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Note: Tenderers are not required to submit a signed copy of these terms as part of their tender as the Contract will be finalised post tender award.



Rialtas na hÉireann
Government of Ireland

AGREEMENT

BETWEEN

SUSTAINABLE ENERGY AUTHORITY OF IRELAND

and

[insert counterparty name]

**CONTRACT FOR THE PROVISION OF AN INTEGRATED HUMAN RESOURCE
INFORMATION SYSTEM (HRIS) REPUBLISHED**

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THIS AGREEMENT is made on the xx day of xx 2026

BETWEEN the **Sustainable Energy Authority of Ireland** of 3 Park Place, Hatch Street Upper, Dublin 2, D02 FX65 (the “Client”) and

[insert counterparty name] (Company Registration Number xxxxxx), having its registered office at **[insert address]** (the “Contractor”) (each a “Party” and together “the Parties”).

WHEREAS:

1. By Call for Tender (the “CfT”) as defined in clause 1 below the Client invited tenders for the provision of the Services described in Appendix 1 to the CfT. Please note that the terms “Request for Tender” and “Call for Tender” are used interchangeably and have the same meaning, similarly, the terms “RFT” and “CfT” are used interchangeably and have the same meaning.
2. The Contractor submitted a response to the CfT (the “Tender”).
3. After an evaluation of all tenders, the Tender was selected as being the most economically advantageous tender subject to a contract being entered into between the Client and the Contractor.
4. The Parties agree to contract with each other in accordance with the terms and conditions hereafter set out.
5. The award of this Services Contract does not confer exclusivity on the Contractor on the Services, or part thereof. SEAI reserves the right to assign or reallocate a project to any other vendor that is currently on a contract or, alternatively, approach the market with an additional CfT/Request for

Quotation in line with public procurement in order to ensure value for money and correct management.

NOW IT IS HEREBY AGREED that the Contractor will provide the Services as specified below to the Client in consideration of which the Client shall pay the Charges.

1. DEFINITIONS AND INTERPRETATIONS

1.1 In this Agreement the following terms shall have the meanings respectively ascribed to them:

“Achieve” means (a) in respect of a Deliverable, to successfully pass a Test without any Test Issues in accordance with the procedures described in the CfT; and (b) in respect of a Milestone, and **“Achieved”** and **“Achievement”** shall be construed accordingly;

“Agreement” means this Agreement together with its Schedules, the Purchase Order and any document incorporated by reference;

“Authority to Proceed” or “ATP” means the authorisation to the Contractor to commence the provision of the Managed Services to the Client, provided by the Client in the form of a purchase order in respect of the ATP Milestone;

“ATP Milestone” means the Milestone linked to the Authority to Proceed for the relevant Managed Services set out in the Implementation Plan;

“Call for Tenders” or “CfT” means the invitation published by the Client on **xx of xx 2026** inviting tenders for the provision of the Services and shall include any clarifications issued by the Client via the messaging facility on www.etenders.gov.ie. The CfT is hereby incorporated by reference into this Agreement; Any reference to

Call for Tender (CfT) and Request for Tender (RFT) will be used interchangeably and have the same meaning.

“Catalogue Sheet” means the document described as a ‘catalogue sheet’ relevant to the Services being provided by the Contractor to the Client. The Catalogue Sheet is incorporated into the Agreement by reference.

“Change Control Procedure” or **“CCP”** means the procedure for changing this Agreement as set out in clause 18 and the CfT;

“Charges” means the charges for the provision of the Services as set out in or otherwise calculated in accordance with Schedule B and payable in accordance with clause 10;

“Client Project Manager” means the person nominated at clause 8 or such other person as may be notified in writing by the Client to the Contractor from time to time;

“Commencement Date” means the date of this Agreement;

“Configured Software” means software which exists and/or has been designed and developed with the intention of being configured to meet the requirements identified in the CfT.

“Contractor Project Manager” means the person named by the Contractor at clause 8 or such person as may be nominated in writing by the Contractor and approved by the Client in writing from time to time;

“Contractor Proprietary Items” means the Proprietary Software and any Contractor Pre-existing IPR;

“Confidential Information” means all information, documentation and other material received, provided or obtained arising from the Parties participation in this Agreement including but not limited to any information (whether in documentary form, oral, electronic, audio-visual, audio-recorded or otherwise, including any copy or copies thereof and whether scientific, commercial, financial, technical, operational or otherwise) relating to the Client, the provision of services under this Agreement and all and any information supplied or made available to the Contractor (to include agents, Sub-contractors, customers and suppliers) for the purposes of this Agreement, and any and all information which has been derived or obtained therefrom;

“Customised Software” means and comprises all modifications, configurations, enhancements, and customisations to the Proprietary Software, and all related materials in eye readable form including the user instructions, technical literature to be created and developed by the Contractor or a third party specifically and exclusively for the Client in accordance with the Specifications together with the media on which such Software and materials are recorded and printed but excludes the Proprietary Software;

“Cybersecurity Requirements” means all laws, regulations, codes, guidance (from regulatory and advisory bodies, whether mandatory or not), international and national standards, and sanctions, applicable to either Party and relating to security of network and information systems and security breach and incident reporting requirements, including but not limited to the European Union (Measures for a High Common Level of Security of Network and Information Systems) Regulations 2018 (SI 360/2018), the General Data Protection Regulation ((EU) 2016/679), Directive (EU) 2022/2555 and the National Cyber Security Act 2024 (when enacted) all as amended or updated from time to time and national implementing legislation in respect of the same, all as amended or updated from time to time.

"Data" means all information, whether in oral or written (including electronic) form, created by or in any way originating with the Client (including but not limited to its employees, agents, independent contractors, Sub-contractors and/or information that Client processes for organisations to report their energy, environmental or emissions performance) and all information that is the output of any computer processing, or other electronic manipulation of any information that was created by or in any way originating with the Client provided under this Agreement and includes any Personal Data;

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

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

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

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

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

"Defect" means any Defect including but not limited to (a) any error, or damage or defect in the manufacturing of a Deliverable; or (b) any error or failure of code within the Software which causes a Deliverable to malfunction or to produce unintelligible or incorrect results; or (c) any failure of any Deliverable to provide the

performance, features and functionality in accordance with the Specification, regardless of whether or not it prevents the relevant Deliverable meeting its associated Test Criteria; or (d) any failure of any Deliverable to operate in conjunction with or interface with any other Deliverable in order to provide the performance, features and functionality in accordance with the Specification (including any adverse effect on response times) regardless of whether or not it prevents the relevant Deliverable from meeting its associated Test Criteria;

“Delay” means (a) a delay in the Achievement of a Milestone by its Milestone Date; or (b) a delay in the design, development, testing, configuration, customisation or implementation of a Deliverable by the relevant date set out in the Implementation Plan;

“Delay Payment” means the amount payable by the Contractor to the Client in accordance with clause 12.10 in respect of a Delay in Achieving a Key Milestone;

“Delay Deduction Period” means the period of 30 days commencing on the relevant Key Milestone Date;

“Delete” means removing all information which is electronically held in such a way that it can never be retrieved from the device on which it is held;

“Deliverables” means such products, work and services to be delivered by the Contractor under this Agreement;

“Developed Software” means all software developed by the Contractor specifically for the Client under this Agreement.

“Disaster” means a major event, or series of events which together have the effect of a major event, that significantly impacts the normal operation of the Services;

“Documentation” means the documentation identified in the CfT and other documentation relating to the operation or use of the Services and/or any other Deliverable, which include the operational and user reference manuals which explain the operation and use of the Services and/or any other Deliverables, and all instruction manuals, tutorial materials and other ancillary materials.

“End User Testing” means the Test(s) identified in the Test Plan which are to be carried out by the Client. End User Testing shall be carried out in accordance with the Test Plan and the end user testing procedures in the CfT or as approved by the Client.

“Exit Management Plan” means the plan provided by the Contractor in its Tender which will be supplemented and agreed between the Parties in accordance with clause 28 for the managed and controlled exit of the incumbent Contractor and transition to the Client or other third party as specified by the Client which states the actions and responsibilities to be undertaken by the Parties in ceasing their respective operations under this Agreement and detailing such relevant documentation, assets or licences as may be required by the Client in order to continue its operations after termination of this Agreement. The Exit Management Plan is set out in Schedule H;

“Extension Period” means a period of one year from the end of the Initial Term, with a maximum of two such extension(s) on the same terms and conditions, subject to the Client’s obligations at law;

“Force Majeure Event” means any event beyond the reasonable control of the Affected Party (as defined in clause 22 below) including acts of God, war, outbreak of disease, insurrection, riot, civil disturbance, rebellion, acts of terrorism, embargoes, explosions, fires, floods, tempests, but excluding any industrial dispute relating to the Contractor or its personnel or any failure in the Contractor’s or a Sub-contractor’s supply chain;

“Good Industry Practice” means the exercise of that degree of skill, care, prudence, efficiency, foresight and timeliness as would be expected from a leading company within the relevant industry or business sector.

“Implementation Plan” means the project plan setting out the timetable and sequence of events for the performance of this Agreement and/or any future projects covered under this Agreement which is submitted by the Contractor in response to the CfT and meets the requirements thereof;

“Implementation Services” means the implementation and development services described as such in the CfT and/or in the Project/System Specifications document(s);

“Implementation Services Fees” means the fees for the Implementation Services, as set out in Schedule B (Charges);

“Incident” means any Vulnerability, virus or security incident which:

- a) may affect the Systems and or Services;
- b) may affect the Contractor’s network and information systems such that it could potentially affect the Client or the Services;
- c) may affect the data;
- d) may affect how the data is presented, and reputation of the system, to users and critical stakeholders; or
- e) is reported to the Contractor by the Client.

“Initial Term” means the period commencing on the Commencement Date and ending on the second anniversary of the Managed Services Commencement Date;

“Intellectual Property Rights” or “IPR” means any and all rights pertaining to discoveries, concepts, inventions, ideas or improvements to technology whether or

not written down or otherwise converted to tangible form, patents, designs, trademarks, trade names, logos, database rights, semi-conductor topography rights, goodwill, moral rights, rights in internet domain names and website addresses and other rights in trade names, copyrights, know-how, reputation, computer programs and analogous property, plans, models, literary, dramatic, musical and artistic works and all other forms of industrial or intellectual property (whether or not registered or registerable in any jurisdiction and to the fullest extent thereof) and all extensions and renewals thereof and all applications for registration thereof and all rights, title and interest, present and future, thereto and therein;

“Key Milestone” means the Milestones identified in the CfT as Key Milestones or identified as such for each specific project during the term of the contract and in respect of which Delay Payments may be payable in accordance with clause 12.10 if the Contractor fails to Achieve the Key Milestone Date;

“Key Milestone Date” means the date set out in the Implementation Plan by which the Key Milestone must be Achieved;

“Key Personnel” means all personnel named in the Tender as assigned to provide the Services to the Client. The Key Personnel as at the date of this Agreement are listed in Schedule C;

“KPI” means a key performance indicator in respect of a Service, as set out in Schedule N (Service Level Agreement);

“Malware” means any malicious software which is designed to disrupt, harm, corrupt, damage, gain unauthorised access to and / or take control of a computer system’s information or resources;

“Managed Services” means the support and maintenance services described in Appendix 1 of the CfT;

“Managed Services Commencement Date” means the date identified in the Implementation Plan upon which the Managed Services are to commence;

“Milestone” means an event or task described in the CfT which shall be completed by the relevant Milestone Date;

“Milestone Date” means the date set out against the relevant Milestone in the Implementation Plan by which the Milestone must be Achieved;

“NIS2” means Directive (EU) 2022/2555 of the European Parliament and of the Council of 14 December 2022 on measures for a high common level of cybersecurity across the Union, amending Regulation (EU) No 910/2014 and Directive (EU) 2018/1972, and repealing Directive (EU) 2016/1148;

“Non-Disclosure Agreement” or **“NDA”** means the Non-Disclosure Agreement annexed to this Contract and for the avoidance of doubt which shall only apply for any inspections carried out pursuant to clause 8.3 of the Services Agreement. The NDA may be amended by the mutual agreement of the parties prior to use from time to time to reflect updates in the law or otherwise to reflect good industry practice. All such negotiations shall be done promptly and in good faith;

“Personal Data” has the meaning given under Data Protection Laws;

“Pre-existing IPR” means intellectual property rights of either Party which are in existence at the date of this Agreement and in the case of the Contractor, were not developed specifically for the Services;

“Premises” means the Client’s office or offices and / or such other buildings at such locations as notified by the Client to the Contractor from time to time;

“Processing” has the meaning given under the Data Protection Laws;

“Project” means the provision of the Services by the Contractor in accordance with this Agreement;

“Project Governance” means the project governance processes and procedures described in the CfT and/or in Schedule J hereto;

“Project Team” means the Client’s in-house team and the Client’s appointed experts and consultants with overall responsibility for management of the delivery of the Project;

“Proprietary Software” shall mean and comprise all or any part of generic developed software and generic applications which do not have any feature or functionality which is specifically and exclusively applicable to the Client and all other related documents and other materials including the user instructions and the technical literature in eye readable form together with the media on which the Proprietary Software, user instructions, technical literature and documentation are recorded and / or printed which are supplied or to be supplied by the Contractor or a third party software vendor to the Client as part of the provision of the Services, but excludes the Customised, Configured and Developed Software;

“Purchase Order” means the order form for the Services issued by the Client to the Contractor which shall be read, construed and interpreted in accordance with the terms and conditions in this Agreement and any terms and conditions in the Purchase Order are hereby disregarded;

“Regulations” means the European Communities (Award of Public Authority Contracts) Regulations 2016 (S.I. No. 284 of 2016);

“Remediation Plan” means a plan setting out the actions, responsibilities and timescales by which the Contractor shall restore performance of a Service to the relevant Target KPI(s), prepared and implemented in accordance with clause 5.4;

