Schedule Note: This document is an indication of the form of agreement which the contracting authority/entity intends to conclude with the successful economic operator arising from this competitive process. Economic Operators are not required to submit a signed copy of these terms as part of their tender but should indicate any objections which they may have to these terms in the body of their tender.

DATED _____

(1) ENTERPRISE IRELAND

AND

(2) [OPERATOR NAME]

FRAMEWORK AGREEMENT WITH MULTIPLE OPERATORS FOR THE PROVISION OF SUPPLIES/SERVICES

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Subject to contract / contract denied

THIS FRAMEWORK AGREEMENT is made on [e.g. 1 January 2027]

BETWEEN:-

(1) [**CLIENT NAME**], having its offices at [address] (the "**Client**" which expression includes its successors and permitted assigns and any body to whom its functions are transferred under Applicable Law) of the one part; and

(2) [**OPERATOR NAME**], a company established under [ ] law with company registration number [insert] and its registered address at [insert] (hereinafter referred to as the "**Operator**" which expression includes its successors and permitted assigns) of the other part,

RECITALS

(A) Notice and Award Procedure

The Client has conducted a tender competition in accordance with Directive 2014/24/EU all applicable procurement rules for the establishment of a framework agreement (within the meaning of the aforesaid directive) with multiple operators for [title of framework agreement as indicated in the published contract notice]. The tender competition under the [xxx] procedure was advertised in the Official Journal of the European Union on [e.g. 1 January 2014] with a reference number of [e.g. 2013/S 123-456789] [OR on the eTenders website on [e.g. 1 January 2014] (the 'Contract Notice').

(B) Appointment

Following evaluation of tenders received in accordance with the Invitation to Tender, the Client wishes to appoint the Operator to this Framework Agreement as one of several framework operators to provide Services/Supplies, if instructed to do so from time to time by the Client/a Framework Purchaser, subject to and in accordance with the terms and conditions of this Framework Agreement.

(C) Framework Members

The operators appointed to the Framework Agreement are [include the Operator in this Agreement…] (the '**Framework Members**').

(D) Framework Purchasers

In accordance with the Contract Notice, the Client will enter into this Framework Agreement for its own benefit and as a trustee for the benefit of the Framework Purchasers defined in Sub-Clause 1(1).

(E) Purpose

This Framework Agreement sets out, amongst others, the award procedure for Services which may be required by the Client/a Framework Purchaser, the main terms and conditions for any Call-Off Contract, and the obligations of the Operator during and after the Framework Period.

NOW IT IS HEREBY AGREED as follows:-

1. Definitions and Interpretation

1.1 In this Framework Agreement the following terms have the meaning given to them below:

"Applicable Law" means any law applicable in the State and includes without limitation, common law, statute, statutory instrument, proclamation, bye-law, directive, decision, regulation, rule, order, notice, code of practice, code of conduct, rule of court, instruments, or delegated or subordinate legislation;

"Call-Off Contract" means the legally binding agreement (made pursuant to the scope and provisions of this Framework Agreement) for the provision of Services between the Client/a

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Framework Purchaser and a Framework Member for which that Framework Member has submitted, and the Client/the Framework Purchaser has accepted, a Tender or Mini-Tender. This term includes references to an Initial Contract in the Invitation to Tender;

"Call-Off Contract Terms and Conditions" means the general terms and conditions which will apply to any Call-Off Contract and which are set out at Schedule 11, including any future amendment thereto or redraft thereof;

"Call-Off Order" means the document set out in Schedule 6 (including any future amendment thereto or redraft thereof) issued by the Client/a Framework Purchaser to a Framework Member in accordance with the procedure set out in Sub-Clause 6(6) instructing that Framework Member to provide Services/Supplies;

"Commencement Date" means [e.g. 1 January 2027];

"Conflict of Interest" means any actual or potential conflict of interest (including any relationship, filial or otherwise, or any interest, whether arising through personal, company or professional association, or current or prospective contractual obligations) which the Operator or any of its Personnel may have including, without prejudice to the generality of the foregoing, any actual or potential conflict relating to any aspects of (i) this Framework Agreement; (ii) the Services, (iii) a Call-Off Contract, (iv) the Client/a Framework Purchaser, (v) a Framework Member, (vi) any stakeholders or other parties having an interest in [the X Project], and/or (vii) any economic operator or tenderer in any way connected with the [the X Project] or any the Supplies/Services.

"CPI Index" means the Consumer Price Index as published by the Central Statistics Office in Ireland;

"Directive 2004/18/EC" means Directive 2004/18/EC of the European Parliament and of the Council of 31 March 2004 on the coordination of procedures for the award of public works contracts, public supply contracts and public service contracts [2004] OJ L134/114;

"EU Threshold" means the financial threshold (as amended from time to time by the European Commission) for the application of Directive 2004/18/EC / 2004/17/EC

"Framework Agreement" means this Agreement, including the Recitals to, and Schedules of, this Agreement;

"Framework Period" means the period set out in Sub-Clause 4(1);

"Framework Purchasers" means the Client and [xxx].

"Invitation to Tender" means the document issued by the Client on [e.g. 1 January 2027], together with any clarifications, additions or amendments issued by the Client, as evidenced in Schedule 13;

"Mini-Tender" means the written submission by a Framework Member in response to a Request for Mini-Tender; and
"Party" means the Client and/or the Operator;

"Personnel" means all persons employed by the Operator together with the Operator's servants, agents and suppliers of any tier used in the performance of its obligations under this Framework Agreement or a Call-Off Contract;

"Request for Mini-Tender" means the document set out in Schedule 7 (including any future amendment thereto or redraft thereof) issued by the Client/a Framework Purchaser to a Framework Member in accordance with the procedure set out in Sub-Clause 6(7) requesting a Mini-Tender from that Framework Member for the provision of Services/Supplies; and

"Services" means any of the services falling within the scope set out in Sub-Clause 5(1);

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"Supplies" means any of the supplies falling within the scope set out in Sub-Clause 5(1);

"Sub-Consultant/Contractor" means the legal person identified in Schedule 10 or any authorised replacement in accordance with Sub-Clause 8(5)(2); and

"Sub-Consultant/Contractor Collateral Warranty" means the warranty which the Client/ Framework Purchaser may require the Operator to procure from its Sub-Consultant/Contractor in accordance with Sub-Clause 8(5)(5) and which is set out in Schedule 12, including any future amendment thereto or redraft thereof; and

"Tender" means the submission by the Operator in response to the Invitation to Tender, together with any clarifications, additions or amendments accepted by the Client, as evidenced in Schedule 14.

1.2 In this Framework Agreement, unless where otherwise specified:

1.2.1 headings are included for ease of reference only and shall not affect the construction of this Framework Agreement;

1.2.2 references in this Framework Agreement to any Clause or Sub-Clause or Schedule without further designation shall be construed as a reference to the Clause or Sub-Clause or Schedule to this Framework Agreement so numbered;

1.2.3 unless the context requires otherwise, the masculine gender includes the feminine and neuter and the singular number includes the plural and vice versa;

1.2.4 references to any person shall include natural persons and partnerships, firms and other incorporated bodies and all other legal persons of whatever kind and however constituted and their successors and permitted assigns or transferees;

1.2.5 references to any statute, enactment, order, regulation or other legislative instrument shall be construed as a reference to the statute, enactment, order, regulation or instrument as amended, unless specifically indicated otherwise;

1.2.6 references to a day mean a calendar day;

1.2.7 references to a month mean a calendar month;

1.2.8 any phrase introduced by the terms "including", "include", "in particular" or any similar expression shall be construed as illustrative and shall not limit the sense of the words preceding those terms;

1.3 To the extent that any specific term or condition in a Call-Off Contract or Sub-Consultant/Contractor Collateral Warranty is inconsistent or conflicts with any term or condition of this Framework Agreement, the relevant term or condition in the Call-Off Contract Terms and Conditions or Sub-Consultant/Contractor Collateral Warranty shall prevail.

