\_\_\_ Name in Print\_\_\_\_\_

Date: \_\_\_\_\_

Position: \_\_\_\_\_

(To be signed by a Director or Partner of Company)

## Appendix 4: Declaration as to Personal Circumstances of Tenderer

### Complete in Tender Response Document Provided

Re: Call for Tender to establish a multi-supplier framework for the provision of eLearning expertise

**NAME OF TENDERER:** \_\_\_\_\_

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

I, \_\_\_\_\_ *[insert name of Declarant]* having been duly authorised by \_\_\_\_\_ *[insert name of entity]*, sincerely declare that \_\_\_\_\_ *[insert name of entity]* itself or any person who has is a member of the administrative, management or supervisory body of \_\_\_\_\_ *[insert name of entity]* or has powers of representation, decision or control in \_\_\_\_\_ *[insert name of entity]* –

1. 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.
2. 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 \_\_\_\_\_ *[insert name of entity]*.
3. 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.
4. 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.
5. 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,

6. 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.
7. Is not in breach of its obligations relating to the payment of taxes or social security contributions.
8. Has, in the performance of all public contracts, complied with applicable obligations in the field of environmental, social and labour law that apply at the place where the works are carried out or the services provided, that have been established by EU law, national law, collective agreements or by international, environmental, social and labour law listed Schedule 7 of the European Union (Award of Public Authority Contracts) Regulations 2016 (Statutory Instrument 284 of 2016).
9. 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.
10. Is not guilty of grave professional misconduct.
11. Has not entered into agreements with other economic operators aimed at distorting competition.
12. Is not aware of any conflict of interest due to its participation in the Competition;
13. Has not had any prior involvement in the preparation of the Competition;
14. 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.
15. 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 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).

16. Has not undertaken to unduly influence the decision-making process of SOLAS 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 SOLAS.

Signed: \_\_\_\_\_ Name in Print\_\_\_\_\_

Date: \_\_\_\_\_

Position: \_\_\_\_\_

(To be signed by a Director or Partner of Company)

## Appendix 5:

# Framework Agreement

**Sample  
framework  
agreement**

Framework Agreement to establish a multi-supplier framework for the provision of eLearning expertise

*Tenderer Logo*

**SOLAS**

An tSeirbhís Oideachais  
Leanúnaigh agus Scileanna  
Further Education and  
Training Authority

**THIS FRAMEWORK AGREEMENT is made on the [date e.g. 2nd] day of [month] 20[year] BETWEEN:**

("the Framework Agreement")

**BETWEEN:**

SOLAS of Castleforbes House, Castleforbes Road, Dublin 1 ("the Client").

and

**[Insert name of Framework Member]** of [address] ("the Contractor")

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

**WHEREAS:**

1. By Call for Tender entitled [Insert Tender Name], advertised on [www.etenders.gov.ie](http://www.etenders.gov.ie) Reference Number [\_\_\_\_\_] dated [insert date of CfT] ("the CfT") SOLAS invited tenders from economic operators ("Tenderers") to participate in a framework agreement for the provision of the services described in Appendix 1 of the CfT (the "Services"). References to the CfT shall include any clarifications in relation to the CfT issued by the Contracting Authority via the messaging facility on [www.etenders.gov.ie](http://www.etenders.gov.ie) between **[insert date]** and **[insert date]** (the "CfT Clarifications"). The CfT (including the CfT Clarifications) is hereby incorporated by reference into this Framework Agreement.
2. The Framework Member submitted a response to the CfT dated **[insert date of tender]** ("the Submission"). References to the Submission shall include any clarifications issued in writing by the Framework Member 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 Framework Agreement.
3. The Framework Member was appointed to the framework because of the evaluation of its Submission in accordance with the CfT.

**IT IS HEREBY AGREED AS FOLLOWS:**

## 1. DEFINITIONS AND INTERPRETATION

**"Commencement Date"** means \_\_\_\_\_;

**"Contract"** means a contract which is awarded in accordance with this Framework Agreement

**"Services Contract"** means the template contract attached at **Appendix 7** to the CfT;

**"Framework Term"** means the period set out in Clause 2.5 of this Framework Agreement;

**"Month"** means a calendar month;

**"Prime Contractor"** has the meaning set out in Part 1, paragraph 2.5 of the CfT;

**"Subcontractor"** has the meaning set out in Part 1, paragraph 2.5 of the CfT;

Unless otherwise specified herein, a defined term used in this Framework Agreement shall have the same meaning as assigned to it in the CfT.

- 1.1 To the extent that any specific provision in a Contract is inconsistent or conflicts with any term or condition of this Framework Agreement, the relevant provision of the Contract shall prevail.
- 1.2 Headings are included for ease of reference only and shall not affect the construction of this Framework Agreement.
- 1.3 Unless the context requires otherwise, words in the singular may include the plural and vice versa.
- 1.4 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.

## 2. APPOINTMENT OF FRAMEWORK MEMBER, SCOPE AND TERM OF THE FRAMEWORK AGREEMENT

- 2.1 In consideration of payment by the Contracting Authority of the sum of €2.00, the receipt of which is hereby acknowledged by the Framework Member, the Framework Member accepts its appointment under the provisions of this Framework Agreement.

- 2.2 This Framework Agreement does not entitle the Framework Member to be consulted in respect of, or awarded any Contract during the Framework Term. SOLAS may at its or their sole discretion choose not to enter into any Contract pursuant to this Framework Agreement.
- 2.3 The Contracting Authority does not give any guarantee and/or warrant the actual value of any Services and/or number of Contracts (if any) which may be procured in connection with this Framework Agreement and the Parties acknowledge that SOLAS is not bound to enter into any Contract or other arrangement with the Framework Member as a result of entering into this Framework Agreement. Without prejudice to the foregoing the Framework Member hereby acknowledges that the Contracting Authority intends (but shall be under no obligation) to promote the Framework Agreement and to encourage use of the Framework Agreement by the Framework Client(s) and the Framework Member may be required to provide reasonable assistance in this respect.
- 2.4 This Framework Agreement does not confer exclusivity on any Framework Member. SOLAS may at its sole discretion opt to carry out a separate contract award procedure for contracts falling within the scope of this Framework Agreement. In this event, SOLAS shall observe all obligations at law and shall not afford any advantage to the Framework Member.
- 2.5 This Framework Agreement shall take effect on the Commencement Date and expire **[insert term of Framework]** thereafter ("the Framework Term") unless terminated earlier in accordance with this Framework Agreement.
- 2.6 The Contracting Authority reserves the right, at its discretion and subject to its obligations at law, to extend the Framework Term for a period or periods of up to **[insert extension period]** with a maximum of **[insert No.]** of such extensions on the same terms and conditions.

