



TERMS AND CONDITIONS FOR THE SUPPLY OF GOODS AND SERVICES

1. Definitions

1.1 In these terms and conditions where the context so permits the following expressions shall have the following meanings:

“Acceptance Tests” means the user acceptance tests agreed between Irish Lights and the Supplier in accordance with clause 4.6;

“Business Day” means a day other than a Saturday, Sunday or public holiday in Ireland, when banks in Dublin are open for business;

“Commencement Date” has the meaning given in clause 2.2;

“Contract” means the contract between the Supplier and Irish Lights for the supply of Goods and/or Services in accordance with these Terms and Conditions which incorporates by reference (i) the Request for Tender, (ii) the Supplier’s Tender, as accepted by Irish Lights, (iii) the Goods Specification or Service Specification as applicable and (iv) the Purchase Order;

“Control” has the meaning given in section 7 of the Companies Act 2014, and the expression change of control shall be construed accordingly;

“Data Protection Law” means the Data Protection Acts 1988 - 2018, the General Data Protection Regulation 2016/679 (the **“GDPR”**) and the European Communities (Electronic Communications, Networks and Services) (Privacy and Electronic Communications) Regulations 2011 (S.I.336/2011) and any statutory instrument, order, rule or regulation made thereunder, as from time to time amended, extended, re-enacted or consolidated;

“Data Subjects” has the meaning given to it in Article 4(1) of the GDPR;

“Deliverables” means all documents, products and materials developed by the Supplier or its agents, contractors and employees as part of or in relation to the Services in any form or media, including drawings, maps, plans, diagrams, designs, pictures, computer programs, data, specifications and reports (including drafts);

“Delivery Location” has the meaning given in clause 4.2(b);

“Force Majeure Event” means any circumstance not within a party’s reasonable control including, without limitation:

- a) acts of God, flood, drought, earthquake or other natural disaster;
- b) epidemic or pandemic (but only where such epidemic or pandemic could not have been reasonably foreseen by the Supplier and where such epidemic or pandemic causes an unexpected surge in demand for the Services, with the parties acknowledging that COVID-19 and its variants will not constitute a Force Majeure Event);
- c) terrorist attack, civil war, civil commotion or riots, war, threat of or preparation for war, armed conflict, imposition of sanctions, embargo, or breaking off of diplomatic relations;
- d) nuclear, chemical or biological contamination or sonic boom;

- e) any law or any action taken by a government or public authority, including without limitation imposing an export or import restriction, quota or prohibition (but excluding actions or laws taken by a government or public authority that were known by the Supplier or would have been reasonably foreseen by a supplier providing similar goods or services);
- f) any labour or trade dispute, strikes, industrial action or lockouts (other than in each case by the party seeking to rely on this clause, or companies in the same group as that party); and

“Goods” means the goods (or any part of them) set out in the Purchase Order;

“Goods Specification” means any specification for the Goods, including any related plans and drawings as set out in the Tender Documentation;

“Intellectual Property Rights” means all intellectual and industrial property rights including copyright, trade marks, service marks, patents, design rights, database rights, utility models, moral rights, performers’ property rights, topography rights, design rights, trade secrets, rights in confidential information, know how, trade or business names, domain names, goodwill associated with the foregoing, whether or not registered or registerable, including registrations and applications and rights to apply for registration of any of these rights, and all rights and forms of protection of a similar nature of having equivalent or similar effect to any of these anywhere in the world;

“Irish Lights” shall mean the Commissioners of Irish Lights, a registered charity with the Charities Regulatory Authority (reference no. 20002794);

“Liquidated Damages Percentage” means (if specified in the Tender Documentation) the percentage specified in the Tender Documentation;

“Liquidated Damages Percentage Cap” means (if specified in the Tender Documentation) the percentage specified in the Tender Documentation;

“Personal Data” has the meaning given to that term in Article 4 of the GDPR;

“Pre-existing Intellectual Property Rights” means in respect of the Supplier any Intellectual Property Rights owned by or licensed to it prior to the date of this Contract, and all Intellectual Property Rights in any materials acquired or developed by the Supplier independently of this Contract;

“Processing”, **“Process”** and the like has the meaning given to those terms in Article 4 of the GDPR;

“Purchase Order” means Irish Lights’ order for the Goods and/or Services, as set out in the Purchase Order issued by Irish Lights;

“Request for Tender” means the request for tender together with any clarifications as issued by Irish Lights as part of the process to award the Contract;

“Services” means the services including any Deliverables, to be provided by the Supplier to Irish Lights under the Contract as set out in the Service Specification and/or Purchase Order;

“Service Specification” means the description or specification for the Services as set out in the Tender Documentation;

“Supplier” means the entity identified on the Purchase Order as responsible for the delivery of the Goods/Performance of the Services;

“Tender Documentation” means the Request for Tender, any Services Specification or Goods Specification provided with the Request for Tender and any accompanying documentation provided by Irish Lights as part of the tender; and

“Terms and Conditions” means these terms and conditions as amended from time to time in accordance with clause 27.

