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**SUPPLEMENTARY REQUEST FOR TENDER  
CONTRACT  
THE "TERM CONTRACT"**

**FOR**

**A MULTI-PARTY FRAMEWORK AGREEMENT FOR  
ROAD SIGNS AND ANCILLARIES  
(SUPPLY ONLY)**

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<b>THIS AGREEMENT</b> is made on the	__ day of _____ 202__
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**BETWEEN**

(hereinafter referred to as "the <b>Contracting Authority</b> ") (which expression shall, where the context so admits or requires, be deemed to include its successors and assigns) of the One Part.	_____ of _____
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**AND**

(hereinafter referred to as "the <b>Economic Operator</b> ") (which expression shall, where the context so admits or requires, be deemed to include its successors and assigns) of the Other Part.	_____ of _____
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<b>Economic Operator Status<sup>1</sup></b>	
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**WHEREAS:**

- A.** The Local Government Operational Procurement Centre (hereinafter referred to as "the LGOPC") conducted a call for competition on [www.etenders.gov.ie](http://www.etenders.gov.ie) and in the Official Journal of the European Union inviting applications for a Framework Agreement for Road Signs and Ancillaries (Supply Only) (hereinafter referred to as "the Framework Agreement").
- B.** The Economic Operator submitted made an application and, following assessment by the LGOPC, was admitted to the Framework Agreement in respect of those lots referenced in the Letter of Intent and the Letter of Acceptance issued by the LGOPC to the Economic Operator (and references herein to the Economic Operator having been "appointed to" a particular lot shall be construed accordingly).
- C.** The Contracting Authority is a participating contracting authority on the Framework Agreement.
- D.** Pursuant to the Framework Agreement, the Contracting Authority issued a Supplementary Request for Tender (hereinafter referred to as "the sRFT") for the provision of road signs and ancillaries (hereinafter collectively referred to as "Goods") which Goods were more particularly described in the sRFT.
- E.** The Economic Operator responded to the sRFT and, following assessment by the Contracting Authority, has been the awarded this Supplementary Request for Tender Contract (hereinafter referred to as "this sRFT Contract<sup>2</sup>"), as notified to the Economic Operator by email (hereinafter the "sRFT Notification Email").
- F. This Condition F applies only if the Economic Operator has been identified in the sRFT Notification Email and herein as the Preferred Tenderer:** This sRFT Contract appoints the Economic Operator as the Preferred Tenderer for the provision of the Goods to the Contracting Authority for the term of this sRFT Contract.

<sup>1</sup> Insert either 'Preferred Tenderer' or 'Substitute Supplier'. If Substitute Supplier, insert ranking (e.g. 'Second Ranking Substitute Supplier').  
<sup>2</sup> This sRFT Contract includes the within General Terms and Conditions (hereinafter referred to as "the General Terms and Conditions"). The General Terms and Conditions include the Economic Operators' Obligations, Price Variation Clause and Template Task Order Form.

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- G. This Condition G applies only if: (a) the Economic Operator has been identified in the sRFT Notification Email and herein as a Substitute Supplier; AND (b) the Contracting Authority stated in the sRFT its intention to award sRFT Contracts to a Preferred Tenderer and Substitute Suppliers:** This sRFT Contract appoints the Economic Operator as a substitute supplier for the provision of the Goods to the Contracting Authority for the term of this sRFT Contract.
- H.** The term of this sRFT Contract is the term specified in the sRFT (hereinafter referred to as "the Term").
- I.** During the Term, the Contracting Authority may purchase the Goods from the Economic Operator by way of a Task Order (a template Task Order Form is attached hereto at Appendix 1).
- J.** The Economic Operator acknowledges and accepts that this sRFT Contract (including the General Terms and Condition) shall apply to each Task Order issued by the Contracting Authority to the Economic Operator notwithstanding that this sRFT Contract may not necessarily be affixed to, or expressly referred to in, the Task Order or any correspondence pertaining to same.
- K.** The Economic Operator shall sell and the Contracting Authority shall purchase, in accordance with this sRFT Contract, the Goods described in the Task Order (and/or in the sRFT where the Goods are more particularly described in same) issued by the Contracting Authority to the Economic Operator.
- L.** Subject to this sRFT Contract, the Contracting Authority agrees to pay to the Economic Operator the charges (prices) specified in the Economic Operator's response to the sRFT (hereinafter referred to as "the Charges").
- M.** The Contracting Authority makes no warranty as to its level of expenditure arising from the sRFT and the award of this SRFT Contract does not: (a) constitute a commitment from the Contracting Authority to issue Task Orders to the Economic Operator during the Term; or (b) preclude the Contracting Authority from purchasing roads signs and ancillaries from a third party outside of this sRFT Contract or the Framework Agreement during the Term.
- N. This Condition N applies only if: (a) the Economic Operator has been identified in the sRFT Notification Email and herein as the preferred tenderer or a substitute supplier; AND (b) the Contracting Authority stated in the sRFT its intention to award sRFT Contracts to a preferred tenderer and substitute suppliers:** The Contracting Authority, pursuant to the sRFT, has awarded: (a) Preferred Tenderer status to an economic operator who responded to the sRFT (hereinafter referred to as "the Preferred Tenderer"); and (b) substitute supplier status to economic operators (ranked in descending order following assessment by the Contracting Authority) who responded to the sRFT. The Contracting Authority shall, in the first instance, procure the Goods during the Term from the Preferred Tenderer. In circumstances where the Preferred Tenderer: (a) has confirmed to the Contracting Authority that it is unable or unwilling (through lack of capacity or otherwise) to provide the Goods being the subject matter of a specific Task Order; or (b) is deemed by the Contracting Authority to be unable or unwilling (through change in circumstances, lack of capacity or otherwise) to provide the Goods being the subject matter of a specific Task Order, then, and in those circumstances, the Contracting Authority may assign the specific Task Order and procure the Goods from the highest ranking substitute supplier (beginning with the substitute supplier ranked No. 1) then capable of fulfilling the specific Task Order.

