Maoiniú Teaghais–Tógála Éireann (Iasachtú) CGA
Home Building Finance Ireland (Lending) DAC

SCHEDULE 6
DRAFT FRAMEWORK AGREEMENT

HOME BUILDING FINANCE IRELAND (LENDING) DAC
("HBFIL")

and

[CONSULTANT]

Framework Agreement in Respect of the Provision of Monitoring Surveying Services to HBFIL

DATED the _____ day of _____ 2026

BETWEEN:

HOME BUILDING FINANCE IRELAND (Lending) DAC ("HBFIL") of the Treasury Dock, North Wall Quay, Dublin 1, D01 A9T8Ireland

AND

[ ] (the **"Consultant")** having its registered office at [ ].

WHEREAS:

A. HBFIL may require the Consultant to perform Services (as defined below) from time to time pursuant to this Agreement.

B. The Consultant is engaged in the business of providing the Services and has the necessary skill, knowledge and experience in that field.

C. HBFIL may, in reliance upon that skill, knowledge and expertise, request the Consultant to perform Services in accordance with the terms and conditions of this Agreement and/or any applicable Contract Order (as defined below).

D. The Consultant is one of a number of consultants appointed to the relevant Panel under the Framework and has agreed to perform the Services in accordance with this Agreement and any applicable Contract Order (as defined below).

IN CONSIDERATION OF THE MUTUAL AGREEMENTS HEREIN CONTAINED, IT IS AGREED AS FOLLOWS:

1. Definitions and Interpretation

1.1. The words and expressions below shall have the following meanings unless there is something in the subject matter or context inconsistent with such meanings.

"**Authority**" means HBFIL or the NTMA acting as agent of the HBFIL, as applicable.

"**Additional Services**" has the meaning given to it in Clause 21 (Additional Services);

"**Agreement**" means this agreement and the Schedules;

"**Commencement Date**" means the date upon which this Agreement is fully signed and executed by both parties;

"**Contract Order"** means a contract order entered into between HBFIL and the Consultant for the provision of specific Services, substantially in the form set out

in Schedule B;

"Data Protection Legislation" means:

(a) the Data Protection Acts 1988 to 2018;

(b) the General Data Protection Regulation (Regulation (EU) 2016/679) ("GDPR");

(c) the European Communities (Electronic Communications Networks & Services) (Privacy & Electronic Communications) Regulations 2011;

(d) the EU ePrivacy Directive 2002/58/EC (as amended) (the "ePrivacy Directive");

(e) any relevant transposition of those laws, or successor or replacement to those laws (including, when it comes into force, the successor to the ePrivacy Directive); and

(f) all other industry guidelines (whether statutory or non-statutory) or applicable codes of practice and guidance notes issued from time to time by the Data Protection Commissioner relating to the processing of Personal Data or privacy;

"**Event of Default**" means any of the events set out in Clause 20 (Termination);

"**Fee**" means the fee agreed between the parties in respect of each Service;

"**Force Majeure**" shall include any event beyond the reasonable control of a party including act of God, war, riot, civil commotion, malicious damage, strike, lock-out, go slow, accident, fire, flood or storm which could not have been avoided by taking reasonable precautions and which, having arisen, the affected party could not reasonably have avoided or overcome;

"Framework" means the framework procured by HBFIL for the Services, comprising Panel 1 and Panel 2;

"Hourly Rates" means the hourly rates set out in Schedule C or, if lower, the hourly rates tendered by a Consultant in a Tender;

"**Index**" means the Harmonised Index of Consumer Prices (HICP);

"**Indexation Date**" means the second anniversary of the Commencement Date and each anniversary thereafter during the Term;

"**Intellectual Property**" means all current and future legal and/or equitable interests in registered or unregistered trademarks, service marks, patents, registered designs, utility models, applications for any of the foregoing, copyrights, unauthorised extraction and/or re-utilisation rights, unregistered designs, inventions, know-how or other intellectual property rights subsisting in or relating to the Services;

"**Law**" means any law applicable in Ireland (without further enactment) and shall include without limitation, common law, statute, statutory instrument, bye-law created under Irish statute, code of practice or code of conduct, rule of

court, delegated or subordinate legislation and any form of EU law applicable in Ireland including without limitation, decisions, regulations and directives;

"**Other Consultants**" means any consultant, other than the Consultant, appointed by HBFIL (whether under this Framework or otherwise);

"Panel 1" means the panel of consultants appointed to provide the Services identified under Panel 1 in Schedule A (The Services);

"Panel 2" means the panel of consultants appointed to provide the Services identified under Panel 2 in Schedule A (The Services);

"Procurement Regulations" means the European Union (Award of Public Authority Contracts) Regulations 2016;

"**Proposed Team**" means the personnel identified in Schedule D (Proposed Team);

"**Request for Tender**" means a request issued by HBFIL inviting the consultants appointed to the relevant Panel to submit Tenders for specified Services;

"**Services**" means the services, which shall, subject to Clause 3, be performed by the Consultant pursuant to this Agreement as set out in Schedule A (The Services);

"Tender" means an offer to provide Services submitted in response to a Request for Tender;

"**Term**" means the period referred to in Clause 2 (Duration of Framework Agreement);

"Work Product" means all materials or written output (in whatever format) created by the Consultant and provided to HBFIL in relation to any Services, including, without limitation, as found in any records, documents, data or reports.

1.2. The headings and the table of contents in this Agreement are inserted only for convenience and shall not affect its construction.

1.3. Reference to any statute, enactment, order, regulation or other similar instrument shall be construed as a reference to the statute, enactment, order, regulation or instrument as amended by any subsequent statute, enactment, order, regulation or statutory instrument or as contained in any subsequent re-enactment.

1.4. Any reference to the "Consultant" includes its employees, partners, agents and sub-consultants.

1.5. Words importing the singular shall include the plural and vice versa.

1.6. In the event of any ambiguity or conflict between the contract documents the order of precedence shall be as follows:

(a) Contract Order;
(b) this Agreement;
(c) Request for Tender for the particular Services; and
(d) the Tender.