2. Basis of contract

- 2.1 The Purchase Order constitutes an offer by Irish Lights to purchase the Goods and/or Services from the Supplier in accordance with these Terms and Conditions.
- 2.2 The Purchase Order shall be deemed to be accepted on the earlier of:
- (a) the Supplier issuing written acceptance of the Purchase Order; or
 - (b) any act by the Supplier consistent with fulfilling the Purchase Order,
- at which point and on which date the Contract shall come into existence (the “**Commencement Date**”).
- 2.3 These Terms and Conditions apply to the Contract to the exclusion of any other terms that the Supplier seeks to impose or incorporate, or which are implied by law, trade custom, practice or course of dealing.
- 2.4 All of these Terms and Conditions shall apply to the supply of both Goods and Services except where the application to one or the other is specified.
- 2.5 Any Supplier pre-printed terms and conditions produced, signed, or stamped by either Party for whatever purpose are hereby disallowed. The Supplier waives any right it might otherwise have to rely on any term endorsed upon, delivered with or contained in any documents of the Supplier that is inconsistent with these Terms and Conditions.
- 2.6 Except where these Terms and Conditions state otherwise, the documents in the Contract are to be taken as mutually explanatory of each other if possible. If there is an inconsistency between the documents listed in the definition of the Contract, they take precedence as follows:
- (a) the Purchase Order;
 - (b) these Terms and Conditions;
 - (c) the Goods Specification or Service Specification (as applicable);
 - (d) the remaining Tender Documentation; and
 - (e) the Supplier’s Tender as accepted by Irish Lights.

3. Supply of Goods

- 3.1 If any Goods are to be supplied under a Purchase Order, the Supplier shall ensure that the Goods shall:
- (a) correspond with their description and any applicable Goods Specification;
 - (b) be of satisfactory quality (within the meaning of the Sale of Goods Act and Supply of Services Act 1980) and fit for any purpose held out by the Supplier or made known to the Supplier by Irish Lights, expressly or by implication, and in this respect Irish Lights relies on the Supplier's skill and judgement;
 - (c) where they are manufactured products, be free from defects in design, materials and workmanship and remain so for a minimum of 12 months after delivery; and
 - (d) comply with all applicable statutory and regulatory requirements relating to the manufacture, labelling, packaging, storage, handling and delivery of the Goods.
- 3.2 The Supplier shall ensure that at all times it has and maintains all the licences, permissions, authorisations, consents and permits that it needs to carry out its obligations under the Contract in respect of the Goods.
- 3.3 Irish Lights may inspect and test the Goods at any time before delivery. The Supplier shall remain fully responsible for the Goods despite any such inspection or testing and any such inspection or testing shall not reduce or otherwise affect the Supplier's obligations under the Contract.

3.4 If following such inspection or testing Irish Lights considers that the Goods do not comply or are unlikely to comply with the Supplier's undertakings at clause 3.1, Irish Lights shall inform the Supplier and the Supplier shall immediately take such remedial action as is necessary to ensure compliance.

3.5 Irish Lights may conduct further inspections and tests after the Supplier has carried out its remedial actions.

4. Delivery of Goods

4.1 The Supplier shall ensure that:

- (a) the Goods are properly packed and secured in such manner as to enable them to reach their destination in good condition;
- (b) each delivery of the Goods is accompanied by a delivery note which shows the date of the Purchase Order, the Purchase Order number (if any), the type and quantity of the Goods (including the code number of the Goods (where applicable)), special storage instructions (if any) and, if the Goods are being delivered by instalments, the outstanding balance of Goods remaining to be delivered; and
- (c) it states clearly on the delivery note any requirement for Irish Lights to return any packaging material for the Goods to the Supplier. Any such packaging material shall only be returned to the Supplier at the cost of the Supplier.

4.2 The Supplier shall deliver the Goods:

- (a) on the date specified in the Purchase Order or, if no such date is specified, then within 10 days of the date of the Order;
- (b) to the location as is set out in the Purchase Order or as instructed by Irish Lights before delivery ("**Delivery Location**"); and
- (c) during Irish Lights's normal hours of business on a Business Day, or as instructed by Irish Lights.

