# BROADCASTING AUTHORITY OF IRELAND

# CONTRACT AWARD FOR SUPPLY OF GOODS

This Contract (the “**Contract**”) is made on the [insert day] day of [insert month], [insert year]

**BETWEEN**:

1. **BROADCASTING AUTHORITY OF IRELAND** (the “**BAI**” or the “**Authority**”) of 2-5 Warrington Place, Dublin 2; and,
2. [**NAME OF SUPPLIER**] of [address of supplier] (the “**Supplier**”).

**RECITAL**

1. The Supplier is an expert in the provision of the Goods similar in scope, nature, scale and complexity as the Goods required by the Authority.
2. The Authority wishes to procure, and the Supplier wishes to supply, the Goods and the parties have agreed to enter into this Contract for the provision of the Goods by the Supplier in accordance with the Tender Documents and on the terms and conditions specified herein and as defined below.

## PARTICULARS OF CONTRACT

### The Goods

The entire or any part of the Goods to be provided to the Authority in accordance with this Contract and as further described in the Specification of Goods in Schedule A (the “**Goods**”).

### Effective Date

The Supplier undertakes to supply the Goods with effect from the [insert day] day of [insert month], [insert year] and for the term specified below unless otherwise terminated in accordance with this Contract (the “**Effective Date**”).

### Term

[insert term of contract] (the “**Term**”)

This Contract consists of:

* The Particulars of Contract
* Schedule A – Specification of Goods
* Schedule B – Schedule of Pricing
* Schedule C – Terms and Conditions
* Schedule D – [insert Supplier name] tender submission dated [insert date].

In the event of a conflict arising between the Particulars of Contract as set out above and the terms of any of the Schedules hereto, the relevant provisions of the Particulars of Contract shall prevail, save and except where the terms of any of the Schedules provides a higher level or standard of service, in such cases the relevant provision of the Schedules shall prevail. In the event of a conflict arising between Schedule D and the remainder of the Contract (including for the avoidance of doubt the other Schedules thereto), the terms of the Contract shall prevail. In the event of any dispute in relation to which level or standard of service should apply, the Authority shall have full authority to determine which provision will apply.

The Supplier shall comply with all provisions of the Specification of Goods except as may be varied by this Contract or where expressly agreed otherwise in writing by the Authority.

“**Tender Documents**” shall include the following:

* 1. any request for proposal or invitation to tender for the provision of goods and/or services made by the Authority to the Supplier;
  2. any tender or other response to such request for proposal or invitation to tender, as clarified or amplified in writing between the Authority and the Supplier prior to written acceptance by the Authority thereof;
  3. additional tender documents including specifications, price schedules, form of tender and Article 45 Declaration; and,
  4. the Supplier’s submission contained at Schedule D.

## SCHEDULE A – SPECIFICATION OF GOODS

[TO BE ATTACHED]

## SCHEDULE B – SCHEDULE OF PRICING

### Fees

Per the Supplier’s submission dated [date of submission].

### Invoicing Instructions

All payment will be on the basis of invoices and per the Terms and Conditions herein.

## SCHEDULE C - TERMS AND CONDITIONS

# BROADCASTING AUTHORITY OF IRELAND

# TERMS AND CONDITIONS OF SUPPLY OF GOODS

These terms and conditions shall apply to the Contract between the Authority and the Supplier and, subject to clauses 14.31 and 14.32, shall not be deemed to be amended or excluded in whole or part save by written agreement duly executed by the Supplier and the Authority and making express provision for such amendment or exclusion. Any rights or remedies of the Authority otherwise or elsewhere provided for in the Tender Documents shall be deemed to be in addition to and not to limit the rights and entitlements of the Authority pursuant to these terms and conditions. Any terms or conditions of the Supplier (including any terms and conditions contained in Schedule D) whether contained in quotations, invoices or otherwise, conflicting with or purporting to amend or exclude these terms and conditions shall be deemed not to apply.

## General Terms

* 1. This Contract takes legal effect on and from the Effective Date and continues in full force and effect for the Term unless earlier terminated in accordance with this Contract.
  2. The Supplier undertakes to supply the Goods from the Effective Date until expiry of the Term to the highest professional standards at all times and in compliance with the terms of this Contract.
  3. The Supplier shall accept sole responsibility for acquiring any permits or licences necessary for its performance of the Contract.
  4. The Authority shall not be responsible under any circumstances for any loss or damage suffered by the Supplier or its servants or agents in the performance of the Contract, nor entertain any claim relating to such damage.

## Probationary Period

* 1. In the event that the Term exceeds six (6) months, the first six (6) month period of the Term will be a probationary period.
  2. Without prejudice to any other rights of the Authority pursuant to this Contract, the Authority may terminate this Contract for any reason or no reason during the probationary period on one week's notice to the Supplier.
  3. During this probationary period the performance and suitability of the Supplier to provide the Goods will be monitored. At the end of the probationary period the Supplier will be informed in writing if it has successfully completed the probationary period.

## Payment Terms

* 1. Prior to the supply of any Goods under this Contract it shall be the responsibility of the Supplier to procure the issue from the Authority of a valid written purchase order for the relevant Goods and the Goods may be supplied only following issue of such written purchase order by the Authority to the Supplier (the Purchase Order).
  2. In accordance with the Late Payments in Commercial Transactions Regulations 2012, payment will be made within 30 (thirty) days of receipt of a complete and accurate invoice, delivered by the Supplier to the Authority's Finance Department, quoting a valid purchase order number.
  3. Payment will not be made to a Supplier who has failed to supply or refused to comply with a request for a current Tax Clearance Certificate.
  4. The Authority shall withhold tax as required by the Taxes Consolidation Act 1997 (as amended) and the Revenue Commissioners in respect of payments made by public bodies for professional services.
  5. Any and all taxes applicable to the supply of the Goods under and in accordance with this Contract will be the sole responsibility of the Supplier and the Supplier so acknowledges and confirms.
  6. Wherever under this Contract any sum of money is recoverable from or payable by the Supplier (including any sum which the Supplier is liable to pay to the Authority in respect of any breach of this Contract), the Authority may deduct, with prior notice to the Supplier, that sum from any sum then due, or which at any later time may become due to the Supplier by the Authority under this Contract.

