Virtual Data Room Access Terms and Conditions and Confidentiality Undertaking

Access to the Virtual Data Room is on the basis that you agree to the following Terms and Conditions:

i. Terms and Conditions;

ii. Confidentiality Undertaking;

iii. Privacy Statement; and

iv. Cookies Policy.

Please review these documents below.

Limerick City & County Council

Virtual Data Room

Terms and Conditions

Welcome to the electronic VDR (the "Virtual Data Room" or “VDR”)) established by Limerick City & County Council(“LCCC”). The purpose of establishing the VDR is to provide electronic access to certain information in relation to the procurement by LCCC of Foynes to Limerick Road (Including Adare Bypass) Croagh to Rathkeale Design and Construction Contract (the "Contract").

Your access to the VDR is subject to the following terms and conditions (the "Terms and Conditions"):

1. By completing the registration process, you agree to the following:

   (a) you must not supply false or misleading information when completing registration;

   (b) if your details change after registration, you are obliged to notify LCCC by email to the following e-mail address: procurement@midwestroads.ie, and LCCC is not responsible for any miscommunication, or loss or damage if you do not keep your contact details current;

   (c) if your registration is accepted, you will be granted access to the SharePoint site (the "VDR"). Access to the VDR is personal to you and must not be shared with any other person or used to permit any other person to access the VDR. Neither LCCC nor its Representatives (as defined below) accept any liability for losses or damages arising from any unauthorised sharing of, or access to, the VDR by you;

   (d) you will immediately notify LCCC if you become aware of, or have reason to believe, that your access to the VDR has been compromised, misused, or accessed by any unauthorised person

(e) By granting you access to the VDR, LCCC grants you a non-exclusive, non-transferable right to access and use the VDR solely for the purpose of obtaining information relating to the Contract. All rights not expressly granted to you are reserved by LCCC and its affiliates, officers, directors, employees, agents, legal counsel, accountants, financial advisors, consultants, service providers and other representatives (the "Representatives").

2. All documents and other information contained in the VDR (the "Information") constitute the confidential information of LCCC or its Representatives. You agree to maintain the Information in the strictest of confidence and that the Information shall only be used as strictly required for the purposes of the Contract. You agree that you shall make every effort to prevent the unauthorised use or disclosure of the Information. You further agree that the Information is subject to the confidentiality obligations of the confidentiality agreement between the entity (the "Tenderer") on whose behalf you are accessing the VDR (whether as employee, agent service provider or advisor) and LCCC (the "Confidentiality Undertaking"). You acknowledge that you have been made aware by the Tenderer of the Confidentiality Undertaking and agree to abide by its terms as if you were a party thereto.

3. You acknowledge and agree that:

(a) you shall not seek to or otherwise hold LCCC or any of its Representatives liable based on the Information or the VDR, errors therein or omissions therefrom, whether or not LCCC or any of its Representatives knew or should have known of any such errors or omissions, or was responsible for or participated in its inclusion in or omission from the Information or the VDR;

(b) (i) none of LCCC or any of its Representatives makes any representation or warranty, express or implied, as to the accuracy or completeness of the Information or the VDR or the information made available in connection with any further investigation of the Contract, including estimates or forecasts, (ii) none of LCCC or any of its Representatives shall have any liability for any losses or damages of any nature whatsoever (whether foreseeable or not) suffered or incurred by any person or entity as a result of any representations or warranties, express or implied, contained in, or omitted from, the Information or the VDR or any other written or oral communications transmitted to you or any other person or entity in the course of your evaluation of the Contract, (iii) whilst every effort is made to keep viruses and similar malicious software or code out of the VDR, none of LCCC or any of its Representatives accept any liability for any damage done by such elements, and (iv) only those representations and warranties contained in a definitive agreement in relation to the Contract, when and if executed, shall have any legal effect;

(c) you shall not attempt to download, scan, copy, print or otherwise capture any of the Information save that you may view, print or download Information for which the view, print or download capability has been enabled as indicated by the VDR index;

(d) you shall not attempt to circumvent any of the security features in the VDR; and

(e) any proposed actions by you that are inconsistent in any manner with the foregoing will require the prior written consent of LCCC.