2. Duration of Framework Agreement

2.1. This Agreement will come into effect on the Commencement Date and, unless terminated earlier in accordance with the terms of this Agreement, will continue in force for a period of four years.

3. Procedure for Operation of Framework

3.1. HBFIL is not obliged to issue any Request for Tender or award any Services under this Agreement to the Consultant and may procure the Services in other ways.

3.2. Subject to Clause 3.3, and without prejudice to Clauses 3.4 to 3.7, HBFI(L) may, re-open competition between the consultants appointed to the relevant Panel on the same terms that applied to the award of this Agreement and, where necessary, more precisely formulated terms (and the award criteria applicable to the procurement of Services will be either (a) the award criteria that applied to the award of this Agreement, provided that HBFIL reserves the right to vary the weightings applicable to such award criteria, or (b) a criterion based on price only). The terms applicable to each competition will be contained in a Request for Tender issued by HBFIL. The deadline for submission of Tenders will take into account the complexity of the Services and the time needed to prepare Tenders. If the Consultant receives a Request for Tender and wishes to participate in the competition, it will submit its Tender in writing in accordance with the requirements set out in the Request for Tender. No Tender shall be opened until the stipulated deadline for submission has passed. A Tender received by the deadline for receipt of Tenders, will be assessed on the basis of the criteria set out in the Request for Tender. HBFIL may seek clarification or further information or both from any Consultant that has submitted a Tender. HBFIL is not obliged to accept any Tender received in response to a Request for Tender and may abandon the tender procedure at any time. HBFIL will not be liable to the Consultant for any costs or expenses incurred by it in complying with a tender procedure, regardless of outcome, including abandonment of a tender procedure.

3.3. Where the award criterion is based on price only, the Authority shall apply the following rules to the Request for Tender:

These rules are intended to ensure healthy competition between consultants appointed to the relevant Panel, and to mitigate potential resourcing or performance risks arising where a Consultant is successful in a large number or a majority of competitions under the Framework:

Panel 1

a) **A Tenderer may not be awarded more than two out of any six consecutive Contract Orders under Panel 1**. Where a Tenderer achieves the highest total mark in accordance with the rules of the Request for Tender, but has been awarded two of the previous six consecutive Contract Orders or two from the initial six Contract Orders awarded, the Authority shall not award the Contract Order to that Tenderer. The Contract Order shall instead be awarded to the Tenderer achieving the next highest total marks in accordance with the rules of the Request for Tender and whose appointment would not breach this limit.

b) The Authority may decide not to apply Clause 3.3 (a) above where it has a reasonable basis for doing so, including where the application of that clause would result in an insufficient number of tenders or where this is necessary to encourage effective competition.

Panel 2

c) **A Tenderer may not be awarded more than two out of any five consecutive Contract Orders under Panel 2**. Where a Tenderer achieves the highest total mark in accordance with the rules of the Request for Tender, but has been awarded two of the previous five consecutive Contract Orders or two from the initial five Contract Orders awarded, the Authority shall not award the Contract Order to that Tenderer. The Contract Order shall instead be awarded to the Tenderer achieving the next highest total marks in accordance with the rules of the Request for Tender and whose appointment would not breach this limit.

d) The Authority may decide not to apply Clause 3.3 (c) above where it has a reasonable basis for doing so, including where the application of the clause would result in an insufficient number of tenders or where this is necessary to encourage effective competition.

3.4. In circumstances where HBFIL re-opens competition between the consultants appointed to the relevant Panel, and a competition is not successfully concluded, for example, where no tenders are received, or the tenders received are not capable of acceptance for any reason, HBFIL reserves the right to consult any member of the relevant Panel regarding proposals for performing the required Services and to directly award the required Services to that Consultant where HBFIL has a reasonable basis for considering this to be the most appropriate way to proceed taking into account all relevant considerations, including the specific needs of the business unit or corporate function to which the Services relate.

3.5. In circumstances where any Services required by HBFIL under this Agreement comprise an amendment or termination of arrangements, and/or where the Services are materially interdependent on previous arrangements and/or where Services are required for new loans to related phases of the same development, new developments, related entities, and ultimate beneficial owners and/or where any Services in respect of which a member of the Framework previously advised or

provided Services, HBFIL reserves the right, but shall not be obliged in its absolute discretion to directly award the required Services to such member where this is the most expedient way to proceed, taking into account any relevant considerations such as the need to ensure continuity of the services and affordability.

3.6. HBFIL reserves the right to directly award Services to any member of the relevant Panel if it considers it necessary to do so in respect of particular matters, having regard to timing, availability of resources, conflicts of interest and such other criteria as it considers relevant to such matters.

3.7. In circumstances where:

(a) the estimated value of Services required for any particular engagement under this Agreement is €5,000 (five thousand euro) or less (excluding VAT); or

(b) the Services required for any particular engagement under this Agreement are not governed by the Procurement Regulations.

HBFIL reserves the right to directly award such Services to any member of the relevant Panel having regard to such matters as it considers relevant to the particular Services.

3.8. The terms and conditions of this Agreement shall apply as between the parties in respect of the performance of the Services awarded to the Consultant pursuant to this Agreement, except to the extent otherwise agreed between the parties.

3.9. The Fee payable for any Services awarded pursuant to this Agreement shall be calculated in accordance with Clause 8.1.

4. Contract Orders

4.1. If HBFIL conducts a tender procedure pursuant to Clause 3.2 and/or Clause 3.3, and the Consultant's Tender is successful, HBFIL will issue a Contract Order for the Services (substantially in the form attached at Schedule B), which will form part of this Agreement.

4.2. Where the Consultant has been selected by HBFIL pursuant to Clauses 3.4 to 3.7 above, HBFIL may, but shall not be obliged to, issue a Contract Order for the Services awarded to that Consultant, substantially in the form attached at Schedule B, but with such amendments thereto as HBFIL may consider appropriate, having regard to the fact that a Request for Tender was not issued.