## Warranties

* 1. The Supplier warrants, represents and undertakes that, subject to the remaining provisions of this clause 4:
     1. it has the authority and right under law to enter into, and to carry out its obligations and responsibilities under this Contract and to provide the Goods hereunder;
     2. it owns, has obtained or is able to obtain, all relevant titles that are necessary to allow it carry out its obligations and responsibilities under this Contract;
     3. It has not and will not in the supply of the Goods under this Contract at any time infringe the intellectual or other property rights of any third party;
     4. it is entering into this Contract with a full understanding of its material terms and risks and is capable of assuming those risks;
     5. it will provide the Goods in accordance with the terms and conditions of this Contract;
     6. it will provide the Goods with all reasonable due diligence, skill and care, and that all persons engaged by the Supplier in connection with the provision of the Goods shall be competent, appropriately qualified and experienced having regard to the Goods and the standard of Goods being provided;
     7. it will be responsible for and take due precautions for the safe custody of any Goods on its premises which are the property of the Authority and shall insure the same against any form of loss or damage;
     8. it will, on request from the Authority, assign to the Authority all benefits or any manufacturer’s, sub-suppliers or other third party warranty or guarantee which may apply to the Goods;
     9. it has acquainted itself with and shall comply with all relevant legal and/or regulatory statutes, bylaws, regulations and requirements of any government, local or other competent authority and best industry practice including but not limited to those relating to tax, health, safety and the environment, employment, and those made known by the Authority to the Supplier in this Contract, the Tender Documents (if applicable) or otherwise in connection with the Goods;
     10. it will maintain the confidentiality and integrity of any Customer Information or Confidential Information acquired or accessed by the Supplier and/or Supplier Personnel in the course of providing the Goods.
     11. the Goods shall not infringe any patent, trademark, registered design, copyright or other right of any third party and the Supplier shall indemnify the Authority against all actions, claims, suits, demands, losses, costs or expenses incurred or likely to be incurred by the Authority under this heading and the Supplier covenants and undertakes not to enter into any agreement which in any way interferes with the rights granted by the Supplier to the Authority under this Contract;
     12. that the Goods will on delivery have good absolute title and be free from encumbrance or other third party entitlement;
     13. that the Goods will:
         1. correspond with their description and any applicable specification;
         2. be of satisfactory quality (within the meaning of the Sale of Goods and Supply of Services Act 1980, as amended) and fit for any purpose held out by the Supplier or made known to the Supplier in writing at the time the Purchase Order is placed;
         3. be free from defects in design, material and workmanship and shall remain so for a minimum period of twelve (12) months after delivery;
         4. correspond with any relevant specification or sample; and
         5. comply with all statutory requirements and regulations relating to the sale of the Goods.

"**Customer Information**" means all information, data, records, material, programs, databases, e-mails, accounts information and all other information of the Authority which is to be located and/or stored on the Servers as may be part of the provision of the Goods.

"**Servers**" means the server(s) on which the Customer Information will be located and/or stored in the course of providing the Goods which for the avoidance of doubt may be virtual servers in a multi tenancy environment.

“**Specification**” includes any plans, drawings, data or other information relating to the Goods and the Specification of Goods more particularly described at Schedule A to the Contract.

* 1. The warranties and remedies provided for in this clause 4 shall be in addition to those implied by or available at law or in equity and shall continue in force notwithstanding acceptance by the Authority of all or part of the Goods in respect of such warranties and remedies.
  2. The Supplier undertakes to notify the Authority forthwith of any material change to the status of the Supplier with regard to the warranties, representations and undertakings as set out in this clause 4 and to comply with all reasonable directions of the Authority with regard thereto which may include termination of this Contract.

## Supply and Delivery of the Goods

* 1. The Goods shall be supplied to the satisfaction of the Authority in strict conformity with this Contract and the Specification of Goods set out in Schedule A, except as may otherwise be agreed in writing by the Authority. The Supplier will provide such reports, if any, as are detailed in Schedule A promptly.
  2. The Supplier shall during the term of the Contract deliver the Goods and shall take all appropriate steps having regard to its obligations under the Contract to ensure that all matters are dealt with to ensure delivery of the Goods as provided for in the Contract and to achieve the timely, efficient and economic performance of its obligations under the Contract in a manner and to the standards and within the time stipulated in the Contract.
  3. Delivery of the Goods shall be to the place named on the Purchase Order, or if none is stated, to the Authority's offices at 2-5 Warrington Place, Dublin 2 (the “**Delivery Location**”) and the delivery of the Goods shall be completed on the completion of unloading the Goods at the Delivery Location.
  4. The title and property in the Goods shall pass to the Authority upon delivery or (in the case of delivery by instalments) upon delivery of each instalment, unless payment or part payment has been made prior to delivery in which event title and property in any goods purchased or allocated by the Supplier for the purpose of the Contract shall immediately vest with the Authority upon such payment. Risk of damage or loss of the Goods shall remain with the Supplier until delivery in accordance with the Contract.
  5. If the Authority is not satisfied with the standard of any part of the Goods provided, by reason of quality, quantity or (without limitation) any other reason, or the Goods are not delivered or provided in due time then without prejudice to any other rights to which it may be entitled, the Authority, at its absolute discretion, may:
     1. return the Goods or any instalment or any part thereof on the basis that a full refund for such goods shall be paid forthwith by the Supplier (title but not risk therein remaining with the Authority until the refund is made); or
     2. require immediate replacement or rectification by delivery of goods which are in accordance with the Contract; or
     3. require the immediate repair or remedy of any defects in the Goods; or
     4. repair or remedy the defects or deficiencies itself or by others, at the Suppliers expense; or
     5. purchase equivalent goods elsewhere at the Suppliers expense; or
     6. refuse to accept any further delivery of goods or performance of any further services, without liability

and the Supplier will indemnify the Authority in full on demand in respect of all costs and expenses thereby incurred by the Authority. The making of any prior payment shall not prejudice the Authority’s right of rejection.

* 1. Unless expressly agreed to the contrary, the Authority shall not be obliged to accept delivery by instalments. If, however the Authority does specify or agree to delivery by instalments, delivery of any instalment later than the date specified or agreed for its delivery shall, without prejudice to other rights or remedies of the Authority, entitle the Authority to terminate the whole of any unfulfilled part of the Contract without further liability to the Supplier.
  2. The Authority shall be under no obligation to accept or pay for any Goods supplied earlier than the date for delivery stated in the Purchase Order.
  3. Time of delivery shall be of the essence and if the Supplier fails to deliver the Goods within the time specified in the Purchase Order the Authority may release itself from any obligation to accept and pay for the Goods and/or terminate the Contract without prejudice to any other rights and remedies of the Authority.
  4. Without prejudice to any other rights under the Contract, the Authority may terminate this Contract with immediate effect if the Supplier does not comply with any requirements under condition 5.5 within the time specified or if the Authority is not satisfied with the standard of any such remedial/replacement Goods delivered by the Supplier.
  5. The Supplier will prioritise its obligation under this Contract in relation to the other business activities of the Supplier to ensure that it can comply with its covenants and obligations in the manner contemplated by this Contract.
  6. The Supplier acknowledges that it does not have any exclusive right to provide the Goods, or goods similar or identical to the Goods, to the Authority, and that there is no guarantee of any value, volume or frequency of Goods unless otherwise specified.
  7. The Supplier acknowledges and agrees that the Authority is deemed to have fully relied on the Supplier's skill, expertise and experience in providing the Goods.
  8. The Supplier shall comply with all relevant standards and codes (including inter alia voluntary codes) and all applicable laws, ordinances, statutes, orders, rules and regulations of any governmental or other applicable authority having jurisdiction (hereafter “**Laws**”) in the performance of its obligations under the Contract and delivery and provision of the Goods hereunder and shall ensure that the Goods are in compliance with such Laws and without prejudice to the generality of the foregoing shall ensure that the production, creation and transmission of all materials supplied or generated pursuant to the Contract shall be designed and implemented in strict compliance with those Laws and shall obtain and pay for, at its own cost, all licences and permits necessary for the performance of its obligations under the Contract.
  9. Nothing in this Contract shall prohibit or be deemed to prohibit the Supplier from providing goods similar to the Goods to any other third party, providing that the supply of goods to any such third party shall not interfere or adversely affect the supply of the Goods to the Authority.