4.3 Delivery of the Goods shall be completed on the completion of unloading of the Goods at the Delivery Location.

4.4 If the Supplier:

- (a) delivers less than 95% of the quantity of Goods ordered, Irish Lights may reject the Goods; or
- (b) delivers more than 105% of the quantity of Goods ordered, Irish Lights may at its sole discretion reject the Goods or the excess Goods,

and any rejected Goods shall be returnable at the Supplier's risk and expense. If the Supplier delivers more or less than the quantity of Goods ordered, and Irish Lights accepts the delivery, the Supplier shall make a pro rata adjustment to the invoice for the Goods.

4.5 The Supplier shall not deliver the Goods in instalments without Irish Lights's prior written consent. Where it is agreed that the Goods are delivered by instalments, they may be invoiced and paid for separately. However, failure by the Supplier to deliver any one instalment on time or at all or any defect in an instalment shall entitle Irish Lights to the remedies set out in clause 7.1.

4.6 If the Purchase Order or Tender Documentation states that Acceptance Tests are required, the following provisions shall apply:

- (a) if the Tender Documentation includes said Acceptance Tests, the Supplier shall comply with the provisions of the Acceptance Tests specified within the Tender Documentation and the provisions of clauses 4.6(d) and 4.6(e) shall apply;

- (b) if the Tender Documentation does not specify the user acceptance criteria for Acceptance Tests, then not later than 14 days from the date of the Purchase Order (unless otherwise agreed by the parties) Irish Lights shall deliver to the Supplier the proposed user acceptance criteria for the Acceptance Tests for the Goods. These criteria and data shall be such as are reasonably required to show that the Goods comply with the Goods Specification. The Supplier shall provide Irish Lights with reasonable assistance to prepare such user acceptance criteria and test data. The parties shall use best endeavours to agree the Acceptance Tests for the Goods within 10 days of receipt of the proposed user acceptance criteria by the Supplier;
- (c) the Supplier shall carry out the agreed Acceptance Tests within 10 days of the parties agreeing the proposed user acceptance criteria under clause 4.6 of these Terms and Conditions. The Supplier shall carry out the agreed Acceptance Tests for the Goods unless Irish Lights notifies the Supplier, not later than 5 days after the date of delivery, that it will carry out the Acceptance Tests. The party carrying out the Acceptance Tests shall give the other party at least 24 hours' notice of the start of the Acceptance Tests and permit the other party to observe all or any part of the testing;
- (d) if any aspect of the Goods fails to pass the Acceptance Tests conducted by Irish Lights, Irish Lights shall, within 10 days from the completion of the Acceptance Tests or any part of these tests, provide a written notice to this effect, giving details of such failure. The Supplier shall remedy the deficiencies and the relevant test(s) shall be repeated within a reasonable time; and
- (e) if any aspect of the Goods fails to pass any repeated Acceptance Tests within 2 weeks from the date of its second submission to the Acceptance Tests, Irish Lights may (by written notice to the Supplier) choose any of the remedies available in clause 7.3.

4.7 Title and risk in the Goods shall pass to Irish Lights on completion of delivery, provided that:

- (a) where Irish Lights has made any form of interim payment in advance for the Goods, title will pass upon the first interim payment by Irish Lights (but risk shall only transfer upon delivery);
- (b) where Irish Lights has indicated that Acceptance Tests are required, title will pass upon delivery but risk shall only transfer upon successful completion of the Acceptance Tests.

5. Supply of Services

5.1 The Supplier shall from the Commencement Date and for the duration of the Contract supply the Services in accordance with the terms of the Contract.

5.2 The Supplier shall meet any performance dates for the Services stated in the Service Specification and time is of the essence in relation to any of those performance dates.

5.3 In providing the Services, the Supplier shall:

- (a) co-operate with Irish Lights in all matters relating to the Services, and comply with all instructions of Irish Lights;
- (b) perform the Services in accordance with the Contract exercising all reasonable skill, care and diligence reasonably expected of a Supplier experienced in carrying out services of a similar nature, scope and complexity;
- (c) use personnel who are suitably skilled and experienced to perform tasks assigned to them, and in sufficient number to ensure that the Supplier's obligations are fulfilled in accordance with the Contract;
- (d) ensure that the Services will conform with all descriptions, standards and specifications set out in the Service Specification, and that the Deliverables shall be fit for any purpose that Irish Lights expressly or impliedly makes known to the Supplier;

- (e) ensure that where materials are used, it shall use its best endeavours to ensure that they are of sufficient quality and fit for purpose for which they are used;
- (f) not do or omit to do anything which may cause Irish Lights to lose any licence, authority, consent or permission upon which it relies for the purposes of conducting its business, and the Supplier acknowledges that Irish Lights may rely or act on the Services; and
- (g) comply with any additional obligations as set out in the Service Specification.