4. Whilst accessing the VDR, you must:

(a) take all reasonable steps to ensure that none of the Information is visible to, or capable of being viewed by, unauthorised persons;

(b) not leave your computer or other communications device through which you access the VDR unattended whilst logged into the VDR;

(c) not deface, mark, alter, modify, vary (including varying the sequence of), damage or destroy in any way any Information contained in the VDR; and

(d) not do anything which may compromise in any way the stability or security of the VDR.

5. If and to the extent that the VDR contains personal data (within the meaning of the General Data Protection Regulation (Regulation (EU) 2016/679)) you agree that you shall not transfer any such personal data to any location based outside of the European Economic Area ("EEA") and that you shall not access any such personal data from any location outside of the EEA.

6. You do not have any right to reverse engineer, disassemble, decompile, unlock, recreate, copy, license, sublicense, create derivative software from, sell, rent, lease, loan, distribute, transfer or otherwise deal with any of LCCC's technology and you must not assist any third party to do any of the foregoing.

7. LCCC and its Representatives do not guarantee that access to the VDR will be available at any or all times or that the VDR will meet any minimum performance or security standards, and none of LCCC or its Representatives shall be liable or responsible in any way or for any reason for any loss or damage of any nature whatsoever (whether foreseeable or not) as a direct or indirect consequence thereof. You may experience difficulties accessing or using the VDR. LCCC and its Representatives do not accept any responsibility for any loss, disruption or damage to your computer systems that may occur while accessing any Information.

8. LCCC reserves the right to amend or replace the Information and to add or delete Information to or from the VDR at any time, but undertakes no obligation to (i) amend, replace, add or delete Information or (ii) provide you with access to any of such amended, replaced, added or deleted Information. If additional Information is added to the VDR, LCCC and/or its Representatives may (but are not obligated to) publish an alert listing the additional Information in the VDR. LCCC reserves the right not to notify you when additional Information is published in the VDR. It is your responsibility to keep yourself informed of any additional Information placed in the VDR. Notwithstanding the foregoing, neither LCCC nor any of its Representatives assumes any responsibility to update or revise the Information or to inform you of any matters of which any of them becomes aware that may affect the Information (including, but not limited to, circumstances, developments or events occurring after the date hereof or any error or omission herein that may become apparent after the Information has been uploaded to the VDR).

9. LCCC reserves the right not to proceed with the Contract or any part of it and may terminate the Contract at any time. LCCC further reserves the right to amend these Terms and Conditions or to suspend or terminate the right of access of any person to the VDR at any time and from time to time without notice.

10. The Information may include certain statements, estimates, targets and projections that reflect LCCC's assumptions concerning the Contract. You are cautioned that any such statements, estimates, targets and projections are not guarantees, promises, or representations or warranties of future performance and involve risks and uncertainties (many of which are beyond LCCC's control), and that such statements, estimates, targets and projections are based on

significant assumptions and subjective judgments concerning anticipated results. These assumptions and judgments may or may not prove to be correct and there can be no assurance that any projected results are attainable or will be realized. There will usually be differences between estimated and actual results, because events and circumstances frequently do not occur as expected, and those differences may be material.

11. In circumstances where the Tenderer on whose behalf you are accessing the VDR does not proceed with, or is not successful in winning the contract for, the Contract, or where you receive a written request from LCCC (or any of its Representatives) you agree that you shall promptly delete or destroy: (a) all documents or other materials constituting the Information which you have downloaded, printed or otherwise obtained through the VDR; (b) all copies of such Information in your possession or control; and (c) any notes, extracts, analyses or compilations of any nature in any form or method which contain, reflect or are derived from such Information, and shall, if requested, provide satisfactory evidence of such deletion/destruction to LCCC.

12. If any provision of these Terms and Conditions is determined by any competent authority to be invalid, unlawful or unenforceable to any extent, such term, condition or provision will to that extent be severed from the remaining terms, conditions and provisions which will continue to be valid to the fullest extent permitted by law.

13. In the event that any party to these Terms and Conditions fails to exercise any right or remedy contained herein, this shall not be construed as a waiver of that right or remedy.