### 3. FRAMEWORK AGREEMENT MANAGEMENT PROVISIONS

- 3.1 The Framework Member hereby agrees and undertakes to comply with the Framework Agreement management provisions as set out in Annex 1 to this Framework Agreement or as may be notified in writing by the Contracting Authority to the Framework Member from time to time.

## 4. SERVICES CONTRACT

- 4.1 This Framework Agreement relates to the provision of the Services.
- 4.2 Where the Framework Member is awarded a Contract further to the procedure set out in accordance with clauses 5 and 6, it shall provide the Services to SOLAS in accordance with the Services Contract. Subject to the provisions of this Framework Agreement and to the satisfaction of any pre-conditions to the award of a Services Contract, the successful Framework Member shall be required to enter into the Services Contract with SOLAS

## 5. PROCEDURE FOR AWARD OF CONTRACTS

- 5.1 On each occasion that a SOLAS proposes to award a Contract under this Framework Agreement, the Contracting Authority shall issue (by electronic means) a Supplementary Call for Tenders ("SCfT") to all Framework Members in accordance with the following procedure (a "Mini-Competition"):
- 5.1.1 The SCfT shall set out:
- the scope and term of the Contract to be awarded;
  - the deadline (date and time) for the receipt of responses to the SCfT (each a "Response") taking into account the complexity of the Contract and the time needed to prepare an appropriate Response. Responses received after the deadline will not be considered;
  - the types and levels of insurance required for the Contract;
  - any additional conditions (if any) that will apply to the Contract in addition to the terms and conditions of the Services Agreement.
- 5.1.2 All Responses to the SCfT must be submitted via [www.etenders.gov.ie](http://www.etenders.gov.ie) only. Responses received in any other manner including e-mail or hardcopy will not be considered.
- 5.1.3 Any clarifications issued by the Contracting Authority, as applicable, in relation to a SCfT will be communicated via the etenders facility only.
- 5.1.4 SOLAS may award a Contract following an evaluation of the Responses based on the award criteria set out in Clause 6.1 below.
- 5.1.5 The Contracting Authority and SOLAS reserve the right to issue or seek written clarifications.

## 6. AWARD CRITERIA

6.1 The award criteria for Mini-Competitions shall be:

| Award Criteria | Sub-Criteria                                                   | Weighting (range) |
|----------------|----------------------------------------------------------------|-------------------|
| Cost:          |                                                                | Between 20-40%    |
| Quality:       | Relevant Experience and Qualifications of proposed individuals | Between 60-80%    |

6.2 No enforceable commitment of any kind, contractual or otherwise will exist unless and until a formal written Contract has been executed by or on behalf of SOLAS.

6.3 The Contracting Authority may cancel a Mini-Competition at any time prior to a Contract being executed by SOLAS. Any notification of preferred bidder status by the Contracting Authority shall not give rise to any enforceable rights by the Framework Member.

## 7. APPLICABLE LAW AND JURISDICTION

7.1 This Framework Agreement and any Contract(s) awarded under it will be subject to the laws of Ireland and to the exclusive jurisdiction of the Irish courts.

## 8. compliance with laws

8.1 The Framework Member shall comply with all applicable laws relating to the discharge of its obligations under this Framework Agreement and any and all Contract(s).

## 9. Tax clearance

9.1 The Framework Member shall comply with all EU and domestic taxation laws and requirements.

9.2 Prior to the award of any Contract, the Framework Member shall promptly supply its Tax Clearance Access Number and Tax Reference Number to facilitate online verification of their tax status by the Contracting Authority. By supplying these numbers the Framework Member acknowledges and agrees that the Contracting Authority has the permission of the successful Tenderer to verify its tax cleared position online. Where relevant, the provisions of this paragraph 9.2 apply equally to Subcontractors.

## 10. ANTI COMPETITIVE CONDUCT

- 10.1 Without prejudice to the generality of clause 8.1, the Framework Member shall comply with 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.

## 11. CONFLICTS OF INTEREST

- 11.1 Any actual or potential conflict of interest on the part of a Framework Member (including for the purposes of this clause 11 any employee(s), suppliers agents or Subcontractor) (a "Conflict") must be fully disclosed to the Contracting Authority immediately in writing as soon as the Conflict becomes apparent to the Framework Member. In the event of any Conflict, the Contracting Authority may invite the Framework Member to propose means by which the Conflict might be removed. The Contracting Authority will, in their absolute discretion, decide on the appropriate course of action.

## 12. REGISTERABLE INTEREST

- 12.1 Any registerable interest involving a Framework Member and the Contracting Authority, any Framework Client, member of the Government, member of the Oireachtas (Parliament), or employees of the Contracting Authorities and/or divisions/agencies under the aegis of the relevant Ministers, and their relatives, must be fully disclosed in any Response. In the event of this information only coming to the notice of a Framework Member after the submission of a Response, it must be communicated to the Contracting Authority immediately upon such information becoming known. The terms 'registerable interest' and 'relative' shall be interpreted as per Section 2 of the Ethics in Public Office Act 1995.