<p><b>SIGNED AND DELIVERED</b></p> <p>by</p> <p>for and on behalf of</p> <p>the <b>CONTRACTING AUTHORITY</b></p>	<p>Signature: _____</p> <p>Print : _____</p>
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<p><b>SIGNED AND DELIVERED</b></p> <p>by [<b>name of Director</b>]</p> <p>for and on behalf of</p> <p>the <b>ECONOMIC OPERATOR</b> [WHERE ECONOMIC OPERATOR IS A COMPANY]</p> <p><b>OR</b></p>	<p>Signature: _____</p> <p>Print : _____</p>
<p><b>SIGNED AND DELIVERED</b></p> <p>by</p> <p>for and on behalf of</p> <p>the <b>ECONOMIC OPERATOR</b> [WHERE ECONOMIC OPERATOR IS <u>NOT</u> A COMPANY]</p>	<p>Signature: _____</p> <p>Print : _____</p>

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# 1.0 GENERAL TERMS AND CONDITIONS

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## 1.1 DISCLAIMER OF ECONOMIC OPERATOR'S TERMS AND CONDITIONS

- 1.1.1 Subject to clause 1.2.1, any of the Economic Operator's pre-printed terms and conditions produced, signed and/or stamped by either party (or any other terms and conditions wheresoever found which the Economic Operator may wish to rely on) are hereby disallowed.

## 1.2 ADDITIONAL TERMS AND CONDITIONS OF THE CONTRACTING AUTHORITY

- 1.2.1 In circumstances where additional terms and conditions are contained within the Task Order and/or in the sRFT issued by the Contracting Authority to the Economic Operator, such additional terms and conditions shall take precedence over this sRFT Contract where same are in conflict.

## 1.3 INTERPRETATION

- 1.3.1 Headings herein are included for ease of reference only and shall not affect the construction of this sRFT Contract.
- 1.3.2 Unless the context requires otherwise, words in the singular may include the plural and vice versa.
- 1.3.3 References to any statute, enactment, order, regulation or other legislative instrument shall be construed as a reference to the statute, enactment, order, regulation or legislative instrument as amended unless specifically indicated otherwise.
- 1.3.4 In the event that any ambiguity or question of intent or interpretation arises in relation to this sRFT Contract, same shall be construed as if drafted jointly by the Contracting Authority and the Economic Operator and no presumption or burden of proof shall arise favouring or disfavouring any party by virtue of the authorship of same.
- 1.3.5 Unless otherwise specified herein, a defined term used in this sRFT Contract shall have the same meaning as assigned to it in the sRFT.

## 1.4 SUPPLY OF THE GOODS

- 1.4.1 In consideration of the payment of the Charges by the Contracting Authority, the Economic Operator shall:
- supply the Goods in accordance with the Task Order, this sRFT Contract and the sRFT (where additional terms and conditions in relation to the Goods and/or their delivery are specified therein);
  - comply with any policies, guidelines and/or any project governance protocols and with all local security (including child protection and Garda vetting policy) and health and safety arrangements as notified to it by the Contracting Authority;
  - supply the Goods in accordance with good industry practice and comply with all applicable laws including, but not limited to, all obligations in the field of environmental, social and labour law that apply at the place where the Goods are provided, that have been established by EU and national law, collective agreements and by international, environmental, social and labour law listed in Schedule 7 of the European Union (Award of Public Authority Contracts) Regulations 2016 (Statutory Instrument 284 of 2016) (hereinafter referred to as the "Regulations"). Without prejudice to the generality of the foregoing, the Economic Operator shall be solely responsible for the employment, remuneration, taxes, immigration status and work permits of all personnel retained by it for the purposes of complying with the sRFT and Task Order.

## 1.5 ECONOMIC OPERATOR'S STATUS AS PRIME CONTRACTING PARTY

- 1.5.1 The Economic Operator is deemed to be the prime contracting party under this sRFT Contract and assumes full responsibility for the discharge of all obligations under same. The Economic Operator, as prime contracting party, hereby assumes liability for any of its subcontractors and agents (where applicable) engaged in the performance of this sRFT Contract. The Economic Operator shall notify the Contracting Authority as soon as possible of any changes to the name, contact details and legal representatives of its subcontractors.

## **1.6 EXCLUSION GROUNDS AND SUBCONTRACTORS**

- 1.6.1 Where the Contracting Authority becomes aware that any of the exclusion grounds contained in Regulation 57 of the Regulations apply to any of the Economic Operator's subcontractors, the Contracting Authority can (without prejudice to such other legal rights and remedies generally available to the Contracting Authority) direct the Economic Operator to immediately replace such subcontractor.
- 1.6.2 The Economic Operator shall include in every subcontract a right for the Economic Operator to terminate the subcontract where any of the exclusion grounds apply to the subcontractor and a requirement that the subcontractor, in turn, includes a provision having the same effect in any subcontract which it awards.