“Service Credit” means the sum payable by the Contractor to the Client which is attributable to a failure by the Contractor to provide a particular Service in accordance with one or more Target KPI(s) specific to that Service, calculated in accordance with clause 5.6;

“Services” means the Implementation Services and the Managed Services to be provided by the Contractor to the Client under this Agreement;

“Service Levels” means the performance characteristics of the Managed Services defined in the CfT;

“Service Level Failure” means a failure to meet a Service Level Objective;

“Service Level Objectives” means the required minimum service levels set out in the CfT;

“Software” means the Customised Software, Configured Software, Developed Software and the Proprietary Software;

“Source Code” means computer programs in the form in which they are capable of being read by the human eye and which, when compiled or interpreted, are then converted into machine readable or object code; the Source Code shall include all related technical documentation and shall be sufficient to enable an appropriately

and reasonably skilled programmer to understand, develop, modify and maintain the Proprietary Software, Developed Software and Customised Software;

“Specifications” means all the specifications (including performance criteria) of the Services as set out in the CfT as may be refined by the Implementation Plan;

“Sub-contract” means any contract or agreement (or proposed contract or agreement) between the Contractor (or a Sub-contractor) and any third party whereby that third party agrees to provide to the Contractor (or the Sub-contractor respectively) all or any part of the Services;

“Sub-contractor” means any third party with whom the Contractor enters into a Sub-contract, or any other third party with whom that party enters into a Sub-contract;

“System” means all information and communications technology to be provided by the Contractor in accordance with this Agreement, including all Software and where the context so admits or requires any part or parts thereof;

“System User” means any person or other user specified in the CfT that require access to or use of the System;

“Target KPI” means the minimum level of performance for a KPI which is required by the Client in respect of a Service, as set out in Schedule N (Service Level Agreement);

“Tender” means the Contractor’s response to the CfT and shall include any clarifications issued by the Contractor and accepted by the Client via the messaging facility on www.etenders.gov.ie up to the Commencement Date. The Tender is hereby incorporated by reference into this Agreement;

“Term” means the period commencing on the Commencement Date and ending on the expiry of the Initial Term or the Extension Period(s) (if applicable), or on earlier termination of this Agreement;

“Test” means any Tests required to be carried out under this Agreement, in accordance with the Test Plan and **“Tested”** and **“Testing”** shall be construed accordingly;

“Test Criteria” means the detailed test criteria for each Deliverable included within the Test Plan;

“Test Issue” means any variance or non-conformity of a Deliverable from its requirements (such requirements being set out in the relevant Test Criteria);

“Test Plan” means the document to be agreed and created between the Parties in accordance with the timetable in the Implementation Plan and the CfT which will define the Test approach, Test Criteria, Test scenarios, Test conditions and Test scripts. The agreed Test Plan shall be appended to The Agreement;

“Third Party Proprietary Items” means any Pre-existing IPR proprietary to a third party provider which are used by the Contractor in the provision of the Services;

Training: the training services specified in the CfT to be provided as part of the Services

“Upgrade” means the update, modification, or adaptation of the System, or any part(s) of the System, by the Contractor from time to time for the purposes of extending the functionality of the System and keeping the System up-to-date with changing business and technical requirements. This includes, but is not limited to, significant patch bundles (such as service packs or service updates) as released by Software vendors on a scheduled [yearly/quarterly/monthly] basis;

“Virus” means any program which contains malicious code or infiltrates or damages a computer system without the owner’s informed consent or is designed to do so or which is hostile, intrusive or annoying to the owner or user and has no legitimate purpose.

“Vulnerability” means a weakness in the computational logic (for example, code) found in software and hardware components that, when exploited, results in a negative impact to confidentiality, integrity, or availability, and the term **Vulnerabilities** shall be construed accordingly.

“Working Days” are detailed in the CfT;

- 1.2 Other technical expressions relating to Software other than those defined above shall have the meanings commonly attributed to them in the computer and information technology industry.
- 1.3 References to any statute or statutory instrument shall include all and any amendments, modifications, replacements or re-enactments thereof from time to time.
- 1.4 The contents of the Schedules to this Agreement and the documents incorporated by reference shall form part of this Agreement and shall have full effect as if they were incorporated in the body of this Agreement.
- 1.5 In the case of any conflict of wording the following order of priority shall apply:
 - 1.5.1 This Agreement
 - 1.5.2 The Schedules
 - 1.5.3 The CfT and ancillary documents
 - 1.5.4 The Tender Submission

- 1.6 Where there is any conflict or inconsistency between the provisions of the documents set out under clause 1.5 above, the conflict or inconsistency will be resolved in such manner as gives rise to the greatest standard and level of performance of the Services (and does not give rise to any breach of Irish or European public procurement law).
- 1.7 Any reference to a person includes his or her successors, personal representatives and permitted assigns.
- 1.8 Unless the context otherwise requires, words importing the singular include the plural and vice versa, words importing the masculine include the feminine and vice versa and words importing persons include corporations and vice versa.
- 1.9 The section headings and captions to the clauses of this Agreement are inserted for convenience of reference only and shall not be considered a part of or affect the construction or interpretation of this Agreement.
- 1.10 In the event that any ambiguity or question of intent or interpretation arises in relation to this Agreement, this Agreement shall be construed as if drafted jointly by the Parties and no presumption or burden of proof shall arise favouring or disfavouring any Party by virtue of the authorship of any of the provisions of this Agreement.
- 1.11 Any words following the terms “including”, “include”, “in particular” or any similar expression shall be construed as illustrative and shall not limit the sense of the words preceding those terms.
- 1.12 References to the Minister shall where the context so admits or requires also mean the Department of that Minister and vice versa.

1.13 Unless expressly stated to be otherwise, days mean calendar days.

2. WARRANTIES

2.1 The Contractor represents and warrants that:

- (i) it has the authority, capacity and right under law to enter into, and to carry out its obligations and responsibilities under this Agreement and to provide the Services hereunder;
- (ii) this Agreement shall be executed and electronically signed by all the Parties hereto. Each of the Parties to this Agreement confirms that this Agreement is executed by their duly authorised representatives;
- (iii) the execution and performance of its obligations under this Agreement does not conflict with or constitute a breach of any law or obligation applicable to it and will not constitute a breach under any agreement of any kind to which the Contractor is a party;
- (iv) it is entering into this Agreement with a full understanding of its terms and risks and is capable of assuming those risks;
- (v) it has acquainted itself with any and all legal requirements and such other laws, recommendations, guidance, codes of practice or practices as may affect the carrying out of its obligations and responsibilities under this Agreement;
- (vi) all written statements and representations in any written submissions made by the Contractor as part of the procurement process, including without limitation its response to the pre-qualification questionnaire (if applicable), the CfT and any other documents submitted remain true and accurate

except to the extent that such statements and representations have been superseded or varied by this Agreement or to the extent that the Contractor has otherwise disclosed to the Client in writing prior to the date of this Agreement;

- (vii) the status of the Contractor, as declared in the “**Declaration as to Personal Circumstances of Contractor**”, which confirms that none of the excluding circumstances listed in Regulation 57 of the Regulations apply to the Contractor, remains unchanged;
- (viii) No proceedings or other steps have been taken and are not discharged (nor, to the best of its knowledge, are threatened) for the winding up of the Contractor or for its dissolution or for the appointment of a receiver, administrative receiver, liquidator, examiner, manager, administrator, or similar officer in relation to the Contractor’s assets or revenue; and
- (ix) there are no actions, suits or regulatory investigations before any court or administrative body or arbitration tribunal pending or, to its knowledge, threatened against it or any of its affiliates that might affect its ability to perform the services under this Agreement.

2.2 The Contractor shall immediately notify the Client of any material change to the status of the warranties, acknowledgments, representations and undertakings, as set out in this Agreement and shall comply with all reasonable directions of the Client.

2.3 The Contractor acknowledges that the Customer is an Important Entity in accordance with Directive (EU) 2022/2555 and shall within six months of the implementation of the National Cyber Security Act 2024 confirm in writing that it has implemented appropriate technical and organisational measures to ensure a

level of security appropriate to the risk of causing the Customer breaching its obligations as a regulated entity.

2.4 Each of the representations and warranties set out in this clause 2 shall be construed as a separate representation and warranty and shall not be limited or restricted by reference to, or inference from, the terms of any other representation or warranty in this Agreement.

2.5 Software Quality Remediation of Defects (90 days warranty)

2.5.1 Where the delivery of an online services application software release introduces further software defects/errors or where defects/errors are found in the current release version then the contractor will be fully responsible for the resolution of such software defects and errors and the full cost of such resolution must be met by the contractor within a 90 day warranty period. SEAI will not meet the cost of resolving software defects or errors introduced by online services application software releases delivered by the contractor within this period.

2.5.2 Quality is of paramount priority for the Client as it maintains many systems of record where it is unacceptable to have bugs in the software presented for the Client's user acceptance testing. The Contractor must maintain an experienced and qualified software test team who will carry out system test/ QA following development. Strict entry criteria to UAT must be passed and no major or more serious bugs are acceptable.

2.5.3 The Contractor will provide a software defect recording facility to categorise and document all support calls logged; to describe the technical steps undertaken to diagnose and resolve defects; and to fully document the technical changes required to effect final defect resolution.

2.5.4 The Contractor shall provide details of its source code management process, requirements management process, development and release process and

issue tracking systems. Copies of the Source Code for Customised, Configured and Developed Software developed specifically and exclusively for the Client under this Agreement must be provided within two (2) weeks of being requested or as requested during the lifetime of the Agreement. For the avoidance of doubt, this obligation does not extend to the standard SaaS platform, standard SaaS configuration tools, templates, scripts, routines, utilities, methodologies or other generic or reusable materials, or to Third Party Proprietary Items.

- 2.5.5 The Contractor must utilise a fully functional content version control system to formally manage and control all Application Software code, all report code and templates, all database schemas and all other application release documentation in accordance with best industry practice.
- 2.5.6 The Contractor must maintain a fully accurate and up to date entity model and data dictionary in respect of all the databases.
- 2.5.7 Where the Contractor is delivering a new application Report or Procedure to the Client these must be accompanied by appropriate documentation to allow the Reports and procedures to be utilised and run by the Client 's staff without having recourse back to the Contractor.

3. TERM

- 3.1 This Agreement shall commence on the Commencement Date and unless terminated in accordance with this Agreement shall terminate:
 - (i) at the end of the Initial Term; or
 - (ii) if the Client elects to extend the Initial Term at the end of the Extension Period.
- 3.2 The Client reserves the right to extend the Term for a period or periods of up to 12 months with a maximum of three such extensions permitted subject to its obligations at law.

4. CONTRACTOR'S OBLIGATIONS

4.1 The Contractor hereby agrees to provide the Services to the Client in accordance with this Agreement and shall:

- (i) assume liability and overall responsibility for its Sub-contractors and shall procure that its Sub-contractors shall comply in all respects with the relevant terms of this Agreement. Subject to clause 24, the Contractor shall notify the Client as soon as possible of any changes to the name, contact details and legal representatives of its Sub-contractors;
- (ii) comply with all local security and health and safety arrangements and all other policies identified in the CfT and that may be specified by the Client from time to time that are deemed reasonably necessary by the Client and are notified in advance to the Contractor in writing;
- (iii) carry out its duties and shall ensure that its employees, servants, agents and any Sub-contractor carry out the duties of the Contractor under this Agreement, in a timely, reliable and professional manner in accordance with Good Industry Practice and with all due care skill and diligence;
- (iv) exercise all due care, skill and attention in the provision of the Services to the Client and in the appointment, monitoring and retention of its agents and Sub-contractors;
- (v) 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 or by international, environmental, social and labour law listed in Schedule 7 of the Regulations. The Contractor shall include this

requirement in the agreement with its Sub-contractors. 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, taxation, immigration and work permits of all personnel retained by the Contractor for the purposes of complying with this Agreement; and

(vi) comply with :

- (a) the Implementation Plan;
- (b) the procedures for the Testing of Deliverables and Achievement of Milestones as set out in the CfT; and
- (c) ensure that each Key Milestone is Achieved on or before its Key Milestone Date.

4.2 The Contractor shall ensure that the Services:

- (i) shall, from the Managed Services Commencement Date and for the Term of this Agreement, perform in accordance with the Specifications and shall be free from Defects;
- (ii) will not interfere with or adversely impact on the integrity of the Client's interfaced systems;
- (iii) shall be designed to be secure and adequately protected from unauthorised access;
- (iv) shall be free from (and all Upgrades shall be free from) Malware and other Defects;

- (v) will not (and the Contractor shall procure that its employees and agents do not) introduce any computer Malware to any system which may be connected to it. The Contractor shall implement (and procure that its employees, Sub-contractors and agents implement) Malware scanners in accordance with Good Industry Practice to scan all work product, data or software immediately prior to its introduction to the Services;
- (vi) will not corrupt any Data and will maintain the integrity of all Data to be migrated;
- (vii) will be consistently mindful of the integrity and reputation of the system amongst users and stakeholders; and
- (viii) The Contractor shall ensure that all components of the Software shall comply with and perform:
 - (a) free from design and programming errors;
 - (b) in accordance with the Specification; and
 - (c) not infringe any IPR.

4.3 If requested by the Client at any time, the Contractor shall, upon the termination of this Agreement for any reason or prior to the expiration of the Term without undue delay 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. The Contractor agrees to the Client publishing or releasing any such anonymised information to third parties for the purposes of any procurement competition.