## 13. CONFIDENTIALITY

- 13.1 All communications between the Contracting Authority or any Framework Client(s) and the Framework Member must be treated as being strictly confidential. The Framework Member undertakes to comply with all reasonable directions of the Contracting Authority and any Framework Client with regard to the use and application of all and any confidential information and shall comply with the Confidentiality Agreement(s) executed by the Framework Member pursuant to clause 13.2 below. All of the Framework Member's employees and

personnel, including Subcontractors and their employees and personnel, who provide the Services may be required, at the absolute discretion of the Contracting Authority and/or the Framework Client(s), to sign a confidentiality agreement in a format as determined by the Contracting Authority and/or the Framework Client(s).

- 13.2 No publicity regarding this Framework Agreement or any Mini Competition or Contract pursuant to this Framework Agreement is permitted unless and until the Contracting Authority and any relevant Framework Client(s) has given their prior written consent to the relevant communication.

## 14. NOTICES

- A. 14.1 Any notice or other written communication to be given under this Agreement shall either be delivered electronically, personally or sent by registered post or email. The Parties will from time to time agree on primary and alternative contact persons and details for this clause 14.

- 14.2 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.

## 15. GIFTS

- 15.1 The Framework Member shall not offer, give or agree to give to any person holding an office in the Contracting Authority or any Framework Client, any gift or consideration of any kind as an inducement or reward in relation to the obtaining or execution of any Contract. In the event of any breach of this clause 15.1, the Contracting Authority and the Framework Client(s) may terminate this Framework Agreement and any existing Contract(s) respectively and recover from the Framework Member any loss resulting from any such termination.

## 16. COSTS AND EXPENSES OF FRAMEWORK AGREEMENT

- 16.1 All costs and expenses incurred by the Framework Member relating to its participation in this Framework Agreement and in any Mini-Competition shall be borne solely by the Framework Member. Neither the Contracting Authority nor any Framework Client shall have any responsibility or liability for any costs or expenses of whatsoever nature incurred by the Framework Member in this regard.

## 17. TERMINATION

- 17.1 Subject to clause 17.2, this Framework Agreement may be terminated by the Contracting Authority, without liability for compensation or damages, by serving **[insert period]** months written notice to the Framework Member.
- 17.2 The Contracting Authority shall have the right (in addition to any other rights which it has at law) to terminate this Framework Agreement immediately and without liability for compensation or damages on the happening of any of the following events:
- 17.2.1 if the Framework Member commits any serious breach or a series of breaches of any provision of this Framework Agreement and fails to remedy such breach(es) to the reasonable satisfaction of the Contracting Authority, (if the breach(es) are capable of remedy), within 30 days after receipt of a request in writing from the Contracting Authority. Without prejudice to the generality of the foregoing, a failure to comply with the Framework Agreement management provisions as set out in Annex 1 to this Framework Agreement shall be deemed to be a serious breach of this Framework Agreement;
  - 17.2.2 if the Framework Member commits any serious breach or a series of breaches of any Contract awarded pursuant to this Framework Agreement and fails to remedy such breach(es) to the reasonable satisfaction of the Contracting Authority and the Framework Client(s), within 30 days after a receipt of a request in writing from the Contracting Authority or any Framework Client.
  - 17.2.3 if the Framework Member becomes insolvent, becomes bankrupt, is wound up, enters into examinership, 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; or

17.2.4 in circumstances where the Contracting Authority becomes aware that any of the exclusion grounds listed in Article 57 of EU Directive 2014/24/EU apply to the Framework Member.

17.3 Subject to clause 17.2.2, the termination of a Contract awarded under this Framework Agreement does not affect the validity of this Framework Agreement.

17.4 Termination of this Framework Agreement shall not affect any antecedent and accrued rights, obligations or liabilities of either Party, nor shall it affect any provision of this Framework Agreement which is expressly or by implication intended to come into or continue in force on or after such termination.

## 18. FREEDOM OF INFORMATION

18.1 The Framework Member acknowledges that the Contracting Authority is subject to the Freedom of Information Act 2014. Information furnished to the Contracting Authority by the Framework Member may be released pursuant to the Contracting Authority's statutory obligations. If the Framework Member considers that any of the information supplied by it to the Contracting Authority under this Framework Agreement or any Contract should not be disclosed because of its sensitivity it should, when providing the information, indicate this and specify the reason for its sensitivity. The Contracting Authority will consult the Framework Member about this sensitive information before making a decision on any Freedom of Information 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.

## 19. DISPUTE RESOLUTION

19.1 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.

19.2 The Dispute shall be referred as soon as practicable to [insert Contractor senior contact] within the Contractor and to [insert Contracting Authority contact] within the Contracting Authority respectively.

- 19.3 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.
- 19.4 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.
- 19.5 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.
- 19.6 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.
- 19.7 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 always comply fully with the requirements of the Agreement.
- 19.8 If, and to the extent that, any Dispute has not been settled pursuant to the mediation within **insert** days of the commencement of the mediation, either party may apply to the Irish courts at any time thereafter.

**IN WITNESS WHEREOF** this Framework Agreement has been executed by the Parties hereto as of the date first above written.

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

## Schedule C: Charges

## Schedule D: Service Levels

|                                                                                                                               |                                                                                                                                        |
|-------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------|
| <p>SIGNED for and on behalf of SOLAS</p> <p>-----</p> <p>(being a duly authorised officer)</p> <p>-----</p> <p>Print Name</p> | <p>SIGNED for and on behalf of the Contractor</p> <p>-----</p> <p>(being a duly authorised officer)</p> <p>-----</p> <p>Print Name</p> |
| <p>Witness</p> <p>-----</p> <p>-----</p> <p>Print Name</p>                                                                    | <p>Witness</p> <p>-----</p> <p>-----</p> <p>Print Name</p>                                                                             |

## Appendix 6:

# Service Contract

**Sample  
contract**

Insert Title

*Tenderer Logo*

**SOLAS**  
An tSeirbhís Oideachais  
Leanúnaigh agus Scileanna  
Further Education and  
Training Authority

**THIS AGREEMENT is made on the [date e.g. 2nd] day of [month] 20[year]  
BETWEEN:**

SOLAS of Castleforbes House, Castleforbes Road, Dublin 1 ("the Client");

and

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

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

**WHEREAS:**

- A. By Call for Tender entitled [Insert Tender Name], advertised on [www.etenders.gov.ie](http://www.etenders.gov.ie) Reference Number [ ] dated [insert date of CfT] ("the CfT") SOLAS 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 SOLAS via the messaging facility on [www.etenders.gov.ie](http://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 SOLAS between [insert date] and [insert date] (the "Submission Clarifications"). The Submission (including the Submission Clarifications) is hereby incorporated by reference into this Agreement.