4.3. Contract Orders will be signed by an authorised representative of HBFIL and the Consultant.

4.4. To the extent that a Contract Order is not issued, HBFIL will document in writing and issue to the Consultant the agreed terms applicable to any Services awarded. The Consultant, in agreeing to carry out the Services awarded for the Fee agrees that the provision of the Services shall be subject to the terms and conditions set

out in this Agreement. For the avoidance of doubt, the obligations, representations and warranties under Clause 10 apply whether or not a Contract Order is issued.

5. Material Change

5.1. HBFIL may at any time review the technical, economic and financial capacity of the Consultant to perform the Services.

5.2. HBFIL may, from time to time, request the Consultant to provide confirmation that no material change in the technical, economic or financial capacity of the Consultant has occurred The Consultant shall promptly notify HBFIL in writing of any such material change, detailing its impact on the performance of the Services and any measures proposed to address it.

6. Services

6.1. This Agreement governs the overall relationship between HBFIL and the Consultant with respect to the provision of Services. Any Services provided by the Consultant shall be performed subject to and in accordance with the terms of any relevant Contract Order and the terms of this Agreement. HBFIL is entitled, but not required, at any time during the Term to procure Services under the procedures set out in Clause 3.

6.2. In respect of Services awarded to the Consultant, the Consultant shall, at all times, act in good faith and exercise the level of skill and care reasonably expected of a professional service provider regularly undertaking services of the type provided. The Consultant will carry out the Services with the necessary resources and in reasonable time.

6.3. Upon being awarded any Services, the Consultant must be available to attend meetings with HBFIL staff at HBFIL's offices in Dublin as and when reasonably required.

6.4. Upon being awarded any Services, the Consultant must make available to HBFIL all resources necessary to perform the Services, including without limitation adequate personnel, equipment and materials.

6.5. The Consultant shall comply with all lawful and reasonable requests of HBFIL.

6.6. HBFIL may appoint one or more consultants from the Framework to perform the Services. The Consultant must co-operate and liaise with such Other Consultants as reasonably required by HBFIL.

6.7 The Consultant shall be responsible for and shall ensure that all of its personnel or agents involved in providing any Services pursuant to this Agreement and any Contract Order shall comply with the terms of this Agreement and any Contract Order.

6.8. The Consultant shall comply with those obligations in the fields of environmental, social and labour law that apply at the place where the Services

are provided, as established by European Union law, national law, collective agreements or by the international, environmental, social and labour law listed in Schedule 7 of the Procurement Regulations.

7. Key Personnel

7.1. In the event that Services are awarded to the Consultant pursuant to this Agreement, the Consultant agrees that (i) the Services will be provided by the team member named in Schedule D identified for that purpose by the Consultant and (ii) subject to clause 7.2, no change in personnel will be made without the prior consent of HBFIL.

7.2. The consent of HBFIL pursuant to Clause 7.1 to removal of a person from the team named in Schedule D shall not be required if that person becomes unavailable to provide Services by reason of (i) long term illness or injury, (ii) absence, (iii) cessation of his or her employment or engagement with the Consultant, or (iv) any law or regulation requiring removal of such person from the team.

7.3. Where any team member named in Schedule D or identified by the Consultant in its Tender is unable to perform the Services for any period and this inability impacts on the performance of the Services, the Consultant shall, at no additional cost to HBFIL, provide a replacement team member whose qualifications and experience are to the satisfaction of HBFIL (acting reasonably) and correspond as closely as practicable to the qualifications of that person whom they are required to replace.

7.4. The Consultant shall cease to utilise for the provision of the Services any person whose performance is deemed by HBFIL (acting reasonably) to be unsatisfactory. In these circumstances, the Consultant shall provide a replacement in accordance with Clause 7.3.

8. Payment, Rates and Fees

8.1. The Fee payable for any Services provided pursuant to this Agreement (or the means for calculation of such Fee) shall be set out in the Contract Order for those Services or as otherwise agreed with HBFIL, and may not be based on rates exceeding the Hourly Rates as set out in Schedule C. HBFIL may, at its sole discretion, when awarding any Services under Clause 3 or Additional Services under Clause 21, require fee proposals from Consultants that (i) are structured as, inter alia, capped fees, or fixed fees.

8.2. The Fee and Hourly Rates include all expenses (including materials, travel and accommodation (within Ireland), photocopying, printing, postage, courier fees, telephone costs, administration support and all organisational overheads etc.) but exclude VAT. The VAT rate(s) applicable should be indicated separately.

8.3. The Consultant shall invoice HBFIL for the Services at agreed intervals (which, unless otherwise agreed and depending on the scope and duration of Services,

shall be on satisfactory completion of such Services). HBFIL shall, subject to Clauses 8.5, 18 and 20.4, and provided the Consultant has performed those Services applicable to that invoice to the satisfaction of HBFIL, pay the Consultant the amount properly due and so invoiced.

8.4. HBFIL may at any time at its sole discretion, reduce the scope or remove certain elements of the Services. HBFIL shall notify the Consultant of such reduction or removal prior to the Consultant commencing such Services. HBFIL may reduce the Fee to reflect the revised scope of Services.

8.5. The Consultant is not entitled to compensation in respect of any reduction or removal of Services unless otherwise agreed in writing by HBFIL.

8.6. Where, in any case, the Consultant is liable to make any payment to HBFIL under this Agreement, any Contract Order or otherwise, HBFIL may set off any such payments due to it against any Fee due by HBFIL to the Consultant.

8.7. HBFIL reserves the right to publish a list of the fees incurred under this Agreement and/or any Contract Order and/or the agreements with the Other Consultants, the respective names of the firms to which they relate and the nature of the engagement in each case.

9. Indexation

9.1. Insofar as the Fee payable for any Services are to be calculated by reference to Hourly Rates and the relevant Services fall to be performed after the Indexation Date, the Hourly Rates shall (if requested by the Consultant) be indexed from the Indexation Date to reflect any increases or decreases in the most recently published Index prior to the date of the invoice as compared to the Index current on the date 12 months prior to the date of the most recently published Index.