## **1.7 LEGAL RELATIONSHIP BETWEEN THE PARTIES**

- 1.7.1 In supplying the Goods, the Economic Operator shall be an independent operator and nothing in the within operates to create an employer/employee relationship, a joint venture or partnership and/or fiduciary or other relationship between the parties. The officers, employees or agents of the Economic Operator are not, and shall not hold themselves out to be, (and shall not be held out by the Economic Operator as being) servants or agents of the Contracting Authority for any purpose whatsoever.

## **1.8 SHARING OF INFORMATION BY THE CONTRACTING AUTHORITY**

- 1.8.1 The Economic Operator agrees that any information relating to the supply of Goods by the Economic Operator to the Contracting Authority may be passed by the Contracting Authority to the LGOPC, the Office of Government Procurement and/or such other relevant statutory body for the purpose of analysis and reporting of spend data including the preparation and publishing of reports.

## **1.9 THE GOODS**

- 1.9.1 The Economic Operator shall deliver the Goods at the time(s), to the location(s) and on the date(s) specified in the Task Order and/or in the sRFT (where additional terms and conditions in relation to the Goods are contained therein), unless otherwise expressly directed by the Contracting Authority.
- 1.9.2 Unless otherwise expressly agreed between the parties:
- where the Goods are delivered by the Economic Operator, the point of delivery shall be when the Goods are removed from the transporting vehicle at the Contracting Authority's premises or such other location as notified by the Contracting Authority. Where the Goods are collected by the Contracting Authority, the point of delivery shall be when the Goods are loaded on the Contracting Authority's vehicle;
  - delivery shall include the unloading, stacking or installation of the Goods by the Economic Operator's staff, agents or carriers at such place as the Contracting Authority shall reasonably direct;
  - the Goods shall be packed and marked in a proper manner and in accordance with the Contracting Authority's instructions and any statutory requirements and any requirements of the carriers and manufacturers. The name of the contents shall be clearly marked on each container and all containers of hazardous content (and all documents relating thereto) shall bear prominent and adequate warnings.
- 1.9.3 Unless expressly agreed by the Contracting Authority, the Contracting Authority shall not be obliged to accept delivery of Goods by instalments. If, however, the Contracting Authority does specify or agree to delivery of Goods by instalments, delivery of any instalment later than the date specified or agreed for its delivery shall, without prejudice to such other legal rights and remedies generally available to the Contracting Authority, entitle the Contracting Authority to terminate the whole of any unfulfilled part of the Task Order without further liability to the Economic Operator.
- 1.9.4 The Contracting Authority shall be under no obligation to accept or pay for any Goods: (a) delivered in excess of the quantity ordered; or (b) supplied earlier or later than the date expressly specified by the Contracting Authority and time shall be of the essence in this respect.

## **1.10 INSPECTION OF THE GOODS**

- 1.10.1 The Contracting Authority 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

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Economic Operator's premises (including the premises of any subcontractor or agent) and the Economic Operator shall provide all reasonable assistance in relation to any such inspection or test free of charge.

- 1.10.2 A failure to make a complaint at the time of an inspection or test and/or the approval given during or after such inspection or test shall not constitute a waiver by the Contracting Authority of any rights or remedies in respect of the Goods and the Contracting Authority reserves the right to reject the Goods in accordance with clause 1.10.3 herein.
- 1.10.3 The Contracting Authority may, by written notice to the Economic Operator, reject Goods which fail to conform to the approved sample or fail to meet the Contracting Authority's specification and applicable standards. If the Contracting Authority rejects any Goods pursuant to this clause, the Contracting Authority may (without prejudice to such other legal rights and remedies generally available to the Contracting Authority) either:
- treat the Task Order as discharged by the Economic Operator's breach and obtain a refund (if payment for the Goods has already been made) from the Economic Operator in respect of the Goods concerned together with payment of any additional expenditure reasonably incurred by the Contracting Authority in obtaining other Goods in replacement provided that the Contracting Authority uses its reasonable endeavours to mitigate any additional expenditure in obtaining replacement Goods; or
  - have such goods promptly, and in any event within 5 calendar days, either repaired or replaced by the Economic Operator with Goods which conform in all respects with the approved sample or with the Contracting Authority's specification and applicable standards and due delivery shall not be deemed to have taken place until such repair or replacement has occurred.
- 1.10.4 Rejected Goods shall be removed by the Economic Operator within 5 calendar days (hereinafter referred to as the "Prescribed Time") from the date of the notification by the Contracting Authority to the Economic Operator of their rejection. In the event of the failure by the Economic Operator to remove the Goods within the Prescribed Time, the Contracting Authority may dispose of such Goods as it sees fit and pending such removal, the Goods will remain with the Contracting Authority at the risk of the Economic Operator. Any costs incurred by the Contracting Authority relating to such disposal shall be borne by the Economic Operator.
- 1.10.5 The Contracting 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 1.10.3 herein.
- 1.10.6 The issue by the Contracting Authority of a receipt note for the Goods shall not constitute an acknowledgement of the condition, quantity or nature of those Goods or the Contracting Authority's acceptance of them.

## **1.11 RISK AND TITLE**

- 1.11.1 All Goods shall be delivered by the Economic Operator free from encumbrances or retention of title clauses or similar provisions. The Charges are based on the Goods being delivered carriage paid to the location specified by the Contracting Authority. Pending delivery, the Goods remain at the risk of the Economic Operator.
- 1.11.2 Title shall pass to the Contracting Authority on payment of the Charges.