**IT IS HEREBY AGREED AS FOLLOWS:**

- A. This Agreement consists of the following documents, and in the case of conflict of wording, in the following order of priority:
  - 1. This Agreement and Schedules A to D attached hereto;
  - 2. The CfT; and
  - 3. The Submission.
- B. 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").
- C. Subject to the terms and conditions of this Agreement, the Client agrees to pay to the Contractor the charges as stipulated in Schedule C ("the Charges"). The Charges are exclusive of VAT which shall be due at the rate applicable on the date of the VAT invoice.
- D. For the purposes of this Agreement, the Client's Contact is [name of contact person] of [address of contact person]; the Contractor's Contact is [Contractor contact name] of [Contractor contact address].

- E. This Agreement shall take effect on the date of this Agreement ("the Effective Date") and shall expire on [insert date], unless it is otherwise terminated in accordance with the provisions of this Agreement or otherwise lawfully terminated or otherwise lawfully extended as agreed between the Parties ("the Term").

**Delete 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 [NUMBER] such extensions permitted subject to its obligations at law. |

- F. Unless otherwise specified herein, a defined term used in this Agreement shall have the same meaning as assigned to it in the CFT.
- G. Headings are included for ease of reference only and shall not affect the construction of this Agreement.
- H. Unless the context requires otherwise, words in the singular may include the plural and vice versa.
- I. 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.

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

## Schedule A: Terms and Conditions

1. C SOLAS of Castleforbes House, Castleforbes Road, Dublin 1 ("the Client").

and

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

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

### WHEREAS:

- C. By Call for Tender entitled [Insert Tender Name], advertised on [www.etenders.gov.ie](http://www.etenders.gov.ie) Reference Number [ ] dated [insert date of CfT] ("the CfT") SOLAS 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 SOLAS via the messaging facility on [www.etenders.gov.ie](http://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.
- D. 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 SOLAS between [insert date] and [insert date] (the "Submission Clarifications"). The Submission (including the Submission Clarifications) is hereby incorporated by reference into this Agreement.

### IT IS HEREBY AGREED AS FOLLOWS:

- J. This Agreement consists of the following documents, and in the case of conflict of wording, in the following order of priority:
4. This Agreement and Schedules A to D attached hereto.
  5. The CfT; and
  6. The Submission.
- K. The Contractor agrees to provide the Services described in Schedule B ("the Services") to the Client under this Agreement ("Agreement"). Schedule B details the nature, quality, time of delivery, key personnel, and functional specifications of the Services following the CfT and the Submission ("the Specification").

- L. Subject to the terms and conditions of this Agreement, the Client agrees to pay to the Contractor the charges as stipulated in Schedule C ("the Charges"). The Charges are exclusive of VAT which shall be due at the rate applicable on the date of the VAT invoice.
- M. For this Agreement, the Client's Contact is [name of contact person] of [address of contact person]; the Contractor's Contact is [Contractor contact name] of [Contractor contact address.]
- N. This Agreement shall take effect on the date of this Agreement ("the Effective Date") and shall expire on [insert date] unless it is otherwise terminated under the provisions of this Agreement or otherwise lawfully terminated or otherwise lawfully extended as agreed between the Parties ("the Term").

**Delete 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 [NUMBER] such extensions permitted subject to its obligations at law. |

- O. Unless otherwise specified herein, a defined term used in this Agreement shall have the same meaning as assigned to it in the CfT.
- P. Headings are included for ease of reference only and shall not affect the construction of this Agreement.
- Q. Unless the context requires otherwise, words in the singular may include the plural and vice versa.
- R. 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.

SIGNED for and on behalf of the Client.

-----  
(being a duly authorised officer)

-----  
Print Name

SIGNED for and on behalf of the Contractor.

-----  
(being a duly authorised officer)

-----  
Print Name

|                                                            |                                                            |
|------------------------------------------------------------|------------------------------------------------------------|
| <p>Witness</p> <p>-----</p> <p>-----</p> <p>Print Name</p> | <p>Witness</p> <p>-----</p> <p>-----</p> <p>Print Name</p> |
|------------------------------------------------------------|------------------------------------------------------------|

## Schedule A: Terms and Conditions

### 1. Contractor's Obligations

- A. The Contractor undertakes to act with due care, skill, and diligence in the provision of the Services and generally in the carrying out of its obligations under this Agreement and in the appointment, monitoring and retention of its agents and Subcontractors. The Contractor shall require its agents and Subcontractors to exercise due care, skill, and diligence in the provision of the Services and generally in the carrying out of obligations allocated by the Contractor to its agents and Subcontractors under this Agreement.
- B. In consideration of the payment of the Charges and subject to clause 3 the Contractor shall:
1. provide the Services following the Specification, the CfT, the Client's directions and the terms of this Agreement.
  2. comply with and implement any policies, guidelines and/or any project governance protocols issued by the Client from time to time and notified to the Contractor in writing.
  3. comply with all local security and health and safety arrangements as notified to it by the Client; and
  4. provide the Services following 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 Annex X of Directive 2014/24/EU. 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 to comply 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.