4.4 The Contractor shall allow the Client and any auditors of or other advisers to the Client to access any of the Contractor's premises, Contractor's personnel and relevant records as may be reasonably required in order to:

4.4.1 fulfil any legally enforceable request by any regulatory body; or

- 4.4.2 undertake verifications of the accuracy of the Charges or identify suspected fraud; or
- 4.4.3 undertake verification that the Services are being provided and all obligations of the Contractor are being performed in accordance with this agreement; or
- 4.4.4 undertake verification that the Services protect the integrity, operational availability, confidentiality and security of the Client's Data.
- 4.5 The Client shall use its reasonable endeavours to ensure that the conduct of each audit does not unreasonably disrupt the Contractor or delay the provision of the Services by the Contractor and that, where possible, individual audits are co-ordinated with each other to minimise any disruption.
- 4.6 Subject to the Client's confidentiality obligations, the Contractor shall provide the Client (and its auditors and other advisers) with all reasonable co-operation, access and assistance in relation to each audit.
- 4.7 The Client shall provide at least 30 Working Days' notice of its intention to conduct an audit unless such audit is conducted in respect of a suspected fraud or data breach, in which event no notice shall be required.
- 4.8 The parties shall bear their own costs and expenses incurred in respect of compliance with their obligations, unless the audit identifies a material default by the Contractor, in which case the Contractor shall reimburse the Client for all its reasonable costs incurred in the course of the audit.
- 4.9 The Contractor shall deliver a copy of the Documentation to Customer in documentary and electronic format at no additional charge to Customer.
- 4.10 The Contractor shall perform its obligations specified in Schedule L (Cybersecurity) of this Agreement.

5. MANAGED SERVICES

- 5.1 The Contractor shall comply with the Service Levels and provide the Managed Services in such a manner as to meet the Service Level Objectives.
- 5.2 The Contractor shall comply with the Project Governance (as amended from time to time).
- 5.3 The Contractor shall measure and report its performance against each Target KPI to the Client in respect of each reporting period, in the manner and at the frequency set out in Schedule N (Service Level Agreement).
- 5.4 Where the Contractor fails to meet one or more Target KPIs in respect of a particular Service in two (2) successive reporting periods, the Contractor shall, within ten (10) Working Days of the Client's request, prepare, agree with the Client and implement a Remediation Plan to restore performance of that Service to the relevant Target KPI(s). Implementation of a Remediation Plan is without prejudice to any other right or remedy of the Client.
- 5.5 If, one (1) month after the date of implementation of the approved Remediation Plan pursuant to clause 5.4, the Contractor continues to fail to meet one or more Target KPIs in respect of a particular Service which is subject to a specific KPI in accordance with Schedule N, notwithstanding the commencement of the Remediation Plan, then without prejudice to any other rights of the Client, the Contractor shall be liable to pay to the Client a Service Credit.
- 5.6 A Service Credit shall amount to a total of 2.5% of the value of the Charges attributable to the relevant Service in the month in which the continued failure occurs. The Charges attributable to a Service shall be determined by reference to Schedule B (Charges). The maximum Service Credits payable by the Contractor in respect of all Services in any given month shall not exceed 2.5% of the total value of the invoice for that month.

- 5.7 Service Credits shall be applied as a deduction against the Contractor's next invoice or, following the final month of the Agreement or where there are insufficient Charges to deduct from, shall be paid to the Client within thirty (30) days of written demand. For the avoidance of doubt, and notwithstanding anything else in this Agreement, the ability of the Client to apply Service Credits shall commence from the date which is six (6) calendar months following the Managed Services Commencement Date.
- 5.8 The parties agree that the Service Credits represent a genuine and reasonable pre-estimate of the loss likely to be suffered by the Client as a result of the Contractor's failure to meet the Target KPIs, and constitute a reduction of the Charges reflecting the reduced value of the Services, and not a penalty. The payment or deduction of Service Credits shall be without prejudice to any other right or remedy of the Client under this Agreement, including the right to terminate under clause 20.
- 5.9 The Client reserves the right to introduce new KPIs in relation to any new Services that may be provided by the Contractor after the Commencement Date, provided that at least two (2) full calendar months' notice of the introduction of any new KPI is given to the Contractor.

6. INSURANCE

- 6.1 The Contractor shall comply with the provisions of Schedule F (Insurances) in relation to obtaining and maintaining insurance and shall notify the Client of any failure by it to comply with the terms of such policies and any claims made under the policies of insurance with aggregate limits. Where claims have been made on the policies of insurance with aggregate limits, the Client reserves the right to require the Contractor to obtain additional insurance cover at no additional cost to the Client.

- 6.2 The Contractor undertakes to advise the Client of any material change to its insured status, to produce proof of current premiums paid and / or valid certificates of insurance upon written request of the Client and to have the Client's interest noted on relevant policies as an indemnified insured if so required in writing.
- 6.3 The Contractor shall carry out all directions of the Client with regard to compliance with this clause 6.

7. CONTINUOUS IMPROVEMENT

- 7.1 The Contractor shall have an ongoing obligation throughout the Term to identify continuous improvement of the Services and report to the Client Project Manager at least once every 3 months as part of the quarterly business review process, or as otherwise agreed, on:
- (a) the emergence of new and evolving relevant technologies which could improve the Services, and any technological advances potentially available which the Client, subject to its obligations at law, may wish to adopt;
 - (b) potential improvements to the Services including to quality, responsiveness, procedures, performance mechanisms and customer supports;
 - (c) potential improvements to the interfaces or to the integration of the Services with other services provided by third parties or the Client which might result in efficiency or productivity gains;
 - (d) changes in business processes and ways of working that would enable the Services to be delivered at lower cost and / or with greater benefits to the Client;

- (e) changes in business processes and ways of working that would enable reductions in the total energy consumed or reduction in Green House Gas emissions by the Client; and
 - (f) changes in business processes and ways of working that would help manage the integrity of the system and reputation amongst users and stakeholders
- 7.2 The Contractor shall ensure that the information it provides to the Client shall be sufficient for the Client to decide whether any improvement should be implemented.
- 7.3 If the Client wishes to incorporate any improvement identified by the Contractor the Client shall send the Contractor a change request in accordance with the Change Control Procedure at clause 18. If the Client elects to implement an improvement, any impact on the Services, Charges, timetable or other terms of this Agreement shall be addressed through Change Control, subject to applicable public procurement law.

8. CONTRACT MANAGEMENT

- 8.1 [insert name] shall be the Client Project Manager.
- 8.2 [insert name] shall be the Contractor Project Manager.
- 8.3 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. Further, the Client's inspection shall be subject to:

- i. the Client and any Client representative or agent entering into an NDA with the Contractor which for the avoidance of doubt, regardless of any term in the NDA to the contrary, the NDA shall only apply for the duration of such inspection such NDA shall only apply to the Client or any Client representative for the duration of the inspection carried out pursuant to this clause 8.3;
- ii. the inspection being limited to what is strictly necessary (and shall not compromise the security of the Contractor's other customers; and
- iii. the Client shall provide the Contractor wherever possible with no less than 2 weeks' notice ahead of the proposed inspection date.

9. KEY PERSONNEL

- 9.1 Subject to 9.2 below the Contractor shall, to the extent permitted by law, ensure that all Key Personnel assigned by it to provide the Services shall be available for the Term of this Agreement.
- 9.2 In the event that any of the Key Personnel assigned by the Contractor to provide the Services (or any part thereof) under this Agreement becomes unavailable to provide the Services, then the Contractor shall immediately notify the Client in writing explaining the reason for the unavailability and proposing a replacement for that person with a person of at least equivalent experience and expertise ("Replacement Personnel"). The Client may accept or reject such proposed replacement at its discretion.
- 9.3 If requested by the Client, the Contractor shall provide security clearance from An Garda Síochána in respect of all or any personnel of the Contractor or of its agents or Sub-contractors and the Contractor shall comply with all reasonable directions of the Client arising therefrom.

- 9.4 The Contractor shall ensure that the employees, agents and Sub-contractors of the Contractor pursuant to this Agreement shall remain under the full control and authority of the Contractor and shall not be regarded as employees or agents of the Client for any purpose.

10. CHARGES

- 10.1 The Client shall pay the Contractor the Charges in the manner specified in this clause 10 and in Schedules B and D subject, if applicable, to retention by the Client in accordance with Section 523 of the Taxes Consolidation Act, 1997 of any withholding taxes payable or clause 11.10 . All invoices shall be submitted to the Client Project Manager (or such other named individual as may be nominated by the Client Project Manager in writing).
- 10.2 The Contractor is taken to have satisfied itself before entering into this Agreement that the Charges are correct and sufficient, and to have taken account of all that is required to perform this Agreement (and specifically the provision of all services required hereunder).
- 10.3 The Contractor acknowledges and confirms that the actual number of days' effort required to provide any aspect of the Services may be greater than that estimated in the Contractor's Tender and / or the Implementation Plan and the Contractor shall be responsible for all costs associated with any additional days' effort that may be required.
- 10.4 The Contractor shall be responsible for taxes based on its own net income, employment taxes of its own employees, and for taxes on any property it owns or leases. For the purposes of this Agreement, taxes shall include taxes incurred on transactions between and among the Contractor and its affiliates.

- 10.5 The provisions of the European Communities (Late Payment in Commercial Transactions) Regulations, 2012, shall apply to the late payments of Charges.
- 10.6 Wherever under this Agreement any sum is due and payable by the Contractor to the Client, including any Service Credit, Delay Payment, refund, overpayment or other amount which is agreed, undisputed or finally determined in accordance with this Agreement, the Client may deduct that sum from any sum then due, or which at any later time may become due, to the Contractor under this Agreement. For the avoidance of doubt, the Client may not set off or deduct any genuinely disputed and unliquidated claim unless expressly permitted by this Agreement or by law. Any overpayment by either Party, whether of the Charges or of VAT or otherwise, shall be a sum of money recoverable on demand by the Party who made the overpayment from the Party in receipt of the overpayment.
- 10.7 All Charges payable shall be conditional on the possession by the Contractor at all times of a valid and current Irish Tax Clearance Certificate. The Contractor shall comply with all applicable EU and domestic taxation law and requirements.
- 10.8 For the avoidance of doubt the only fee payable to the Contractor prior to the Managed Services Commencement Date shall be the Implementation Services Fees.
- 10.9 The Charges shall be fixed for the Term unless agreed otherwise in writing between the parties.

Tenderers should note that prices may be increased or decreased only on the second anniversary of the Effective Date of the Services Contract (as defined in the Services Contract) and on subsequent anniversaries of the Effective Date thereafter over the preceding 12-month period, and then only by the percentage by which the Consumer Price Index (CPI) has increased or decreased using the most recently published index at the time of adjustment published by the Central Statistics Office (CSO).

11. LIABILITY AND REMEDIES

LIABILITY

- 11.1 Subject to the limitations of liability set out in this Agreement, the Contractor shall be liable for and shall indemnify the Client and their servants and agents and shall hold the Client and its servants and agents blameless against all and any actions, for and in respect of any and all losses, costs, expenses, claims, damages, demands and any other liabilities which the Client and / or their servants or agents may suffer due to and arising directly as a result of any breach of contract, negligence, act or omission, torts, breach of duty, insolvency, recklessness, bad faith, wilful default, fraud and / or death of or injury to any person or persons or damage to any property by the Contractor, its employees, Sub-Contractors or agents or any of them or as a result of the Contractor's failure to exercise skill, care and diligence as outlined in this Agreement. The terms of this clause shall survive termination or expiry of this Agreement for any reason.
- 11.2 Without prejudice to clause 11.1, the Contractor shall indemnify the Client against any loss or damage suffered by the Client in relation to any breach by the Contractor or its Subcontractors or agents of its obligations under this Agreement, which results in the Client breaching its obligations under the European Union (Measures for a High Common Level of Security of Network and Information Systems) Regulations 2018 (SI 360/2018), Directive (EU) 2022/2555 and the National Cyber Security Act 2024 when enacted.
- 11.3 Neither Party excludes or limits liability to the other Party for:
- (a) fraud or fraudulent misrepresentation;
 - (b) death or personal injury caused by negligence; or
 - (c) any matter for which it would be unlawful for the parties to exclude liability.

- 11.4 Subject to clauses 11.3 and 11.7, neither Party shall 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.
- 11.5 Subject to clause 11.3, the limit of the Client's aggregate liability to the Contractor under this Agreement whatsoever and howsoever arising shall not under any circumstances exceed 150% of the Charges paid or payable to the Contractor in the preceding 12 month period.
- 11.6 Subject to clauses 11.3, 11.7 and 11.8, the limit of the Contractor's aggregate liability to the Client under this Agreement whatsoever and howsoever arising shall not under any circumstances exceed (in the aggregate), 150% of the Charges paid or payable to the Contractor in the 12 months' preceding the event of which brought about the loss.
- 11.7 Subject to clause 11.3, the limitations of the Contractor's liability in this clause 11 shall not apply to liability for any indemnified claim under clause 15 (Intellectual Property Rights).
- 11.8 The limit of the Contractor's aggregate liability to the Client under this Agreement whatsoever and howsoever arising under clause 13 (Confidentiality) and clause 16 (Data Protection and Security), including under the Data Processing Agreement, shall not under any circumstances exceed 300% of the Charges paid or payable by the Client to the Contractor in the 12 months preceding the event which brought about the loss.
- 11.9 Should the Client exercise its right to terminate this Agreement under clause 20.4(i) the Client shall be entitled to a pro-rata refund of any sums prepaid to the Contractor for Services not performed.