2. Appointment

In consideration of payment by the Operator of good and valuable consideration, receipt of which is hereby acknowledged, the Operator accepts its appointment subject to the terms and conditions of this Framework Agreement.

3. Non-Exclusivity

The Operator acknowledges that, in entering this Framework Agreement, no form of exclusivity or volume guarantee has been granted by the Client/Framework Purchasers for Supplies/Services from the Operator and that the Client/each Framework Purchaser is at all times entitled to enter into other contracts and agreements with other suppliers/service providers for

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the provision of any or all supplies or services, or both, which are the same as or similar to the Supplies/Services. In the event of the latter the Client/Framework Purchaser shall observe all applicable public procurement rules and shall not afford any advantage to the Operator.

4. Period of Framework Agreement

4.1 This Framework Agreement shall take effect on the Commencement Date and expire [words] ([number]) [years/months] thereafter unless terminated earlier in accordance with these terms and conditions or extended in accordance with Sub-Clause 4(2).

4.2 The Client reserves the option to extend the period described in Sub-Clause 4(1) by a further [words] ([number]) [years/months] at any time prior to the expiry of the Framework Agreement by giving notice to the Operator.

4.3 For the avoidance of any doubt, the term of a Call-Off Contract may last for longer than the Framework Period.

5. Scope of Framework Agreement

5.1 This Framework Agreement relates to the provision of [high-level description of Supplies/Services from published contract notice] as more particularly described in the Invitation to Tender and evidenced in Schedule 1.

5.2 The cumulative value of all Call-Off Contracts shall not reasonably exceed [words] euro (€[number]) net of Value Added Tax.

6. Procedure for the award of Call-Off Contracts

6.1 As and when the Client/a Framework Purchaser decides to source Services through this Framework Agreement, then it may award a Call-Off Contract to the Operator based on the Tender in accordance with the procedure set out in Sub-Clause 6(6) or, alternatively, on a Mini-Tender received in accordance with the procedure set out in Sub-Clause 6(7).

6.2 When awarding a Call-Off Contract, the Parties/Framework Purchaser and the Operator shall not make any substantial amendments to the terms laid down in this Framework Agreement.

6.3 On each occasion that a Call-Off Contract is awarded to the Operator pursuant to this Clause 6, the Client/Framework Purchaser and the Operator shall enter into a contract in accordance with the Call-Off Contract Terms and Conditions.

6.4 The Operator acknowledges that the Client/Framework Purchaser shall not be obliged to award any Call-Off Contract pursuant to this Clause 6 and that the Client/Framework Purchaser may terminate the award procedure at any time at its sole discretion.

6.5 The Client shall not have nor accept any responsibility or liability whatever arising from the award of a Call-Off Contract by another Framework Purchaser (other than the Client) pursuant to this Clause 6

6.6 Procedure for the award of a Call-Off Contract based on the Tender (the '**Cascade Method**')

6.6.1 Where all the terms necessary for the performance of a Call-Off Contract are included in this Framework Agreement, the Client/Framework Purchaser may issue a Call-Off Order to a Framework Member at any time during the Framework Period. Recourse to this procedure is without prejudice to the provisions of Sub-Clause 6(7)(1)(b).

6.6.2 Subject to Sub-Clause 6(6)(8), the ranking of the Framework Members as determined by the objective criteria used to establish this Framework Agreement and contained in the Invitation to Tender is as follows:

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(a) **[ ]** (the '**First-Ranked Framework Member**')

(b) **[ ]** (the '**Second-Ranked Framework Member**')

The Client will communicate any changes to this ranking by email to all Framework Members.

6.6.3 The Client/Framework Purchaser will complete a Call-Off Order indicating the scope and term of the Call-Off Contract to be awarded subject to the terms set out in Clause 8.

6.6.4 The Client/Framework Purchaser will consult with the First-Ranked Framework Member to establish whether any capacity/performance issues or a Conflict of Interest dictate that the First-Ranked Framework Member is unable to perform the proposed Call-Off Contract. In the event that the First-Ranked Framework Member is unable to perform the Call-Off Contract subject to this Sub-Clause 6(6)(4), the Client will consult with the next ranked Framework Member. This process will be repeated until the Client/Framework Purchaser has deemed that a Framework Member is not precluded from performing the Call-Off Contract.

6.6.5 Subject to Sub-Clause 6(6)(4), the Client/Framework Purchaser will issue the Call-Off Order by email/phone to the First-Ranked Framework Member to the address given in or notified under Clause 15. The Call-Off Order will indicate the relevant deadline for the receipt of confirmation by the First-Ranked Framework Member of its acceptance of the Call-Off Order.

6.6.6 The First-Ranked Framework Member shall inform the Client/Framework Purchaser by email within the stipulated deadline whether it accepts the Call-Off Order. Upon receipt of this acceptance, the Client/Framework Purchaser will enter into the Call-Off Contract with the First-Ranked Framework Member.

6.6.7 In the event that the First-Ranked Framework Member does not accept the Call-Off Order, the Client will issue that Call-Off Order by email to the next ranked Framework Member seeking their acceptance. This process will be repeated until a Framework Member has accepted the Call-Off Order or the Client/Framework Purchaser terminates the award procedure.

6.6.8 Ranking Relegation Procedure
The Client reserves the right to relegate the First-Ranked Framework Member and move them to last position in the ranking under one of the following circumstances:

(a) Where the First-Ranked Framework Member does not perform a Call-Off Contract to the requirements set out in this Framework Agreement or the Call-Off Order on more than two (2) occasions and the Client/Framework Purchaser is not satisfied with the reasons provided by the First-Ranked Framework Member to justify the poor/non-performance; or

(b) Where the First-Ranked Framework Member has not accepted a Call-Off Order on more than two (2) consecutive occasions.

6.7 Procedure for the award of a Call-Off Contract based on a Mini-Tender

6.7.1 The Client/Framework Purchaser may issue a Request for Mini-Tender at any time during the Framework Period where

(a) not all the terms necessary for the performance of a Call-Off Contract are included in this Framework Agreement; or

(b) all the terms necessary for the performance of a Call-Off Contract are included in this Framework Agreement but the Client/Framework Purchaser deems that

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the Call-Off Contract warrants a re-opening of competition amongst the Framework Members due to the quantity, value or characteristics of the Services/Supplies.

6.7.2 The Client/Framework Purchaser will complete a Request for Mini-Tender indicating the scope of the Call-Off Contract to be awarded, the award criteria (subject to the provisions of Sub-Clause 6(7)(7)) and such other terms and conditions as the Client/Framework Purchaser may set out in accordance with Schedule 7.

6.7.3 The Client/Framework Purchaser shall fix a deadline for the receipt of the Mini-Tender taking into account the complexity of the scope of requirements and the time needed to prepare an appropriate Mini-Tender.

6.7.4 The Client/Framework Purchaser will issue the Request for Mini-Tender by email to all Framework Members who are capable of performing the Call-Off Contract.

6.7.5 Mini-Tenders shall be submitted in writing and their content shall remain confidential until at least the stipulated time limit for replies has expired. The Mini-Tender shall comply with the requirements of the Request for Mini-Tender and the terms set out in Clause 8.

6.7.6 Any clarifications requested by a Framework Member in relation to a Request for Mini-Tender shall be submitted in writing by email and any responses containing further material information will be issued in writing to all other Framework Members.