6. Representations and Warranties

6.1 The Supplier here represents that and warrants that:

- (a) it has the power, right under law and authority to enter into the Contract and deliver and perform its obligations thereunder;
- (b) its obligations under the Contract are legally binding;
- (c) its obligations under this Contract shall be performed and provided in full compliance with all applicable laws, enactments, orders, regulations and licences;
- (d) all and necessary consents and/or licences are obtained and in place for the purpose of this Contract, including that it owns, has obtained or is able to obtain, valid licences for all IPR that are necessary for the performance of its obligations under this Contract and for Irish Lights to obtain the benefit of the Services and/or Goods;
- (e) it shall observe all health and safety rules and regulations and any other security requirements that apply at any of Irish Lights's premises or at any of the premises where the Services are to be provided or the Goods are to be delivered;
- (f) it is entering into this Contract with a full understanding of its material terms and risks and is capable of assuming and fulfilling those obligations; and
- (g) delivery of the Goods and/or Services will not infringe any valid patent or trademark, trade name, copyright or registered design.

6.2 Neither performance, acceptance of the Goods and/or Services nor any payment made by Irish Lights, shall relieve the Supplier of its obligations to comply with this clause 6 or with any other provision of the Contract.

7. Remedies

7.1 If the Supplier fails to deliver the Goods by the applicable date or to perform the Services by the applicable date, or both, Irish Lights shall, without limiting or affecting other rights or remedies available to it, have any one or more of the following rights and remedies:

- (a) to terminate the Contract with immediate effect by giving written notice to the Supplier;
- (b) to refuse to accept any subsequent performance of the Services and/or delivery of the Goods which the Supplier attempts to make;
- (c) to recover from the Supplier any costs incurred by Irish Lights in obtaining substitute goods and/or services from a third party;
- (d) to require a refund from the Supplier of sums paid in advance for Services that the Supplier has not provided and/or Goods that it has not delivered; and
- (e) to claim damages for any additional costs, loss or expenses incurred by Irish Lights which are in any way attributable to the Supplier's failure to meet such dates.

7.2 If the Tender Documentation indicates that this clause 7.2 applies, if the Goods are not delivered by the applicable date or the Services are not performed by the applicable date, or both, Irish Lights may,

at its option, claim or deduct the Liquidated Damages Percentage for each week's delay in delivery of the Goods and/or claim or deduct the percentage stated in the Tender Documentation of the price of the Services for each week's delay in performance of the Services, in each case by way of liquidated damages, up to a maximum of the Liquidated Damages Percentage Cap, from the total price of the Goods (in respect of late delivery of the Goods) and the total price of the Services (in respect of late performance of the Services). If Irish Lights exercises its rights in respect of late delivery under this clause 7.2 it shall not be entitled to any of the remedies set out in clause 7.1 in respect of the late delivery of the Goods. If Irish Lights exercises its rights in respect of late performance under this clause 7.2 it shall not be entitled to any of the remedies set out in clause 7.1 in respect of the late performance of the Services.

7.3 If the Supplier has delivered Goods that do not comply with the undertakings set out in clause 3.1, then, without limiting or affecting other rights or remedies available to it, Irish Lights shall have one or more of the following rights and remedies, whether or not it has accepted the Goods:

- (a) to terminate the Contract with immediate effect by giving written notice to the Supplier;
- (b) to reject the Goods (in whole or in part) whether or not title has passed and to return them to the Supplier at the Supplier's own risk and expense;
- (c) to require the Supplier to repair or replace the rejected Goods, or to provide a full refund of the price of the rejected Goods;
- (d) to refuse to accept any subsequent delivery of the Goods which the Supplier attempts to make;
- (e) to recover from the Supplier any expenditure incurred by Irish Lights in obtaining substitute goods from a third party; and
- (f) to claim damages for any additional costs, loss or expenses incurred by Irish Lights arising from the Supplier's failure to supply Goods in accordance with clause 3.1.

7.4 If the Supplier has supplied Services that do not comply with the requirements of clause 5.3(d) then, without limiting or affecting other rights or remedies available to it, Irish Lights shall have one or more of the following rights and remedies:

- (a) to terminate the Contract with immediate effect by giving written notice to the Supplier;
- (b) to return the Deliverables to the Supplier at the Supplier's own risk and expense;
- (c) to require the Supplier to provide repeat performance of the Services, or to provide a full refund of the price paid for the Services;
- (d) to refuse to accept any subsequent performance of the Services which the Supplier attempts to make;
- (e) to recover from the Supplier any expenditure incurred by Irish Lights in obtaining substitute services or deliverables from a third party; and
- (f) to claim damages for any additional costs, loss or expenses incurred by Irish Lights arising from the Supplier's failure to comply with clause 5.3(d).