REMEDIES

- 11.10 Should the Client find itself obliged to order or purchase elsewhere in consequence of the failure of the Contractor to provide the Services or any part or parts thereof in accordance with this Agreement, the Client shall be entitled to recover from the Contractor any additional costs which may be incurred by the Client
- 11.11 Without prejudice to the above and to any general right to damages under this Agreement, in the event that a Key Milestone for a specific project has not been Achieved by its relevant Key Milestone Date and is delayed by more than the Delay Deduction Period for any reason attributable wholly or primarily to the Contractor and / or any of its Sub-contractors, the Contractor shall pay to the Client the tendered Rate for Senior Consultant/Enterprise Architect per Working Day, or part thereof, thereafter until the relevant Key Milestone has been Achieved, as a Delay Payment, up to a maximum amount of 100 per cent of the Charges paid or projected to be paid (whichever is the higher) ("Delay Payment Threshold") for that specific project. Where the Delay Payment Threshold is met, the Client shall be entitled to:
- 11.11.1.1 claim any remedy available to it (whether under this Agreement or otherwise) for loss or damage incurred or suffered by it after the Delay Payment Threshold has been met; and
- 11.11.1.2 without prejudice to sub-clause 11.10.1.1, to terminate the Agreement with immediate effect by giving notice in writing to the Contractor.
- 11.12 If for any reason the Client is dissatisfied with the performance of the Contractor, a sum may be withheld from any payment otherwise due (the "Withheld Amount"). The Withheld Amount shall not at any given time exceed 10% per cent of the Charges. In such event the Client shall identify the aspects of the System or the Services with which it is dissatisfied together with the reasons for such dissatisfaction. Payment of the Withheld Amount will be made upon replacement

and / or remedy of the System and / or Services as identified by the Client and / or resolution of outstanding queries. The Client shall hold the Withheld Amount on behalf of the Contractor but without any obligation to invest. The terms of this clause shall be without prejudice to and not be in substitution for any remedy of the Client under this Agreement.

11.13 Except as otherwise 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.

11.14 This clause 11 will continue in force notwithstanding the expiration or termination of this Agreement for any reason.

12. CONTINUING OBLIGATION

The Contractor shall continue to perform all of its obligations under this Agreement notwithstanding:

- (a) any withholding of the Charges by the Client pursuant to clause 11;
- (b) any unresolved disputes; or
- (c) any delay or failure by the Client to make payment to the Contractor.

13. CONFIDENTIALITY

13.1 The Contractor for itself and its employees, servants, Sub-contractors and agents acknowledges that the security of the State and its Confidential Information is of paramount importance to the Client. Accordingly, the Contractor confirms that it will, if requested by the Client and where such request is received by the Client from law enforcement, regulator or body of competent jurisdiction, from time to time, submit full personal details (including those of Subcontractors) who are assigned to provide the Services (or any part thereof) under this Agreement. The

Contractor further acknowledges that checks may be carried out in relation to all such personnel by law enforcement and the Contractor shall comply with all reasonable directions of the Client arising therefrom. The Contractor shall not be obliged to comply with this clause where doing the same would put the Contractor in breach of Data Protection Law.

13.2 Each Party acknowledges that Confidential Information may be provided by or on behalf of either Party to the other Party and that each item of Confidential Information shall be governed by the terms of this Agreement.

13.3 For the purposes of this Agreement "Confidential Information" shall mean information disclosed or made available by or on behalf of one Party (the "Disclosing Party") to the other Party (the "Receiving Party") in connection with this Agreement, including:

(i) All information (whether in documentary form, oral, electronic, audio-visual, audio-recorded or otherwise, including any copy or copies thereof and whether scientific, commercial, financial, technical, operational or otherwise) relating to the Disclosing Party, the supply of Goods/Services under this Agreement and all information supplied or made available by or on behalf of the Disclosing Party to the Receiving Party (including its employees, agents, Subcontractors and other suppliers) for the purposes of this Agreement; and

(ii) Any and all information which has been derived or obtained from information described in sub-paragraph (i).

13.4 Save as may be required by law, each Receiving Party agrees in respect of the Confidential Information of the Disclosing Party:

- 13.4.1 To only use such Confidential Information for the purposes of this Agreement;
- 13.4.2 To treat such Confidential Information as confidential and to take all necessary steps to ensure that such confidentiality is maintained;
- 13.4.3 Not, without the prior written consent of the Disclosing Party, to communicate or disclose any part of such Confidential Information to any person except:
 - (a) To those employees, agents, Subcontractors and other suppliers of the Receiving Party on a need to know basis, and who are under an obligation to the Receiving Party to keep such information confidential; and/or
 - (b) To the Receiving Party's auditors, professional advisers and any other persons or bodies having a legal right or duty to have access to or knowledge of the Confidential Information in connection with the business of the Receiving Party.
- 13.5 The obligations in this Agreement will not apply to any Confidential Information:
 - 13.5.1 In the Receiving Party's possession (with full right to disclose) before receiving it from the Disclosing Party;
 - 13.5.2 Which is or becomes public knowledge other than by breach of this clause;
 - 13.5.3 Is independently developed by the Receiving Party without access to or use of the Confidential Information; or

- 13.5.4 Is lawfully received by the Receiving Party from a third party (with full right to disclose).
- 13.6 Each Receiving Party undertakes:
- 13.6.1 To comply with all directions of the Disclosing Party with regard to the use and application of all and any Confidential Information;
- 13.6.2 The Contractor shall comply with all directions as to local security arrangements deemed reasonably necessary by the Client, if required, completion of documentation under the Official Secrets Act 1963 and comply with any vetting requirements of the Client including by police authorities;
- 13.6.3 To implement appropriate technical and organisational measures to protect the Confidential Information;
- 13.6.4 The Contractor shall notify the Client as soon as possible, and no later than 48 hours, after the Contractor becomes aware of any security breaches within the Contractor's organisation leading to the loss or theft of any Confidential Information;
- 13.7 Subject to applicable law and the Client's obligations in relation to FOI, AIE, public records and record retention, upon termination or completion of this Agreement, for whatever reason, each Receiving Party shall, at the request and choice of the Disclosing Party, Delete or return to the Disclosing Party all Confidential Information and copies thereof in its possession. As directed by the Disclosing Party, all copies of Confidential Information held by the Receiving Party in electronic form shall be returned to the Disclosing Party in a commonly used electronic format or Deleted. Each Receiving Party shall, upon request, furnish a certificate to that effect in writing.

13.8 In relation to the processing of any Personal Data, the Contractor shall ensure they fully comply with the provisions of clause 16 of this Agreement

13.9 The Contractor acknowledges that the Client is subject to the requirements of the Freedom of Information Act 2014 (FOI) and the European Communities (Access to Information on the Environment) Regulations 2007 to 2018 (AIE),

The Contractor shall:

- (a) provide all necessary assistance and cooperation as reasonably requested by the Client to enable the Client to comply with its obligations under the FOI and AIE;
- (b) transfer to the Client all requests for information under the FOI and AIE relating to this Agreement that it receives as soon as practicable and in any event within two (2) Working Days of receipt;
- (c) provide the Client with a copy of all information held on behalf of the Client which is requested in a request for information under the FOI and AIE and which is in its possession or control in the form that the Client requires within five (5) Working Days (or such other period as the Client may reasonably specify) of the Client's request for such information; and
- (d) not respond directly to a request for information under the FOI or AIE unless authorised to do so by the Client.

13.10 The terms of this clause 13 shall survive expiry, completion or termination for whatever reason of this Agreement.

14. TRAINING

- 14.1 The Contractor undertakes to provide the Training to the Client in accordance with the CfT;
- 14.2 Training shall be carried out at the location(s) specified, or as may otherwise be agreed by the Client. Any special equipment necessary for the Training shall be provided by the Contractor.
- 14.3 The Contractor shall conduct a satisfaction survey in a format agreed between the Parties, following each training course, as set out in the training plan. The Contractor shall endeavour to maintain the results of such surveys at a level deemed acceptable by the Client and shall provide statistical extracts there for regular review by the Client; and
- 14.4 The Contractor acknowledges that the Training Services shall include an obligation on the Contractor to undertake a transfer of skills and knowledge to the recipients of the training, to the extent reasonably possible, having regard to the suitability of the candidates for training. The Parties shall co-operate in order to maximise the achievement of this outcome.

15. INTELLECTUAL PROPERTY RIGHTS

- 15.1 Save as otherwise set out in this clause 15, all IPR, title and interest in all technical or functional designs, reports, manuals, graphics, graphs, scorecards and other materials (including without limitation all and any audio or audio visual recordings, transcripts, books, papers, records, notes, illustrations, photographs, diagrams) produced or created specifically and exclusively for the Client for the purposes of this Agreement (collectively "Project Materials") (or any part or parts thereof) shall vest in the Client. For the avoidance of doubt, this clause 15.1 shall not apply to Contractor Proprietary Items, Pre-Existing IPR, standard SaaS configuration tools,

templates, scripts, routines, utilities, methodologies, know-how or other materials of a generic or reusable nature, whether developed before or during the Term, which shall remain subject to clauses 15.3, 15.4 and 15.6 as applicable. The Contractor hereby assigns all IPR, title and / or interest in the Project Materials to the extent that any such IPR, title or interest may be deemed by law to reside in such Project Materials to the Client absolutely.

- 15.2 The Contractor shall procure the irrevocable waiver of all moral rights in the Project Materials to the extent permissible by law.
- 15.3 IPR in the Customised, Configured and Developed Software developed specifically and exclusively for the Client under this Agreement shall vest in and be owned by the Client. For the avoidance of doubt, to the extent that any such rights, title or interest therein may be deemed by law to reside in the Contractor, the Contractor hereby assigns all and any such rights, title and interest to the Client absolutely. The Client hereby grants to the Contractor a non-exclusive licence for the duration of the Term to use such Customised, Configured and Developed Software for the purposes of the Project, which right to use shall include but not be limited to the right to execute, reproduce, correct, modify, enhance, display, perform, distribute, sub-license for such purpose only and prepare derivative works based on such Customised, Configured and Developed Software. For the avoidance of doubt, all Source Code in the Customised, Configured and Developed Software developed specifically and exclusively for the Client shall be handed over to the Client upon delivery of such Customised, Configured and Developed Software, or earlier termination of this Agreement for whatever reason, whichever is the earliest.
- 15.4 For the avoidance of doubt, the Contractor shall retain the IPR, title and interest in all Contractor Proprietary Items, all Pre-Existing IPR owned by or licensed to the Contractor and all standard SaaS platform components, standard SaaS configuration tools, templates, scripts, routines, utilities, methodologies, know-how and other generic or reusable materials used in the provision of the Services,

whether developed before or during the Term. Nothing in this clause 15 shall transfer ownership of any such rights or materials to the Client.

- 15.5 The Contractor acknowledges and agrees that the Client, or if applicable, the relevant state body or authority shall be and remain the sole owners of all IPR in all Data, material, documentation or information inputted or loaded as part of the Services, and of all reports, outputs and end-products generated by or from the Services.
- 15.6 All Pre-Existing IPR shall remain the sole property of the Party who owned, acquired or developed such IPR. For the avoidance of doubt all calculations, methodologies, graphics, graphs and scorecards developed or produced by the Client constitute part of its Pre-Existing IPR.

GRANT OF LICENCES

- 15.7 The Contractor hereby grants and shall procure that any relevant Sub-Contractor or third party hardware or software vendor shall:
- (i) grant to the Client a non-exclusive, royalty-free licence during the Term and any period required for Exit Services or transition under clause 28 or Schedule H to use the Proprietary Software and Third Party Proprietary Items solely to the extent necessary for the Client and its employees, agents, service providers and contractors to receive and use the Services and to exercise the Client's data export, retrieval and other exit rights under this Agreement. The licence shall terminate automatically on expiry or termination of this Agreement, save that it shall continue solely to the extent strictly necessary during the applicable Exit Services or transition period. The licence shall not include any right to modify, enhance or prepare derivative works, except to the extent strictly necessary to exercise those exit or transition rights and with the Contractor's prior

written consent. Nothing in this clause shall limit the Client's rights to access, retrieve, export, return or otherwise deal with its Data under this Agreement.

- (ii) the terms of all such licences shall allow the use of all Proprietary Software and Third Party Proprietary Items by the Client's employees, agents, service providers and contractors, in each case where authorised by SEAI and only to the extent required for the Services, within the user volumes, roles, licence metrics, usage entitlements and other assumptions stated in the CfT, the Schedules (including the Pricing Schedule) and the Contractor's Tender as accepted by the Client.

15.8 The Contractor agrees to execute all such documents and do all such further acts as may be necessary to perfect the Client's title to the IPR that it has the right to obtain under this clause 15 at no charge to the Client.

15.9 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 and / or legal expenses suffered or incurred by the Client arising out of or in connection with any claim made against the Client for actual or alleged infringement of a third party's Intellectual Property Rights, arising out of or in connection with the Client's use of or benefit from the Services. The Contractor shall have no liability under this clause 15.9 to the extent that the relevant claim arises solely from (a) any unauthorised modification of the Services or Software by or on behalf of the Client; (b) any unauthorised combination of the Services or Software with third-party materials not supplied or approved by the Contractor; or (c) the Client's use of the Services or Software outside the scope permitted by this Agreement or the Contractor's written instructions. If any use of the Services becomes, or in the opinion of qualified legal counsel is likely to become, the subject of any claim of infringement of Intellectual Property Rights, the Contractor shall at its expense:

- (i) Replace all or part of the Services with functionally equivalent software or documentation;
- (ii) Modify the Services as necessary to avoid such claim, provided that Services (as amended) functions in substantially the same way as the Services or the updates (as the case may be) before modification; and / or
- (iii) Procure the necessary license from the relevant claimant for the Client to continue using the Services.

15.10 The Client shall:

- (a) notify the Contractor of any IPR claim;
- (b) allow the Contractor to conduct all negotiations and proceedings and provide the Contractor with such reasonable assistance as is required by the Contractor, each at the Contractor's cost, regarding the IPR claim; and
- (c) not, without prior consultation with the Contractor, make any admission relating to the IPR claim or attempt to settle it, provided that the Contractor considers and defends any IPR claim diligently, using competent counsel and in such a way as not to bring the reputation of the Client into disrepute.

15.11 The Client hereby grants to the Contractor an irrevocable, fully paid-up, non-exclusive, sub-licensable, perpetual, royalty-free licence to use, copy, modify and adapt the Customised, Configured and Developed Software owned by the Client under clause 15.3. For the avoidance of doubt, the licence granted under this clause 15.11 includes the right for the Contractor to commercially exploit such Customised, Configured and Developed Software without payment of royalties or other equitable remuneration to the Client, or any prior consent or permission.