10. Representations and Warranties

10.1. The Consultant represents and warrants to HBFIL on the Commencement Date and on the date of each Contract Order that:

(a) it has, and for the term of this Agreement shall have, all necessary power and authority to execute, deliver and perform its obligations under this Agreement;
(b) the execution, delivery and performance by it of this Agreement has been authorised in accordance with all necessary action on its part;
(c) each of the obligations of the Consultant under this Agreement constitutes its legally binding obligations;
(d) it shall perform all Services pursuant to every Contract Order in accordance with this Agreement and the relevant Contract Order or written terms issued under Clause 4.4 with all independent professional care, skill and judgement to be expected of a professional consultant qualified and experienced in carrying out services of a similar nature, size and scope;
(e) it shall perform all Services pursuant to every Contract Order diligently and in good time and with all necessary resources;

(f) in performing any Services pursuant to every Contract Order, the Consultant shall not infringe the intellectual property rights of any third party;
(g) all Services shall be performed pursuant to every Contract Order in compliance with all applicable laws and applicable professional conduct rules, standards, regulations and laws which apply to the Consultant;
(h) the Consultant is not aware of any material facts or circumstances that have not been disclosed to HBFIL which might, if disclosed, materially and adversely affect the decision of a prudent person considering whether or not to enter into this Agreement with the Consultant.

10.2. The Consultant repeats these representations and warranties in respect of each Contract Order as at the date of such Contract Order or where no Contract Order issued, on the date it agrees to carry out the Services under Clause 4.4 .

11. Performance and Inspection

11.1. HBFIL, or any person acting on its behalf, may inspect and review the performance by the Consultant of the Services and/or arrange for an independent party to do so.

11.2. If, as a result of any such inspection or review, HBFIL is reasonably of the opinion that the particular Services are or were not being performed in accordance with this Agreement (or as otherwise agreed between the parties), HBFIL may so inform the Consultant in writing. The Consultant shall immediately take such steps as may be necessary to comply with its obligations within the period stipulated by HBFIL. Any notification under this clause shall not constitute a waiver of any term or condition of this Agreement and shall be without prejudice to any of HBFIL's rights under this Agreement or otherwise.

12. Insurance and Indemnity

12.1 The Consultant shall be liable for and will indemnify HBFIL and its respective officers, employees and agents from and against all direct losses, claims, demands, damages or expenses which HBFIL may suffer due to the negligence, breach of contract, breach of duty, recklessness, bad faith, wilful default or fraud of the Consultant and its employees and agents, it being understood that the Consultant shall not be liable for indirect, special or consequential losses and that HBFIL shall take reasonable action to mitigate its losses except where arising from fraud or wilful default.

The Consultant accepts liability for and agrees to indemnify and hold harmless HBFIL and its officers, employees and agents from and against and all proceedings, actions, costs (including legal costs) charges, claims, expenses, damages, liability losses and demands in respect of;

(a) death, disease or personal injury resulting from the negligence, default, omission or breach of statutory duty by the Consultant its servants, agents

or sub-consultants;

(b) damage, destruction or loss of the property or any part however arising from the negligence, default, omission or breach of statutory duty of the Consultant or its servants, agents or sub-consultants, arising in connection with the provision of the Services.

12.2. The Consultant shall have and maintain all insurances required to be maintained by it pursuant to Law.

12.3. Without prejudice to Clause 12.2, in advance of the awarding of any Services under this Agreement, the Consultant shall provide HBFIL with appropriate evidence (including letters of confirmation from its insurance broker) that the Consultant has the following insurance cover with a well established and reputable insurance office or underwriter of repute:

In respect of Panel 1:

(a) Professional indemnity insurance with a minimum level of indemnity of €1,500,000 (one million five hundred thousand euro) covering all of the Consultant's obligations under this Agreement for each and every claim or series of claims arising from the same originating cause, subject to an annual aggregate limit of €5,000,000 (five million euro) in any one period. This insurance is to be maintained for a period of six years after the completion of the performance of the relevant Services, without prejudice to any claims notified by HBFIL prior to this date; and

(b) Public liability insurance with a minimum level of indemnity of €6,500,000 (six million five hundred thousand euro) for each and every claim or series of claims arising from the same originating cause; and

(c) Employer's liability insurance with a minimum level of indemnity of €13,000,000 (thirteen million euro) for each and every claim or series of claims arising from the same originating cause.

In respect of Panel 2:

(a) Professional indemnity insurance with a minimum level of indemnity of €1,500,000 (one million five hundred thousand euro) covering all of the Consultant's obligations under this Agreement for each and every claim or series of claims arising from the same originating cause, subject to an annual aggregate limit of €5,000,000 (five million euro) in any one period. This insurance is to be maintained for a period of six years after the completion of the performance of the relevant Services, without prejudice to any claims notified by HBFIL prior to this date; and

(b) Public liability insurance with a minimum level of indemnity of €6,500,000 (six million five hundred thousand euro) for each and every claim or series of claims arising from the same originating cause; and

(c) Employer's liability insurance with a minimum level of indemnity of €13,000,000 (thirteen million euro) for each and every claim or series of claims arising from the same originating cause.

12.4 At any time after the execution of this Agreement, if requested by HBFIL, the Consultant shall provide HBFIL with appropriate evidence (including, without limitation letters of confirmation from its insurance broker) confirming the levels and terms of insurance cover maintained by the Consultant. The Consultant shall notify HBFIL immediately of any lapse of the insurances or if the insurances cease to be available.

12.5. The Consultant shall be liable to pay the full amount of any deductibles or excess amounts arising under the insurance policies in respect of each and every claim made. The insurance required to be obtained by the Consultant pursuant to Clauses 12.2 and 12.3 above shall not limit the obligations, liabilities or responsibilities of the Consultant under the terms of this Agreement or otherwise. Any amounts not insured or recovered from the insurers shall be borne by the Consultant in accordance with the obligations, liabilities and responsibilities set out under this Agreement.

12.6. If the Consultant does not on request prove that its insurances are fully in force as required by this Agreement, HBFIL may insure and recover the cost from the Consultant.

12.7. Without prejudice to the generality of Clause 23 (Waiver), HBFIL may, in its absolute discretion, waive all or any of the obligations set out in Clauses 12.3 to 12.6 above where the Consultant has in place such other arrangements that, to the satisfaction of HBFIL, place HBFIL in an equivalent position to that provided under Clauses 12.3 to 12.6 above.