## **1.12 PAYMENT AND INVOICING**

- 1.12.1 Invoicing arrangements for Goods ordered by the Contracting Authority through the Task Order shall be on such terms as directed by the Contracting Authority.
- 1.12.2 Discharge of the Charges is subject to:
- compliance by the Economic Operator with the provisions of the Task Order and the sRFT (where additional terms and conditions in relation to the Goods are specified therein);
  - the furnishing by the Economic Operator of a valid invoice and such supporting documentation as may be reasonably required by the Contracting Authority;
  - where applicable, the Contracting Authority being in possession of the Economic Operator's current tax clearance certificate;



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- where applicable, the retention by the Contracting Authority of any Professional Services Withholding Tax payable to the Economic Operator in accordance with section 523 of the Taxes Consolidation Act 1997.
- 1.12.3 The European Communities (Late Payment in Commercial Transactions) Regulations, 2012 shall apply to all payments. Incorrect invoices will be returned for correction with consequential effects on the due date of payment.
- 1.12.4 The Charges shall include the cost of reasonable instruction by the Economic Operator to the Contracting Authority's personnel in the use and maintenance of the Goods.
- 1.12.5 Any and all taxes applicable to the supply of the Goods from the Economic Operator shall be the sole responsibility of the Economic Operator.

### **1.13 WARRANTIES, REPRESENTATIONS AND UNDERTAKINGS OF THE ECONOMIC OPERATOR**

- 1.13.1 The Economic Operator acknowledges, warrants, represents and undertakes that:
- it has the authority and right under law to enter into, and to carry out its obligations under, this sRFT Contract and the Task Order;
  - it is fulfilling this sRFT Contract and the Task Order with a full understanding of: (a) its obligations with regards to taxation, employment, social and environmental protection; and (b) its material terms and risks, and is capable of fulfilling those obligations and assuming those risks;
  - it has acquainted itself, and shall comply, with all legal requirements or such other recommendations, guidance or practices as may affect the supply of the Goods (to include manufacture and distribution process) as they apply to the Economic Operator;
  - it has taken all and any action necessary to ensure that it has the capacity to fulfil the Task Order;
  - it has inspected the Contracting Authority's premises, lands and facilities before submitting its response to the sRFT and has made appropriate enquiries so as to be satisfied in relation to all matters connected with the performance of its obligations under the sRFT and Task Order;
  - the status of the Economic Operator, as declared in the ESPD, which confirms that none of the excluding circumstances listed in Regulation 57 of the Regulations apply to the Economic Operator, remains unchanged.
- 1.13.2 The Economic Operator shall be responsible, and to take due precautions, for the safe custody of any Goods on its premises which are the property of the Economic Operator and shall insure same against any form of loss or damage.
- 1.13.3 The Economic Operator confirms and undertakes that the Goods supplied will, at the time of delivery, correspond to the description given by the Economic Operator in its response to the sRFT (to include any samples furnished thereunder) and that the manufacture, distribution and processes employed will comply in all material respects with the representations made in its response to the sRFT. None of the provisions of the Sale of Goods Acts 1893 and Sale of Goods and Supply of Services Act 1980 shall be excluded or limited under the Task Order.
- 1.13.4 The Economic Operator undertakes to ensure that all necessary consents and/or licenses required for the fulfilling of the Task Order are obtained and in place.
- 1.13.5 The Economic Operator hereby indemnifies the Contracting Authority and shall keep and hold the Contracting Authority harmless from any losses (whether direct, indirect or consequential), liability, damages, claims, costs or expenses which arise by reason of any breach of third party intellectual property rights in so far as any such rights are used for the purposes of fulfilling this sRFT Contract and any Task Order.
- 1.13.6 The Economic Operator undertakes to immediately notify the Contracting Authority of any material change to the status of the Economic Operator with regard to the warranties, acknowledgements, representations and undertakings made herein and to comply with all reasonable directions of the Contracting Authority with regard thereto which may include termination of this sRFT Contract and a Task Order.

## **1.14 INDEMNITY AND REMEDIES**

- 1.14.1 The Economic Operator shall be liable for, and hereby indemnifies the Contracting Authority from, any losses, claims, demands, damages or expenses which the Contracting Authority may suffer due to and arising from, directly or indirectly, the negligence, acts or omissions, breach of contract, breach of duty, insolvency, recklessness, bad faith, willful default or fraud of the Economic Operator (including its subcontractors and/or agents) in performing this sRFT Contract or a Task Order. The terms of this clause shall survive expiry, completion or termination, for whatever reason, of this sRFT Contract and a Task Order.
- 1.14.2 Except as otherwise expressly provided herein, all remedies available to either party for breach of this sRFT Contract are cumulative and may be exercised concurrently or separately and the exercise of any one remedy shall not be deemed an election of such remedy to the exclusion of other remedies.