## Inspection of the Goods

* 1. The Authority or its authorised representative may inspect (to include a call for advance samples) or test the Goods either completed or in the process of manufacture, during normal business hours on reasonable notice at the Supplier’s premises (including the premises of any subcontractor or agent) and the Supplier shall provide all reasonable assistance in relation to any such inspection or test free of charge. A failure to make a complaint at the time of any such inspection or test and / or the approval given during or after such inspection or test shall not constitute a waiver by the Authority of any rights or remedies in respect of the Goods and the Authority reserves the right to reject the Goods in accordance with clause 6.2.
  2. The Authority may by written notice to the Supplier reject any of the Goods which fail to conform to the Specification. Such notice shall be given within a reasonable time after delivery to the Authority of such Goods. If the Authority rejects any of the Goods pursuant to this clause the Authority may (without prejudice to other rights and remedies) either:
     1. treat the Agreement as discharged by the Supplier’s breach and obtain a refund (if payment for the Goods has already been made) from the Supplier in respect of the Goods concerned together with payment of any additional expenditure reasonably incurred by the Authority in obtaining other goods in replacement provided that the Authority uses its reasonable endeavours to mitigate any additional expenditure in obtaining replacement goods; or
     2. have such Goods promptly, and in any event within thirty (30) calendar days, either repaired by the Supplier or replaced by the Supplier with goods which conform in all respects with the approved sample or with the Specification and due delivery shall not be deemed to have taken place until such repair or replacement has occurred.
  3. Rejected Goods shall be removed by the Supplier from the Authority within thirty (30) calendar days from the date of the notification to the Supplier of their rejection. In the event of failure by the Supplier to remove Goods within fourteen (14) calendar days of such notification, the Authority may dispose of such Goods as he sees fit and pending such removal, the Goods will remain with the Authority at the risk of the Supplier. Any costs incurred by the Authority relating to such disposal shall at the option of the Authority be borne by the Supplier.
  4. For the avoidance of doubt, the Authority will be deemed to have accepted the Goods if it expressly states the same in writing or fails to reject the Goods in accordance with clause 6.2.
  5. The issue by the Authority of a receipt note for the Goods shall not constitute any acknowledgement of the condition, quantity or nature of those Goods, or the Authority’s acceptance of them.

## Change Control Procedure

* 1. Both parties agree that any request for change to the specification of the Goods will be processed in writing according to the following Change Control Procedure.
     1. At any time during the term of this Contract, either party may propose a change or changes to any part or parts of this Contract.
     2. The Change Control Procedure set out in this clause 7 will apply to all changes irrespective of whether the Supplier or the Authority proposes the change.
     3. A change control notice (“**Change Control Notice**”) shall be prepared for all change requests. The Change Control Notice will provide an outline description of the change requested, the rationale for the change, the effect that the change will have on the supply of Goods (where known) and an estimate of the effort and cost required to prepare an impact assessment (“**Impact Assessment**”).
     4. The parties must indicate their acceptance or rejection of the change control request and/or Impact Assessment within a reasonable timeframe of its completion and tender a submission for review, subject to a maximum of twenty (20) calendar days or such other period agreed between the parties.
     5. On approval of an Impact Assessment, this Contract and/or the schedules should be updated and revised as appropriate and in writing.
     6. In the event that either party rejects the Impact Assessment, the change(s) shall not take place and the parties shall continue to perform their obligations under this Contract.
     7. The Supplier and the Authority will agree a reasonable charge in advance for investigating each proposed variation and preparing each estimate, whether or not the variation is implemented.

## Specifications

* 1. The Authority agrees that, from time to time, the Supplier may subject to the prior written approval of the Authority:
     1. for operational reasons, change the Specification of the Goods to be provided by the Supplier hereunder provided it does not materially affect the delivery of the Goods; and/or
     2. suspend the delivery of the Goods, for operational reasons or because of an emergency.
  2. The Supplier will resume the delivery of the Goods within a timeframe approved by the Authority.

## Intellectual, Industrial and Commercial Property Rights

* 1. All specifications, products or documents supplied by the Authority in connection with the Contract together with all intellectual property rights, design rights or copyright connected therewith shall remain the property of the Authority.
  2. The Supplier, with full title guarantee, irrevocably grants and assigns to the Authority, by way of an exclusive and immediate assignment of present and future copyright, subject to clauses 9.3 and 9.4 all of the Supplier's right title and interest of whatsoever nature, whether vested or contingent in and to the Goods and all related rights and properties for the Authority to hold absolutely throughout the world in all languages and in any and all media (whether now known or hereafter invented) for the full period of copyright and all renewals, revivals, reversions and extensions and thereafter in perpetuity.
  3. The Supplier grants to the Authority a non-exclusive, non-transferable, perpetual, irrevocable, royalty free, multiple user and worldwide licence to use any software supplied by the Supplier in connection with the provision of the Goods to the extent incorporated in, and necessary in conjunction with, the Goods or any deliverables provided under this Contract in order to allow the Authority to utilise the Goods or any deliverables so provided in accordance with their intended use for the Authority's business purposes.
  4. The Authority acknowledges that in the course of the Supplier's provision of the Goods, the Supplier may use products, materials or methodologies proprietary to it or third parties. The Authority agrees that it shall not obtain any rights in such proprietary products, materials and methodologies (or as may be modified or enhanced) except pursuant to a separate written agreement executed by the parties and that such products, materials and methodologies shall be returned to the Supplier (within five (5) Business Days) in good order and condition on the request of the Supplier or on the termination of this Contract.
  5. The provisions of this clause will continue to apply notwithstanding the termination of this Contract for any reason and notwithstanding the delivery of the Goods.
  6. The Supplier shall indemnify, defend and hold harmless the Authority from any and all damages and costs awarded by a court of competent jurisdiction or any amounts agreed in settlement, including reasonable legal fees and expenses, arising out of any claims of infringement by the Supplier of any patent, trade mark, copyright, goodwill, covenant or other intellectual or other property right or similar right whether registerable or not in any jurisdiction.
  7. If as a result of any such action or infringement detailed in clause 9.6 the Authority is unable to lawfully use or benefit from the Goods, or if such action or claim is likely to be made or is initiated, the Supplier will either procure for the Authority the right to continue to use and benefit from the Goods in accordance with the Contract, or replace or modify the Goods, with goods of comparable quality, serviceability and capability at no cost to the Authority, so that it becomes non-infringing.
  8. The Supplier shall not obtain any rights in products, materials or methodologies proprietary to the Authority except pursuant to a separate written agreement executed by the parties.
  9. The Supplier shall at the request and reasonable expense of the Authority provide such assistance as the Authority may require in obtaining, maintaining, defending and/or enforcing the Authority's rights in respect of the Goods, including without limitation the execution of all necessary documents. The Supplier unconditionally and irrevocably waives any non-transferable rights in the Goods and shall procure that written, unconditional and irrevocable waiver of any moral or other non-transferable rights in the same, whether asserted or not, has been given by Supplier Personnel in a form approved by the Authority, acting reasonably, and delivered to it prior to the supply and delivery of the Goods.

## Compliant Systems/Machinery/Products

The Supplier guarantees and undertakes that all systems, machinery, hardware, software and products supplied or used in the performance of this Contract are or will, when supplied or used, be Compliant Systems. In this clause the term Compliant Systems means that the performance and functionality of the systems, machinery, hardware, software and products will be consistent and uninterrupted regardless of the date and time on which they are being used or operated and regardless of any currency which they use or to which they refer where use of or reference to that currency is required by law or by the terms of this Contract.