- D. Without prejudice to clause 1C, where the Client becomes aware that any of the exclusion grounds set out in Article 57 of EU Directive 2014/24/EU apply to any Subcontractor, the Client reserves the right to require the Contractor to immediately replace such Subcontractor and the Contractor shall comply with such requirement. The Contractor shall include in every sub-contract a right for the Contractor to terminate the sub-contract where any of the exclusion grounds apply to the Subcontractor and a requirement that the Subcontractor, in turn, includes a provision having the same effect in any sub-contract which it awards.
- E. During this Agreement the Contractor shall be an independent contractor and not the employee of the Client. Neither Party shall have any authority to bind or commit the other. Nothing herein shall be deemed or construed to create a joint venture, partnership, and/or fiduciary or other relationship between the Parties for any purpose. The officers, employees or agents of the Contractor are not and shall not hold themselves out to be (and shall not be held out by the Contractor as being) servants or agents of the Client for any purposes whatsoever.
- F. The Client acknowledges that the Contractor may from time to time be dependent on the Client to facilitate the Contractor in the carrying out of its duties under this Agreement. The Client agrees to use its reasonable endeavours to so facilitate the Contractor within the timescales and in the manner agreed by it in writing under clause 10.
- G. The Contractor agrees that any information relating to this Agreement and/or the performance of this Agreement may be passed by the Client to the Office of Government Procurement ("OGP") and that the OGP may use this information in the analysis and reporting of spend data including the preparation and publishing of reports.
- H. The Contractor shall comply with all applicable obligations arising according 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 all liabilities (including the cost of wages, salaries and other remuneration or benefits, expenses, taxation, PRSI payments, health contributions, levies, losses, claims, demands, actions, fines, penalties, awards, (including legal expenses on an indemnity basis)) from, or incurred because of, any claims made against the Client under the TUPE Regulations by any Affected Employees. Affected Employees shall mean those employees in respect of whom the TUPE Regulations may be deemed to apply in connection with this Agreement.

## 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. If any of the Key Personnel assigned by the Contractor to provide the Services under this Agreement becomes unable to provide the Services for whatever reason then, the Contractor acknowledges and undertakes that it shall immediately notify the Client in writing of the inability of any Key Personnel and replace that person with a person of equivalent experience and expertise ("Replacement Personnel"). The Contractor shall provide to the Client such details as the Client may reasonably require in writing regarding any Replacement Personnel. The Client shall have absolute discretion as to the suitability of any proposed Replacement Personnel.

## 3. Payment

1. Subject to the provisions of this clause 3 the Client shall pay and discharge the Charges (plus any applicable VAT), in the manner specified in Schedule C. Invoicing arrangements shall be on such terms as may be agreed between the Parties.
2. Discharge of the Charges is subject to:
  - A. 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 under clause 10A from time to time.
  - B. The furnishing by the Contractor of a valid invoice referenced to a valid Purchase Order issued by the client 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. The contractor must submit their invoices to the following address: **SOLAS, Block 1, Castleforbes House, Castleforbes Rd, Dublin 1** or send by email to: [accounts.payable@solas.ie](mailto:accounts.payable@solas.ie).

- C. All and any queries relating to the invoice and/or the Services for any billing period (including whether Services have been accepted, rejected, satisfactorily re-performed or as the case may be) must be raised by the Client's Contact within 14 calendar days of receipt of invoice. In circumstances where no queries are raised within the said 14-day period, the invoice shall be deemed accepted. Upon resolution of any queries on the invoice to the satisfaction of the Client or upon such deemed acceptance the invoice shall be payable by the Client. Payment is subject to any rights reserved by the Client under any other provision of this Agreement; and
  - D. The Client has the Contractor's current Tax Clearance Certificate. The Contractor shall comply with all EU and domestic taxation laws and requirements.
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.
  4. Wherever under this Agreement any sum of money is recoverable from or payable by the Contractor (including any sum which the Contractor is liable to pay to the Client in respect of any breach of this Agreement), the Parties may agree to deduct that sum from any sum then due, or which at any later time may become due to the Contractor under the Agreement or any other agreement or contract with the Client. Any overpayment by either Party, whether of the Charges or 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.
  5. The Charges shall include all costs or expenses incurred by the Contractor, its employees, servants, and agents in the performance of its obligations under this Agreement.
  6. The Charges shall be discharged as provided for in this clause subject to the retention by the Client under section 523 of the Taxes Consolidation Act, 1997 of any Professional Services Withholding Tax payable to the Contractor. All taxes

applicable to the provision of the Services will be the sole responsibility of the Contractor and the Contractor so acknowledges and confirms.

#### 4. Warranties, Representations and Undertakings

- A. The Contractor acknowledges, warrants, represents, and undertakes that:
1. it has the authority and right under law to enter, 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 can assume those risks.
  3. it is entering into this Agreement with a full understanding of its obligations regarding taxation, employment, and social and environmental protection and can assume and fulfil those obligations.
  4. it has acquainted itself with and shall comply with all legal requirements or such other laws, recommendations, guidance, or practices as may affect the provision of the Services as they apply to the Contractor.
  5. it has taken all and any action necessary to ensure that it has the power to execute and enter into this Agreement.
  6. the status of the Contractor, as declared in the "Declaration as to Personal Circumstances of Tenderer" dated [insert date], which confirms that none of the excluding circumstances listed in Article 57 of EU Directive 2014/24/EU apply to the Contractor, remains unchanged.
  7. it owns, has obtained, or can obtain, valid licences for all Intellectual Property Rights (as defined in clause 6 below) that are necessary for the performance of its obligations under this Agreement and for the Client to obtain the benefit of the Services for its business purposes.
  8. it retains and shall maintain the Term insurance 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 regarding compliance with this clause 4A.8; and
  9. *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 to be satisfied about all matters connected with the performance of its obligations under this Agreement. |

10. the Client shall be under no obligation to purchase any minimum number or value of Services.
- B. The Contractor undertakes to notify the Client forthwith of any material change to the status of the Contractor about the warranties, acknowledgements, representations, and undertakings as set out in clause 4A and to comply with all reasonable directions of the Client with regard thereto which may include termination of this Agreement.