- 15.12 If required by the Client, the Contractor shall, at all times, keep in escrow or as otherwise directed by the Client in writing to the Contractor only the Source Code for Customised, Configured and Developed Software developed specifically and exclusively for the Client under this Agreement, up to date to correspond with the executable code version of that Software then in use. Similarly, the Contractor shall continually supply the Client with the Source Code of any modifications, patches and / or Upgrades of such bespoke software of which the Client has availed. For the avoidance of doubt, the escrow and source-code delivery obligations in this clause 15.12 do not apply to the standard SaaS platform, standard SaaS configuration tools, templates, scripts, routines, utilities, methodologies or other generic or reusable materials, or to Third Party Proprietary Items, except to the extent that any such item incorporates bespoke software or Source Code developed specifically and exclusively for the Client. All relevant escrow fees in respect of this Agreement shall be payable by the Contractor and the Client equally.
- 15.13 This clause 15 will continue in force notwithstanding the expiration or termination of this Agreement for any reason, provided that the licence granted under clause 15.7(i) shall terminate automatically on expiry or termination, save for any limited continuation strictly necessary during the applicable Exit Services or transition period in accordance with clause 15.7(i). Nothing in this clause shall limit the Client's rights under clauses 20 and 28 or Schedule H.

16. DATA PROTECTION AND DATA SECURITY

- 16.1 The Contractor shall comply with all applicable requirements of the Data Protection Laws.
- 16.2 The parties acknowledge that for the purposes of the Data Protection Laws, the Client is the Data Controller and the Contractor is the Data Processor in respect of Data which is Personal Data. The Contractor shall comply with the Data Processing

Agreement included in Schedule G of this Agreement, and this will govern the Processing of all and any Personal Data by the Contractor on behalf of the Client.

- 16.3 The Contractor shall ensure that the Services comply with Cybersecurity Requirements together with any other requirements relating to cybersecurity or data security, including without limitation those set out in Schedule L (Cybersecurity) of the Agreement and the CfT.
- 16.4 The Contractor warrants that the security of its network and information systems is up to date and accurate and that it will update the Client immediately in the event of any changes to such information.
- 16.5 The Contractor shall notify the Client immediately if it becomes aware of any Incident and respond without delay to all queries and requests for information from the Client about any Incident, whether discovered by the Contractor or the Client, in particular bearing in mind the extent of any reporting obligations the Client may have under Cybersecurity Requirements and that the Client may be required to comply with statutory or other regulatory timescales.
- 16.6 The Contractor agrees to co-operate with the Client in relation to:
 - 16.6.1 all aspects of its compliance with Cybersecurity Requirements (if applicable);
 - 16.6.2 any requests for information, or inspection, made by any regulator (including in connection with Cybersecurity Requirements), law enforcement or body of competent jurisdiction; and
 - 16.6.3 any Incident.

- 16.7 SEAI reserves the right to review and update the data protection terms upon review of tender submissions and completion of vendor due diligence, dependent on the nature and risk of the processing.

17. PROJECT GOVERNANCE

- 17.1 The Contractor agrees that its employees, agents and Sub-contractors will comply with the Project control / reporting arrangements as agreed with the Client in writing from time to time.
- 17.2 The Contractor agrees to liaise with and keep the Client's Project Manager fully informed of the progress in the development, supply, commissioning, installation and putting into operation the Services or any of the part of the Services or of any matter which the Contractor is reasonably aware of or is aware which might materially affect the observance and performance of the Contractor's obligations in this Agreement and shall provide the Client's Project Manager with such papers and explanations as the Client's Project Manager may reasonably require.
- 17.3 The Contractor shall submit to the Client's Project Manager the reports referred to in the CfT in such numbers and at such times as provided therein (the "Required Reports"). The form of the Required Reports will be agreed with the Client's Project Manager.
- 17.4 The Contractor shall weekly or at such other times as the Parties may agree furnish to the Client's Project Manager a progress report, outlining progress by reference to the Implementation Plan, and the Milestones and specifying any actual or anticipated material problems or delays which may affect the provision of the Services. Where appropriate the progress report shall include (*inter alia*) copies of minutes of any meetings held relating to the provision of the Services. The Contractor shall make available to the Client's Project Manager copies of all test certificates, test reports, records, documentation, test results and any specialist

reports in respect of the Services as may be reasonably required by the Client Project Manager. This progress report may at the discretion of the Client also be subject to a formal quality review by an independent third party as chosen by the Client.

- 17.5 The Client shall be entitled to revise the reporting requirements of the Contractor during this Agreement, including the frequency of the Contractor's reporting requirements. The reporting requirements shall be detailed in the Implementation Plan and shall be developed from the provisions of the CfT and/ or future projects.
- 17.6 The Contractor shall provide the Deliverables in accordance with the procedures set out in the CfT and this Agreement.
- 17.7 Save as may be expressly agreed by the Client and subject to clause 17, the Contractor shall keep detailed records of all matters, reasonably considered to be material, undertaken by the Contractor in relation to the discharge of its obligations under this Agreement and to store such records (either in hard or soft copy form) for a period of 7 years from the date of expiry or termination of this Agreement (howsoever occasioned) and at the request of the Client or the Client's Project Manager to make them available for inspection and / or provide copies.
- 17.8 The Client acknowledges that the Contractor from time to time may 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 in the timescales and in the manner agreed by it in writing in accordance with the Implementation Plan.

18. CHANGE CONTROL

- 18.1 Either party may propose changes to the scope or execution of the Services, but no proposed changes shall come into effect until a relevant Change Order has been

signed by both parties. A “**Change Order**” shall be a document setting out the proposed changes and the effect those changes will have on:

- (a) the Services;
- (b) the Fees;
- (c) the timetable for the Services; and
- (d) any terms of this Agreement.

18.2 If the Client wishes to make a change to the Services:

- (a) it shall notify the Contractor, providing as much detail as is reasonably necessary to enable the Service Provider to prepare the draft Change Order; and
- (b) the Contractor shall, within ten (10) days of receiving the Client’s request at clause 18.2(a), provide a draft Change Order to the Client.

18.3 If the Contractor wishes to make a change to the Services, it shall provide a draft Change Order to the Client. If the Contractor submits a draft Change Order in order to comply with any applicable safety or regulatory requirements and such changes do not affect the nature or scope of the Services or the Fees, the Client shall not unreasonably withhold or delay consent to it.

18.4 If the parties:

- (a) agree to a Change Order, they shall sign it and that Change Order shall amend this Agreement; or
- (b) are unable to agree a Change Order, either party may require the disagreement to be dealt with in accordance with clause 26 (Dispute Resolution).

- 18.5 Nothing in this clause 18 shall allow the Contractor to increase the Fees in respect of any services necessary, ancillary or incidental to or arising out of the Services.

19. SUSPENSION

Where the Contractor 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 thirty (30) days after receipt of a request in writing from the Client. The Parties agree that the Client may suspend the Project, in whole or in part, for any period up to sixty (60) consecutive days in any 12 month period by serving fourteen (14) days written notice to the Contractor prior to each such suspension. For the avoidance of doubt, the Contractor shall not be entitled to any additional amounts, charges, costs or compensation in the event that the Project is suspended in accordance with this clause.

20. TERMINATION AND DEFAULT

- 20.1 This Agreement may be terminated by the Contractor, without liability for compensation or damages, by serving 90 days' written notice to the Client. This Agreement may be terminated by the Client, without liability for compensation or damages, by serving 90 days' written notice to the Contractor.

The termination effective date will be:

- i. expiry of the Initial Term;
or, if the notice is given at a date which is less than 90 clear days commencing from the expiry of the Initial Term,
- ii. the date which falls 90 days post the date notice was received.

- 20.2 Any termination of this Agreement, howsoever occasioned, shall not affect any antecedent and accrued rights, obligations or liabilities of either Party or the coming into force or continuance in force of any provision of this Agreement which is expressly or by implication intended to come into or continue in force on or after termination.

- 20.3 Upon expiry or termination of this Agreement for whatever cause, the Contractor shall immediately return all Confidential Information, Project Materials, records, papers, materials, media and other property of the Client which is in its possession. As an exception to its obligations under this clause 20, the Contractor may retain one copy of the Project Materials, in paper form, in the Contractor's legal files for the purpose of and only to the extent necessary for ensuring compliance with its obligations under this Agreement.
- 20.4 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 in the following circumstances:
- (i) 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 thirty (30) days after receipt of a request in writing from the other Party;
 - (ii) If the other Party becomes subject to an administration order, or in circumstances where a receiver, administrative receiver, examiner, liquidator or similar is appointed or the Contractor enters into an arrangement or composition with its creditors and no other person, body corporate or otherwise, deemed satisfactory to the Client has assumed the rights, obligations and duties of the Contractor and in particular with regard to the terms of this Agreement or any other event having an equivalent effect;
 - (iii) the Services fail two (2) repeat End User Tests, in which case the Client shall also be entitled to a refund of the Charges paid to the Contractor for the affected failed Services or Deliverables only, and not any Charges paid for

Services properly performed or Deliverables unaffected by the relevant failure, prior to the date of termination;

- (iv) the Contractor fails to meet the Service Levels and fails to remedy such failure (if the failure is capable of remedy) within thirty (30) days after receipt of a request in writing from the Client
- (v) 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;
- (vi) in circumstances where the Client becomes aware of any registrable interest (within the meaning of the Ethics in Public Office Act, 1995) on the part of the Contractor;
- (vii) in circumstances where there is a change in control of the Contractor, where such a change would, in the Client's opinion and at its sole discretion, materially adversely affect the quality of the Services; and
- (viii) in circumstances where the Client becomes aware of any corruption (within the meaning of the Prevention of Corruption Acts, 1889 to 2005) on the part of the Contractor.

20.5 Without prejudice to the Client's other rights and remedies, the Client may terminate this Agreement in whole or in part by notice in writing with immediate effect if, in the reasonable opinion of the Client, it is necessary or prudent to terminate it in order to comply with the requirements of applicable public procurement law or settle any complaint or challenge received by the Client in such respect.

- 20.6 In the event that this Agreement is declared “ineffective” pursuant to Regulation 11 of the European Communities (Public Authorities’ Contracts) (Review Procedures) Regulations 2010 (as amended by the European Communities (Public Authorities’ Contracts) (Review Procedures) (Amendment) Regulations 2017), the Client shall be responsible for all sums duly payable prior to that date. Under no circumstances shall the Contractor be entitled to any payment or compensation for loss of profit for Services not provided consequent on such declaration of ineffectiveness or for loss of opportunity or reputation or breach of statutory duty or otherwise.
- 20.7 The Client may terminate this Agreement in writing with immediate effect if in the opinion of the Client any of the situations outlined in Regulation 73 of the European Union (Award of Public Authority Contracts) Regulations 2016 apply.

21. SEVERABILITY

If any of the terms of this Agreement are held to be void or unenforceable by reason of any law or judicial determination, they shall be void or unenforceable to that extent only and such void or unenforceable terms or conditions shall be severable and all other terms shall remain valid and fully enforceable.

22. FORCE MAJEURE

- 22.1 If a Party (the “Affected Party”) is prevented, hindered or delayed from or in performing any of its obligations under this Agreement by a Force Majeure Event:
- 22.2 The Affected Party’s obligations under this Agreement are suspended (save for the Client’s obligations to pay for the Charges which have become payable) while the Force Majeure Event continues and to the extent that it is prevented, hindered or delayed.

- 22.3 As soon as reasonably possible after the start of the Force Majeure Event the Affected Party shall notify the other Party (the “Other Party”) in writing of the Force Majeure Event and the date of the Force Majeure.
- 22.4 The Affected Party that does not comply with clause 22 forfeits its rights under this clause.
- 22.5 The Affected Party shall make all reasonable efforts to mitigate the effects of the Force Majeure in the performance of its obligations under this Agreement.
- 22.6 If the Force Majeure continues for more than thirty (30) days starting on the day the Force Majeure Event starts, the Other Party may suspend or terminate this Agreement by giving not less than fourteen (14) days’ written notice to the Affected Party after the expiry of the said thirty (30) day period, provided that such notice shall be deemed not having been given in the event that notice of cessation of the Force Majeure Event given pursuant to clause 22 is received by the Other Party prior to the expiry of the fourteen (14) days’ notice.

23. NOTICES

- 23.1 Any notices to be given in connection with this Agreement shall be in writing (which shall include electronic mail) and shall be delivered by hand or sent by registered prepaid post, or electronic mail, as follows:
- (i) In the case of the Client, to its principal office in Ireland for the time being marked for the attention of the Client’s Project Manager;
 - (ii) In the case of the Contractor, to its registered office in [insert address] for the time being marked for the attention of the Contractor’s Project Manager;
- or

- (iii) In each case to such other address as may previously have been notified in writing by the Party to whom such notice is required to be given under the terms of this Agreement as being its address for the purpose of service of notices pursuant to this Agreement.

23.2 Any notice given pursuant to this Agreement shall be deemed to have been served:

- (i) If delivered by hand, on the first day following delivery;
- (ii) If sent by post, on the third day after posting if the address of the recipient is in the country of dispatch, otherwise on the seventh day after posting; or
- (iii) If sent by electronic mail, on the first day following successful transmission.

23.3 In providing service it shall be sufficient proof, in the case of a notice sent by post, that the envelope containing the notice was properly stamped, addressed and placed in the post and, in the case of electronic mail, that it was properly addressed and successfully transmitted.

24. NOVATION, ASSIGNMENT AND TRANSFER

24.1 The Client may, at any time, novate, assign, or otherwise transfer the whole or any part of this Agreement to any Minister or public sector body, entity or office. The Client may subcontract in any manner any or all of its obligations under this agreement to any Minister or public sector body, entity or office.