## Liability, indemnity and insurance

* 1. The Supplier shall be liable to the Authority for any losses, actions, proceedings, costs, expenses, damages, claims and liabilities incurred by the Authority arising out of:
     1. any injury, including fatal injury and disease, to Supplier or Authority personnel or third parties, or loss or damage to the property of third parties which is caused or contributed to by the negligence, error, omission, breach of statutory duty, breach of contract or other default of the Supplier, its employees, servants or agents; and
     2. any assertion against the Authority that any member or former member of Supplier Personnel is or was an employee or worker of the Authority including without limitation, any liability for income tax or Pay Related Social Insurance contributions of Supplier Personnel, or any interest or penalties thereon or any claim for breach of contract, unfair dismissal, a statutory or other redundancy payment, unlawful deductions from wages, equal pay, sex, race or disability discrimination, a protective award or any other claim.
  2. The Supplier hereby agrees to fully and effectively indemnify, hold harmless and keep so indemnified on demand the Authority from and against any liabilities whatever suffered or incurred by the Authority arising out of and/or in connection with the negligence, default, act or omission of the Supplier and/or its personnel, sub-contractors or agents. This indemnity survives the termination or expiration of this Contract for whatever reason.
  3. The Supplier will, at its sole cost and expense, effect and maintain for the benefit of the Authority for the Term, and such further period as may be required or ought prudently to be effected and maintained after the expiration or termination of this Contract, insurance cover with reputable insurers to cover its liabilities that may arise under or in connection with this Contract including:
     1. public liability insurance with minimum cover of six million five hundred thousand euro (€6.5m) for each and every claim;
     2. employer's liability insurance with minimum cover of twelve million, seven hundred thousand euro (€12.7m) for each and every claim; and
     3. professional indemnity insurance, if required by the Authority, with minimum cover of the full cost of the contract to a minimum of fifty thousand euro (€50k) for each and every claim (which professional indemnity insurance will be kept in place for at least two (2) years from the expiration or termination of the Contract).
  4. The policies of insurance referred to in clause 11.3 will be shown by the Supplier to the Authority whenever the Authority requests, together with satisfactory evidence of payment of premiums.
  5. Where the Supplier or any sub-contractor fails to insure any risk as required by the Authority, in accordance with the Contract, the Authority may insure the risk in question and deduct the amount of the premiums from any monies due to the Supplier.

## Confidentiality

* 1. This Contract (including any negotiations relating thereto, the subject matter, terms or performance of this Contract) and all information relating to the affairs or business of both parties ("**Confidential Information**") shall be treated as proprietary and confidential. Both parties undertake to treat as confidential, and to cause their employees, agents and sub-contractors to treat as confidential, any and all Confidential Information of the other party which may come into its own possession or into the possession of any of their employees, agents or sub-contractors as a result of or in connection with the provision and delivery of the Goods. The parties shall use the Confidential Information solely for the purposes of fulfilling their obligations under this Contract and shall not, subject to clause 12.3, at any time during or after expiry or termination of this Contract, disclose the said Confidential Information whether directly or indirectly to any third party without the prior written consent of the other party nor copy the said Confidential Information unless specifically permitted to do so by the other party. The parties undertake to make all relevant employees, agents and sub-contractors aware of this term and to take all steps necessary to ensure compliance with the obligations under this clause.
  2. In protecting such Confidential Information, each party shall employ the highest standard of care, which shall in no event be less than the standard of care it employs in protecting its own confidential information.
  3. Except with the prior written consent of the party from which it is received (the "**Disclosing Party**"), no party will disclose the other party's Confidential Information or any part thereof to any third party other than its own employees, agents or sub-contractors and then only to the extent that such disclosure is necessary for the performance of its obligations under this Contract, in which case, the party that has received the Confidential Information (the "**Receiving Party**") will take all reasonable steps to ensure that such information is treated as confidential by the person to whom it is disclosed, including requiring such person to enter into an appropriate confidentiality agreement with the Receiving Party. This paragraph and sections herein will not apply to:
     1. information required by the law of any jurisdiction to which the disclosure is subject, provided that the Receiving Party has taken all practicable legal steps to prevent such disclosure and has where practicable consulted with the other party on the manner and timing of the disclosure;
     2. information disclosed to the professional advisers or auditors of the party under obligations of confidence no less stringent than those assumed by the Receiving Party hereunder (which the Receiving Party undertakes to enforce);
     3. information lawfully in the possession of the recipient before the disclosure under this Contract took place;
     4. information that has come into the public domain through no fault of that party or breach of confidentiality;
     5. information that the other party has given prior written approval to such disclosure;
     6. information lawfully obtained from a third party who is free to disclose it; or
     7. information which is received or obtained by the Receiving Party without restriction on disclosure from a source free to disclose it other than the Disclosing Party or an agent of the Disclosing Party.
  4. The restrictions contained in this clause 12 shall continue to apply after the termination of this Contract.

## Supply and Delivery of Goods On-site

* 1. To the extent that the provision or delivery of the Goods or any part thereof involves any entry on to Authority owned or controlled property then the Supplier shall comply with the following:
     1. prior to commencing its obligations under this Contract, the Supplier and any sub-contractors shall have obtained all necessary information relating to the property including (without limitation) any local conditions and the facilities at the property and any other information relevant to the provision and delivery of the Goods under and in accordance with this Contract. The Authority shall ensure the information provided is correct and accurate in all material respects;
     2. when on Authority property the Supplier and any sub-contractor shall comply strictly with all of the Authority's regulations relating to the property in question and any other requirements the Authority might have in relation to the Supplier's entry onto or presence at the property including but not limited to, health and safety, prevention of fire, use of facilities and security arrangements;
  2. the Supplier shall ensure that all Supplier Personnel are dressed in a manner appropriate to the location and the work to be performed. This may include the requirement to wear safety clothing if so specified by the Authority; and
  3. if and to the extent required by the Authority, the Supplier shall undergo induction training in relation to the regulations and requirements referred to above before entering on to the relevant property.

## Data Protection

* 1. Any capitalised terms used in this clause or related defined terms that are not defined in this Contract will have the meaning given to them in the Irish Data Protection Acts 1988 and 2003 and all Statutory Instruments thereunder and the ePrivacy Regulations (Statutory Instrument number 336/2011) and, when effective, the EU General Data Protection Regulation (EU Regulation 2016/679) (the “**GDPR**”) and all implementing regulations or other measures made pursuant to the GDPR (the “**Data Protection Legislation**”).
  2. For the purposes of the Data Protection Legislation, the Authority will be the data controller and the Supplier will be the data processor in relation to Personal Data collected and processed in connection with this Contract. The only processing that the Supplier is authorised to do is that listed in Appendix 1 hereto.
  3. Each party shall comply with the data protection principles specified in Data Protection Legislation that are applicable to it in connection with the Goods or the obligations of each party under this Contract.
  4. The Supplier shall notify the Authority immediately if it considers that any of the Supplier’s instructions infringe the Data Protection Legislation.
  5. The Authority shall comply with all its obligations as data controller, and the Supplier will comply with all its obligations as data processor, under the Data Protection Legislation with regard to any personal data as defined in the Data Protection Legislation which is supplied by one party to the other or obtained by a party pursuant to the terms of or in the course of performing this Contract collected and/or processed in connection with this Contract and which is more particularly detailed in Appendix 1 hereto (the “**Personal Data**”).