## 5. Remedies

- A. The Contractor shall be liable for and shall indemnify the Client for and in respect of all and any losses, claims, demands, damages or expenses which the Client may suffer due to and arising directly as a result of the negligence, act or omission, breach of contract, breach of duty, insolvency, recklessness, bad faith, wilful default or fraud of the Contractor, its employees, Subcontractors or agents or any of them or as a result of the Contractor's failure to exercise skill, care and diligence as outlined in clause 1. The terms of this clause 5A shall survive termination of this Agreement for any reason.
- B. Save in respect of fraud (including fraudulent misrepresentation), personal injury or death, neither Party will be liable for any indirect losses (including loss of profit, loss of revenue, loss of goodwill, indirectly arising damages, costs, and expenses) of any kind whatsoever and howsoever arising even if such Party has been advised of their possibility.
- C. Should the Client find itself obliged to order elsewhere in consequence of the failure of the Contractor to deliver Services, the Client shall be entitled to recover from the Contractor any excess prices which may be paid by the Client.
- D. Except as otherwise expressly provided by this Agreement, all remedies available to either Party for breach of this Agreement are cumulative and may be exercised concurrently or separately, and the exercise of any one remedy shall not be deemed an election of such remedy to the exclusion of other remedies.

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

Save in respect of fraud, personal injury, or death (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 – e.g.: [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:

[insert]

("the Retention Amount") which Retention Amount shall not at any given time exceed [number] per cent of the Charges. In such event, the Client shall identify the 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.

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

Time of delivery shall be of the essence and if the Contractor fails to deliver the Services within the period promised or specified in the Specification, the Client may by notice in writing to the Contractor's Contact release itself from any obligation to accept and pay for the Services and/or terminate this Agreement in either case without prejudice to any other rights and remedies of the Client.

H. *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 following this Agreement, the Client may, at his discretion, deduct [number] per cent per week, or part thereof, for each week of late delivery of the value of the entire relevant invoice or order as liquidated damages up to a maximum amount of [number] per cent of the Charges (or invoice or order) price for the relevant Services (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:

- a. 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.
- b. 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 like 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 before the date of this Agreement and all IPR in any materials, acquired or developed by or for Contractor or Client independently of this Agreement, and any IPR in Contractor's standard hardware and software products or modifications or updates to such products.
- C. All IPR title and interest in all reports, data manuals and/or other materials (other than software) (including without limitation all and any audio- or audio-visual recordings, transcripts, books, papers, records, notes, illustrations, photographs, diagrams) produced for this Agreement (collectively "the Materials") (or any part or parts thereof) shall vest in the Client and the Contractor so acknowledges and confirms. For the avoidance of doubt, the Contractor hereby assigns all Intellectual Property Rights, title, and interest in the Materials (including by way of present assignment of future copyright) to the extent that any such Intellectual Property Rights title or interest may be deemed by law to reside in it in the Materials to the Client.

- D. The Client grants to the Contractor a royalty-free non-exclusive licence to use the Client's Pre-existing IPR for the Term to the extent necessary to enable the Contractor to fulfil its obligations under this Agreement. Save as expressly set out in this clause 6 all Pre-Existing IPR shall remain the sole property of the party who owned, acquired, or developed such intellectual property.
- E. The Contractor shall waive or procure a waiver of any moral rights subsisting in copyright produced under or in performance of this Agreement.
- F. Nothing in this Agreement shall prohibit or be deemed to prohibit the Contractor from providing services like 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 like, 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 while 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 this Agreement (to include but not be limited to ensuring that the Client shall be vested with all necessary rights to enable the Client to enjoy the benefit of the Services for its business purposes). The Contractor hereby indemnifies the Client and shall keep and hold the Client harmless from and in respect of all and any liability loss damages claims costs or expenses which arise because of any breach of third-party Intellectual Property Rights in so far as any such rights are used for this Agreement.

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

1. procure the necessary rights for the Client to continue use.
2. replace the relevant deliverable with a non-infringing equivalent.
3. replace the relevant deliverable to make it non-infringing while giving equivalent performance; or
4. if the Contractor cannot obtain the remedies in (i), (ii) or (iii) above, it may direct the return of the deliverable and refund to the Client Charges paid for such deliverable less a reasonable amount for the Client's use of the deliverable up to the time of return, provided such reasonable amount is due

to the owner of the said deliverable, TOGETHER with all direct losses thereby accruing to the Client as a result of the breach.

- H. Upon the termination of this Agreement for whatever reason, the Contractor shall immediately deliver up to the Client all the Materials prepared up to the date of termination. The provisions of 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 8; or
2. as may be required by law; or
3. as may be necessary to give effect to the terms of this Agreement subject to the provisions of this clause 7; or
4. in the case of the Client by request of any person or body or authority whose request the Client or persons associated with the Client (including but not limited to the Legislature and/or the Executive and/or the Civil Service) considers it necessary or appropriate to so comply.

- B. The Contractor undertakes to comply with all reasonable directions of the Client about the use and application of all and any Confidential Information

The obligations in this clause 7 will not apply to any Confidential Information:

- C. in the receiving Party's possession (with full right to disclose) before receiving it from the other Party; or
- D. which is or becomes public knowledge other than by breach of this clause; or
- E. is independently developed by the disclosing Party without access to or use of the Confidential Information; or
- F. is lawfully received by the disclosing Party from a third party (with full right to disclose).

- G. The Contractor acknowledges that the security of the State and its information is of paramount importance to the Client. Accordingly, the Contractor confirms that it will, if requested by the Client, from time to time, submit full personal details (including those of Subcontractors) who are assigned to provide the Services (or any part thereof) under this Agreement. The Contractor further acknowledges that checks may be carried out concerning all such personnel by police authorities and the Contractor shall comply with all reasonable directions of the Client arising therefrom.
- H. In circumstances where the Client is subject to the provisions of the Freedom of Information Act 2014, then in the event of the Client receiving a request for information related to this Agreement, the Client shall consult with the Contractor in respect of the request. The Contractor shall identify any information that is not to be disclosed on grounds of confidentiality or commercial sensitivity and shall state the reasons for this sensitivity. The Client will consult the Contractor about this confidential or commercially sensitive information before deciding on any Freedom of Information request received.