24.2 Any assignment, novation or other transfer by the Contractor, including to any member of its corporate group, of the Contractor's rights or obligations under this Agreement (the "Transfer") requires the prior written consent of the Client, which shall not be unreasonably withheld or delayed. The Client may refuse or condition its consent where required by public procurement law, including where the

Transfer may constitute a substantial modification of the Agreement within the meaning of Regulation 72 of the European Union (Award of Public Authority Contracts) Regulations 2016, or where the Transfer raises concerns relating to the proposed transferee's selection, security, data protection or capability, or presents a risk of circumvention of the procurement process or this clause 24.2. As a condition of consent, the Client may require the transferee to assume all obligations under this Agreement by deed, undertaking or novation in such form as the Client reasonably requires. Any attempted Transfer not complied with in the manner prescribed herein shall be null and void. This clause 24.2 shall not apply to the appointment of sub processors by the Contractor in accordance with clause 16 (Data Protection and Security).

- 24.3 This Agreement and any obligations hereunder shall be binding upon each of the parties and their respective successors and agreed assigns and each of them shall have the benefit of any rights under this Agreement.

25. STEP IN RIGHTS

- 25.1 If:

- (a) the Contractor commits a serious breach or a series of breaches of any provision of this Agreement; or
- (b) a Force Majeure Event arises,

the Client may, without prejudice to its other rights and remedies, notify the Contractor that it intends to exercise its rights under this clause 25.

- 25.2 If the Contractor does not substantially remedy the failure to the satisfaction of the Client within twenty eight (28) days of the notice referred to in clause 25.1 above or lesser period if reasonably deemed by the Client to be necessary to mitigate its

potential loss, the Client may itself perform, or may employ and pay a third party to perform the Agreement.

- 25.3 The Client's payment obligations in respect of any affected element of the Agreement shall be suspended until the Contractor resumes delivery of the Services in accordance with this clause 25. The Client's reasonable costs in exercising its rights under this clause 25 shall, at the Client's option, be deducted from any sums due to the Contractor or, at the Client's option, shall be recoverable by the Client as a debt.
- 25.4 The Client shall permit the Contractor to resume delivery of the Services immediately once it is satisfied on reasonable grounds that the Contractor will be able to resume delivery of the Services in accordance with this Agreement.
- 25.5 The Contractor shall co-operate in all reasonable respects with the Client and any third party engaged by the Client under this clause 25. On entering into any agreements with third parties, the Contractor shall ensure that the Client's rights under this clause 25 are in no way restricted and that all Relevant Consents are in place to allow the Client fully exercise its rights under this clause 25.

26. DISPUTE RESOLUTION

- 26.1 In the event of any dispute arising between the Parties hereto in connection with this Agreement, senior representatives of the Parties shall, within ten (10) Working Days of a written request from either Party to the other communicated in accordance with clause 23, meet in good faith to attempt to resolve the dispute without recourse to legal proceedings.
- 26.2 If the dispute has not been resolved within fifteen (15) Working Days of the above meeting (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. 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.

- 26.3 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. 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.
- 26.4 For the avoidance of doubt, the obligations of the Parties under this Agreement shall not cease or be suspended or delayed by the reference of a dispute to mediation. The Contractor shall comply fully with the requirements of the Agreement at all times.
- 26.5 If the dispute is not resolved by way of the process described in clauses 26.2 to 26.4 the dispute shall be determined by the Irish High Court and the parties submit to the exclusive jurisdiction of such court for such purposes.

27. DISASTER RECOVERY

- 27.1 The Contractor acknowledges that the Client requires seamless continuity of Services provision, even if the Services have been disrupted by Force Majeure or other interruptions with the provision of the Services.

27.2 In accordance with the CfT, the Contractor shall have in place, and maintain, business continuity and disaster recovery plans ("Disaster Recovery Plans") in respect of the Services which include the elements set out in clause 27.3.

27.3 The Contractor shall:

- (a) consult with the Client in developing detailed Disaster Recovery Plans and comply with the Client's reasonable requests to modify them;
- (b) submit the Disaster Recovery Plans to the Client for approval on request from the Client;
- (c) have such Disaster Recovery Plans in place by the 1st day of contract date ("Relevant Date");
- (d) ensure that the Disaster Recovery Plans are kept up-to-date in accordance with Good Industry Practice;
- (e) continue to provide the affected Services to the Client in accordance with the Disaster Recovery Plans within 24 hours of the declaration or occurrence of any Disaster;
- (f) restore the affected Services to normal within the period specified in the Disaster Recovery Plans. Failover of the Services shall appear seamless to the Client. The Contractor will work with the Client and its infrastructure providers to provide different continuity plans depending on varying business requirements of the service;
- (g) carry out regular tests, at least twice during the lifetime of the Agreement (one tabletop and the other a full test), of the Disaster Recovery Plans then in force.

- (h) Where required, rectify security concerns and maintain the system to a high-level security posture in line with CIS Benchmarks.

- 27.4 The Contractor shall ensure that the Disaster Recovery Plans are promptly amended if such tests result in any failure to ensure that any future tests or a genuine disaster recovery are successful and as necessary to deal with any operational changes to the Services.
- 27.5 The Contractor shall ensure that it has the capacity to implement the provisions of the Disaster Recovery Plan at any time in accordance with its terms.
- 27.6 The Client may terminate any Services in relation to which Disaster Recovery Plans deemed suitable by the Client are not in place by the Relevant Date, by giving written notice to the Contractor.

28. EXIT MANAGEMENT

- 28.1 The Contractor shall assist with the transition from the Contractor's Services, and shall develop a plan ("Exit Management Plan") within two months of the Commencement Date, for review and approval by the Client, to effect the orderly transition to the Client (or its designee) from the Contractor of the Data. Such Exit Management Plan, as set out on Schedule H, will set forth the tasks and actions to be performed by both parties, the time for completing such tasks and actions, and the criteria for declaring the transition completed. The parties and their employees and agents will cooperate to execute the Exit Management Plan and each Party will perform those tasks and actions assigned to it in the Exit Management Plan.
- 28.2 Subject to clauses 17.7 and 20.3, on contract termination or expiry, the Contractor must return all documents and Data that is stored by the Contractor in any format to the Client in a non-proprietary, machine readable form. Once the Data return has been validated by the Client and upon the instruction of the Client, the

Contractor shall Delete all production and backup copies of the Data and verify that they have been permanently removed from the Contractor's facilities,

28.3 The Service Provider shall update the Exit Plan within 3 weeks of notification of termination by SEAI or on contract expiry to reflect changes in the Services and shall keep the Exit Plan under continuous review. Following each update, the Service Provider shall submit the revised Exit Plan to the Client for review and approval.

28.4 The provisions of this clause 28 will survive the expiration or termination of this Agreement for any reason.

28.5 SEAI shall require the provision of Exit Services for a period of up to 6 months following contract expiry or termination. This 6 month period may be extended by the parties by written agreement. Exit services shall be provided in accordance with the terms of this contract and shall not constitute the renewal or awarding of a further contract.

29. LEGISLATION CHANGES

If, after the Commencement Date, any law, order, regulation or by-law is made which would increase or decrease the amount of time, any material charge or effort required for the Project, then the Change Control Procedure set out in Schedule E shall apply in relation to the implementation of the same as part of the Project.

30. GOVERNING LAW AND CHOICE OF JURISDICTION

This Agreement shall in all aspects be governed by and construed in accordance with the laws of Ireland and the parties hereby agree that the courts of Ireland have exclusive jurisdiction to hear and determine any disputes arising out of or in connection with this Agreement.

31. ENTIRE AGREEMENT

This Agreement and the Schedules constitute the entire understanding between the Client and the Contractor with respect to the Project and supersedes all previous agreements, negotiations and discussions between the Client and the Contractor regarding the Project.

32. STATUS OF PARTIES

In connection with this Agreement, each Party is an independent contractor and as such will not have any authority to bind or commit the other. Nothing herein shall be deemed or construed to create a joint venture, partnership, and fiduciary or agency 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.

33. VARIATION

The terms of this Agreement may not be amended varied or added to save with the written consent of the Parties.

34. WAIVER

A waiver of any term, provision or condition of this Agreement shall be effective only if given in writing and signed by the waiving Party and then only in the instance and for the purpose for which it is given and shall not constitute a general waiver of such term, provision or condition. No failure or delay on the part of any Party in exercising any right, power or privilege under this Agreement shall operate as a waiver of it, nor shall any single or partial exercise of any such right, power or privilege preclude any other further exercise of it or the exercise of any other right,

power or privilege. No breach of any provision of this Agreement shall be waived or discharged except with the express written consent of the Parties.

35. NO PUBLICITY

No media releases, public announcements or public disclosures concerning the existence, subject matter or terms of this Agreement, the wider transactions contemplated by it, or the relationship between the parties, including but not limited to promotional or marketing material, shall be made by the Contractor without the prior written consent of the Client.

36. CONFLICT OF INTEREST

The Contractor confirms that it has carried out a conflicts of interest check and is satisfied that it and its Sub-contractors have no conflicts in relation to the Agreement and its obligations undertaken under this Agreement. The Contractor shall advise the Client without undue delay should any conflict or potential conflict of interest come to its attention during the Term of this Agreement and to comply with the Client's directions in respect thereof which may include termination of this Agreement.

37. REGISTERABLE INTEREST

Any registerable interest involving the Contractor (and any Sub-contractor or agent) 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 (Sub-contractor or agent as the case may be) and to comply with the Client's directions in respect thereof, to the satisfaction of the Client. In the event of such disclosure, the Client shall have the right (in addition to any other rights which it has at law) to terminate this Agreement immediately and without liability for compensation or

damages. The terms “registerable interest” and “relative” shall be interpreted as per section 2 of the Ethics in Public Office Act, 1995 (as amended) a copy of which is available on request.

38. PREVENTION OF CORRUPTION

The Contractor shall not offer or agree to give any public servant or civil servant or any member of the Project Team any gift or consideration or commission of any kind as an inducement or reward for doing or forbearing to do or for having done or forborne to do any action in relation to the obtaining or execution of this or any other public contract. Any breach of this clause 38 or the commission of any offence by the Contractor, any Sub-contractor, agent or employee under the Prevention of Corruption Acts, 1889 to 2005 shall entitle the Client to terminate this Agreement immediately and without liability for compensation or damages and to recover the amount of any loss resulting from such termination, including but not limited to recovery from the Contractor of the amount or value of any such gift, consideration or commission.

39. COUNTERPARTS

39.1 This Agreement may be executed in any number of counterparts and all of such counterparts when taken together shall be deemed to constitute one and the same instrument provided that this Agreement shall not be effective until the counterparts have been executed by all the Parties.

39.2 Each of the parties to this Agreement confirms that this Agreement is executed by their duly authorised officers.

40. THIRD PARTY RIGHTS

No person other than the Parties to this Agreement shall have any rights to enforce any term of this Agreement.

41. LIST OF SCHEDULES TO THE AGREEMENT

The following is the list of schedules that accompanies and forms part of the Agreement between the Contractor and the Client.

1. Schedule A Description of Services
2. Schedule B Charges
3. Schedule C Key Personnel
4. Schedule D Procedures for the Achievement of Milestones and Testing of Deliverables
5. Schedule E Change Control Procedure
6. Schedule F Insurances
7. Schedule G Data Processing Agreement
8. Schedule H Exit Management Plan
9. Schedule I Disaster Recovery Plans
10. Schedule J Project Governance
11. Schedule K The Tender
12. Schedule L Cyber Security
13. Schedule M Client's Security Policy
14. Schedule N Service Level Agreement (Key Performance Indicators and Target KPIs)

IN WITNESS of which this Agreement has been signed by duly authorised representatives
on behalf of the parties on the day and year first stated above.

SIGNED by _____ **Print Name** _____
for and on behalf of the Client

SIGNED by _____ **Print Name** _____
for and on behalf of the Client

SIGNED by _____ **Print Name** _____
for and on behalf of the Contractor

SCHEDULE A

Description of Services

[insert Requirements and Specifications from Call for Tender]

SCHEDULE B

CHARGES

Pricing Schedule to be attached

[insert cost table(s) and any other relevant information from successful tenderer's TRD]

The Charges are payable as per the above payment plan for all development or as agreed in writing by the parties.

- (I) The Charges are payable monthly in arrears following the satisfactory completion of the different Project Milestone and on receipt of a valid invoice.
 - (II) Managed Services Charges shall be payable monthly in arrears. Invoices shall be submitted (with Timesheets for T&M projects) to the Client's contact or such alternative contact as may be notified in writing to the Contractor.
 - (III) Patches (as included within the definition of Upgrade in the Agreement) are part of the Services and the Client shall not incur any additional costs for the Software or professional services required to apply Patches to the System.
 - (IV) The Client shall be entitled to all Upgrades, without additional Charge for the software or additional licence or support costs.
 - (V) Exit Management Plan: The provisions of clause 28 and Schedule H of this Agreement apply.
1. Travel costs, travel time, subsistence and other incidental expenses are not reimbursed by the Client
 2. The Client will not pay for preparing quotations.
 3. When invoicing, the Contractor must quote the Purchase Order Number on all its invoices sent to the Client.

4. All invoices must be emailed to Accounts.Payable@seai.ie with the Purchase Order number clearly referenced.

The Client as a public body is compliant with European Directive 2014/55/EU in relation to eInvoicing, and as such over the course of this contract may require that the successful tenders submit their invoices to the Client in electronic format which may include but not limited to; sending electronic invoices to the Client 's selected system "Celtrino PEPPOL Connect"

Electronic invoices are machine-readable invoices which can be processed automatically and digitally by the recipient are considered to be compliant with the European standard on electronic invoicing. An image file is not considered to be an electronic invoice for the purpose of the directive.

SCHEDULE C

KEY PERSONNEL

As identified in the Contractor's tender submission [insert page reference]

SCHEDULE D

Procedures for the Achievement of Milestones and Testing of Deliverables

Milestones are set out in Schedule A "Description of Services" and/or in the Project/System Specifications document(s)

SCHEDULE E

Change Control Procedure

To be shared with the Contractor during on-boarding and updated from time to time by the Client.