**Data Protection Impact Assessment**

* 1. The Supplier shall provide all reasonable assistance to the Authority in the preparation of any assessment by the Authority of the impact of the envisaged processing on the protection of Personal Data (“**Data Protection Impact Assessment**”) prior to commencing any processing. Such assistance may, at the discretion of the Authority, include:
     1. a systematic description of the envisaged processing operations and the purpose of the processing;

* + 1. an assessment of the necessity and proportionality of the processing operations in relation to the Goods;
    2. an assessment of the risks to the rights and freedoms of data subjects; and
    3. the measures envisaged to address the risks, including safeguards, security measures and mechanisms to ensure the protection of Personal Data.

**Supplier’s obligations**

* 1. The Supplier acknowledges and agrees that it will receive and process certain Personal Data in order and for as long as is necessary to provide the Goods and to perform its obligations under this Contract.
  2. The Supplier acknowledges and agrees that it will:
     1. ensure that its internal operating systems only permit properly authorised staff to access Personal Data;
     2. designate a data protection officer if required by the Data Protection Legislation;
     3. provide appropriate training to its staff with respect to:
        1. the correct handling of Personal Data so as to minimise the risk of security breaches; and
        2. the requirements of the applicable Data Protection Legislation;
     4. only process Personal Data in accordance with the Authority’s written instructions including unless required to process Personal Data other than as instructed by European Union or Member State law, in which case the Supplier shall inform the Authority in accordance with clause 14.14, except where prohibited by such law from doing so and shall in any event, cease the processing pending receipt of further instructions from the Authority in relation to the processing;
     5. take such reasonable steps to ensure the reliability and integrity of its employees, agents, contractors etc. who have access to the Personal Data to ensure that they:
        1. are aware of and comply with the Supplier’s duties under this clause;

* + - 1. are subject to appropriate confidentiality undertakings with the Supplier or any sub-processor;
      2. are informed of the confidential nature of the Personal Data and do not publish, disclose or divulge any of the Personal Data to any third party unless directed in writing to do so by the Authority or as otherwise permitted by this Contract; and
      3. have undergone adequate training in the use, care, protection and handling of Personal Data as described above in Clause 14.8.3.
    1. only use, reproduce or otherwise process any Personal Data collected in connection with this Contract to the extent necessary;
    2. not modify, amend or alter the contents of the Personal Data, except as directed by the Authority;
    3. not, without the Authority’s written approval, process any Personal Data on any of the Supplier’s systems on which data (including any Personal Data) is processed for any person outside of the Authority; and
    4. ensure that only those staff who have been authorised to use the Supplier’s systems have access to the systems.

**Security Measures**

* 1. The Supplier shall implement appropriate technical and organisational measures (in particular those required under the GDPR) to assure a level of security appropriate to the risk to the security of Personal Data, in particular, from accidental or unlawful destruction, loss, alteration, unauthorised, disclosure of or access to Personal Data in accordance with the Supplier’s obligations under Data Protection Legislation (the “**Security Measures**”). The Security Measures may include as appropriate:
     1. the pseudonymisation and encryption of Personal Data;
     2. the ability to ensure the ongoing confidentiality, integrity and availability of the Personal Data and resilience of the Supplier’s systems used for such processing;
     3. the ability to restore the availability and access to the Personal Data, in a timely manner but no later than 24 hours, in the event of a physical or technical incident; and
     4. a process for regularly testing, assessing and evaluating the effectiveness of technical and organisational measures for ensuring the security of the processing.
  2. The Supplier shall take the necessary precautions for the prevention or unauthorised access to, unauthorised disclosure of or other unauthorised processing of the Personal Data and in particular shall:

* + 1. keep all Personal Data obtained from the Authority or otherwise relating to the Contract separate from all documents and other records of the Supplier;

* + 1. only make such copies of the Personal Data as are necessary for the purposes of supplying the Goods to the Authority;
    2. mark all documentation containing the Personal Data as being subject to the terms of this Contract and indicate that it is contrary to the terms of this Contract to copy, disclose or use in any manner or fashion such documentation without the prior written consent of the Authority; and
    3. have all necessary access controls in place to include authentication and authorisation for access to Personal Data to ensure its security and confidentiality.
  1. The Authority may notify the Supplier immediately in the event that it does not consider that the Security Measures ensure an appropriate level of security for Personal Data and the Authority shall notify the Supplier of any additional or amended security controls or measures which the Authority considers in its reasonable opinion is necessary to ensure compliance with Data Protection Legislation. The Supplier agrees to implement such additional security controls or measures as are necessary to ensure compliance with the Security Measures.
  2. The Supplier agrees and warrants that the Security Measures are appropriate to protect Personal Data against accidental or unlawful destruction or accidental loss, alteration, unauthorised disclosure or access, in particular where the processing involves the transmission of Personal Data over a network, and against all other unlawful forms of processing, and that these measures ensure a level of security appropriate to the risks presented by the processing and the nature of the Personal Data to be protected having regard to the state of the art and the cost of their implementation.

**Disclosing Personal Data**

* 1. Without limiting the Supplier’s other obligations under this clause 14, the Supplier:
     1. may disclose Personal Data to its staff but only those who:

* + - 1. need to know for the purpose of this Contract (and only to that extent);
      2. have been trained in accordance with clause 14.8.3;

* + 1. may only disclose Personal Data to third parties who are subject to a binding contract to keep the Personal Data confidential (or are under an appropriate statutory obligation of confidentiality); and

* + 1. may only disclose Personal Data to any other person with the prior written consent of the Authority and, where the Authority provides its consent, only where the person is subject to a binding commitment to keep the Personal Data confidential (or are under an appropriate statutory obligation of confidentiality).
  1. If the Supplier or the Supplier’s staff are required by law and/or an order of any court or competent jurisdiction or any regulatory, judicial or governmental body to disclose the Personal Data, the Supplier shall, except where prohibited by law, first:
     1. give the Authority notice of the details of the proposed disclosure unless that law prohibits such information on important grounds of public interest;

* + 1. give the Authority a reasonable opportunity to take any steps it considers necessary to protect the confidentiality of the Personal Data including but not limited to seeking such judicial redress as the Authority may see fit in the circumstances;

* + 1. give any assistance reasonably required by the Authority to protect the confidentiality of the Personal Data; and

* + 1. inform the proposed disclosee that the information is confidential Personal Data.

**Sub-Processors**

* 1. Without limiting the Supplier’s other obligations under this Contract, the Supplier shall not engage any sub-processors to process Personal Data without the prior written consent of the Authority. If the Supplier engages any sub-processor to process any Personal Data, the Supplier shall impose on such sub-processor, by means of a written contract, the same data protection and security obligations as set out in this Contract.

* 1. The Authority and/or the Supplier shall inform the Authority and/or the Supplier of any intended changes concerning the addition or replacement of any sub-processors and shall not make any such changes without the prior written consent of the Authority and/or the Supplier.
  2. The Supplier shall remain liable to the Authority for processing by such sub-processors as if the processing was being conducted by the Supplier.