6.7.7 Award Criteria

The criterion for the award of a Call-Off Contract pursuant to this Sub-Clause 6(7) will be the most economically advantageous Mini-Tender in terms of one or more of the following award criteria:

(a) [Cost]

(b) [Proposed team]

(c) [Proposed Methodology]

(d) [Contract Management]

(e) [Sustainability]

In order to the reflect the requirements of the particular Call-Off Contract to be awarded, each Request for Mini-Tender will set out the precise award criteria, scope and weightings applicable to the award of the Call-Off Contract in question.

6.7.8 Following evaluation of all valid Mini-Tenders received against the award criteria set out in the Request for Mini-Tender, if the Client/Framework Purchaser is satisfied, and decides that it wishes to enter into a Call-Off Contract with the successful Framework Member, it will enter into the Call-Off Contract with the successful Framework Member.

6.7.9 The Client/Framework Purchaser shall not be responsible for any costs incurred by the Operator or any Sub-Consultant/Contractor in the preparation of a Mini-Tender or any related site visits.

6.8 Procedure for the award of a Call-Off Contract to a Runner-Up Framework Member

6.8.1 Subject to Sub-Clause 6(8)(2), the Client/Framework Purchaser reserves the right to engage in the procedure set out in Sub-Clause 6(8)(3) in order to award a Call-Off Contract to another Framework Member where, following a competitive procedure pursuant to Sub-Clauses 6(6) or 6(7),

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(a) it is not possible to conclude a Call-Off Contract with the designated successful Framework Member emerging from that competitive procedure; or

(b) the Call-Off Contract has been terminated in accordance with the Call-Off Contract Terms and Conditions.

6.8.2 The Client/Framework Purchaser shall not award a Call-Off Contract pursuant to Sub-Clause 6(8)(1) where

(a) the validity period of the Mini-Tender or Tender (as the case may be) has expired; or

(b) the Framework Member proposes any material modifications to the Mini-Tender or Tender (as the case may be) as submitted by that Framework Member.

6.8.3 Runner-Up Procedure

(a) the Client/Framework Purchaser shall consult with the next highest scoring Framework Member arising from that competitive procedure;

(b) the Client/Framework Purchaser shall not make any material modifications to the scope and terms of the Call-Off Contract to be awarded pursuant to Sub-Clause 6(8)(1); and

(c) If the Client/Framework Purchaser is satisfied, and decides that it wishes to enter into a Call-Off Contract with the Framework Member, it will enter into the Call-Off Contract with the Framework Member.

7. Notification of the award of a Call-Off Contract

7.1 When the Client/Framework Purchaser has made an award decision pursuant to Sub-Clauses 6(7) or 6(8)(1), the Client/Framework Purchaser will issue a notification by email to all Framework Members that have submitted a Mini-Tender. The notification will contain the following information:

7.1.1 in the case of the successful Framework Member, any decisions reached concerned the award of the Call-Off Contract; and

7.1.2 in the case of the unsuccessful Framework Members,

(a) any decisions reached concerned the award of the Call-Off Contract,

(b) the reasons for the rejection of the Mini-Tender,

(c) the characteristics and relative advantages of the Mini-Tender selected, and

(d) the name of the successful Framework Member.

7.2 Where the Client/Framework Purchaser estimates that the value of the Call-Off Contract awarded pursuant to Sub-Clauses 6(7) or 6(8)(1) exceeds the EU Threshold, the notification in Sub-Clause 7(1) will state that the Client/Framework Purchaser will not conclude the Call-Off Contract until a period of at least fourteen (14) days have elapsed from the day after the day on which Client/Framework Purchaser issues the notification.

7.3 When the Client/Framework Purchaser has decided to cancel a competitive procedure pursuant to Sub-Clauses 6(7) or 6(8)(1), the Client/Framework Purchaser shall issue a notification by email to all Framework Members that have submitted a Mini-Tender informing them of the cancellation of the competition and the reasons for same.

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8. Fixed Terms for Call-Off Contracts

8.1 The terms contained in this Clause 8 shall apply to the award of any Call-Off Contract. Failure by the Operator to meet its obligations under this Clause 8 shall be considered a material breach of this Framework Agreement for the purposes of Sub-Clause 10(2)(1).

8.2 Personnel

8.2.1 The Personnel assigned by the Operator to deliver any Call-Off Contract shall be those identified in its Tender and evidenced in Schedule 3 or Mini-Tender, or other Personnel of equivalent qualifications, skills and expertise approved by the Client/Framework Purchaser in accordance with Sub-Clause 8(2)(2).

8.2.2 The Operator shall only be permitted to replace or supplement a Personnel member identified in Schedule 3 if:

(a) so requested by the Client/Framework Purchaser pursuant to Sub-Clause 9(11); or

(b) necessary to do so due to that person's death, illness or incapacity; or

(c) due to the departure of the member of the Personnel from the employment of the Operator.

In such cases the Operator shall submit to the Client/Framework Purchaser details of the proposed replacement or additional Personnel and, subject to the Client's/ Framework Purchaser's consent (which shall not be unreasonably withheld or delayed), shall so replace or supplement the Personnel identified in Schedule 3 as appropriate. The Client/Framework Purchaser shall be entitled to reject a proposed Personnel member on the ground, inter alia, that he does not have equivalent qualifications, or skills, or expertise as the Personnel being replaced.

8.2.3 The Operator shall ensure that the rates of pay and conditions of employment of the Personnel comply with all Applicable Law.

8.3 Maximum Rates

8.3.1 The maximum rates chargeable by the Operator under a Call-Off Contract shall be those identified in its Tender and evidenced in Schedule 2.

8.3.2 The maximum rates described in Sub-Clause 8(3)(1) will be fixed for the duration of the Framework Period.

8.3.3 The maximum rates described in Sub-Clause 8(3)(1) will be fixed for the initial twenty-four (24) months of the Framework Period and will be adjusted for inflation thereafter on each annual anniversary of the Commencement Date in accordance with the CPI Index.

8.3.4 Notwithstanding Sub-Clause 8(3)(3)/(2), the Client may elect to enter into consultations with the Operator to adjust the maximum rates described in Sub-Clause 8(3)(1) as a result of increases or decreases that occur in Personnel' wages or expenses, or material prices invoiced as part of a Call-Off Contract or are made by Law.

8.3.5 The Client/Framework Purchaser may seek, or the Operator may offer, lower rates at any time during the Framework Period. In particular, where the Operator is offering services, which are the same as or similar to the Services, generally in the open market at a lower rate than the maximum rates described in Sub-Clause 8(3)(1), the Client may request adjustment of Schedule 2 to reflect this.

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8.4 Service Level Agreement

The Service Level Agreement applicable to the performance of Services by the Operator under any Call-Off Contract shall be that as agreed between the Parties/identified in its Tender/and as evidenced in Schedule 8 including any future amendment or redraft thereof.

8.5 Sub-Consultant/Contractor

8.5.1 The Sub-Consultant/Contractor assigned by the Operator to deliver any Call-Off Contract shall be that identified in its Tender and evidenced in Schedule 10 or Mini-Tender, or other Sub-Consultant/Contractor approved by the Client/ Framework Purchaser in accordance with Sub-Clause 8(5)(2).

8.5.2 The Operator will not replace a Sub-Consultant/Contractor without the prior written consent of the Client/a Framework Purchaser. The Client/A Framework Purchaser shall be entitled to instruct the Operator to replace any Sub-Consultant/Contractor if the Client/that Framework Purchaser believes (acting reasonably) that the Sub-Consultant/Contractor is incompetent or fails to perform its obligations in respect of any Call-Off Contract to the satisfaction of the Client/that Framework Purchaser. Any such replacement shall be of comparable qualifications and expertise as the incumbent Sub-Consultant/Contractor and shall have the legal capacity and credit status to enter into and meet the obligations of any Call-Off Contract as they fall due.