12.8. HBFIL reserves the right to request additional insurances and/or the limits of indemnity under the insurances prescribed under clause 12.3 to be revised upwards depending on the value of any transaction that is the subject of Services.

13. Work Product

13.1. The Consultant acknowledges and agrees that ownership of the Work Product and the Intellectual Property therein will vest solely in HBFIL.

13.2. The Consultant shall do all such things as HBFIL may reasonably require for the purpose of vesting in HBFIL the rights granted to it under Clause 13.1.

13.3. On completion of Services or any termination of the Agreement or a Contract Order for any reason, the Consultant shall, upon written request and to the extent not already provided to HBFIL, deliver to HBFIL all Work Product (in such a manner as to be "unlocked", readily accessible and useable for any reasonable purpose).

13.4. Subject always to the Consultant's duties of confidentiality as set out in this Agreement, the Consultant may retain (a) a copy of the Work Product for the purposes of, or as required by, any law, regulation or legal process and for the purposes of its internal compliance procedures; and (b) copies of any computer records and files created pursuant to automatic archiving and back-up procedures.

14. Assignment and Sub-Contracting

14.1. The Consultant may not transfer or assign directly or indirectly any part of this Agreement and/or any Contract Order without the prior written consent of HBFIL, which consent may be withheld at HBFIL's absolute discretion.

14.2. The Consultant may not sub-contract any element of the Services, without the prior written consent of HBFIL, which consent may be withheld at HBFIL's absolute discretion. If and to the extent that HBFIL consents to the Consultant sub-contracting any element of the Services, the Consultant shall remain responsible for performance of the Services (including, without limitation, any sub-contracted elements) and shall procure that any sub- contractor shall adhere to and comply with the terms of this Agreement and any relevant Contract Order.

14.3. The Consultant may not engage barristers/counsel, without the prior written consent of HBFI(L), which consent may be withheld at HBFI(L)'s absolute discretion.

14.4. HBFIL may transfer or assign all or any part of its rights and obligations under this Agreement and/or any Contract Order to any person and shall give prompt notice to the Consultant of such transfer or assignment. The Consultant will do all acts, and execute all documents, necessary to give effect to such transfer or assignment.

15. Confidentiality

15.1. The Consultant agrees to keep (and to ensure its employees, personnel, agents and sub-contractors keep) confidential all information, documentation and other matters arising or coming to its attention (whether written or oral and whether disclosed to the Consultant by other means whether directly or indirectly) in connection with the issue of any Request for Tender and/or the provision of any Services and shall not at any time, for any reason, disclose or permit such information, documentation or other matters to be disclosed to any third party except as permitted hereunder to enable the Consultant to carry out its duties and obligations under this Agreement or with the prior written consent of HBFIL or where required to do so as a matter of Law.

15.2. The Consultant shall ensure that its agents having access to such information, documentation or other matters shall be subject to the same obligations as the Consultant and shall enter into a suitable secrecy agreement in the form approved by HBFIL, or, insofar as that is not reasonably practicable, the Consultant shall take all reasonable steps to ensure that its agents are made aware of and perform such obligations.

15.3. HBFIL may disclose details of the Agreement and/or any Contract Order:

(a) if required to do so by Law, or by order of a Court, tribunal or other competent body;
(b) at the request of any Minister, Department or official of the Irish Government;
(c) to its internal auditor, and to the appointed auditor of the Irish State, the Comptroller and Auditor General;
(d) to any member of HBFIL and/or to any director, officer or employee of HBFIL or any of its associated agencies; and/or
(e) to any subcontractors, servants or agents of HBFIL or any of its associated agencies.

16. Electronic Communications and Storage of Data

16.1. The Consultant shall use commercially reasonable procedures to check for the then most commonly known viruses before sending information electronically to HBFIL or to any other third person on behalf of HBFIL while performing the Services.

16.2. The parties may from time to time communicate electronically with each other. The Consultant shall ensure that all electronic communications containing commercially sensitive data or personal data is encrypted during transmission, unless otherwise agreed in advance by HBFIL or its agents.

16.3. The Consultant agrees that any storage of commercially sensitive or personal data outside of its main network environment shall be on encrypted laptops only and never on USB keys or other removable storage devices unless by specific written agreement with HBFIL.

17. Conflicts of Interest

17.1. The Consultant confirms that all actual and potential conflict of interests (whether legal, professional, commercial or other interests) will be disclosed in full in any Tender or otherwise prior to the execution of any Contract Order and it will comply in all respects with HBFIL's requirements on confidentiality and conflicts of interest. The Consultant acknowledges that if it declares an actual or potential conflict of interest in in any Tender or otherwise prior to the execution of any Contract Order, or HBFIL otherwise becomes aware of an actual or potential conflict of interest, HBFIL may, in its absolute discretion (i) request further information from the Consultant on the matter, (ii) impose conditions on the Consultant for participating in a tender procedure conducted pursuant to Clause 3 or providing Services (which may include appropriate measures to protect the interests of HBFIL) and/or (iii) exclude the Consultant from any tender procedure conducted pursuant to Clause 3.

17.2. Upon being awarded any Services, the Consultant shall be obliged to disclose to HBFIL within forty-eight hours of it coming to its attention, any actual or

potential conflict of interest which it, or any of its affiliates, or any partner, officer, director, employee or agent of the Consultant may have in performing any Services.

17.3. In the event of any actual or potential conflict of interest (the "**conflict**") arising following the award of any Services, HBFIL shall, in its absolute discretion, decide on the appropriate course of action. If HBFIL considers there to be no conflict or that the conflict is immaterial, it will permit the Consultant to continue to provide the Services. If HBFIL considers the conflict to be material, it may, at its sole discretion, instruct the Consultant to cease providing the Services or permit the Consultant to continue providing the Services subject to the Consultant agreeing appropriate safeguards with HBFIL and HBFIL being satisfied that those safeguards have been put in place. Failure to comply with HBFIL's requirements in this regard may lead to termination of any Contract Order and/or this Agreement.