Data Transfers

* 1. The Supplier will not transfer any Personal Data out of the European Economic Area except with the prior written consent of the Authority and in accordance with any terms the Authority may impose on such transfer.
  2. As a condition of granting such consent, the Authority may, among other requirements, require the Supplier to:
     1. enter into or procure that any relevant sub-processor enters into an appropriate data transfer agreement containing provisions providing equivalent protections as within the European Economic Area in the form set out in Appendix 2 to this Contract; or
     2. in respect of transfers to the United States of America, ensure that the recipient has and continues to maintain a current, valid certification under the EU/US Privacy Shield and complies with the EU/US Privacy Shield principles.
  3. In the event that the transfer mechanism entered into under clause 14.19.2 ceases to be valid, the Supplier shall at the Authority’s discretion:-
     1. enter into and/or procure that any relevant sub-processor enters into an appropriate alternative data transfer mechanism;
     2. destroy any Personal Data in its and/or its sub-processor’s possession; or
     3. return any Personal Data in its and/or its sub-processors’s possession to the Authority.

* 1. In addition to the above, the Supplier shall not transfer Personal Data outside of the EEA unless the following conditions are fulfilled:

* + 1. The Supplier or the Authority has provided appropriate safeguards in relation to the transfer (whether in accordance with GDPR Article 46 or the Law Enforcment Directive Article 37) as determined by the Authority;

* + 1. The Data Subject has enforceable rights and effective legal remedies;
    2. The Supplier complies with its obligations under the Data Protection Legislation by providing an adequate level of protection to any Personal Data that is transferred (or, if it is not so bound, uses its best endeavours to assist the Authority in meeting its obligations); and
    3. The Supplier complies with any reasonable instructions notified to it in advance by the Authority with respect to the processing of Personal Data.
  1. In the event that there ceases to exist any valid data transfer mechanism which would enable the Personal Data to be lawfully transferred by the Authority to the Supplier, the Authority shall be entitled to terminate this Contract by giving a minimum of 30 days' priorwritten notice to the Supplier**.**

**Assistance**

* 1. Each party shall co-operate with the other party to the extent necessary to enable that party to comply with any requests of the Data Protection Commission or other competent supervisory authority in respect of the Personal Data.
  2. The Supplier shall:
     1. fully co-operate with and assist the Authority in complying with its obligations under the Data Protection Legislation including but not limited to demonstrating compliance with the GDPR;
     2. make available to the Authority all information necessary to demonstrate compliance with the obligations set out in Article 28 of the GDPR and allow for and contribute to audits, including inspections, conducted by the Authority or another auditor mandated by the Authority;

* + 1. immediately inform the Authority if, in its opinion, an instruction given or request made pursuant to this clause 14 infringes Data Protection Legislation;

* + 1. taking into account the nature of the processing, provide such assistance including by using appropriate technical and organisational measures as the Authority may require for the fulfilment of the Authority’s obligation to respond to requests for exercising the data subject's rights laid down in Chapter III of the GDPR;

* + 1. provide such reasonable co-operation and assistance as the Authority may require to enable the Authority to comply with its obligations and in particular those obligations under Articles 32-36 of the GDPR including without limitation to notify the Authority without undue delay and in any event within 24 hours following the Supplier becoming aware of a breach of security leading to the accidental or unlawful destruction, loss, alteration, unauthorised disclosure of, or access to, Personal Data (“**Personal Data Breach**”);

* + 1. immediately notify the Authority of any monitoring activities and measures undertaken by the data protection authority that supervises the applicable data protection legislation;

* + 1. provide such reasonable co-operation and assistance as the Authority may require to enable the Authority to comply with its obligations to provide information about the collection, processing or usage of Personal Data to a data subject;
    2. immediately notify the Authority if it receives any communication from the Data Protection Commissioner or any other regulatory or supervisory authority in connection with Personal Data processed under this Contract;

* + 1. deal promptly and properly with all inquiries from the Authority relating to its processing of the Personal Data;
    2. if the Supplier receives any request by any person to access, correct, restrict or erase Personal Data, the Supplier shall, within 48 hours, notify the Authority and provide the Authority with the full details of that request; and
    3. where the Supplier has notified the Authority of any request from a data subject their obligation to notify the Authority shall include the provision of further information to the Authority in phases, as details become available; and
    4. ensure that the Personal Data is not in any way used, manipulated, distributed, copied or processed for any other purpose than for the fulfilment of the contractual obligations as explicitly agreed upon and arising from this Contract.

**Audit**

* 1. The Supplier shall provide the Authority or its representatives, upon reasonable notice in writing from the Authority to the Supplier with reasonable access to all relevant systems (including the Supplier’s systems), staff, records and information of the Supplier for the purpose of inspecting, testing and auditing the Security Measures operated by the Supplier and for the purpose of confirming the Supplier’s compliance with its obligations under this Contract and with Data Protection Legislation. the Supplier shall promptly implement any requirement made by the Authority to improve the Security Measures.

**Information Obligations**

* 1. If the Supplier cannot provide compliance or foresees that it cannot comply with its obligations as set out in this Contract, for whatever reasons, it agrees to promptly inform the Authority of its inability to comply, in which case the Authority is entitled to suspend the transfer of Personal Data.
  2. The Supplier will promptly notify the Authority about:

* + 1. any legally binding request for disclosure of the Personal Data by a law enforcement authority unless otherwise prohibited, such as a prohibition under criminal law to preserve the confidentiality of a law enforcement investigation; and

* + 1. any request received directly from the data subjects without responding to that request, unless it has been otherwise authorised to do so.

Termination/Expiry

* 1. On termination or expiry of this Contract (or at any other time on request by the Authority), the Supplier shall return or permanently erase, at the election of the Authority, all copies of Personal Data received and/or processed by it under this Contract unless European Union or Member State law requires retention of the Personal Data.

* 1. Without prejudice to the generality of the foregoing:-
     1. Where the Authority has requested that the Supplier return Personal Data, such Personal Data shall be returned from the Supplier to the Authority in a commonly used electronic format;

* + 1. Where the Authority has requested that the Supplier securely deletes the Personal Data the Supplier shall ensure that the Personal Data is permanently deleted from any of the Supplier’s systems or devices which were used to store the Personal Data and from those of any third parties to whom the Supplier has disclosed and/or permitted access to the Personal Data save in the case of Personal Data to the extent that European Union or Member State law requires storage or retention of the Personal Data;
    2. Where the Supplier is required for legal or regulatory compliance to retain a copy of any Personal Data, the Supplier shall provide the Authority in writing with full details or any Personal Data they are proposing to retain and the details of the legal and regulatory obligations governing this action;
    3. Without prejudice to the obligations in clause 14.29.3 above, in circumstances where European Union or Irish law requires the Supplier to retain any Personal Data which the Authority has shared with the Supplier, the Supplier shall provide the Authority in writing with full details of any Personal Data they are legally required to retain and the details of the European Union or Irish legal obligations governing this action, and ensure that the Personal Data retained by them is anonymized or Pseudonymised by them to the Authority’s satisfaction and in a manner and to a standard which is satisfactory under European Union law (including

* 1. The provisions of this clause 14 shall survive the term of this Contract until the Supplier has returned or destroyed all Personal Data in accordance with clause 14.28.