8.5.3 The Operator shall ensure that the Tender, or the Mini-Tender, includes, distinguishes between and clearly particularises the Services/Supplies to be provided by the Sub-Consultant/Contractor.

8.5.4 During the performance of a Call-Off Contract, The Operator shall be responsible to the Client/relevant Framework Purchaser for the management and supervision of the Sub-Consultant/Contractor and for the acts and omissions of the Sub- Consultant/Contractor as if they were its own.

8.5.5 The Operator acknowledges and agrees that the Client/a Framework Purchaser may require the Operator, as a condition of, or pre-condition to the award of, a Call-Off Contract to promptly execute under seal and deliver a Sub-Consultant/Contractor Collateral Warranty from any or all of its Sub-Consultants/Contractors of any tier proposed to deliver Services/Supplies under a Call-Off Contract.

9. Obligations of Operator

9.1 Insurances

9.1.1 As and from the Commencement Date, the Operator is required to procure and maintain the forms and levels of insurance set out in Schedule 4. This may be subject to revision during the Framework Period, in which case the Client shall notify the Operator of the revised requirements and allow thirty (30) days for the provision of evidence that the required policies are in place.

9.1.2 Where the forms and/or levels of insurance required in respect of individual Call-Off Contracts are different to those set out in Schedule 4, the Client/Framework Purchaser shall notify the Operator of the required changes in the relevant Request for Mini-Tender or at the earliest opportunity.

9.1.3 The insurance required under Sub-Clause 9(1)(1) and/or 9(1)(2) shall be written by reputable and well-established insurers approved by the Client (whose approval shall not be unreasonably withheld or delayed).

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9.1.4 At any time during the Framework Period, the Operator shall produce to the Client/ Framework Purchaser, on request, copies of all insurance policies referred to in this Sub-Clause 9(1) or a broker's verification of insurance to demonstrate that the appropriate cover is in place, together with receipts or other evidence of payment of the latest premiums due under those policies.

9.1.5 Where the insurance policies held by the Operator in accordance with Schedule 4 are due to lapse prior to the end of the Framework Period, it shall be the responsibility of the Operator to ensure that the said insurance policies are renewed and that the insurance details are notified to the Client.

9.1.6 If, for whatever reason, the Operator fails to give effect to and maintain in effect the insurances required by this Framework Agreement then the Client/Framework Purchaser may make alternative arrangements to protect its interests and may recover the costs of such arrangements from the Operator.

9.2 Tax Clearance Certificate

The Operator shall, and shall procure that any Sub-Consultant/Contractor of any tier shall, for the term of any Call-Off Contract, comply with all EU and domestic taxation law and requirements, including but not being limited to Circular 43/2006 issued by the Department of Finance and the maintenance of a valid Tax Clearance Certificate issued by the Revenue Commissioners of Ireland.

9.3 Changes to Declaration

The Operator shall retain a copy of its signed Declaration under Article 45 of Directive 2004/18/EC as set out in Schedule 5. If at any point during the Framework Period or during the lifetime of a Call-Off Contract the Operator becomes aware of circumstances that might affect the validity of any of the statements in its Declaration, it shall notify the Client in writing of such circumstances at the earliest possible opportunity.

9.4 Confidentiality

9.4.1 The Operator must not disclose to anyone information that the Client/a Framework Purchaser notifies the Operator is confidential except as necessary to perform the Operator’s obligations under this Framework Agreement or a Call-Off Contract or to comply with the law.

9.4.2 The Operator undertakes to comply with all reasonable directions of the Client/ Framework Purchaser with regard to the use and application of all and any confidential information and shall comply with the Confidentiality Agreement as set out in Schedule 9.

9.4.3 The Operator acknowledges that the Client/each Framework Purchaser is subject to the Freedom of Information Acts 1997-2003, as amended. In the event of the Client/a Framework Purchaser receiving a request for information related to this Framework Agreement, the Client/Framework Purchaser shall consult with the Operator in respect of the request. The Operator shall identify any information that is not to be disclosed on grounds of commercial sensitivity, and shall state the reasons for this sensitivity. The Client/Framework Purchaser will consult the Operator about this commercially sensitive information before making a decision on any Freedom of Information request received. The final decision on disclosure rests with the Office of the Information Commissioner and ultimately, the Irish courts.

9.4.4 Within fourteen (14) days of the date of expiry of this Framework Agreement or of termination pursuant to Clauses 10 or 11, the Operator shall return to the Client/Framework Purchaser any data and confidential information belonging to the Client/that Framework Purchaser in the Operator's possession, power or control, either

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in its then current format or in a format nominated by the Client/Framework Purchaser (in which event the Client/Framework Purchaser will reimburse the Operator's reasonable data conversion expenses), together with all training manuals and other related documentation, and any other information and all copies thereof owned by the Client/Framework Purchaser, save that it may keep one copy of any such data or information for a period of up to twelve (12) months to comply with its obligations under this Framework Agreement, or such period as is necessary for such compliance.

9.4.5 The terms of this Sub-Clause 9(4) are perpetual, and this Sub-Clause 9(4) survives the expiry of this Framework Agreement or a termination pursuant to Clauses 10 or 11.

9.5 Data Protection

The Operator shall comply with its obligations under the Data Protection Acts 1988 and 2003 and all regulations made thereunder, in the collection and storage of data pursuant to the provision of Services/Supplies under this Framework Agreement.

9.6 Conflict of Interest

9.6.1 The Operator confirms that it has carried out a conflicts of interest check and is satisfied that it has no Conflict of Interest in relation to the Services/Supplies and its obligations undertaken under this Framework Agreement.

9.6.2 The Operator hereby undertakes to advise the Client/Framework Purchaser forthwith should any actual or potential Conflict of Interest arise during the Framework Period and to comply with the Client's/Framework Purchaser's directions in respect thereof.

9.7 Registrable Interests

Any registrable interest involving the Operator (and any Sub-Consultant/Contractor or agent as the case may be) and the Client/a Framework Purchaser, the Ceann Comhairle (Speaker), or any member of the Government, or any member of the Oireachtas, or their relatives must be fully disclosed to the Client/Framework Purchaser immediately upon such information becoming known to the Operator (or any Sub-Consultant/Contractor or agent as the case may be) and to comply with the Client's/Framework Purchaser's directions in respect thereof, to the satisfaction of the Client/Framework Purchaser. The terms "registrable interest" and "relative" shall be interpreted as per section 2 of the Ethics in Public Office Act, 1995 as amended.

9.8 Corrupt Gifts and Inducements

The Operator shall not give, provide or offer to any staff or agent of the Client/a Framework Purchaser any gift or consideration or commission of any kind as an inducement or reward for doing or forbearing to do or for having done or forborne to do any action in relation to the obtaining or execution of this Framework Agreement or any Call-Off Contract.

9.9 Audit

The Operator shall keep and maintain until a minimum of six (6) years after the expiry of the Framework Period, full and proper records and all documents relating to the performance of its obligations under this Framework Agreement and shall allow the Client/each Framework Purchaser and any auditors access to such records.

9.10 Publicity

Unless otherwise directed by the Client, the Operator shall not make any press announcements or publicise this Framework Agreement in any way without the Client's prior written consent.

9.11 Performance Review

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9.11.1 The Client and Operator shall liaise on a regular basis to address any issues arising which may impact on the performance of this Agreement and/or a Call-Off Contract to agree milestones, compliance schedules and operational protocols as required by the Client from time to time. If requested in writing by the Client the Operator shall meet formally with the Client to report on progress and shall comply with all written directions of the Client.