## **1.15 CONFIDENTIALITY**

- 1.15.1 Both the Contracting Authority and Economic Operator agree to hold confidential all information, documentation and other material received, provided or obtained arising from the supply of the Goods by the Economic Operator and shall not disclose same to any third party except to:
- its professional advisers; or
  - as may be required by law; or
  - as may be necessary to give effect to the terms of this sRFT Contract, a Task Order or the sRFT; or
  - in the case of the Contracting Authority, by request of any person or body or authority whose request the Contracting Authority or persons associated with the Contracting Authority (including but not limited to the Legislature and/or the Executive and/or the Civil Service) considers it necessary or appropriate to so comply.
- 1.15.2 The Economic Operator shall comply with all reasonable directions of the Contracting Authority with respect to the use and application of any confidential information. The obligations in this clause 1.15 shall not apply to confidential information:
- in the receiving party's possession (with full right to disclose) before receiving it from the other party; or
  - which is or becomes public knowledge other than by breach of this clause 1.15; or
  - is independently developed by the disclosing party without access to or use of the confidential information; or
  - is lawfully received by the disclosing party from a third party (with full right to disclose).
- 1.15.3 The Contracting Authority may be subject to requests for information relating to the supply of the Goods by the Economic Operator under the Freedom of Information Act 2014 and/or the European Communities (Access to Information on the Environment) Regulations 2007 to 2014 (or such other similar legislation which may be enacted and apply from time to time) and the Economic Operator acknowledges that information the Economic Operator deems as confidential or commercially sensitive may be disclosed by the Contracting Authority in accordance with same. In circumstances where the Contracting Authority is subject to a request for information under the aforementioned legislation, the Contracting Authority shall consult with the Economic Operator prior to making a decision on any request received and the Economic Operator shall specifically identify any information that is not to be disclosed on grounds of confidentiality or commercial sensitivity and shall state the reasons for this sensitivity. However, the Contracting Authority accepts no liability whatsoever in respect of any information provided which is subsequently released (irrespective of notification) or in respect of any consequential damage suffered as a result of such obligations.
- 1.15.4 The terms of this clause shall survive expiry, completion or termination, for whatever reason, of this sRFT Contract or a Task Order.

## **1.16 FORCE MAJEURE**

- 1.16.1 A 'Force Majeure Event' means an event or circumstance or combination of events or circumstances not within the reasonable control of the Affected Party which has the effect of delaying or preventing that party from complying with its obligations under a Task Order including, but not limited to, acts of God,

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war, out-break of disease, insurrection, riot, civil disturbance, rebellion, acts of terrorism, 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 Economic Operator's (or its subcontractors' or agents' as the case may be) or Contracting Authority's places of business.

1.16.2 In the event of any failure, interruption or delay in the performance of either party's obligations resulting from any Force Majeure Event, that party ("the Affected Party") shall promptly notify the other party in writing specifying:

- the nature of the Force Majeure Event;
- the anticipated delay in the performance of its obligations;
- the action proposed to minimise the impact of the Force Majeure Event;

and the Affected Party shall not be liable or have any responsibility of any kind for any loss or damage thereby incurred or suffered by the other party, provided always that the Affected Party shall use all reasonable efforts to minimise the effects of the Force Majeure Event and shall resume the performance of its obligations as soon as reasonably possible after the removal of the cause.

1.16.3 If the Force Majeure Event continues for 7 working days, either party may terminate the Task Order by notice in writing.

1.16.4 In circumstances where the Economic Operator is the Affected Party, the Contracting Authority shall be relieved from any obligation to make payments under the Task Order save to the extent that payments are properly due and payable for obligations actually fulfilled by the Economic Operator in accordance with this sRFT Contract.

## **1.17 TERMINATION**

1.17.1 The Contracting Authority shall have the right (in addition to such other legal rights and remedies generally available to it) to terminate a Task Order and/or this sRFT Contract immediately and without liability for compensation or damages to the Economic Operator on the happening of any of the following:

- if the Economic Operator commits any serious breach, or a series of breaches, of any provision of this sRFT Contract (or any other provision expressly notified to the Economic Operator by the Contracting Authority) and fails to remedy such breach(es) (if the breach(es) are deemed capable of remedy by the Contracting Authority) within 5 (five) working days after receipt of a request in writing from the Contracting Authority;
- if the Economic Operator becomes insolvent or bankrupt, enters into examinership, 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;
- if any statement made by the Economic Operator in connection with the procedure by which the Economic Operator was appointed to the Framework Agreement or was awarded this sRFT Contract was: (a) untrue when made or subsequently ceases to be true; or (b) was materially incorrect, inaccurate or misleading (whether intentionally so or not);
- if: (a) any of the exclusion grounds in Regulation 57 of the Regulations apply to the Economic Operator or its subcontractors; or (b) the category of prohibited economic operators identified in Regulation (EU) No. 833/2014 (as amended by EU Regulation 2022/576 or any subsequent amendments to same) apply to the Economic Operator or its subcontractors.

1.17.2 Termination of a Task Order or this sRFT Contract shall not affect any antecedent and accrued rights, obligations or liabilities of either party, nor shall it affect any provision herein which is expressly or by implication intended to come into or continue in force on or after such termination.

## **1.18 CONTRACT MANAGEMENT**

1.18.1 The Economic Operator agrees to:

- liaise regularly with the Contracting Authority and keep it fully informed of any matter which might affect the performance of its obligations under a Task Order and/or this sRFT Contract;

- maintain such records as directed by the Contracting Authority from time to time and comply with reporting arrangements, milestones, compliance schedules and operational protocols directed by the Contracting Authority from time to time; and
  - comply with all reasonable directions of the Contracting Authority including, but not limited to, meeting formally with the Contracting Authority to report on progress.
- 1.18.2 The Contracting Authority, or its authorised representative, may inspect, at its own cost, the Economic Operator's premises, lands and facilities (or such part thereof relating to a Task Order and/or this sRFT Contract), with due access to relevant personnel and records, upon reasonable notice in writing to ensure compliance with the terms of a Task Order and/or this sRFT Contract. The Economic Operator shall comply with all reasonable directions of the Contracting Authority thereby arising.
- 1.18.3 The Economic Operator shall be required to hold, for the time required to fulfil all obligations arising under a Task Order, insurances of the nature and amount specified in the sRFT and shall immediately advise the Contracting Authority of any material change to its insured status. Upon request, the Economic Operator shall produce: (a) proof of current premiums paid; and (b) valid certificates of insurance.