14. All notices/communications shall be given by e-mail to procurement@midwestroads.ie. Such notice shall be deemed received 3 days after the email is received in full on a business day and on the next business day if the email is sent on a weekend or public holiday.

15. These Terms and Conditions and the relationship between you and LCCC shall be governed and construed in accordance with the laws of Ireland. LCCC and you agree to submit to the exclusive jurisdiction of the Irish courts for the resolution of any disputes hereunder.

16. Questions about the Information or otherwise related to the VDR should be submitted by e-mail to procurement@midwestroads.ie.

By completing the registration process, you certify that you are a "Relevant Person" (as defined in the Confidentiality Undertaking) and that you have read, understand, acknowledge, accept and agree to these Terms and Conditions.

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Please note that this Confidentiality Undertaking has been executed by the entity on whose behalf you are accessing the VDR (the "Tenderer").

You acknowledge that you have been made aware by the Tenderer of the Confidentiality Undertaking and agree to abide by its terms as if you were a party thereto.

Limerick City & County Council

Confidentiality Undertaking

Limerick City & County Council (LCCC) – Procurement of Foynes to Limerick Road (Including Adare Bypass) Croagh to Rathkeale Design and Construction Contract (the "Project")

The purpose of this undertaking is to confirm the terms and conditions under which Limerick City & County Council("LCCC") will disclose information relating to the Project to the Tenderer.

In consideration of the disclosure by LCCC of the Confidential Information as defined below, the Tenderer hereby irrevocably undertakes and agrees with LCCC as follows:

1. This undertaking is binding upon the Tenderer, each member of the Tenderer, and all of its and their respective associated companies and their respective officers, employees, servants, agents, funders, professional advisors and subcontractors, if any (together "Relevant Persons"). The Tenderer shall procure that all Relevant Persons are given notice of the terms of this undertaking and shall be required to comply with the same. The Tenderer shall, if requested by LCCC, promptly provide to LCCC undertakings in substantially the same form as this undertaking in favour of LCCC from all Relevant Persons to whom Confidential Information is to be disclosed.

2. This undertaking extends to all information of whatsoever nature and in whatsoever form relating to the Project obtained from any source including, without limitation, information received from LCCC or its officers, directors, employees, agents, consultants, service providers, advisers and other representatives (the "Representatives") and information obtained as a result of being allowed in or onto any premises or site where LCCC or any person relevant to the Project (including the incumbent service provider) may transact business, including but not limited to the information contained in any invitation to tender documentation, in any data room and/or made available in the course of any tender process, submission/tender evaluation, negotiations, meetings, discussions or otherwise ("Confidential Information") but does not extend to information which:

   (a) at the time of supply is in the public domain; or

   (b) subsequently comes into the public domain, except through breach of the undertakings set out in this undertaking; or

   (c) is required to be disclosed by law, regulation or any governmental or competent regulatory authority, provided that LCCC has been consulted prior to any disclosure regarding the proposed form, timing, nature and purpose of such disclosure.

3. The Tenderer shall treat all Confidential Information as being strictly private and confidential and shall take all steps necessary to prevent it from being disclosed to the public or any third party by any Relevant Person or coming by any means into the possession of any third party.

4. The Tenderer shall use the Confidential Information solely for the purpose of tendering for the Project or to perform any obligations which the Tenderer may undertake or has undertaken with LCCC relating to the Project and neither the Tenderer nor any Relevant Person shall use any of the Confidential Information for any other purpose whatsoever.

5. Subject to paragraph 6 below, the Tenderer shall not use or disclose or permit the disclosure by any person of any of the Confidential Information for the benefit of any third party. In particular, the Tenderer undertakes that it shall not communicate or in any way disclose, either directly or indirectly, any Confidential Information whatsoever in relation to any submission or tender (or any part thereof), or the preparation of any submission or tender (or any part thereof), to any other party or Tenderer (or their consultants, representatives, funders, contractors, agents, advisers or employees or to any person who at any time fell within such categories in connection with the Project) to whom any of the Project documents or any submission or tender documentation in relation to the Project has been or will be issued to, or to any person who may have any communication whatsoever with any of the Tenderers and/or their employees, contractors and advisors in respect of the Project, without the prior knowledge and approval of LCCC.