9.11.2 The Operator agrees to:

(a) liaise with and keep the Client fully informed of any matter which might affect the observance and performance of the Operator's obligations, including the time scale of completion of the key components of the Services/Supplies;

(b) comply with the reporting arrangements and protocols required by the Client from time to time; and

(c) comply with all reasonable directions of the Client.

9.12 Failure by the Operator to meet its obligations under this Clause 9 shall be considered a material breach of this Framework Agreement for the purposes of Sub-Clause 10(2)(1).

10. Termination of Appointment of Operator

10.1 Subject to the provisions of Sub-Clause 10(2), the appointment of the Operator to this Framework Agreement may be terminated by the Client without cause at any time during the Framework Period by serving thirty (30) days written notice to the Operator.

10.2 The Client shall have the right (in addition to any other rights which it has at law) to terminate the appointment of the Operator to this Framework Agreement forthwith and without liability for compensation or damages on the happening of any of the following events:

10.2.1 if the Operator commits any material breach of any provision of this Framework Agreement or of a Call-Off Contract and if such breach is capable of being remedied, fails to remedy such breach to the reasonable satisfaction of the Client within fourteen (14) days of the notice given by the Client requiring the Operator to do so; or

10.2.2 if the Operator becomes insolvent, becomes bankrupt, is wound up, commences winding up, has a receiving order made against it, makes any arrangement with its creditors generally or takes or suffers any similar action as a result of debt, or an event having an equivalent effect; or

10.2.3 if any event analogous to those contemplated in Sub-Clause 10(2)(2) occurs to the Operator within the laws of any other jurisdiction; or

10.2.4 in circumstances where the Client becomes aware of that any of the excluding circumstances listed in Article 45 of Directive 2004/18/EC apply to the Operator; or

10.2.5 if any representation made by the Operator in connection with this Framework Agreement or a Call-Off Contract shall in the opinion of the Client, acting reasonably, prove to be untrue or incorrect in a material respect as of the date when made; or

10.2.6 if the Operator (or any subcontractor, agent or employee) commits any breach of Sub-Clause 9(8) or any offence under the Prevention of Corruption Acts, 1889 to 2005. In this instance, the Client shall be also entitled to recover the amount of any loss resulting from such termination, including but not limited to recovery from the Operator of the amount or value of any such gift, consideration or commission.

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10.3 The Operator shall not be entitled to any additional amounts or compensation in the event that this Framework Agreement is terminated in accordance with this Clause 10.

11. Termination of Framework Agreement

11.1 Subject to the provisions of Sub-Clause 11(2), this Framework Agreement, or the provision of any part thereof, may be terminated by the Client at any time during the Framework Period by serving thirty (30) days written notice to the Framework Members.

11.2 The Client shall have the right (in addition to any other rights which it has at law) to terminate this Framework Agreement forthwith and without liability for compensation or damages when the cumulative value of all Call-Off Contracts exceeds, or is close to exceeding, the amount set out in Sub-Clause 5(2).

11.3 The Framework Members shall not be entitled to any additional amounts or compensation in the event that this Framework Agreement is terminated in accordance with this Clause 11.

12. Consequences of Termination and Expiry

12.1 Expiry of this Framework Agreement or termination pursuant to Clauses 10 or 11 shall not cause any Call-Off Contract to terminate automatically. For the avoidance of doubt, all Call-Off Contracts shall remain in force unless and until they are terminated or expire in accordance with their own terms or unless the notice of termination pursuant to Clauses 10 or 11 states that it is also to constitute notice terminating all Call-Off Contracts between the Client/Framework Purchasers and the Operator.

12.2 The Operator shall have no claim against the Client for any loss of profit, loss of contracts or other economic losses and/or expenses or for any indirect, economic, or consequential loss suffered or incurred as a result of termination pursuant to Clauses 10 or 11.

12.3 Expiry of this Framework Agreement or termination pursuant to Clauses 10 or 11 shall not affect any antecedent and accrued rights, obligation or liabilities of either Party, nor shall it affect any provision of this Framework Agreement that is expressly or by implication intended to come into or continue in force on or after such termination or expiry.

13. Transfer and Sub-Contracting

13.1 This Framework Agreement is personal to the Operator and the Operator shall not assign, novate or otherwise dispose of this Framework Agreement or any part thereof without the previous consent in writing of the Client. Notwithstanding the provisions of Sub-Clause 8(5), the Operator shall not be entitled to sub-contract any of its rights or obligations under this Framework Agreement without the prior written consent of the Client. Such consent shall not be unreasonably withheld.

13.2 The Client/Framework Purchasers shall be entitled to assign, novate or otherwise dispose of its/their rights and obligations under this Framework Agreement or any part thereof to any other body (including any private sector body) which substantially performs any of the functions that previously had been performed by the Client/that Framework Purchaser provided that such assignment, novation or disposals shall not increase the burden of the Operator's obligations under this Framework Agreement.

13.3 Failure by the Operator to meet its obligations under Sub-Clause 13(1) shall be considered a material breach of this Framework Agreement for the purposes of Sub-Clause 10(2)(1).

14. General

14.1 Amendments

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This Framework Agreement may only be amended by a document in writing signed by authorised representatives of each Party.

14.2 Waiver

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

14.3 Severability

If any term or provision herein is found to be invalid, unlawful or unenforceable, then such term or provision shall be deemed severed from the Framework Agreement and all other terms and provisions shall remain in full force and effect.

14.4 Force Majeure

14.4.1 If through no fault of a Party, its performance has been affected or delayed by force majeure, such Party shall be at no liability to the other providing the performances are recommenced as soon as possible after such force majeure has ceased to operate.

14.4.2 If however, force majeure causes a delay or failure in performance for a period longer than seven (7) days, the Client shall have the right to terminate this Framework Agreement by seven (7) days' notice in writing.

14.4.3 Force majeure shall mean an occurrence beyond the control and without the fault or negligence of the Party affected in which it is unable to prevent or provide against by the exercise of reasonable diligence including but not limited to acts of God or the public enemy, expropriation or confiscation of facilities, government intervention, war, hostilities, rebellion, terrorist activities, local or national emergency, sabotage or riots, floods, or unusually severe weather conditions which could not be reasonably anticipated, fires, explosions, or other catastrophe, national or district strikes or other concerted acts of workmen or other similar occurrences other than strikes or concerted acts of the Operator's workforce.

14.5 Public Procurement

Nothing in this Framework Agreement shall prevent the Client/Framework Purchaser from complying with its obligations under public procurement legislation. If necessary this Framework Agreement and any Call-Off Contract concluded hereunder may be abridged modified, or amended without penalty to the Client/Framework Purchaser so as to enable it to comply with the said obligations.

15. Notices

15.1 The address, e-mail address, facsimile and telephone numbers of the Parties for the purpose of the giving of notices under this Framework Agreement are as follows:

15.1.1 For the Client/Framework Purchaser:

Contact Name:	[ ]
Address:	[ ]
Fax:	[ ]
E-mail:	[ ]
Phone:	[ ]

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15.1.2 For the Operator:

Contact Name:	[ ]
Address:	[ ]
Fax:	[ ]
E-mail:	[ ]
Phone:	[ ]

15.2 Any notice or other communication whether required or permitted to be given by one Party to the other shall be in writing and shall be deemed to have been duly given if signed by or on behalf of a duly authorised officer of the Party giving the notice and:

15.2.1 if delivered, at the time of delivery to the addressee or its duly authorised agent;

15.2.2 if sent by pre-paid post, four (4) days after posting if addressed to the Party to whom such notice is to be given at the address set forth for such Party in this Framework Agreement (or such other address as is from time to time notified to the other Party);

15.2.3 if transmitted by fax or electronic means on receipt of 'read receipt' or equivalent.