**Miscellaneous**

* 1. Notwithstanding any other clause in this Contract the Authority may, at any time on not less than 30 days’ notice, revise this clause 14 by replacing it with any applicable controller to processor standard clauses or similar terms forming part of an applicable certification scheme (which shall apply when incorporated by attachment to this Contract.
  2. The Parties agree to take account of any guidance issues by the Data Protection Commission’s Office and/or the European Data Protection Board. Notwithstanding any other clause in this Contract the Authority may, on not less than 30 days’ notice to the Supplier, amend this clause 14 to ensure that it complies with any guidance issued by the Data Protection Commission’s Office.

**Indemnity**

* 1. Notwithstanding any other provision of this Contract, the Supplier will indemnify and keep indemnified the Authority against all losses, fines, damages, liabilities, legal fees, court costs and expenses, claims whatsoever and howsoever arising incurred or suffered by the Authority in connection with any breach of this clause 14 (Data Protection and Security) and/or breach of Data Protection Legislation by the Supplier and/or its sub-processors.

## Freedom of Information

* 1. The Authority is subject to the provisions of the Freedom of Information Acts 1997- 2003 (as amended) and, accordingly, information furnished to the Authority by the Supplier may be subject to the provisions of the Freedom of Information Acts. If the Supplier considers any of the information supplied by it to the Authority pursuant to this Contract should not be disclosed because of its sensitivity it should, when providing the information, identify same and specify the reasons for its sensitivity. It shall not be sufficient for the Supplier to furnish the Authority with a general statement of confidentiality in respect of all information furnished to the Authority.
  2. The Supplier acknowledges that the Authority may be obliged under the Freedom of Information Acts 1997-2003 to disclose information regardless of any representations made by the Supplier.

## Publicity

The Supplier may only list or advertise the Authority's name on a reference list or utilise the Authority's name for purposes of advertisement or sales with the prior written permission of the Authority.

## Audit

* 1. The Authority or its authorised representatives shall have the right to audit all costs, rates and expenses relating to the Contract and the provision of the Goods.
  2. The Supplier shall maintain all records relevant to the Contract for the Term and for at least three (3) years after the termination of the Contract howsoever terminated.
  3. The Supplier will maintain the aforesaid records either physically or by electronic media and the Authority or its authorised representatives shall have the right to reproduce and retain copies of any of the aforesaid records.

## Settlement

The Authority shall be at liberty in settling and valuing the amount due to the Supplier to take into consideration any deficiency in the quality of the Goods or in the quality of the materials and labour employed in the manufacture or provision thereof, and to make, on account of the said deficiency, such reduction in price or prices as it may consider reasonable.

## Termination at will

The Authority may terminate this Contract or cancel its order for any Goods in whole or in part with thirty (30) days prior written notice without having to show cause.

## Termination for cause or on insolvency

* 1. The Authority shall be at liberty, upon breach of any of the terms and conditions of the Contract, or on the Supplier becoming bankrupt or insolvent, or making any assignment for the benefit of creditors forthwith, or being unable to provide the Goods for any reason for a period in excess of two (2) weeks, to terminate the Contract altogether and to withhold from the Supplier as absolutely forfeited all monies which the Supplier might otherwise have claimed under the terms and conditions of the Contract and to do all things that the Authority shall consider proper for having the Contract completed by another supplier and to recover from the Supplier, or deduct from any monies of the Supplier in the Authority's hands, the extra expense occasioned thereby.
  2. If the Authority considers that a breach of any of the terms and conditions of the Contract is capable of remedy and steps can be taken by the Supplier to prevent its recurrence, the Authority may, at its absolute discretion and by notice in writing, grant the Supplier a period of fifteen (15) days within which the Supplier will have the opportunity to remedy the breach. The termination provision in clause 20.1 shall apply in the event of any failure by the Supplier to remedy the breach within the fifteen (15) day period (or any extension that the Authority may in its absolute discretion grant to the Supplier).

## Consequences of termination

* 1. On any termination of this Contract, howsoever occasioned, the Supplier shall promptly return to the Authority all of the Authority's product, samples and data in its possession or under its control and delete any and all of the Authority's data and information, (confidential or otherwise), from its systems and, if and to the extent requested by the Authority, fully and promptly co-operate with the Authority and provide reasonable assistance to ensure the smooth transfer of the provision of the Goods from the Supplier to a new goods provider.
  2. Unless the Authority expressly agrees otherwise, such return shall be completed within one (1) calendar month of the termination of this Contract.
  3. On termination of this Contract, the Supplier will refund to the Authority any Charges already paid to the Supplier under the terms of this Contract for Goods to be delivered but which have not or cannot then be so delivered for reasons of termination of this Contract.

## Dispute Resolution

* 1. Without prejudice to any party's right to terminate, the parties shall try to settle quickly and amicably any dispute arising out of or in connection with this Contract, including any question regarding its existence, validity or termination.
  2. The dispute shall, in the first instance, be discussed by the parties in an attempt to reach an amicable solution. If such attempt fails within 48 hours from the first written notice by one party to the other party that a dispute exists, the matter may be submitted by either party in writing to the highest ranking directors or senior personnel of the Supplier and the Authority who have responsibility for the provision or use of the Goods to which the dispute relates. Such directors or senior personnel shall consult with the goal of attaining a solution satisfactory to both parties within 48 hours of submission.
  3. If no satisfactory solution is attained pursuant to the process outlined at clause 22.2 the parties will have the option to terminate the Contract.
  4. The operation of this clause shall not prevent the Authority from taking any formal action or proceedings at any time.

## Force Majeure

* 1. Neither party shall be liable for any breach of its obligations under this Contract resulting from the circumstances of Force Majeure.
  2. Each party shall use its reasonable endeavours to give notice to the other upon becoming aware of an event of Force Majeure which materially affects its ability to perform its obligations, such notice to contain details of the circumstances giving rise to the event of Force Majeure.
  3. The party unable to perform its obligations by reason of the event of Force Majeure shall be excused performance in accordance with this clause 23.
  4. In the event that the Force Majeure continues for a period of more than thirty (30) calendar days the Authority may terminate the Contract at fourteen (14) days’ notice to the Supplier.
  5. In the event the Supplier is unable to perform its obligations by reason of the event of Force Majeure the Authority shall be relieved from any obligation to make payments under this Contract.

“**Force Majeure**” means an event or circumstance or combination of events and/or circumstances not within the reasonable control of either or both the Authority and/or the Supplier (the “**Affected Party**”) which has the effect of delaying or preventing the Affected Party from complying with its obligations under this Contract including but not limited to acts of God, war, out-break of disease, insurrection, riot, civil disturbance, rebellion, acts of terrorism, government regulations, embargoes, explosions, fires, floods, tempests, or failures of supply of electrical power, or public telecommunications equipment or lines, excluding industrial action of whatever nature or cause (strikes, lockouts, and similar) occurring at the Affected Party’s places of business.

## Assignment and Sub-contracting

* 1. This Contract shall not be assigned or transferred or sub-contracted in whole or in part by the Supplier without the prior written consent of the Authority.
  2. All sub-contract documents and sub-supplier selection shall be subject to written approval by the Authority prior to award of each sub-contract. No such approval shall create any contractual relationship between the Authority and any sub-supplier.
  3. The Supplier shall be fully responsible for those elements performed by its sub-suppliers and for the acts and omissions of all its sub-suppliers to the same extent as it is for the acts and omissions of persons directly employed by it.
  4. The Supplier shall maintain all sub-contract records and documentation, including without limitation, correspondence between the Supplier and its sub-suppliers and shall preserve such documents for three (3) years after termination of the Contract or such other period as the Authority may request. The Supplier shall make such records and documentation available to the Authority as part of the Authority’s rights of audit under the Contract.