### **1.19 GOVERNING LAW**

- 1.19.1 This sRFT Contract shall in all aspects be governed by and construed in accordance with the laws of Ireland and the courts of Ireland have exclusive jurisdiction to hear and determine any disputes arising out of or in connection with same.

### **1.20 ASSIGNMENT AND SUBCONTRACT**

- 1.20.1 Subject to the parties' rights and obligations at law, any assignment (or other transfer) or subcontract to a third party of a parties rights or obligations under this sRFT Contract and/or a Task Order requires the prior written consent of the other party (such consent will not be unreasonably withheld). Prior to any such assignment or subcontract, the assignee or subcontractor will be obliged to sign an undertaking to comply with all obligations under this sRFT Contract..
- 1.20.2 For the purpose of Regulation (EU) No. 833/2014 (as amended by EU Regulation 2022/576 or any subsequent amendments), the Contracting Authority may require information from the Economic Operator in relation to the status of a proposed subcontractor or assignee including, but not limited to, copies of identity documents or extracts from the commercial registrar (or other competent authority) of the country in which the entity is established.

### **1.21 SEVERABILITY**

- 1.21.1 If any term or provision of this sRFT Contract is found to be illegal or unenforceable for any reason, then such term or provision shall be deemed severed and all other terms and provisions shall remain in full force and effect.

### **1.22 WAIVER**

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

### **1.23 CONFLICTS, REGISTRABLE INTERESTS AND CORRUPT GIFTS**

- 1.23.1 The Economic Operator confirms that it has carried out a conflicts of interest check and is satisfied that neither it nor any subcontractor nor agent as the case may be have any conflicts of interest in relation to the Goods and its obligations under a Task Order and/or this sRFT Contract.
- 1.23.2 The Economic Operator hereby undertakes to: (a) notify the Contracting Authority immediately should any conflict, or potential conflict of interest, come to its attention during currency of a Task Order and/or this sRFT Contract; and (b) comply with the Contracting Authority's directions in respect thereof. In the event of any such notification the Contracting Authority shall have the right (without prejudice to such other legal rights and remedies generally available to the Contracting Authority) to terminate a Task Order and/or this sRFT Contract immediately without liability for compensation or damages to the Economic Operator where, in the opinion of the Contracting Authority, the conflict, or potential conflict of interest, cannot be removed by other means.

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- 1.23.3 Any registrable interest involving the Economic Operator (and any of its subcontractors or agents as the case may be) and: (a) the Contracting Authority; or (b) the Ceann Comhairle (Speaker); or (c) any member of the Government or the Oireachtas (or their relatives) must be fully disclosed by the Economic Operator to the Contracting Authority immediately upon such information becoming known to the Economic Operator and the Economic Operator shall comply with the Contracting Authority's directions in respect thereof. In the event of any such disclosure, the Contracting Authority shall have the right (without prejudice to such other legal rights and remedies generally available to the Contracting Authority) to terminate a Task Order and/or this sRFT Contract immediately without liability for compensation or damages to the Economic Operator. The terms "registrable interest" and "relative" shall be interpreted as per section 2 of the Ethics in Public Office Act 1995 (or such other similar legislation which may be enacted and apply from time time).
- 1.23.4 The Economic Operator shall not offer or agree to give any public servant or civil servant 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 a Task Order and/or this sRFT Contract. Any breach of this clause or the commission of any offence by the Economic Operator (and any of its subcontractors or agents as the case may be) under the Prevention of Corruption Acts 1889 to 2005 (or such other similar legislation which may be enacted and apply from time time) shall entitle the Contracting Authority (without prejudice to such other legal rights and remedies generally available to the Contracting Authority) to terminate a Task Order and/or this sRFT Contract immediately and without liability for compensation or damages to the Economic Operator and to recover the amount of any loss resulting from such cancellation including, but not limited to, recovery from the Economic Operator of the amount or value of any such gift, consideration or commission.

#### **1.24 ACCESS TO PREMISES**

- 1.24.1 Any of the Contracting Authority's premises made available from time to time to the Economic Operator in connection with the fulfilment of a Task Order are made available on a non-exclusive licence basis and shall be used by the Economic Operator solely for the purpose of performing its obligations under a Task Order with the Economic Operator immediately vacating on completion of same.

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## 2.0 ECONOMIC OPERATOR'S OBLIGATIONS

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### 2.1 LEGISLATION

2.1.1 In the performance of this sRFT Contract, the Economic Operator shall comply, where applicable, with all relevant legislation, technical standards, guidelines and codes of practice that apply including, but not limited to, the following (as may be amended, updated, or re-published by the relevant body from time to time):

**General:**

- The Safety, Health, and Welfare at Work Act 2005
- The Safety, Health, and Welfare at Work (Repeals)(Commencement) Order, 2015
- The Safety in Industry Act 1980
- The Safety, Health, and Welfare at Work (General Applications) Regulations 2007 to 2016;
- The Safety, Health, and Welfare of Work (Construction) Regulations 2006 - 2013;
- The Construction Products Regulations (CPR) 2013 and as amended;
- The Waste Management Acts, 1996 to 2013;
- BS5228:2009 'Code of Practice for Noise Control on Construction and Open Sites';
- Any other recommendation or Code of Practice issued by the Health and Safety Authority;
- Law and good industry practice on Disability including those of the National Disability Authority;
- Fire Services Act 1981;
- The Road Traffic Regulations;
- The Consumer Rights Act 2022.