15.3 All notices to the Client or the Operator from the other Party under this Framework Agreement or the relevant Call-Off Contract shall be in writing and sent to the appropriate address set out above.

15.4 All notices, documents and communications provided under this Framework Agreement or the relevant Call-Off Contract shall be in the English or Irish language.

15.5 Any Party may, by notice to the other in compliance with this Clause 15 change the contact details set out at Sub-Clause 15(1).

16. Resolution of Disputes

16.1 Any dispute or difference of any kind whatsoever which arises or occurs between the parties or their respective assigns in relation to anything or matter arising under, out of, or in connection with this Framework Agreement shall, in the first instance, be referred to a Mediator to be appointed by agreement between the parties and, in the absence of agreement within five (5) working-days of the receipt by one Party of a written notice to concur in the appointment of a Mediator, by the Chairman of the Chartered Institute of Arbitrators Irish Branch.

16.2 In the event that the dispute or difference is not resolved within fifteen (15) working-days of the appointment of the Mediator, the dispute or difference shall be referred to an Arbitrator to be agreed between the parties and, in default of agreement within ten (10) working-days of the receipt by one Party of a written notice to concur in the appointment of an Arbitrator, by the Chairman of the Chartered Institute of Arbitrators Irish Branch, such arbitration to be governed by the Arbitration Act 2010 as amended or replaced and shall be conducted in accordance with the Model Law as defined in the Arbitration Act 2010. The Arbitrator shall have no connection with the Mediator or Mediation Proceedings unless both parties have otherwise consented in writing.

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17. Jurisdiction

The Client and the Operator accept the exclusive jurisdiction of the Irish courts, subject to the provisions of Clause 16, and agree that this Framework Agreement is to be governed by and construed according to the laws of Ireland.

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IN WITNESS whereof the parties hereto have executed this Framework Agreement the day and year first herein **WRITTEN.**

SIGNED for and on behalf of **[INSERT NAME OF CLIENT]** by:

_____
A duly authorised representative

in the presence of:

_____
Witness to Signature

_____
Witness' address

_____
Witness' occupation

GIVEN under the **COMMON SEAL** of **[INSERT FULL LEGAL NAME OF THE OPERATOR]**

_____
Director

_____
Person duly authorised

in the presence of:

_____
Witness to Signature

_____
Witness' address

_____
Witness' occupation

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Schedule 1 Supplies/Services

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Schedule 2 Rates

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Schedule 3 Personnel

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Schedule 4 Insurances

COVER	Minimum cover each and every claim	Permitted deductible each and every occurrence	Period
Annually renewable Professional Indemnity policy, against liability for losses due to professional negligence	[ ]	[ ]	From start to completion of the Services and a further period of [ ] following completion of the Service
Public Liability for death, personal injury [except EL, next type]; loss of, damage to, property; with indemnity to the Client/Framework Purchaser as principal	[ ]	[ ]	From start to completion of the Services/Supplies.
Employers' Liability for death, injury, to employees	[ ]	[ ]	From start to completion of the Services/Supplies.
Cyber Liability	[ ]	[ ]	From start to completion of the Services/Supplies.

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Schedule 5 Article 57 of Dir 2014/24/EU (Declaration)

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Schedule 6 Call-Off Order

CALL-OFF ORDER
By email only to [Operator's email address]

Client/Framework Purchaser	[name]
Order under Framework Agreement entitled:	Single Operator Framework Agreement for [xxx] of [date]
Date of Order	[date]
Deadline for Response by Operator	[date & time] by email to [xxx]

Dear Operator,

Pursuant to Sub-Clause 6(6) of the Framework Agreement, the Client/Framework Purchaser proposes to award a Call-Off Contract to you in respect of the following Supplies/Services:

(i) Scope of Supplies/Services Required

The Client/Framework Purchaser requires [xxx]

(ii) Fixed Terms for Call-Off Contracts

In accordance with Clause 8 of the Framework Agreement, the following terms will apply to the Call-Off Contract:

[xxx]

(iii) Call-Off Contract Terms and Conditions

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In accordance with Sub-Clause 6(3) of the Framework Agreement, if the Operator accepts this Call-Off Order, the Client/Framework Purchaser and the Operator shall enter into a Call-Off Contract in accordance with the terms and conditions set out in Schedule 11 of the Framework Agreement, with the following amendments:

[xxx]

The Operator is hereby invited to inform the Client/Framework Purchaser by email to [address] no later than [date & time] of whether it accepts the Call-Off Order.

If you have any queries on the above, please do not hesitate to contact me.

Yours sincerely,

[contact]
On behalf of the **Client/Framework Purchaser**

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Schedule 7 Request for Mini-Tender

REQUEST FOR MINI-TENDER
By email only to [Operator's email address]

Client/Framework Purchaser	[name]
Request under Framework Agreement entitled:	Single Operator Framework Agreement for [xxx] of [date]
Date of Request	[date]
Deadline for Receipt of Mini-Tender	[date & time] by post to [xxx]

Dear Operator,

Pursuant to Sub-Clause 6(7) of the Framework Agreement, you are hereby invited to submit a Mini-Tender in respect of the following Supplies/Services:

(i) Scope of Supplies/Services Required

The Client/Framework Purchaser requires [xxx]

(ii) Award Criteria

The most economically advantageous Mini-Tender in terms of the following criteria, rules and weightings:

Ref	Criterion	Weighting	Maximum Score Available	Minimum Score Required
A	[xxx]	[xxx]	[xxx]	[xxx]
B	[xxx]	[xxx]	[xxx]	[xxx]
C	[xxx]	[xxx]	[xxx]	[xxx]
D	[xxx]	[xxx]	[xxx]	[xxx]

Framework Members should note that for each of the qualitative criteria above (A-C) at least the minimum score indicated must be achieved in order to avoid elimination from the competition.

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Framework Members will be required to ensure that their Mini-Tenders provide detailed information on their offers for assessment against the award criteria stated above. To this end, the following information will be assessed under each of the award criteria:

Criterion A [xxx]

Criterion B [xxx]

NB. The Mini-Tender must comply with the requirements of this Request for Mini-Tender and the provisions of Clause 8 of the Framework Agreement (Fixed Terms for Call-Off Contracts).

(iii) Mini-Tender Validity Period

Framework Members are required to keep their Mini-Tender open for acceptance by the Client for a period of [xxx] from the Deadline for Receipt of Mini-Tenders.

(iv) Call-Off Contract Terms and Conditions

In accordance with Sub-Clause 6(3) of the Framework Agreement, if the Client/Framework Purchaser accepts the Mini-Tender submitted in response to this Request, the Client/Framework Purchaser and the Operator shall enter into a contract in accordance with the Call-Off Contract Terms and Conditions set out in Schedule 11 of the Framework Agreement, with the following amendments:

[xxx]

(v) Standstill Period

The Client/Framework Purchaser estimates that the value of this Call-Off Contract does/does not exceed the EU Threshold, so a standstill period as defined in Sub-Clause 7(2) of the Framework Agreement will/will not apply to the award of this Call-Off Contract.

(vi) Procedure for queries

All queries regarding this Request for Mini-Tender should be emailed to [xxx] no later than [date and time].

If you have any queries on the above, please do not hesitate to contact me.