6. The Confidential Information and its circulation shall be restricted to circulation and disclosure to individuals whose access to such Confidential Information is strictly necessary for the purpose set out in paragraph 4 of this undertaking.

7. The Tenderer shall keep all materials containing Confidential Information in a secure place and return them to LCCC upon request or shall, if required by LCCC, destroy such materials and provide satisfactory evidence of the destruction to LCCC, and no copies thereof will be retained by the Tenderer or its consultants, representatives, contractors, agents or any of their respective advisers or employees.

8. The Tenderer may not publicise any information or make any announcement regarding the Project, including without limitation, nomination of Tenderers (including details of their members, advisers and consultants), details of the shortlisted or preferred Tenderers or of contract award, without the prior written consent of LCCC.

9. For the avoidance of doubt, the intellectual property including copyright in all designs, plans, drawings, specifications, calculations, documentation or Confidential Information issued by or on behalf of LCCC remains, as between the Tenderers and LCCC, within the ownership of LCCC. Neither the Tenderer nor any Relevant Person will use, reproduce, modify, adapt or make use of Confidential Information save as may be permitted by the provisions of this undertaking.

10. The Tenderer acknowledges that the supply of the Confidential Information to it will not constitute an offer by LCCC or on its behalf, nor the basis of any contract, nor a representation which may be relied upon by the Tenderer. The Tenderer further expressly acknowledges and confirms that neither LCCC nor any of its Representatives, make any representation, warranty or commitment whatsoever, whether express or implied, with respect to the quality, accuracy, reliability or completeness of the Confidential Information or as to the reasonableness of any assumption contained in the Confidential Information or on which the Confidential Information is based. Neither LCCC nor any of its Representatives shall be liable to the Tenderer or any Relevant Person in respect of any of the Confidential Information, its use, or for the consequences of any reliance on any statement made or contained in, or any omission from, the Confidential Information or in respect of any other oral or written communication transmitted or made available to the Tenderer or any of its representatives, agents, employees, directors, officers, contractors or advisors in connection with the Project.

11. The Tenderer agrees that unless and until a definitive contract between LCCC and the Tenderer with respect to the Project has been executed and delivered, neither LCCC nor the Tenderer will be under any legal obligation of any kind whatsoever with respect to the Project by virtue of this or any written or oral expression by any of LCCC's or the Tenderer's directors, officers, employees, agents or any other representatives or advisers except, in the case of this undertaking, for the matters specifically agreed to herein.

12. Without affecting any other rights or remedies that they may have, the Tenderer acknowledges that any person with rights under this undertaking may be irreparably harmed by any breach of its terms and that damages alone may not necessarily be an adequate remedy. Accordingly, a person bringing a claim under this undertaking will be entitled to seek the remedies of injunction, specific performance and other equitable relief, or any combination of these remedies, for any threatened or actual breach of its terms, and no proof of special damages will be necessary to enforce this undertaking.

13. No failure or delay by LCCC in exercising any right or power or privilege available to LCCC shall be deemed to be a waiver nor shall any single or partial exercise of any such right or power or privilege preclude any further exercise or the exercise of any such rights or power or privilege.

14. The Tenderer undertakes to indemnify and keep LCCC at all times fully indemnified from and against any loss, actions, proceedings, claims, demands, costs, (including, without prejudice to the generality of this provision, legal costs of LCCC), awards and damages howsoever arising directly or indirectly as a result of any breach or non-performance by the Tenderer or any Relevant Persons of any of the Tenderer's undertakings or obligations under this undertaking.

15. Where LCCC has reasonable cause to suspect a material breach of this undertaking, the Tenderer acknowledges the right of LCCC to suspend it from participating further in the competition for the contract for the Project until the matter has been resolved to the reasonable satisfaction of LCCC. LCCC will not be liable for any damages, costs, expenses or otherwise in such circumstances, provided it has acted reasonably, without delay and in good faith. Where the matter is not resolved to LCCC's satisfaction as provided in this undertaking, the Tenderer acknowledges the right of LCCC to disqualify it from further participation in the competition for the contract for the Project.