2.1.2 The Contracting Authority may seek evidence of the Economic Operator's compliance with the above by way of production of such licenses, permits or other documentation deemed reasonably necessary by the Contracting Authority.

### 2.2 TECHNICAL STANDARDS, GUIDELINES & CODES OF PRACTICE

2.2.1 In the performance of this sRFT Contract, the Goods supplied by the Economic Operator shall comply, where applicable, with all relevant legislation, technical standards, guidelines and codes of practice that apply to the Goods including, but not limited to, the following (as may be amended, updated, or re-published by the relevant body from time to time):

- The "Traffic Signs Manual" published by the Department of Transport;
- The Transport Infrastructure Ireland ("TII") Specification for Roadworks Series 1200 (Traffic Signs & Road Markings - CC-SPW-01200);
- TS4 - "Guidelines, Certification Scheme and Specification for the Construction of Traffic Signs" published by the Department of Transport;
- The "Guidance for the Control and Management of Traffic at Road Works", published by the Department of Transport;
- European standards where applicable e.g. for fixed, vertical road traffic signs;
- Relevant Irish Standards ("Irish Standards"), British Standards ("British Standards"), Codes of Practice ("Codes of Practice"), EU Directives ("Directives") or equivalent European Standards ("European Standards");
- Local Byelaws and Regulations;
- Regulations and requirements of all relevant authorities;

2.2.2 The Economic Operator will be responsible for the quality of the Goods and their compliance with the technical requirements set out in the sRFT. Compliance will be verified by use of material conformance

testing (remote and in-situ) and reference to the quality management systems within the production plant.

- 2.2.3 Where alternate products/system accreditations are required by the Contracting Authority, the Economic Operator shall provide written confirmation:
- of the name of the proposed product to be used;
  - that the product/system complies with BBA HAPAS<sup>3</sup> or equivalent product and accreditation scheme.
- 2.2.4 The Economic Operator shall identify any hazards that the design may present during construction and subsequent use and maintenance. Where possible, the hazards shall be eliminated, or the risk reduced. Where hazards cannot be eliminated, provision shall be made for control of those risks and the transfer of the necessary information on those control measures and any residual risks together with any design assumptions to the Contracting Authority.
- 2.2.5 The Economic Operator shall adhere to and ensure compliance with all relevant product manufacturer's instructions.

## **2.3 LOT 1 - SPECIFICATION FOR PERMANENT PRESCRIBED ROAD SIGNS & ANCILLARIES**

**NOTE - This Section 2.3 applies only if the Economic Operator has been appointed to Lot 1.**

### **2.3.1 Signs / Posts / Brackets**

1. In general, road signs and signposts must conform in all respects with:
  - the current valid 'Declaration of Performance' (DoP) for the manufacturers product, and
  - the current valid 'Certificate of Constancy of Performance' referred to in the 'Declaration of Performance' (DoP) from the notified body,
  - the TII Specification for Roadworks Series 1200 (Traffic Signs & Road Markings - CC-SPW-01200),
  - TS4 (*Guidelines, Certification Scheme and Specification for the Construction of Traffic Signs*),
  - the Traffic Signs Manual and/or the Road Traffic Regulations.
2. The numbering system used to identify the signs is in accordance with the current edition of the Traffic Signs Manual.

## **2.4 LOT 2 - SPECIFICATION FOR TEMPORARY ROADWORKS SIGNS & ANCILLARIES**

**NOTE - This Section 2.4 applies only if the Economic Operator has been appointed to Lot 2.**

### **2.4.1 Signs / Posts / Brackets: -**

1. In general, road signs and signposts must conform in all respects with:
  - the TII Specification for Roadworks Series 1200 (Traffic Signs & Road Markings - CC-SPW-01200),
  - TS4 (*Guidelines, Certification Scheme and Specification for the Construction of Traffic Signs*),
  - the Traffic Signs Manual and/or the Road Traffic Regulations.
2. The numbering system used to identify the signs is in accordance with the current edition of the Traffic Signs Manual.
3. In cases where the signs are to be mounted in frames/stands – the Lot 2 - signs are to include for the frames/stands being adequately sized to allow for a minimum clearance of 350mm from ground to bottom of plate (unless specified otherwise at sRFT stage).

### **2.4.2 Cones, barriers, delineators, bollards etc.**

1. In general, cones, barriers and other ancillaries must, where relevant, conform in all respects with the TII Specification for Road Works Series 1200, the Traffic Signs Manual; Road Traffic Regulations and the Guidance for the Control and Management of Traffic at Road Works 2nd

<sup>3</sup> British Board of Agrément (The Highway Authorities Product Approval Scheme)

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Edition (as may be amended, updated, or re-published by the relevant body from time to time and as then apply at the time of the sRFT Contract):

2. Unless specified otherwise at sRFT stage, **Lot 2** - flexible bollards must include for the following:
  - a height of 900mm,
  - either a bolted base or epoxy resin base, and
  - the provision of all materials necessary for mounting.