Yours sincerely,

[contact]
On behalf of the **Client/Framework Purchaser**

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Schedule 8 Service Level Agreement

[insert from Tender]

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Schedule 9 Confidentiality Agreement

THIS AGREEMENT is made on [date]

BETWEEN:-

(1) [**CLIENT/FRAMEWORK PURCHASER NAME**], having its offices at [address] (for the purposes of this Agreement referred to as the "**Client**" which expression includes its successors and permitted assigns and any body to whom its functions are transferred under Applicable Law) of the one part; and

(2) [**OPERATOR NAME**], a company established under [ ] law with company registration number [insert] and its registered address at [insert] (for the purposes of this Agreement referred to as the "**Operator**" which expression includes its successors and permitted assigns) of the other part,

WHEREAS

(A) In this Agreement:

(a) the "**Framework**" means the Framework Agreement dated [•] made between the Client and the Operator for the provision/supply of [•] (the "**Services" "Supplies**")

(b) other capitalised terms shall have the meaning attributed to them in the Framework save where indicated otherwise.

(B) Pursuant to the Framework, the Client may award a Call-Off Contract to the Operator for the provision of Supplies/Services.

(C) For the purposes of the delivery of Supplies/Services under a Call-Off Contract, certain confidential information will be disclosed or supplied either by the Client or by the Operator to the other party.

NOW IT IS HEREBY AGREED in consideration of the sum of €5 (the receipt of which is hereby acknowledged by the Operator) as follows:

1. For the purpose of this agreement **"confidential information"** shall mean such technical and/or commercial information, including but not limited to any documents, drawings, sketches or designs, materials, samples or prototypes disclosed or supplied either by the Client or by the Operator to the other party in any format, and which at the time of its disclosure or supply is identified as confidential or proprietary. Oral information which is confidential or proprietary shall be recorded in writing by the disclosing party within thirty (30) days after disclosure, and the resulting document shall specifically state the date of disclosure and designate the information as confidential or proprietary.

2. This Agreement shall be effective as of the Commencement Date of the Framework and shall thereafter continue until the expiry of a period of ten (10) years following the termination or expiry of the last Call-Off Contract awarded to the Operator under the Framework.

3. The Client and the Operator each undertake to treat any and all confidential information as confidential, to use it solely for the purpose of the Supplies/Services, not to disclose it to any third party, and not to make it publicly available or accessible in any way, except with the prior written consent of the disclosing party.

4. The obligations set out in Clause 3 shall not apply with respect to any confidential information which:

3.1 the receiving party can prove has been known to the receiving party prior to the time of its receipt pursuant to this Agreement; or

3.2 is in the public domain at the time of disclosure or thereafter enters the public domain without breach of the terms of this Agreement on the part of the receiving party; or

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3.3 the receiving party can prove becomes known to the receiving party through disclosure by sources other than the disclosing party, having a right to disclose such information; or

3.4 the receiving party can prove has been developed independently by an employee of the receiving party who has not had access to any of the confidential information of the disclosing party.

5. Unless it is necessary for the purpose stated in this Agreement and provided that any disclosed confidential information or any copy thereof is made accessible only to such representatives who have a need to know, the receiving party shall not, without the prior written consent of the disclosing party, copy or reproduce any item or document supplied to the receiving party - being or containing in whole or in part confidential information. The receiving party shall return such item or document and any copies thereof at the supplying party's request, and at the latest on termination of this Agreement. This shall not apply to copies of electronically exchanged confidential information made as a matter-of-routine information technology back-up, and to confidential information or copies thereof which must be stored by the receiving party according to mandatory law, provided that such confidentiality information or copies thereof shall be subject to an indefinite confidentiality obligation.

6. All confidential information shall remain the exclusive property of the disclosing party as well as all patent, copyright, trade secret, trademark and other intellectual property rights therein. No license or conveyance of any such rights to the receiving party is granted or implied under this Agreement. No commercial obligation on the part of either party is intended or undertaken. The parties agree that any confidential information is made available "as is" and that no warranties of any kind are granted or implied with respect to the quality of confidential information , including but not limited to, its fitness for any purpose, non-infringement of third party rights, accuracy, completeness or correctness.

7. The party receiving confidential information including materials, samples, prototypes or similar items, in any format, shall not analyse it, chemically, by reverse engineering, or otherwise, in order to determine the identity and/or properties of its components. To the extent that such items have not been destroyed or used during evaluation tests and unless there is no other agreement between the Client and the Operator, they shall be returned to the supplying party upon request, and at the latest on termination or expiry of the Framework or any Call-Off Contract awarded to the Operator thereunder, whichever is later.

8. The Operator acknowledges that the Client is subject to the Freedom of Information Acts 1997-2003, as amended. In the event of the Client receiving a request for information related to the Framework or a Call-Off Contract, the Client shall consult with the Operator in respect of the request. The Operator shall identify any information that is not to be disclosed on grounds of commercial sensitivity, and shall state the reasons for this sensitivity. The Client will consult the Operator about this commercially sensitive information before making a decision on any Freedom of Information request received. The final decision on disclosure rests with the Office of the Information Commissioner and ultimately, the courts.

9. Ancillary agreements, amendments or additions hereto must be made in writing.

10. This Agreement shall be construed and interpreted by the laws of Ireland and the Irish courts shall have exclusive jurisdiction.

11. If any provisions of this agreement are invalid or unenforceable, the validity of the remaining provisions shall not be affected. The parties shall replace the invalid or unenforceable provision by a valid and enforceable provision that will meet the purpose of the invalid or unenforceable provision as closely as possible.

..... ……..
Signed on behalf of the Client Date

..... ……..
Signed on behalf of the Operator Date

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Schedule 10 Sub-Consultants/Contractor

Sub-Consultant/Contractor Name	Address and Contact Details	Service to be delivered

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Schedule 11 Call-Off Contract Terms and Conditions

The Call-Off Contract Terms and Conditions shall be those agreed by the parties together with any amendments approved by the parties from time to time.

The Call-Off Contract Terms and Conditions shall be the [xxx] as published by the Department of Public Expenditure and Reform and available at http://constructionprocurement.gov.ie/.

The Call-Off Contract Terms and Conditions shall be the [xxx] as published by the National Procurement Services and available at http://procurement.ie/suppliers/template-documents-0.

[Insert Terms]

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Schedule 12 Sub-Consultant/Contractor Collateral Warranty

THIS AGREEMENT is made on the day of

BETWEEN:-

1 [**SUB-CONSULTANT/CONTRACTOR NAME**], a company established under [ ] law with company registration number [insert] and its registered address at [insert] (for the purposes of this Agreement referred to as the "**Sub-Consultant/Contractor**" which expression includes its successors and permitted assigns) of the one part, and

2 [**CLIENT/FRAMEWORK PURCHASER NAME**], having its offices at [address] (for the purposes of this Agreement referred to as the "**Client**" which expression includes its successors and permitted assigns and any body to whom its functions are transferred under Applicable Law) of the other part,

WHEREAS:-

(A) In this Agreement:

(a) the "**Appointment**" means the sub-consultancy agreement dated [•] made between [Insert name of Consultant] (the "**Consultant**") and the Sub-Consultant/Contractor;

(b) other capitalised terms shall have the meanings attributed to them in the Appointment save where indicated otherwise.

(B) By the Appointment the Consultant has appointed the Sub-Consultant/Contractor to provide certain professional services (the "**Services**")/ supplies (the "Supplies").

NOW IT IS HEREBY AGREED as follows**:-**

1. The Sub-Consultant/Contractor hereby:

1.1 warrants to and undertakes with the Client that it has exercised and will continue to exercise all reasonable skill, care and diligence in the performance of its obligations and duties pursuant to the Appointment and has not broken and shall not break any express or implied term of the Appointment.