18. Tax Clearance

The Consultant must, if requested, provide HBFIL with evidence of tax clearance by the Irish Revenue Commissioners, including (where applicable) tax reference number and Tax Clearance Access Number to facilitate electronic verification of tax clearance status. By providing information for electronic verification, the Tenderer grants permission to HBFIL to use such information in order to verify the Tenderer's tax clearance status. HBFIL may refuse to pay the Consultant for Services unless at the time for payment it has received from the Consultant current and valid evidence required under this Clause.

19. Data Protection

19.1. To the extent that the Consultant's compliance with HBFIL's instructions requires it to act as HBFIL's "processor" or "data processor" (as defined in Data Protection Legislation) when providing the Services, it acknowledges and agrees that it shall:

(a) only process such personal data in accordance with applicable Data Protection Legislation and solely as necessary for the performance of its obligations in the provision of the Services only or otherwise in accordance with documented instructions received from HBFIL from time to time;

(b) implement such technical and organisational security measures to guard against the loss, destruction, corruption or alteration of personal data as are required to safeguard the personal data from unauthorised or unlawful processing or accidental loss, alteration, disclosure, destruction or damage, and that, having regard to the state of technological development and the cost of implementing any measures, such measures shall ensure a level of security appropriate to the harm that might result from unauthorised or unlawful processing or accidental loss, alteration, disclosure, destruction or damage and which shall be in accordance with the requirements of applicable Data Protection Legislation;

(c) take reasonable steps to ensure the reliability of any of its employees, agents

and/or sub-contractors who shall have access to the personal data and ensure that each of its employees, agents and subcontractors are made aware of its obligations under this letter agreement with regard to the security and protection of the personal data and shall require that they enter into or are otherwise subject to binding confidentiality obligations with the Consultant to maintain the levels of security and protection provided for in this letter agreement;

(d) subject to sub-clause (e) and subject to the prior written consent of HBFIL, not transfer such personal data outside the European Economic Area, which shall be subject to the Consultant providing an adequate level of protection to any personal data that is transferred, by way of entering into the model form transfer provisions or providing other protections as permitted by applicable Data Protection Legislation;

(e) obtain prior written consent from HBFIL before transferring the personal data to any sub-contractor and in all cases any such consent shall be subject to such sub-contractor being bound by the obligations set out in this letter agreement and the Consultant shall be fully liable to HBFIL in respect of the performance of the sub-contractor's data protection obligations;

(f) inform HBFIL, prior to processing the personal data, in the event that the Consultant is required by EU or Irish law to transfer the personal data outside the EEA, of that legal requirement;

(g) promptly and without undue delay notify HBFIL about any accidental or unauthorised access or damage to or loss of personal data processed pursuant to the provision of the Services (or where the personal data is otherwise put at risk of unauthorised disclosure or access);

(h) assist HBFIL in ensuring compliance with the obligations pursuant to Articles 32 to 36 of the GDPR having regard to the nature of the processing and the information available to the Consultant;

(i) cooperate as reasonably requested by HBFIL to enable HBFIL to comply with any exercise of rights by a data subject under Chapter III of the GDPR in respect of personal data processed by the Consultant under this letter agreement; and

(j) within ten (10) days of receipt by the Consultant of HBFIL's written request (which shall include a detailed description of HBFIL's reasonable requirements), deliver a written report to HBFIL in sufficient detail that HBFI can reasonably determine whether or not any applicable personal data is being or has been processed in compliance with the Data Protection Legislation and the provisions of this Agreement. In addition, the Consultant shall allow for, and contribute to, audits, in order to audit the Consultant's compliance with the obligations under this Agreement.

(k) Where Personal Data is sent to the Consultant pursuant to Clause 3 of this Agreement and the Consultant is not ultimately selected to perform the Services, the Consultant shall immediately delete all Personal Data received from HBFIL, once informed they have not been selected to perform the Services.

19.2. In the event that the Consultant provides curricula vitae or other Personal Data of its Personnel to HBFIL in the course of tendering for or providing the Services, the Consultant warrants to HBFIL that it has taken all measures required under the Data Protection Legislation to enable HBFIL to retain and use such Personal Data for the purpose of assessing tenders and/or reviewing the performance of the Services.

19.3. To the extent that the Consultant or HBFIL is acting as a "controller" or "data controller" (as defined in Data Protection Legislation) when performing the Services, the parties acknowledge and agree to comply with their respective obligations as controllers as set out in Data Protection Legislation. In the event that the Consultant and HBFIL are deemed to be acting as "joint controllers" in any particular case, the parties agree to liaise with each other, at their own cost, so as to ensure that their respective obligations under Data Protection Legislation are met and, in particular, that any applicable rights of data subjects are complied with within the timeframes provided under Data Protection Legislation.

20. Termination

20.1. Either party may terminate this Agreement without cause at any time by notice in writing to the other party to take effect on the date notified by the terminating party that is at least 30 (thirty) days after the date of the notice.

20.2. HBFIL may terminate any Contract Order without cause at any time by notice in writing to the Consultant to take effect on the date notified by HBFIL in its termination notice.

20.3. HBFIL may, without prejudice to any other right or remedy, terminate this Agreement and/or any Contract Order upon serving written notice to the Consultant to take effect on the day of its service or upon such other date as may be specified in such notice if:

(a) the Consultant fails to perform any element of the Services to HBFIL's satisfaction, or conducts itself or its staff in a manner which HBFIL considers to be incompatible with the performance of the Services;

(b) the Consultant fails to comply with any material obligation of this Agreement and/or any Contract Order;

(c) the Consultant fails to comply with its obligations under this Agreement and/or any Contract Order and has not corrected the relevant failure within ten days or such other period as stated in the notice issued under Clause 11.2 (Performance and Inspection) requiring it to remedy its failure to perform the relevant obligation;

(d) any of the representations and warranties made or deemed to be made by the Consultant are untrue in any respect;

(e) any proprietor or partner comprising the Consultant, being a firm or partnership, becomes bankrupt or makes any composition or arrangement with

a conveyance or assignment for the benefit of its creditors or any application is made under any bankruptcy act to which any proprietor or partner within the Consultant is subject for a sequestration of its estate, or a trustee is appointed by him on behalf of its creditors, or if the Consultant, being a company, enters into voluntary or compulsory liquidation (except for the purposes of reconstruction or amalgamation) or has any receiver or manager or administrative receiver appointed over any of its assets or carries on business under an examiner or administrator;

(a) if the Consultant has conducted itself in a manner tending to bring itself or HBFIL into disrepute;

(b) the Consultant is found guilty by a competent authority of any fraudulent act or criminal activity, or has been grossly negligent in performing its obligations under this Agreement and/or any Contract Order, or any of the grounds set out in Regulation 73 of the European Union (Award of Public Authority Contracts) Regulations 2016 apply.