## Waiver

* 1. No delay or omission by either party in exercising any right, power or remedy provided by law or under this Contract shall:
     1. affect that right, power or remedy; or
     2. operate as a waiver of it.
  2. The single or partial exercise of any right, power or remedy provided by law or under this Contract shall not preclude any other or further exercise of it or the exercise of any other right, power or remedy.
  3. No waiver of any right, power or remedy provided by law or under this Contract shall take effect unless it is in writing and signed by authorised representatives of the party giving the waiver.

## Supplier Personnel

* 1. The Authority and the Supplier acknowledge that the arrangements described in this Contract are such that no contractual relationship will exist either expressly or impliedly between any Supplier Personnel and the Authority.
  2. The Supplier shall ensure that all Supplier Personnel shall adhere to any and all health and safety rules and regulations and other requirements of the Authority notified to it from time to time.
  3. The Supplier shall ensure that all Supplier Personnel shall adhere to any and all monitoring procedures and any other monitoring requirements of the Authority notified to it from time to time.
  4. The Supplier shall ensure that all Supplier Personnel shall irrevocably and with full title guarantee assign any and all right, title and interest in the products of their services and all related rights and properties hereunder to the Supplier to hold absolutely throughout the world in perpetuity.
  5. The Supplier shall indemnify, keep indemnified and hold harmless, the Authority and its officers, employees, contractors and agents from and against all proceedings, actions, costs (including legal costs), charges, claims, expenses, damages, liability, losses and demands in respect of, caused by, or arising from any default or breach of Supplier Personnel of the obligations set out in clauses 26.2 to 26.4 above.
  6. In the event that the Authority has reasonable grounds for dissatisfaction with the manner in which the Goods are being provided and delivered, they may require the Supplier to replace the Supplier Personnel involved PROVIDED that the Authority shall be entitled:
     1. in the event that the Supplier is unable to provide a substitute which the Authority, acting reasonably, finds acceptable; or
     2. in the event that the Authority, acting reasonably, is not satisfied with two consecutive substitutes;

to terminate this Contract.

* 1. The Supplier agrees that the Supplier Personnel will accept all local security arrangements deemed reasonably necessary by the Authority provided such security arrangements are advised to the Supplier in writing in advance.
  2. The Supplier agrees that Supplier Personnel will comply with project control/reporting arrangements deemed necessary by the Authority provided that such project control/reporting arrangements are advised to the Supplier in writing in advance.

"**Supplier Personnel**" shall mean any personnel, officers, contractors and agents employed or engaged by Supplier in relation to the supply of any part of the Goods hereunder.

## Transfer

The Supplier agrees that in the event that it is not successful in re-tendering (or in the event of it not re-tendering) for the provision of any new goods at the expiry, early termination or non-renewal of the Contract, it will liaise, consult and co-operate in all reasonable respects with any new service provider in order to facilitate a smooth handover, including without limitation returning any and all property in the possession of the Supplier, its employees or agents.

## No Partnership

* 1. Nothing contained in this Contract and no actions taken by the parties under this Contract shall constitute a partnership, joint venture, association or other co­ operative entity between the parties or authorise either party to represent the other or to contract on behalf of the other party.
  2. The Supplier is acting solely as an independent contractor and is not an agent of the Authority, nothing in this Contract shall render the Supplier an employee, worker, agent or partner of the Authority and the Supplier shall not hold itself out as such.
  3. This Contract constitutes a contract for the provision of goods and not a contract of employment and accordingly the Supplier shall be fully responsible for and shall indemnify the Authority for and in respect of:
     1. any income tax, national insurance and/or social security contributions and any other liability, deduction, contribution, assessment or claim arising from or made in connection with the provision or delivery of the Goods, where such recovery is not prohibited by law. The Supplier shall further indemnify the Authority against all reasonable costs, expenses and any penalty, fine or interest incurred or payable by the Authority in connection with or in consequence of any such liability, deduction, contribution, assessment or claim; and
     2. any liability for any employment-related claim or any claim based on employment status (including reasonable costs and expenses) brought by the Supplier or any agent, employee or sub-supplier of the Supplier against the Authority arising out of or in connection with the Goods.
  4. The Authority may at its option satisfy such indemnity (in whole or in part) by way of deduction from any payments due to the Supplier.

## Notices

* 1. Any notice under this Contract shall be delivered personally or by courier, or by registered post or recorded delivery or by fax (and confirmed by swift post, placed in the post on or on the day after the date of transmission) to the address specified below for the giving of notices.

**For notices given to the Supplier**:

[Company Name]

[Address ]

[Contact name]

**For notices given to the Authority**:

Broadcasting Authority of Ireland

2-5 Warrington Place, Dublin 2

[Contact name]

* 1. Any notice given pursuant to this Contract shall be deemed to have been given or received in the case of dispatch by swift post on the fourth calendar day from and including the date of posting or in the case of dispatch by pre-paid registered or recorded post on the third Business Day from and including the date of dispatch and immediately in the case of actual delivery to the address specified above for the giving of notices. Any notice sent by fax and confirmed by swift post shall be deemed to have been given the next Business Day following the day of transmission.
  2. A party may change its notice details on giving notice to the other party of change in accordance with this clause 29. The notice shall only be effective on the date falling three (3) clear Business Days after the notification has been received or such later date as may be specified in the notice.
  3. For the purposes of this Contract, "**Business Day**" shall mean any day other than Saturday, Sunday or any other day which is a public holiday in the Republic of Ireland between the hours of 9.00 and 17.30.

## Severability

Any provision of this Contract which is held to be void, illegal or unenforceable shall to the extent of such invalidity be deemed severable and the offending provisions excluded and the remaining provisions of this Contract will be unaffected by such severance and shall continue to be valid and enforceable to the fullest extent of the law.

## Jurisdiction

The Contract shall be governed by and interpreted in accordance with the laws of Ireland and shall be subject to the jurisdiction of the Irish courts.

APPENDIX 1

[*Note: To be completed by the Supplier]*

|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
| Type of personal data held | Categories of data subject | Purposes of processing | Details of sub-contracting/sub-processing | Details of transfers out of the EEA | Security Measures in place | Other |
| *E.g. name, date of birth, email address, bank details, IP address etc.* | *E.g. customers, employees etc.* | *E.g. marketing, providing a service etc.* | *E.g. cloud service providers, payroll etc.* | *E.g. this could be through web service providers* | *E.g. encryption, ISO certifications etc.* | *Any other relevant information* |
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APPENDIX 2

***(standard contractual clauses)***

**IN WITNESS** whereof the parties or their duly authorised representatives have executed this Contract and the above Schedules on the date set out below.

**Authorised Signatory**

**Signed for and on behalf of the Broadcasting Authority of Ireland**

By:

(Signature) \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Name:

Title:

Date:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ 20[ ]

**Authorised Signatory**

**Signed for and on behalf of the Supplier**

By:

(Signature) \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Name:

Title:

Date:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ 20[ ]

## SCHEDULE D – [supplier name] SUBMISSION DATED [date of submission]

[TO BE ATTACHED]