1.2 binds itself to the Client in all respects as if the Client had appointed the Sub-Consultant/Contractor to act prior to the commencement of any work by the Sub-Consultant/Contractor to the extent that the Client shall be entitled to enforce all remedies against the Sub-Consultant/Contractor by virtue of any breach by the Sub-Consultant/Contractor of its obligations pursuant to the Appointment;

1.3 warrants to and undertakes with the Client that the Sub-Consultant/Contractor shall take out and maintain

1.3.1 professional indemnity insurance for [•] years after the date the service is provided under a Consultant's Contract with a limit of indemnity of not less than €[•] for each and every claim or series of claims (subject to reasonable adjustment of cover for any exceptional increases in insurance market rates) arising out of the same originating cause with a maximum excess of €[•] or such other amount as is acceptable to the Client;

1.3.2 public liability insurance for bodily injury to, disease or death of any person (other than an employee of the Sub-Consultant/Contractor) or loss of or damage to property resulting from a negligent act or omission of the Sub-Consultant/Contractor with a limit of indemnity of not less than €[•] for each and every claim or series of claims arising from the same occurrence with a maximum excess of €[•] until completion of the Services or earlier termination of the Appointment.

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1.3.3 employer's liability insurance for bodily injury to, disease or death of employees of the Sub-Consultant/Contractor arising out of or in the course of their employment in connection with the Consultant's Contract with a limit of indemnity of not less than €[•] for each and every claim or series of claims arising from the same occurrence with a maximum excess of €[•] until completion of the Services/Supplies or earlier termination of the Appointment.

1.4 The insurance required under Clause 1.3 shall be written by reputable and well-established insurers approved by the Client (whose approval shall not be unreasonably withheld or delayed).

1.5 As and when reasonably requested by the Client, the Sub-Consultant/Contractor shall produce for inspection documentary evidence that the insurance required by Clause 1.3 has been taken out and is being maintained as so required.

1.6 If the Sub-Consultant/Contractor shall at any time fail to take out or maintain the insurance required under Clause 1.3, the Client may take out and maintain such insurance in the Sub-Consultant/Contractor's name, and the Sub-Consultant/Contractor shall pay to the Client the amount of all costs and expenses properly incurred by the Client in so doing. The Sub-Consultant/Contractor shall notify the Client immediately on becoming aware of the cancellation or non-renewal or material reduction in the scope of cover provided by the insurances as set out above in Clause 1.3.

1.7 Any public liability insurance policy shall include an indemnity to principals clause specifically indemnifying the Client. The policy shall not include terms or conditions to the effect that the Sub-Consultant/Contractor must discharge any liability before being able to recover from the insurers.

1.8 The Sub-Consultant/Contractor shall be liable to pay the full amount of any deductibles or excess amounts payable under the policies of insurance referred to above in the event of a claim under any of the policies.

2. The copyright in any documents produced by the Sub-Consultant/Contractor in connection with any Services/Supplies (the "Documents") shall remain vested in the Sub-Consultant/Contractor but the Client shall have a perpetual non-exclusive irrevocable and assignable royalty free licence to reproduce, copy and use the Documents for all purposes connected with the Services/Supplies and to future related Services/Supplies.

2.1 The Client shall be entitled (at its own cost) to full and proper copies of the Documents in the possession or control of the Sub-Consultant/Contractor and the Sub-Consultant/Contractor will not claim copyright or a lien in respect of them against the Client.

2.2 The licence granted to the Client under this Collateral Agreement shall include a right for the Client to grant sub-licences.

3. The Sub-Consultant/Contractor hereby undertakes and warrants to the Client that it has not and will not specify for use materials or substances which are not in accordance with current European Standards and Codes of Practice insofar as they may be applicable or any materials or substances known to be deleterious to health or safety or the durability or suitability of any such project in the particular circumstances in which the same is used.

4. The benefit of this Collateral Agreement and/or any of the present or future rights interests and benefits of the Client hereunder may be assigned on six occasions without the consent of the Sub-Consultant/Contractor. The Client shall give the Sub-Consultant/Contractor prompt notice of any such assignment provided always that the giving of such notice shall not be a precondition to the effectiveness of any assignment.

5. Any notice provided for in accordance with this Collateral Agreement shall be deemed to be duly given if delivered by hand or sent by registered post to the party named therein at the address of such party shown in this Collateral Agreement or such other address as such party

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may by notice in writing nominate for the purpose of service and if sent by registered post or delivered by hand shall be deemed to have been received when delivered.

6. The Sub-Consultant/Contractor will, if so required by notice in writing given by the Client, accept the instruction of the Client or the Client's nominee to the exclusion of the Consultant in respect of the carrying out and completion of any Services/Supplies upon the terms and conditions of the Appointment (whereupon all the rights and obligations of the Consultant under the Appointment shall thereafter be performed and exercisable by the Client or its nominee). The Sub-Consultant/Contractor shall not be in breach of the Appointment by complying with the obligations imposed on it by this Clause.

7. The Sub-Consultant/Contractor will not without first giving the Client not less than twenty one (21) days prior notice in writing exercise any right it may have to determine its employment under the Appointment or to treat the same as having been repudiated by the Consultant or to discontinue or suspend the performance of any duties to be performed by the Sub-Consultant/Contractor pursuant thereto. The Sub-Consultant/Contractor's right to determine its employment under the Appointment, to treat the same as having been repudiated or to suspend or to discontinue performance shall cease if within twenty one days of receipt of such notice the Client shall give notice in writing to the Sub-Consultant/Contractor requiring the Sub-Consultant/Contractor to accept the instruction of the Client or its nominee to the exclusion of the Consultant in respect of the carrying out and completion of the Services/Supplies upon the terms and conditions of the Appointment (whereupon all the rights and obligations of the "Consultant" under the Appointment shall thereafter be performed and exercisable by the Client or its nominee).

8. This Agreement shall be governed by, and construed in accordance with, the laws of Ireland and the parties, subject to Clause 9, irrevocably submit to the jurisdiction of the Irish Courts.

9. Dispute Resolution

9.1 Any dispute or difference of any kind whatsoever which arises or occurs between the parties to this Collateral Agreement or their respective assigns in relation to anything or matter arising under, out of, or in connection with this Collateral Agreement shall, in the first instance, be referred to a Mediator to be appointed by agreement between the parties and, in the absence of agreement within five (5) working-days of the receipt by one Party of a written notice to concur in the appointment of a Mediator, by the Chairman of the Chartered Institute of Arbitrators Irish Branch.

9.2 In the event that the dispute or difference is not resolved within fifteen (15) working-days of the appointment of the Mediator, the dispute or difference shall be referred to an Arbitrator to be agreed between the parties and, in default of agreement within ten (10) working-days of the receipt by one Party of a written notice to concur in the appointment of an Arbitrator, by the Chairman of the Chartered Institute of Arbitrators Irish Branch, such arbitration to be governed by the Arbitration Act 2010 as amended or replaced and shall be conducted in accordance with the Model Law as defined in the Arbitration Act 2010. The Arbitrator shall have no connection with the Mediator or Mediation Proceedings unless both parties have otherwise consented in writing.

IN WITNESS WHEREOF the parties have affixed their Seals the day and date first hereinbefore written.

Enterprise Ireland

SIGNED for and on behalf of **[INSERT NAME OF CLIENT]** by:

_____
A duly authorised representative

in the presence of:

_____
Witness to Signature

_____
Witness' address

_____
Witness' occupation

SIGNED, SEALED AND DELIVERED by **[SUB-CONSULTANT/CONTRACTOR]**
in the presence of:

_____
Director

_____
Person duly authorised

in the presence of:

_____
Witness to Signature

_____
Witness' address

_____
Witness' occupation

Enterprise Ireland

Schedule 13 Invitation to Tender

Enterprise Ireland

Schedule 14 Tender

Enterprise Ireland