## 8. Force Majeure

- A. A 'Force Majeure Event' means an event or circumstance or combination of events and/or circumstances not within the reasonable control of the Affected Party (as defined in clause 8B below) which has the effect of delaying or preventing that Party from complying with its obligations under this Agreement including but not limited to acts of God, war, outbreak of disease, insurrection, riot, civil disturbance, rebellion, acts of terrorism, government regulations, embargoes, explosions, fires, floods, tempests, or failures of supply of electrical power, or public telecommunications equipment or lines, excluding industrial action of whatever nature or cause (strikes, lockouts and similar) occurring at the Contractor (or Subcontractor or agent) places of business
- B. In the event of any failure, interruption, or delay in the performance of either Party's obligations (or of any of them) resulting from any Force Majeure Event, that Party ("the Affected Party") shall promptly notify the other Party in writing specifying:
1. the nature of the Force Majeure Event.
  2. the anticipated delay in the performance of obligations.
  3. the action proposed to minimise the impact of the Force Majeure Event.

and the Affected Party shall not be liable or have any responsibility of any kind for any loss or damage thereby incurred or suffered by the other Party, provided always that the Affected Party shall use all reasonable efforts to minimise the effects of the same and shall resume the performance of its obligations as soon as reasonably possible after the removal of the cause.

- C. If the Force Majeure Event continues for [insert number] calendar days either Party may terminate at 14 days' notice.
- D. In circumstances where the Contractor is the Affected Party, the Client shall be relieved from any obligation to make payments under this Agreement save to the extent that payments are properly due and payable for obligations fulfilled by the Contractor under the terms and conditions of this Agreement.

## 9. Termination

- A. Subject to the provisions of sub-clause 9B, this Agreement may be terminated by the Client, without liability for compensation or damages, by serving [insert time 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 [insert time months] written notice to the Client.
- 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 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 because of debt, or an event having an equivalent effect.

3. in circumstances where the client becomes aware of any conflict of interest on the part of the Contractor which cannot, in the opinion of the Client, be removed by other means; and
  4. in circumstances where the Client becomes aware of any registrable interest on the part of the Contractor.
- C. The Client shall have the right, in addition to any other rights which it has at law, to terminate this Agreement immediately and without liability for compensation or damages in circumstances where the Client becomes aware that any of the exclusion grounds set out in Regulation 57 of the Regulations apply to the Contractor.
- D. Termination of this Agreement shall not affect any antecedent and accrued rights, obligations, or liabilities of either Party nor shall it affect any provision of this Agreement which is expressly or by implication intended to come into or continue in force on or after such termination.
- E. If requested by the Client, the Contractor shall promptly furnish such anonymised information relating to the terms and conditions of the employment of all persons providing the Services as may be required by the Client ("Employment Information"). The Contractor agrees that the Client may release the Employment Information to third parties for any procurement competition for the provision of the Services upon expiry of the Term or earlier termination of this Agreement for whatever cause.

## 10. Contract Management

- A. The Client's Contact and the Contractor's Contact shall liaise regularly to address any issues arising which may impact the performance of this Agreement and to agree on milestones, compliance schedules and operational protocols as required by the Client from time to time. If requested in writing by the Client, the Contractor shall meet formally with the Client to report on progress and shall comply with all written directions of the Client.
- B. The Contractor agrees to:
1. liaise with and keep the Client's Contact fully informed of any matter which might affect the observance and performance of the Contractor's obligations under this Agreement.

2. maintain such records and comply with such reporting arrangements and protocols as required by the Client from time to time.
  3. comply with all reasonable directions of the Client; and
  4. comply with the service levels and performance indicators set out in Schedule D
- C. The Client or its authorised representative may inspect the Contractor's premises, lands, and facilities (or such part or parts thereof relating solely to this Agreement) with due access to relevant personnel and records upon reasonable notice in writing to ensure compliance with the terms of this Agreement. The Contractor shall comply with all reasonable directions of the Client thereby arising. The cost of inspection shall be borne by the Client.

## 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 Contracting Authority contact] within SOLAS 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 always comply fully with the requirements of the Agreement.

## **12. Governing Law, Choice of Juri**

- A. This Agreement shall in all aspects be governed by and construed by 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 electronically and 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**

- B. Any notice or other written communication to be given under this Agreement shall either be delivered electronically, personally or sent by registered post or email. The Parties will from time to time agree on primary and alternative contact persons and details for this clause 13.
- C. 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**

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

## **15. Entire Agreement**

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

## **16. Severability**

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

## **17. Waiver**

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

## **18. Non-exclusivity**

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

## **19. Media**

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

## 20. Conflicts, Registrable Interests and Corrupt Gifts

- A. The Contractor confirms that it has carried out a conflicts of interest check and is satisfied that it has no conflicts about the Services and its obligations undertaken under this Agreement. The Contractor hereby undertakes to advise the Client forthwith should any conflict or potential conflict of interest come to its attention during the currency of this Agreement and to comply with the Client's directions in respect thereof.
- B. Any registrable interest involving the Contractor (and any Subcontractor or agent as the case may be) and the Client, the Ceann Comhairle (Speaker), or any member of the Government, or any member of the Oireachtas, or their relatives must be fully disclosed to the Client immediately upon such information becoming known to the Contractor (Subcontractor or agent as the case may be) and to comply with the Client's directions in respect thereof, to the satisfaction of the Client. The terms "registrable interest" and "relative" shall be interpreted as per section 2 of the Ethics in Public Office Act, 1995 (as amended) a copy of which is available on request.
- C. The Contractor shall not offer or agree to give any public servant or civil servant any gift or consideration or commission of any kind as an inducement or reward for doing or forbearing to do or for having done or forborne to do any action with 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 Prevention of Corruption Acts, 1889 to 2005 shall entitle the Client to terminate this Agreement forthwith and to recover the amount of any loss resulting from such cancellation, including but not limited to recovery from the Contractor of the amount or value of any such gift, consideration, or commission.