SCHEDULE F

INSURANCES

The Contractor shall have and maintain all insurances required to be maintained by it pursuant to any applicable law and to cover its liability to the Client arising in connection with the performance of this Agreement. Without prejudice to the above, the Contractor shall have and maintain with a well-established and reputable insurance office or underwriter of repute the following insurances:

Type of Insurance	Indemnity Limit
Employer's Liability	€13,000,000 limit for any one claim or series of claims arising out of a single occurrence, per insurance year
Public Liability	€6,500,000 limit for any one claim or series of claims arising out of a single occurrence, per insurance year
Professional Indemnity	€1,500,000 in the aggregate
Cyber Liability	€2,500,000 limit for any one claim or series of claims arising out of a single occurrence, per insurance year

SCHEDULE G
DATA PROCESSING AGREEMENT
SEAI Data Processing Agreement (Controller - Processor)

This Data Processing Agreement (the "**Agreement**") dated the xx of xx 202x ("**Effective Date**") is, in consideration of the mutual covenants contained herein, entered into by and between:

Sustainable Energy Authority of Ireland, established pursuant to the Sustainable Energy Act, 2002 with registered number 231664 and with its principal address at Three Park Place, Hatch Street Upper, Dublin 2 (which expression shall include where the context so admits or requires its assigns and legal successors in title under any restructuring of the Government of Ireland) (collectively, "**SEAI**")

And [insert counterparty name] (Company Registration Number xxxxxx), having its registered office at [insert address] the undersigned counterparty ("**Company**") on behalf of itself and Company Affiliates,
each a "**Party**" and collectively, the "**Parties**".

This Agreement supplements any and all Service Agreements (as defined below) entered into by and between Company and SEAI for the provision of Services. "**Company Affiliate**" means any entity that owns or controls, is owned by or controlled by or is under common control or ownership with Company. Any undefined terms used herein shall have the meanings set forth in the MSA.

INTRODUCTION

The Parties have previously entered into an agreement for services for the provision of Services]. In relation to all SEAI Data (defined below), Company acknowledges that, as between the Parties, SEAI is the Controller of the SEAI Data, and that Company, in providing the Services is acting as a Processor on behalf of SEAI.

TERMS AND CONDITIONS

1. Definitions and Interpretation

1.1 In this Agreement, the following terms shall have the following meanings:

- (a) **"Applicable Data Protection Law"** means any and all applicable privacy and data protection laws and regulations (including, where applicable, European Data Protection Law) as may be amended or superseded from time to time.
- (b) **"Controller", "Processor", "Data Subject", "Personal Data", "Processing"** (and **"Process"**), **"Personal Data Breach"** and **"Special Categories of Personal Data"** shall have the meanings given in European Data Protection Law.
- (a) **" Standard Contractual Clauses"** in relation to the Processing of Personal Data pursuant to this Agreement means the standard clauses for the transfer of Personal Data established in third countries approved by the European Commission from time to time, the approved version of which in force at present is that set out in the European Commission's Decision 2021/914 of 4 June 2021, available at: <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32021D0914&from=EN>.
- (b) **"European Data Protection Law"** means the (a) EU General Data Protection Regulation (Regulation 2016/679) (**"GDPR"**); (b) the EU e-Privacy Directive (Directive 2002/58/EC), as amended and any legislation replacing this amended Directive (**e-Privacy Law**); (c) any national data protection laws made under, pursuant to, replacing or succeeding the foregoing and (d) where applicable, UK Data Protection Laws;
- (c) **"Service Agreement"** means any agreement between SEAI and Company where the Company engages in or is permitted to engage in the Processing of Personal Data of Data Subjects on behalf of SEAI.

- (d) **"SEAI Data"** means any and all Personal Data (as that term is defined in European Data Protection Law) including Special Category Data (as that term is defined in European Data Protection Law) that is processed by the Company or its sub processors on behalf of SEAI in the performance of the Services and its other obligations under the Service Agreement.
- (e) **"Services"** means services provided to SEAI pursuant to the terms of the Service Agreement.
- (f) **"Security Incident"** shall mean any accidental or unlawful destruction, loss, alteration, unauthorised disclosure of, or access to, Personal Data. For the avoidance of doubt, any Personal Data Breach will comprise a Security Incident.
- (g) **"UK Data Protection Laws"** means all applicable law in relation to data protection, the processing of personal data, privacy and/or electronic communications in force from time to time in the UK, including the UK GDPR and the Data Protection Act 2018.
- (h) **"UK GDPR"** means the United Kingdom General Data Protection Regulation, as it forms part of the law of England and Wales, Scotland and Northern Ireland by virtue of section 3 of the European Union (Withdrawal) Act 2018.

1.2 Capitalised terms not otherwise defined herein shall have the meaning given to them in the Service Agreement. Except as modified below, the terms of the Agreement shall remain in full force and effect.

1.3 In consideration of the mutual obligations set out herein, the Parties hereby agree that the terms and conditions set out below shall be added as an addendum to the Service Agreement. Except where the context requires otherwise, references in this Agreement to the Service Agreement are to the Service Agreement as amended by, and including, this Agreement.

2. Relationship of the Parties

- 2.1 In relation to all SEAI Data, Company acknowledges that, as between the Parties, SEAI is the Controller of Personal Data, and that Company, in providing the Services is acting as a Processor on behalf of the Controller.
- 2.2 The subject-matter and duration of the Processing carried out by the Processor on behalf of the Controller, the nature and purpose of the Processing, the type of Personal Data and categories of Data Subjects are described in Exhibit 1 to this Agreement.

3. Protection of Personal Data

- 3.1 In respect of the Processing of Personal Data (including Special Category Data) by Company under or in connection with the Agreement on behalf of SEAI where SEAI is subject to the provisions of European Data Protection Law as the Controller of such Personal Data, Company is responsible for and shall comply with Applicable Data Protection Law and agrees that it shall:
- (a) process the SEAI Data only on written instructions from SEAI, including with regard to transfers of Personal Data to a third country or an international organisation, unless required to do so by European Union or Member State law to which Company is subject; in such a case, Company shall inform SEAI of that legal requirement before Processing, unless that law prohibits such information on important grounds of public interest;
 - (b) take all measures required pursuant to Article 32 of the GDPR including all organisational and technical security measures necessary to protect against unauthorised or accidental access, loss, alteration, disclosure or destruction of SEAI Data, in particular where the Processing involves the transmission of data over a network, and against all other unlawful forms of Processing and the technical and organisational measures set out in Exhibit 2;
 - (c) treat all SEAI Data processed by it on behalf of SEAI as confidential and ensure that persons authorised to Process the Personal Data have committed themselves to confidentiality or are under an appropriate

- statutory obligation of confidentiality, even after the end of their employment contract or at the end of their assignment or engagement;
- (d) cooperate as requested by SEAI and implement appropriate technical and organisational measures to enable SEAI to comply with any exercise of rights by a Data Subject under Applicable Data Protection Law in respect of Personal Data processed by Company under the Service Agreement (including, without limitation, in relation to the retrieval and/or deletion of a Data Subject's Personal Data);
 - (e) not access or transfer outside the European Economic Area ("**EEA**") any Personal Data without the prior written consent of SEAI in each case;
 - (f) provide (at no additional cost to SEAI) SEAI with all resources and assistance as are required by SEAI in connection with the Services performed by Company under the Service Agreement for SEAI to discharge its duties pursuant to Articles 32 to 36 of the GDPR including, but not limited to, promptly at the request of SEAI provide information in respect of any data protection impact assessment which SEAI conducts and assist SEAI with any prior consultations with any supervisory authority;
 - (g) at the choice of SEAI, delete or return all the SEAI Data to SEAI after the end of the provision of the Services relating to Processing, and delete existing copies unless European Union or Member State law requires storage of the SEAI Data;
 - (h) make available to SEAI at its request all information necessary to demonstrate compliance with the obligations laid down in this Agreement and Article 28 of the GDPR including without limitation a detailed written description of the technical and organisational methods employed by Company and its sub-processors (if any) for the Processing of Personal Data; and
 - (i) immediately inform the Controller if, in the Processor's opinion, an instruction from the Controller infringes Applicable Data Protection Law.

- 3.2 Company agrees at the request of SEAI to submit its data processing facilities (including all equipment, documents and electronic data relating to the Processing of SEAI Data) and/or any location from which SEAI Data can be accessed by Processor for audit to ascertain and/or monitor compliance with this Agreement and Applicable Data Protection Law which audit shall be carried out, with reasonable notice and during regular business hours and under a duty of confidentiality, by SEAI and/or by a third party appointed by SEAI.

4. Notification of Security Incident

- 4.1 Company shall notify SEAI without undue delay (and, in any event, within twenty-four (24) hours) of becoming aware of any Security Incident.
- 4.2 Company will, as soon as possible, provide SEAI with at least the following information with respect to the Security Incident affecting SEAI Data: (i) a description of the cause and nature of the Security Incident including the categories and approximate numbers of Data Subjects (including the number of SEAI Data Subjects) concerned and the categories and approximate number of Personal Data records concerned; (ii) the measures being taken to contain, investigate and remediate the Security Incident; (iii) the likely consequences and risks for SEAI and its Data Subjects as a result of the Security Incident; (iv) any mitigating actions taken; and (v) a proposed plan to mitigate any risks for Data Subjects and/or SEAI as a result of the Security Incident.
- 4.3 Company will, in connection with any Security Incident affecting SEAI Data: (i) quickly and without delay, take such steps as are necessary to contain, remediate, minimise any effects of and investigate any Security Incident (and without destroying any evidence) and to identify its cause (ii) co-operate with SEAI and provide SEAI with such assistance and information as it may reasonably require in connection with the containment, investigation, remediation and/or mitigation of the Security Incident; (iii) immediately notify SEAI in writing of any request, inspection, audit or investigation by a supervisory authority or other authority; and/or (iv) where directed to do so by SEAI in writing, provide notifications (in a form approved by

SEAI) to affected Data Subjects, affected entities and/or organisations and relevant supervisory authority and other authorities.

- 4.4 Company agrees that it will not communicate with any third party, including but not limited to the media, vendors, consumers and affected individuals regarding any Security Incident without the express written consent and direction of SEAI.

5. Sub-Processing

- 5.1 Company may, subject to compliance with clause 5.2, continue to use those sub-processors already engaged by Company and as identified to SEAI prior to commencement of the Agreement to process any SEAI Data. Company may, subject to compliance with clause 5.2, engage an additional or replace an existing sub-processor to process Personal Data provided that it notifies SEAI of any intended use or replacement of a sub-processor by email to dataprotection@seai.ie ("**email notification**") thirty (30) days in advance of, as applicable, the engagement or replacement of the sub-processor concerned, unless SEAI objects in writing to the proposed use or replacement of the relevant sub-processor within thirty (30) days of receipt of the email notification (in which case Company shall not, as applicable, use or replace the sub-processor concerned).
- 5.2 Company shall, where it engages any sub-processor in accordance with clause 5.1; (i) only use a sub-processor that has provided sufficient guarantees to implement appropriate technical and organisational measures in such a manner that the processing will meet the requirements of the GDPR and the Agreement and ensure the protection of the rights of Data Subjects; and (ii) impose, through a legally binding contract between Company and sub-processor, the same data protection obligations as set out in the Agreement on the sub-processor, in particular providing sufficient guarantees to implement appropriate technical and organisational measures in such a manner that the processing will meet the requirements of the GDPR. Company acknowledges and agrees that if any sub-processor fails to fulfil its obligations in the agreement between Company and sub-processor, Company shall remain fully liable to SEAI for the performance of the sub-processor's obligations.

6. Liability

- 6.1 Notwithstanding any other provision of the Service Agreement, the parties agree that the Company's total liability to SEAI for any breach of this Agreement and/or Applicable Data Protection Law within any contract year shall not exceed 200% of the total contract value.

7. Notifications Provisions

The Parties agree that the following email addresses shall be monitored for notification of Security Incidents, data protection enquiries, and Data Subject Requests:

SEAI: dataprotection@seai.ie

[insert counterparty name]:

Name: [insert contact name]

Email: [insert contact email]

Title: [insert contact title]

8. Concluding Provisions

This Agreement shall survive termination or expiry of the Service Agreement. Upon termination or expiry of the Service Agreement, each Party may continue to Process Personal Data provided that such Processing complies with the requirements of this Agreement and Applicable Data Protection Law.

9. General

- 9.1 Entire Agreement

This Agreement and any underlying Service Agreement shall constitute the entire agreement between the Parties with respect to the subject matter hereof and thereof, and this Agreement supersedes all prior agreements or representations, oral or written, regarding such subject matter including any provisions in the Service Agreement which address the processing of SEAI Data by Company on behalf of SEAI.

- 9.2 Governing Law

This Agreement and all disputes arising out of or relating to this Agreement shall be interpreted, construed and enforced in accordance with the laws of Ireland. Each Party irrevocably consents to the exclusive jurisdiction of the courts situated in Ireland over all such disputes and claims and all actions to enforce such claims or to recover damages or other relief in connection with such claims except to the extent that Applicable Data Protection Law require otherwise.

9.3 Counterparts

The Parties may execute this Agreement in counterparts, including facsimile, PDF, and other electronic copies, which taken together will constitute one instrument. Each Party may execute this Agreement by any form of electronic signature. An electronic signature is conclusive evidence of a Party's intention to be bound by this Agreement and has the same legal validity and enforceability as a wet ink signature for all purposes. The Parties acknowledge and agree that:

- (A) this Agreement may be executed by any form of electronic signature, which will be considered as an original signature for all purposes and will have the same force and effect as an original signature; and
- (B) an executed copy of this Agreement may be retained in electronic form and such electronic form will constitute an original of this Agreement and may be relied upon as evidence of this Agreement.