16. If any provision of this undertaking is held to be invalid or unenforceable, that provision shall (so far as it is invalid or unenforceable) be given no effect and shall be deemed not to be included in this undertaking, but without invalidating any of the remaining provisions.

17. This undertaking may be executed in any number of counterparts and by the different parties to this undertaking on separate counterparts, each of which, when executed and delivered, shall constitute an original, but all the counterparts shall together constitute but one and the same instrument.

18. This undertaking may be executed electronically. Transmission of an executed counterpart of this undertaking (but not just a signature page) by email (in PDF, JPEG or other agreed format) shall take effect as delivery of an executed counterpart of this undertaking.

19. This undertaking and the relationship between the parties shall be governed by, and construed in accordance with, Irish law. The parties hereby agree to submit to the exclusive jurisdiction of the Irish courts for the resolution of any disputes hereunder.

Yours faithfully

Name: Gerard Carey

Title: Project Co Ordinator

For and on behalf of: Limerick City & County Council

We accept and agree to the above terms and conditions:

Authorised signatory		Tenderer
.....	*For and on behalf of*	.....
Individual Accessing VDR		Name
.....		.....

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Privacy Statement

Limerick City & County Council

Virtual Data Room Website

This statement relates to the privacy practices of Limerick City & County Council**("LCCC"**, "**we**" or "**us**") in connection with this electronic Virtual Data Room website. LCCC is not responsible for the content or privacy practices of other websites.

General Statement

LCCC fully respects your right to privacy. Any personal data which you provide to LCCC will be treated strictly in accordance with applicable data protection laws including the General Data Protection Regulation and the Data Protection Act 2018.

LCCC is the controller in respect of this data and its main address is Mid-West National Road Design Office, Lissanalta House, Dooradoyle, Limerick,V94 HSRR, Ireland.

Collection and use of personal information

LCCC does not collect any personally identifying information about you when you visit this website unless you choose to provide that information to us.

In order to access and receive login details for the data room, you will be required to provide certain details such as your name, company name, business email address, company address and telephone number ("**Identity Data**").

You may choose to provide us with personal data (e.g. name, e-mail) in an e-mail message to the address listed on our site ("**E-mail Data**").

Legal Bases

The personal data described above is used by us and by third party service providers acting on our behalf. The legal bases on which we collect, process and transfer your personal data are:

a. where such processing is necessary for us to carry out our tasks in the public interest and in the exercise of official authority vested in us ("**Public Interest/Official Authority"**); and/or
b. where such processing is necessary to comply with our legal and regulatory obligations ("**Legal Obligation**"); and/or
c. in certain limited circumstances your consent ("**Consent**"),where this is the case you will be asked to give a positive indication of that consent.

Purposes of processing activities and associated legal bases

We process your personal data in order to:

Purpose	Categories of personal data	Legal basis
Administer your access to and use of this electronic virtual data room	Identity Data	Public Interest/Official Authority, pursuant to Part V of the Roads Act 1993 (as

		amended) Consent
Respond to queries which you may raise	Identity Data E-mail Data	Public Interest/Official Authority, pursuant to section 59 of the Roads Act 1993 (as amended) Consent
Comply with LCCC's statutory obligations	Identity Data E-mail Data	Legal Obligations under Part V of the Roads Act 1993 (as amended)
Carry out the procurement process in relation to Foynes to Limerick Road (Including Adare Bypass) Croagh to Rathkeale Design & Construction Contract.	Identity Data E-mail Data	Legal Obligations under Part V of the Roads Act 1993 (as amended) Public Interest/Official Authority, pursuant to section 59 of the Roads Act 1993 (as amended)

Recipients of Personal Data

We may share any of your personal data detailed above with other organisations in connection with the above purposes. In particular, we may share personal data with our agents, contractors and service providers who assist us with the operation of this virtual data room or the procurement process in relation to Foynes to Limerick Road (Including Adare Bypass) Croagh to Rathkeale Design and Construction Contract.

Necessity of provision of certain information and consequences

You are under no legal obligation to provide LCCC with any personal data. However, if you do not provide us with the information requested when you seek to access the virtual data room, then you will not be able to register with us and receive login details. In such circumstances, you will not be in a position to access the virtual data room.