20.4. On termination of this Agreement and/or any Contract Order by HBFIL for any reason:

(a) the Consultant shall cease performing all Services (except as instructed in writing by HBFIL in the notice terminating the Agreement or, as the case may be, Contract Order);

(b) HBFIL may complete the Services (or part thereof) itself, or employ others to do so, and may use or make available to others its rights to materials prepared by the Consultant;

(c) the Consultant shall be entitled to payment for such Services properly completed in accordance with this Agreement up to the date of termination less any amounts due or payable to HBFIL pursuant to this Agreement or arising from such termination or losses incurred by HBFIL as a result of such termination. Such payments for Services duly performed shall be the only payment to which the Consultant shall be entitled;

(d) in the case of a material breach of this Agreement or any Contract Order by the Consultant, HBFIL may deduct from any amount due or to become due to the Consultant its reasonable estimate of the additional cost HBFIL may incur in obtaining the Services from another party because of the breach or termination;

(e) the provisions of this Clause 20 (Termination) shall be without prejudice to any other rights or remedies which HBFIL may have under this Agreement or at law; and

(f) HBFIL shall not be liable to the Consultant for any losses suffered or incurred by the Consultant arising out of or in connection with the Agreement or any Contract Order for any reason.

20.5. HBFIL may at any time by notice in writing suspend the Services either in whole

or in part with immediate effect. The Consultant shall upon receipt of that notice suspend performing the Services for such time and in such manner as HBFIL shall set out in the notice.

20.6. Unless HBFIL determines the suspension is necessary by reason of the Consultant's default or breach of this Agreement or any Contract Order, the provisions of Clause 20.7 below shall apply.

20.7. If, HBFIL suspends performance of any of the Services, in whole or in part, pursuant to Clause 20.5 and the suspension continues for a period of twelve months, the Consultant may at the end of that period issue a written notice to HBFIL requiring HBFIL to lift the suspension. If HBFIL does not lift the suspension within 30 days of receiving the written notice, the Consultant shall be entitled to terminate the provision of those Services.

21. Additional Services

21.1. HBFIL may from time to time extend the scope or vary the Services, at its sole discretion (such extended or varied Services being "**Additional Services**"). No such extension or variation shall vitiate this Agreement. Additional Services do not include any services necessary, ancillary or incidental to or arising out of the Services. When requested by HBFIL in writing the Consultant shall perform the Additional Services in accordance with the terms and conditions of this Agreement, save as otherwise agreed between the parties.

21.2. This Clause is not, nor shall it be relied upon as a promise or representation as to HBFIL's decision to extend the scope of or vary the Services nor is it a representation of fact or promise as to the future.

21.3. If the Consultant believes it is being requested to perform services that are Additional Services, it must notify HBFIL thereof in writing (the "**Additional Services Request**") before proceeding with such services. The Additional Services Request must include:

(a) the precise nature and scope of the services to be provided;
(b) an estimate of the number of hours to undertake such services;
(c) the identity of the Consultant's personnel to undertake such services; and
(d) the proposed fee for undertaking such services (which may not be based on rates exceeding the Hourly Rates).

21.4. Upon receipt of an Additional Services Request, HBFIL shall notify the Consultant whether HBFIL agrees that such services are Additional Services and set out the basis (including as to fees) upon which HBFIL consents to the provision of the Additional Services.

21.5. The Consultant shall not:

(a) undertake the Additional Services; or
(b) be entitled to any fees in excess of those notified to the Consultant in

accordance with Clause 21.4,without the prior written consent of HBFIL.

22. Force Majeure

22.1. A party affected by Force Majeure (the "**affected party**") shall notify the other party promptly in writing of the nature and extent of the circumstances in question. Both parties shall consult each other and make every reasonable effort to mitigate the effect of such Force Majeure in relation to their obligations under the Agreement and/or any Contract Order.

22.2. Neither party will be liable to the other nor deemed in default under this Agreement or any Contract Order if and to the extent that such party's performance is prevented by reason of Force Majeure.

22.3. The Force Majeure shall be deemed to (i) commence when the party declaring Force Majeure notifies the other party of its existence, and (ii) continue as long as the results or effects of the Force Majeure prevent the party performing its obligations under the Agreement or the Contract Order. If either party is delayed at any time by Force Majeure, then the delayed party shall notify the other party in writing of such delay within 48 hours.

22.4. The affected party shall notify the other party immediately party in writing once the Force Majeure has ended and shall forthwith resume performing its obligations.

22.5. If a Force Majeure continues for more than six months, such that the performance of Services becomes impossible, either party may terminate the Consultant's appointment by giving notice in writing to the other party. Such termination shall be without prejudice to either party's accrued rights at the date of termination.

22.6. Notwithstanding any other provisions pertaining to the performance of Services, the affected party shall be deemed not to be in breach of this Agreement or any Contract Order or otherwise liable to the other party for any delay in performing or not performing its obligations as a result of a Force Majeure, and provided the affected party has notified the other party in accordance with Clause 22.1, the time for performing the affected obligation shall be extended appropriately.

23. Waiver

No right or remedy given to HBFIL under or pursuant to any provision of this Agreement will, whether or not exercised and notwithstanding any additional waiver, preclude the exercise by HBFIL of any other right or remedy hereunder, nor will it preclude the exercise by HBFIL of any right or remedy to which it might be otherwise entitled under common law or under statute. No waiver shall be valid unless notified to the Consultant in writing and signed by an authorised representative of HBFIL.