10 Conflict

In the event of a conflict or inconsistency between this Agreement, the Service Agreement and the provisions of the Standard Contractual Clauses (where the Standard Contractual Clauses have been entered into between the Parties pursuant to this Agreement), the terms of the Standard Contractual Clauses shall take precedence, followed by this Agreement, and finally the Service Agreement but only to the extent necessary to resolve the conflict or inconsistency.

By signature, the parties acknowledge that they have read and understood the terms of this Agreement and agree to be legally bound by them.

For SEAI :	For [insert counterparty name] :
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By:_____

Name:_____

Title:_____

Date:_____

By:_____

Name:_____

Title:_____

Date:_____

EXHIBIT 1: DETAILS OF PROCESSING ACTIVITIES

Subject Matter	Processing carried in connection with the provision of the Services (as defined in the Service Agreement).
Duration	From the Effective Date until the termination of this Agreement (<i>please state maximum duration of contract, e.g. if it is 4 years plus a 1-year extension state 'max 5 years'</i>)
Categories of Data Subjects <i>For example customers, employees, prospective employees, other third parties</i>	[To be completed] please include all categories of data subjects as may be processed by services
Nature of the Processing	To the extent necessary for Company to provide the Services under the Service Agreement and as set out below.
Purpose(s) of the data processing	The purpose of the processing is to enable the Company to provide the Services under the Service Agreement, to the extent necessary.
Categories of personal data processed <i>Please include all categories of personal data that may be processed by services, or N/A as required (examples provided for illustration only, please complete to reflect the specifics of the services being provided)</i>	
Personal details and contact information <i>For example, name, username, address, e-mail address and phone number, national identification number, dependents, photograph, next of kin and emergency contact information</i>	List individual data types:
Demographic information <i>For example, age, date of birth, gender</i>	List individual data types:
Payment information and benefits information <i>For example, bank account number, employee identification number, sick pay, insurance and other benefits information (including the name, age, PPSN, for any spouse, minor children or other eligible dependents and beneficiaries) and details of pension</i>	List individual data types:
Other <i>Please list any other personal data that has not been considered above</i>	List individual data types:
Special category data (for example health data) and/or Sensitive data (for example financial data, law enforcement data) <i>List applied restrictions or safeguards that fully take into consideration the nature of the data and the risks involved, such as for instance strict purpose limitation, access restrictions (including access only for staff having followed specialised training), keeping a record of access to the data, restrictions for onward transfers or additional security measures.</i>	List individual data types and relevant controls:

Nature of the processing <i>Please tick all processing activities that apply</i>	Receiving data, including collection, accessing, retrieval, recording, and data entry	☐
	Holding data, including storage, organisation and structuring	☐
	Using data, including analysing, consultation, and testing	☐
	Updating data, including correcting, adaptation, alteration, alignment and combination	☐
	Protecting data, including restricting, encrypting, and security testing	☐
	Duplication of data	☐
	Sharing data, including disclosure, dissemination, allowing access or otherwise making available	☐
	Returning data to the data exporter or data subject	☐
	Erasing data, including destruction and deletion	☐
	Other (please specify)	☐
Frequency of the transfer <i>please indicate if the data is transferred on a one-off or continuous basis</i>	[Option 1] [The personal data will be transferred on an ongoing basis for the duration of this Agreement] [Option 2] [The personal data will be transferred on a one-off basis]	
Authorised sub processors and location of processing	Refer to List of sub processors table below	
Competent supervisory authority	The Irish Data Protection Commission	

List of Sub processors

Sub Processor Name	Purpose of Processing	Location of Processing	Transfer Mechanism <i>If processing occurs outside of the EU/EEA please identify relevant transfer mechanism in place as part Chapter V GDPR</i>



EXHIBIT 2: TECHNICAL AND ORGANISATIONAL SECURITY MEASURES

Contractor will implement and maintain appropriate technical and organisational security measures in line with Article 32 GDPR including, but not limited to, the measures outlined below.

- Server-side input Data should be validated and sanitized to ensure data quality and prevent injection attacks e.g., SQL Injection, Cross-site Scripting, Server-side Request Forgery.
- For the protection of data integrity, a mechanism should be in place to rollback incomplete or corrupt transactions. Data backups, Business Continuity and Disaster Recovery Plans must be in place. ISO 22301 Business Continuity Management certification would be desirable but not mandatory.
- Stored procedures should be used with databases to prevent injection attacks.
- Vulnerability & misconfiguration scanning should take place each month on software systems, servers and databases. Common Vulnerabilities and Exposures (CVEs) with a Critical or High CVSS should be patched within one week where a patch is available. CVEs with a medium CVSS should be patched within a month where a patch is available.
Note: Permission should be sought where there is a possibility of service interruption.
- To ensure secure IT governance and management, Contractor must be ISO 27001 certified or implement NIST Cybersecurity framework, or similar. This governance will include (but not be limited to) an Information Security Management System incorporating asset management, risk management, risk mitigation, risk monitoring, configuration management, change management, patch management, vulnerability management, secure data lifecycle management and yearly independent auditing.
- The security principles of secure by design, privacy by design, security in depth, least privilege and separation of duties must be adhered to as per the appropriate ISO standards.
- Modern (non-legacy) protocols, authentication and encryption must be used.
- Data at rest and data in transit encryption must be in place. Encryption strength must be best practice for the data being processed. Encryption recovery keys must be kept secure and accessible to only 2 appropriate users.
- Measures for ensuring data minimization:
 - only required data should be collected during retrieval
 - only required data should be retrieved and displayed to optimize system performance and ensure privacy.
- Log retention shall be a minimum of 6 months.
- Measures should be in place for pseudonymisation where appropriate.
- Measures for ensuring ongoing confidentiality, integrity, availability and resilience of processing systems and services – passwords / policies / permission restrictions CIANA +PS - CIA Confidentiality, Integrity, Availability, Nonrepudiation, Authenticity, privacy and safety.
- Measures for ensuring the ability to restore the availability and access to personal data in a timely manner in the event of a physical or technical incident (Data Recovery Plan, Business Continuity plan / backups, etc.).
- Processes for regularly testing, assessing and evaluating the effectiveness of technical and organisational measures in order to ensure the security of the processing (Annual audits / reviews e.g., 27001 / vulnerability management / threat hunting).
- Measures for user identification and authorisation, accounting, auditing, e.g., Azure IAM, MFA must be in place.



- Measures for ensuring physical security of locations at which personal data are processed. Access controls such as Fire suppression, mantraps, CCTV, security guard, badge system, dual control – users should be accompanied when making physical changes in a datacenter.
- Measures for ensuring events logging (user activities / logins / in the event of any suspected incidents / user analytics).
- Measures for ensuring system configuration, including default configuration – Insecure default configurations such as passwords must be removed. (Security baseline, Change control policy – documenting changes and exceptions to baseline / security by design).
- Measures for certification/assurance of processes and products ISOs / Codes of Conducts. An ethics policy must be in place. Employees should be instructed to act honorably, honestly, justly, responsibly and legally. Act in the interests of their customer to provide diligent and customer service to principles data classification e.g., PII.
- Measures for ensuring data loss such as Data Loss Prevention (DLP) measures should be in place, monitored and audited on a regular basis.
- Measures for ensuring data quality / accuracy.
- Measures for ensuring accountability / auditing / least privilege / segregation of duties – Logs should be in place.
- Measures for allowing secure data portability and ensuring erasure.



SCHEDULE H

EXIT MANAGEMENT PLAN

As per requirements and specifications set out in the CfT



SCHEDULE I

DISASTER RECOVERY PLANS

As per requirements and specifications set out in the CfT



SCHEDULE J

PROJECT GOVERNANCE

The below project governance documents will be provided to the Contractor by the
Client

- Governance framework
- Project Methodology
- BA methodology (Guide and Model)
- Enterprise architecture principles

** SEAI reserves the right to amend and update at any time to ensure continuous improvements and compliance with the appropriate regulations and directives.



SCHEDULE K

THE TENDER RESPONSE

As per requirements and specifications set out in the Contractor's Tender



SCHEDULE L

CYBERSECURITY

1. Security of network and information systems

- 1.1 Without prejudice to the provisions of clause 4 (Contractor's Obligations) of the Agreement, the Contractor shall comply with the Client's Security Policy at Schedule M of the Agreement.
- 1.2 The Contractor shall at all times implement appropriate and proportionate technical, operational and organisational measures to:
- (a) protect the Client's network and information systems against unauthorised or unlawful access and against accidental or unlawful loss, destruction, damage, alteration, or disclosure;
 - (b) comply with the Cybersecurity Requirements;
- 1.3 The Contractor shall have in place measures to ensure a level of security appropriate to the risk involved, including as appropriate:
- (a) the encryption, and if relevant pseudonymisation, of data;
 - (b) the use of multi factor authentication;
 - (c) the ability to ensure the ongoing confidentiality, integrity, availability and resilience of systems and services;
 - (d) the ability to restore the availability and access to data in a timely manner in the event of an Incident;
 - (e) a process for regularly testing, assessing and evaluating the effectiveness of security measures; and
 - (f) imposing obligations on its Subcontractors and agents, by way of separate contracts/agreements which include terms that are the same as, or equivalent to those terms set out in this Schedule in respect of the security of the Client's network and information systems.
- 1.4 The Contractor shall notify the Client immediately if it becomes aware of any Incident and shall respond immediately to all queries and requests for information from the Client, and any persons appointed by it, about any Incident, whether discovered by the Contractor or the Client, in particular bearing in mind the extent of any reporting obligations the Client may have under the Cybersecurity Requirements and that the Client may be required to comply with statutory or other regulatory timescales.



- 1.5 The Contractor will ensure the business continuity of the Services at all times in accordance with Schedule I Disaster Recovery Plans of the Agreement, the information on business continuity management set out in ANNEX A and any relevant policies referred to in clause 1.7, with a view to ensuring the continuity of any services to be provided by the Client.
- 1.6 The Contractor shall co-operate with the Client, including any persons appointed by it, without delay in relation to:
- (a) all aspects of its compliance with Cybersecurity Requirements;
 - (b) any requests for information, audit or inspection, made by it, including any persons appointed by it, in connection with the Cybersecurity Requirements;
 - (c) any requests for information, or inspection, made by any regulator, including any persons appointed by it, in connection with the Cybersecurity Requirements;
 - (d) any request for information made in respect of any of the information provided in ANNEX A or any policies referred to in clause 1.7; and
 - (e) any Incident.
- 1.7 The Contractor shall (and warrants and represents that it shall) at all times in accordance with Good Industry Practice implement, operate, maintain, and adhere to, appropriate policies to cover the issues specified in ANNEX A
- 1.8 The Contractor shall provide copies of the policies referred to in clause 1.7 promptly on request by the Client.

2. Warranties and indemnities

- 2.1 The warranties and indemnities given in this schedule are in addition to the warranties and indemnities given in other parts of this Agreement.
- 2.2 The Contractor warrants that its technical, operational and organisational measures are appropriate to protect the Client's network and information systems against accidental or unlawful destruction or accidental loss, alteration, unauthorised disclosure or access and against all other unlawful forms of access, and that its technical, operational and organisational measures ensure a level of security appropriate to the risks under the Agreement having regard to state of the art technical and organisational measures.
- 2.3 The Contractor warrants that the information in ANNEX A on the security of its network and information systems is up to date and accurate and that it will update the Client immediately in the event of any changes to such information.



- 2.4 In performing its obligations under this Agreement, the Contractor shall comply with all applicable laws, statutes, regulations and codes from time to time in force, including the Cybersecurity Requirements and the Contractor will inform the Client as soon as it becomes aware of any changes to the same.
- 2.5 The Contractor shall not be entitled to any increase in the Charges with respect to any changes requested by the Client which are necessary to comply with changes to Cybersecurity Requirements which take effect after the Commencement Date.
- 2.6 The Contractor shall ensure that each new software release shall comply with the Cybersecurity Requirements.



ANNEX A Contractor's network and information systems security

Security of systems and facilities

- A description or mapping of the Contractor's information system insofar as it relates to the Client and any policies the Contractor has in place for managing information security, including risk analysis, human resources, security of operations, security architecture, secure data and system life cycle management, encryption, multi factor authentication and its management.
- The Contractor's measures to protect the security of its network and information systems from damage using an all-hazards risk-based approach, addressing without limitation system failure, human error, malicious action or natural phenomena.
- The Contractor's measures including policies to ensure the accessibility and traceability of critical elements used in the provision of the Services.
- Any measures to ensure that the physical and logical access to network and information systems, including administrative security of network and information systems, is authorised and restricted based on business and security requirements.

Incident handling

- The Contractor's detection processes and procedures for ensuring timely and adequate awareness of anomalous events and details of the ways in which it maintains and tests these processes and procedures.
- The Contractor's processes and policies on reporting incidents and identifying weaknesses and vulnerabilities in its information systems.
- The Contractor's procedures for assessing the severity of a security incident, documenting knowledge from incident analysis which may serve as evidence and support a continuous improvement process.

Business continuity management

- The Contractor's contingency procedures for ensuring business continuity for the Services and details of the ways in which it regularly assesses and tests these.
- The Contractor's disaster recovery capabilities and details of the ways in which these are regularly assessed and tested.

Monitoring, auditing and testing

The Contractor's policies and the maintenance of such policies on:

- Conducting planned sequences of observations or measurements to assess whether network and information systems are operating as intended.



- Inspection and verification to check whether a standard or set of guidelines is being followed, records are accurate, and efficiency and effectiveness targets are being met.
- A process (including technical processes and personnel involved in the operation flow) intended to reveal flaws in the security mechanisms of a network and information system that protect data and maintain functionality as intended.

International standards

- The Contractor is ISO 27001 certified.



SCHEDULE M

Client's Security Policy

- **ISMS Operations Security Manual**
- **ISMS User Security Manual**



SCHEDULE N

Service Level Agreement (Key Performance Indicators and Target KPIs)

As set out in RFT

End of Document