Cookies

This website uses cookies. For more information on the cookies used, and on how to disable such cookies, see our Cookies Policy.

Security

For website security purposes and to ensure that this website remains available to all users, our computer system employs software programs to monitor network traffic in order to identify unauthorised attempts to upload or change information or otherwise cause damage. Unauthorised attempts to upload information or change information on this website are strictly prohibited and may be punishable by law.

Your personal data which you provide to us will be held on secure servers. The nature of the internet is

such that we cannot guarantee the security of any information you transmit to us online. However, we take all reasonable steps (including appropriate technical and organisational security measures) to protect your personal data.

Your Rights

You have the following rights, in certain circumstances and subject to certain restrictions, in relation to your personal data:

- **Right to access your personal data** – You have the right to request a copy of the personal data that we hold about you, together with other information about our processing of that personal data.
- **Right rectification** – You have the right to request that any inaccurate data that is held about you is corrected, or if we have incomplete information, you may request that we update the information such that it is complete.
- **Right to erasure** – You have the right to request us to delete personal data that we hold about you. This is sometimes referred to as the right to be forgotten.
- **Right to restriction of processing or to object to processing** – You have the right to request that we no longer process your personal data for particular purposes or to object to our processing of your personal data for particular purposes.
- **Right to data portability** – You have the right to request us to provide you, or a third party, with a copy of your personal data in a structured, machine readable format.
- **Right to withdraw** consent - Where our processing of your personal data is based on you having provided consent, the right to withdraw your consent to the processing at any time.

Please note that these rights are not absolute and are subject to certain restrictions and exemptions. For example, the right to erasure of personal data will not apply where we have a legitimate reason to continue to hold such data and we may continue to process your personal data, despite an objection by you, where we have compelling legitimate grounds for the processing which override your interests, rights and freedoms.

In order to exercise any of the rights set out above, please contact our Data Protection Officer using the contact details set out below.

Retention

Generally, we will only retain your personal data for as long as necessary to fulfil the purposes for which we collect it, including for the purposes of satisfying any legal, accounting, or reporting requirements. The retention periods differ depending on the type of categories of personal data held.

To determine the appropriate retention period for personal data, we consider the purposes for which we process your personal data and whether we can achieve those purposes through other means, and the applicable legal requirements. We also consider the amount, nature and sensitivity of the personal data, including the potential risk of harm from unauthorised use or disclosure of personal data. Further specific information on our retention practices in relation to the processing activities discussed above is available from our Data Protection Officer, using the contact details indicated below.

Changes to this Privacy Statement

From time to time we may decide to change our privacy statement, but any changes will be posted on

this page to keep you up to date on how we collect, use and disclose information. If at any time we decide to use personal data in a manner significantly different from that stated in this privacy statement, or otherwise disclosed to you at the time it was collected, we will notify you, and you will have the choice as to whether or not we use your information in the new manner.

Complaints

If you have any questions about our use of your personal data, please contact us using the contact portal on www.etenders.gov.ie.

Further information about data protection can be found on the Data Protection Commission's website: http://www.dataprotection.ie/.

You also have the right to lodge a complaint with the Irish Data Protection Commission if you are not happy with the way we have used your information or addressed your rights. Details of how to lodge a complaint can be found at - (https://dataprotection.ie/en/contact/how-contact-us) or you can call the Data Protection Commission at +353 1 765 0100/1800 437 737.

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Limerick City & County Council

Procurement of Foynes to Limerick Road (Including Adare Bypass) Croagh to Rathkeale Design & Construction Contract
Virtual Data Room Website

Cookies Policy

What are cookies?

Cookies are small data files placed on your computer or internet enabled device by websites in order to add functionality. A cookie can be used to identify a user's computer or internet enabled device to the website, or to other third party websites.

Why do we use cookies?

Cookies help us to operate this virtual data room website and in particular to implement the authentication system that allows you to log-in to the website.

What types of cookies are used on this site and for what purpose?

We only set strictly necessary cookies on this website. These are cookies which are used solely to make the website available and for authentication purposes. They allow you to access the website, to move between pages and to receive services which you have requested.

End of document.