24. Variations

A variation of this Agreement is valid only if it is in writing and signed by

an authorised representative of each party.

25. Severance

Each of the provisions of this Agreement is severable and distinct from the others and if, at any time, one or more of such provisions becomes invalid, illegal or unenforceable, the validity and legality or enforceability of the remaining provisions will not in any way be affected or impaired thereby.

26. Non-Exclusivity

26.1. The Consultant acknowledges that subject to the terms and conditions of this Agreement it has been appointed to the Framework and that the Consultant constitutes a member of that Framework.

26.2. For the purposes of this Agreement, HBFIL may, at all times, enter into separate contracts for the provision of any or all services the same as or similar to the Services with persons other than the Consultant.

26.3. No guarantee or representation will be deemed to have been made by HBFIL in respect of the value or quantity of the Services which may be requested by HBFIL. The Consultant acknowledges and agrees that it has not entered into this Agreement on the basis of any such guarantee or representation.

26.4. Nothing in this Agreement will create an exclusive relationship between HBFIL and the Consultant for the provision of the Services.

26.5 The Services shall be provided by the Consultant subject to and in accordance with this Agreement and all standards, regulations and laws which apply to the Consultant and the Services. Any Services performed prior to the date of this Agreement shall be governed by the terms of this Agreement.

26.6 For the avoidance of doubt, the Consultant shall at all times be an independent contractor and nothing in this Agreement shall be construed as constituting a partnership, joint venture, agency or relationship of employer and employee between HBFIL and the Consultant or any of its staff, and the Service Provider shall not (and shall procure that no member of its staff shall) hold itself out as having any such relationship with HBFIL.

27. Registrable Interest

Any Registrable Interest involving the Consultant or any of its subcontractors and HBFIL, members of the Government, members of the Oireachtas, or employees and officers of HBFIL and their Relatives must be fully communicated to HBFIL immediately upon such information becoming known to the Consultant or subcontractor. The terms "Registrable Interest" and "Relative" shall be interpreted in accordance with Section 2 of the Ethics in Public Office Acts 1995 and 2001. HBFIL will, at its absolute discretion, decide on the appropriate course of action, which may in appropriate circumstances include terminating this Agreement

and/or any other contract entered into with the Consultant.

28. Notices

28.1. Unless otherwise specified, any notice given by HBFIL to the Consultant under this Agreement or a Contract Order may be given by sending the notice by hand or by registered post addressed to the Consultant at the following address (or to such other address as the Consultant may notify to HBFIL from time to time):

Postal Address	**Email Address**	**Attention:**

28.2. Any notice to be given by the Consultant to HBFIL may be given by sending the notice by hand or by registered post addressed to HBFIL at the following address (or to such other address as HBFIL may notify to the Consultant from time to time):

Postal Address	**Email Address**	**Attention:**
Home Building Finance Ireland (Lending) DAC, Treasury Dock, North Wall Quay, Dublin 1, D01 A9T8	info@hbfi.ie	Head of Risk (or delegated representative)

28.3. Notice by registered post or by hand shall be deemed to have been delivered on the day of delivery.

29. Counterparts

This Agreement and any Contract Order may be executed in any number of counterparts, each of which when executed shall be deemed to be an original and all of the counterparts together shall constitute one and the same agreement.

30. Governing Law & Jurisdiction

This Agreement and any Contract Order will be governed by and construed in accordance with the laws of Ireland. Each of the parties hereto submits to the exclusive jurisdiction of the Courts of Ireland.

IN WITNESS of which this document has been executed on the date which appears on page 1 above.

Signed for and on behalf of
Home Building Finance Ireland (Lending) DAC

_____

Authorised Signatory

_____

Authorised Signatory

Signed for and on behalf of Consultant

_____

Authorised Signatory

Schedule A

The Services

The Services required by HBFI(L) shall include but may not be limited to the following and shall include all other services that are reasonably ancillary and incidental thereto.

[description from Schedule 4 of the RFT to be included prior to execution]

[the Consultant's Tender response document to be included prior to execution]

Schedule B

Contract Order for Services

Home Building Finance Ireland (Lending) DAC

To [Consultant]

Re: [Services Reference] (the **"Services") Contract Order for Services**

Date: ……

1. Home Building Finance Ireland ("**HBFI(L)**") accepts the Tender submitted by you on……202[●] (the "**Tender**") to perform the Services [as set out in the Request for Tender issued by HBFI(L) on ……202 [●]] on the following basis:

1.1 The Services to be performed by the Consultant pursuant to this Contract are as follows:

[description of Services to be included]

1.2 unless and except to the extent that this Contract Order expressly states otherwise, the terms and conditions of the framework agreement entered into between HBFI(L) and you on [ ] 202[ ] (the "**Framework Agreement**") shall be read as a whole and deemed to form and be read and constructed as part of this Contract Order for Services (together the "**Contract**"). The terms and conditions of this Contract Order for Services shall prevail in the event of a conflict with or ambiguity in the terms and conditions of the Framework Agreement.

1.3 the following terms and conditions shall apply:

SPECIAL CONDITIONS [to be inserted on case by case basis]	
Objective(s)	**[insert details]**
Time for Performance	**[insert details]**
Team	**[insert details]**
Fees & Payment Schedule	**[insert details]**
Others	**[insert details]**

You are hereby appointed to perform the Services on the basis of the foregoing conditions [for the agreed fixed fee of €…… ("**Fee**")] / [and the hourly rates set out in Schedule C of the Framework Agreement].

2. In consideration of the payments to be made by HBFI(L) to the Consultant, the Consultant hereby covenants with HBFI(L) to perform and complete the Services in accordance with the provisions of this Contract.

For and on behalf of **Home Building Finance Ireland (Lending) DAC**	**For and on behalf of** **Consultant**

Schedule C

Hourly Rates

Personnel Category	**Hourly Rate**
Partner/ Director or equivalent.	€
Associate / Senior Quantity Surveyor or equivalent.	€
Project/ Quantity Surveyor or equivalent.	€

Schedule D

Proposed Team

	Name	Position and Personnel Category for purposes of Schedule C
1		
2		
3		
4		
5…		