## 21. Access to Premises

- A. Any of the Client's premises made available from time to time to the Contractor by the Client in connection with this Agreement, shall be made available to the Contractor on a non-exclusive licence basis and shall be used by the Contractor solely to perform its obligations under this Agreement. The Contractor shall have use of such premises as licensee and shall vacate the same on completion, termination, or abandonment of this Agreement.

- B. The Contractor shall upon reasonable notice by the Client allow the Client access to its premises (including the premises of any Subcontractor or agent) where the Services are being performed for the Client under this Agreement.

## 22. Equipment

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

## 23. Non-Solicitation

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

## 24. Change Control Procedure

- A. At any time during the term of this Agreement, either Party may propose a change or changes to any part or parts of this Agreement.
- B. The change control procedures set out in this Schedule will apply to all changes irrespective of whether the Contractor or the Client proposes the change.
- C. A change control notice ("Change Control Notice") shall be prepared for all change requests. The Change Control Notice will provide an outline description of the change requested, the rationale for the change, the effect that the change will have on the Services (where known) and an estimate of the effort and cost required to prepare an impact assessment ("Impact Assessment").
- D. All Change Control Notices proposing changes to this Agreement must be submitted for review to the other Party's Contact.
- E. The Parties must indicate their acceptance or rejection of the change control request and/or Impact Assessment within a reasonable timeframe of its completion and Tender Submission for review, subject to a maximum of twenty (20) calendar days or such other period agreed between the Parties.
- F. On approval of an Impact Assessment, this Agreement and/or the Schedules should be updated and revised as appropriate and in writing.
- G. If either Party rejects the Impact Assessment, the change(s) shall not take place and the Parties shall continue to perform their obligations under this Agreement.
- H. The Contractor and the Client will agree with a reasonable charge in advance for investigating each proposed variation and preparing each estimate, whether the variation is implemented. If the Client's request for any variation is subsequently withdrawn but results in a delay in the performance of the Services, then the Contractor will not be liable for such delay and will be entitled to an extension of time equal to not less than the period of the delay.

## 25. Data Protection and Security

- A. In this Agreement the following terms shall have the meanings respectively ascribed to them: "Data" means all Confidential Information, whether in oral or written (including electronic) form, created by or in any way originating with the Client (including but not limited to his employees, agents, independent contractors

and/or Sub-contractors) and all information that is the output of any computer processing, or other electronic manipulation of any information that was created by or in any way originating with the Client provided under this Agreement and includes any Personal Data;

"Data Controller" has the meaning given under the General Data Protection Regulation.

"Data Processor" has the meaning given under the General Data Protection Regulation.

"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 about 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 Data Protection Commission of Ireland or other supervisory authority for data protection which may be relevant to the Parties;

"Data Subject" has the meaning given under the General Data Protection Regulation.

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

"Personal Data" has the meaning given under the General Data Protection Regulation.

"Processing" has the meaning given under the General Data Protection Regulation.

- B. The Contractor shall comply with all applicable requirements of the Data Protection Laws.
- C. The Parties acknowledge that for the Data Protection Laws, the Client is the Data Controller, and the Contractor is the Data Processor in respect of Data which is Personal Data. Schedule E sets out the scope, nature and purpose of Processing by the Contractor, the duration of the Processing and the types of Personal Data and categories of Data Subject.

D. Without prejudice to the generality of clause 25B, the Contractor shall, about any Personal Data processed in connection with the performance by the Contractor of its obligations under this Agreement: -

1. process that Personal Data only on the written instructions of the Client.
2. ensure that it has in place appropriate technical and organisational measures, reviewed and approved by the Client, to protect against unauthorised or unlawful processing of Personal Data and against accidental loss or destruction of, or damage to, Personal Data, appropriate to the harm that might result from the unauthorised or unlawful processing or accidental loss, destruction or damage and the nature of the data to be protected, having regard to the state of technological development and the cost of implementing any measures (those measures may include, where appropriate, pseudonymising and encrypting Personal Data, ensuring confidentiality, integrity, availability and resilience of its systems and services, ensuring that availability of and access to Personal Data can be restored promptly 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 concerning the transfer, to ensure that Personal Data is adequately protected under Chapter V of the 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 concerning the processing of the Personal Data.

- E. The Contractor shall without undue delay notify the Client if it receives a Data Subject Access Request to have access to any Personal Data or any other complaint, correspondence, notice, request any order of the Court or request of any regulatory or government body relating to the Client's obligations under the Data Protection Laws and provide full co-operation and assistance to the Client about 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 personal data breach (as defined in the General Data Protection Regulation) 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 concerning security, data protection impact assessments and consultations with the Data Protection Commission of Ireland.
- H. The Contractor shall at the written direction of the Client, amend, delete, or return Personal Data and copies thereof to the Client on termination of this Agreement unless the Contractor is required by the laws of any member of the European Union or by the laws of the European Union applicable to the Contractor to store the Personal Data.
- I. The Contractor shall permit the Client, the Data Protection Commission of Ireland 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, maintain, 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 clause 25 allow for inspections and contribute to any audits by the Client or the Client's designated auditor.

- L. The Contractor shall: -
- o 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.
  - o ensure that a backup copy of 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
  - o in such an event and if attributable to any default by the Contractor or any Sub-contractor, promptly restore the Personal Data at its own expense or, at the Client's option, reimburse the Client for any reasonable expenses it incurs in having the Personal Data restored by a third party.

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

OR

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 like 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 under this clause 25.

- N. Save for clauses 25B, 25C, 26D (4) and 25E, all the obligations on the Contractor in 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.

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

[Insert when completing contract]

## Schedule C: Charges

[Insert when completing contract]

## Schedule D: Service Levels

*The supplier must maintain an up-to-date assessment of the equality and human rights issues relevant to its human resources function and the service areas that are the subject matter of this contract (in line with Section 42, Irish Human Rights and Equality Commission Act 2014, and the Irish Human Rights and Equality Commission guidance for this); and systems/processes to ensure adequate and appropriate actions are being taken to address the equality and human rights issues identified in the assessment; and reporting systems to track progress made on these issues.*

[Insert when completing contract]