## **2.5 HEALTH AND SAFETY**

- 2.5.1 The Economic Operator must comply with its obligations under Health and Safety legislation, which legislation includes, but is not limited to, the Safety, Health, and Welfare at Work Act, 2005 and all regulations, codes of practice and guidelines arising thereunder.
- 2.5.2 Economic Operator's personnel entering the Contracting Authority's sites must have a SOLAS Safe Pass Card (or approved equivalent) available upon request.
- 2.5.3 Economic Operator's personnel entering construction sites must comply with the directions given by the Contractor, the Project Supervisor for the Construction Stage (PSCS) or any authorised representative of the Client.
- 2.5.4 Where applicable, Economic Operator's personnel operating vehicles/plant must have a current full driver's license pertaining to the item(s) of vehicle/plant they are operating available upon request.
- 2.5.5 Where applicable, plant operators under Schedule 5 of Safety, Health and Welfare at Work (Construction) Regulations 2013 must have a valid Construction Skills Certification Scheme (CSCS) Card for the item of plant being operated available upon request.

## **2.6 INSURANCE**

- 2.6.1 In the performance of this sRFT Contract, the Economic Operator shall: (a) hold insurances of the nature and amount specified in the sRFT; (b) upon request, provide proof of current premiums paid and valid certificates of insurance for inspection; and (c) immediately advise the Contracting Authority of any material change to its insured status.



## 3.0 PRICE VARIATION CLAUSE

### 3.1 CONTRACT PRICE VARIATION

- 3.1.1 The provisions in this Price Variation Clause shall apply when the term of this sRFT Contract extends at least six months beyond the closing date for responses to the relevant sRFT<sup>4</sup> (hereinafter referred to as "the Closing Date").
- 3.1.2 The index for determining a price variation under this sRFT Contract shall be the Wholesale Price Index for Fabricated Metal Products (except machinery and equipment) (hereinafter referred to as "the Index") as published by the Central Statistics Office ("CSO") in the CSO Statbank Table WPM24 (Wholesale Price Index (Ex. VAT) for Industrial Producer Price Indices (Table 2)).
- 3.1.3 The edition of the Index published immediately prior to the Closing Date shall establish the baseline index (month) for calculating the price variation.
- 3.1.4 Prices (Ex. VAT) for Goods specified in a Task Order may be adjusted (either upwards or downwards) by the percentage change of the Index at: (a) six months from the Closing Date; and (b) every six months thereafter.
- 3.1.5 The edition of the Index published immediately prior to: (a) six months from the Closing Date; and/or (b) every six months thereafter, shall establish the relevant index (month) for calculating the price variation.

#### 3.1.6 Activating the Price Variation Mechanism

The Price Variation Clause may only be activated: (a) by either the Economic Operator or the Contracting Authority; and (b) upon serving notice in writing to the other party no later than five working days following the issuing of the first Task Order in the relevant six month period. If neither party activates this Price Variation Clause, prices shall not be varied during the relevant six month period. If the Price Variation Clause is activated by the Economic Operator or the Contracting Authority, it shall apply to all Task Orders issued by the Contracting Authority to the Economic Operator during the relevant six month period.

#### 3.1.7 Sample Calculation

Wholesale Price Index (Ex. VAT) for Industrial Producer Price Indices (WPM24, Table 2)

Year	2022											
Month	Jan	Feb	Mar	April	May	June	July	Aug	Sept	Oct	Nov	Dec
Index	107.6	<b>108</b>	108.2	110	110	109.6	110.9	<b>114.4</b>	113.4	115.5	115.1	115.5

#### Example

<b>The Closing Date:</b>	March 11 <sup>th</sup> , 2022
<b>Baseline Index:</b>	108 (Feb)
<b>Six Months From The Closing Date:</b>	September 11 <sup>th</sup> , 2022
<b>Relevant Index:</b>	114.4 (Aug)
<b>Task Order Issue Date:</b>	September 15 <sup>th</sup> , 2022
<b>Percentage Change of Index:</b>	$(114.4 - 108)/108 = 5.93\%$

In the sample calculation, a price increase of **5.93%** would apply to the Goods specified in the Task Order issued on September 15<sup>th</sup>, 2022 and would also apply to any further Task Orders issued during the relevant six month period i.e. between September 11<sup>th</sup>, 2022 and March 10<sup>th</sup>, 2023.

<sup>4</sup> Closing date of the sRFT means the closing date of the sRFT as specified in the sRFT.

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## APPENDIX 1 - TEMPLATE TASK ORDER FORM

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### Multi-Party Framework Agreement for Road Signs And Ancillaries (Supply Only)

**To:** [Insert Economic Operator's details]

Enter "N/A" if field is not relevant

("The Economic Operator")

<b>SupplyGov Reference No:</b>	
<b>Purchase Order No:</b>	
<b>Goods ordered (description and quantity) – ("the Goods")</b>	
<b>Delivery location(s) (if applicable):</b>	
<b>Collection location(s) (if applicable):</b>	
<b>Date Task Order issued to the Economic Operator:</b>	
<b>Date(s) of delivery (if applicable):</b>	
<b>Date(s) of collection (if applicable):</b>	
<b>Any additional information and/or conditions attaching to the Task Order:</b>	

In accordance with the provisions of the sRFT Contract you are instructed to proceed with the supply of the Goods identified herein.