7.5 These Terms and Conditions shall extend to any substituted or remedial services and/or repaired or replacement goods supplied by the Supplier.

7.6 Irish Lights' rights and remedies under the Contract are in addition to, and not exclusive of, any rights and remedies implied by statute and common law.

8. Assignment and Sub-Contracting

8.1 Irish Lights may at any time assign, mortgage, charge, subcontract, delegate, declare a trust over or deal in any other manner with all or any of its rights and obligations under the Contract.

8.2 The Supplier shall not directly or indirectly transfer, assign, mortgage, charge, delegate, declare a trust over or deal in any other manner with any of its rights and obligations under the Contract (or part thereof) without the prior written consent of Irish Lights, such consent not to be unreasonably withheld.

8.3 The Supplier shall not subcontract any or all of its rights or obligations under the Contract without the prior written consent of Irish Lights. If Irish Lights consents to any subcontracting by the Supplier, the Supplier shall remain responsible for all the acts and omissions of its subcontractors as if they were its own.

9. Invoicing and Payment

9.1 The price for the Goods:

(a) shall be the price set out in the Purchase Order; and

(b) shall be inclusive of all costs, including packaging, insurance and carriage of the Goods (and delivered to the Delivery Location on a Delivery Duty Paid (Incoterms® 2020 Rules) basis save as varied by clause 4.7(b) of these Terms and Conditions).

No extra charges shall be effective unless agreed in writing and signed by Irish Lights.

9.2 The price for the Services shall be set out in the Purchase Order, and shall be the full and exclusive remuneration of the Supplier in respect of the performance of the Services. Prices stated on the Purchase Order shall remain fixed until the delivery of all Services which are subject of the Purchase Order in accordance with these terms and conditions. Unless otherwise agreed in writing by Irish Lights, the price shall include every cost and expense of the Supplier directly or indirectly incurred in connection with the performance of the Services.

9.3 In respect of the Goods, the Supplier shall invoice Irish Lights on or at any time after completion of delivery. In respect of the Services, the Supplier shall invoice Irish Lights on completion of the Services. Each invoice must quote the attached Purchase Order number. The invoice must be sent to the email address specified on the Purchase Order (unless otherwise agreed) and attach any such supporting documentation as may be required by Irish Lights from time to time. Irish Lights reserves the right not to pay invoices not submitted within 6 months after completion of the Services and only in exceptional circumstances will Irish Lights exercise its discretion to pay such invoices.

9.4 Where indicated in the Goods Specification, the price of the Goods shall include the cost of instruction of Irish Lights' personnel in the use and maintenance of the Goods and such instructions shall be in accordance with the requirements detailed in the Goods Specification.

9.5 Payment for all Goods and Services will be made in accordance with European Communities (Late Payment in Commercial Transactions) Regulations 2012. Incorrect invoices will be returned for correction with consequential effects on the due date of payment. If any dispute arises in respect of an invoice, or any part thereof, payment of that invoices, or such disputed part thereof, shall be withheld until resolution of the dispute.

9.6 Payment will not be made to a Supplier who has failed to supply or refused to comply with a request for its tax reference number and access number as they appear on the Supplier's eTax Clearance Certificate.

9.7 Unless otherwise agreed, Irish Lights shall not be liable to the Supplier for any payment for the Goods and/or Services, or any part thereof, until the Goods and/or Services have been provided or performed in full accordance with the Contract.

9.8 Payments will not be made against Goods and/or Services invoiced that are not also contained on the Purchase Order.

9.9 Irish Lights reserves the right not to make payment against copy invoices unless they are supported by a current statement. Copy invoices must be clearly marked.

- 9.10 Unless otherwise stated, prices exclude VAT. The VAT element should be stated separately. Where the Supplier is required to account for VAT to the relevant tax authority, Irish Lights shall pay such VAT to the Supplier on the production of a valid VAT invoice.
- 9.11 Where the Supplier is liable to make any payment to Irish Lights, Irish Lights may set off any such amounts due to it against amounts owed by it to the Supplier.
- 9.12 Any overpayment by either party, whether of the price paid in respect of the provision of the Goods and /or Services, or of VAT or otherwise, shall be a sum of money recoverable by the party who made the overpayment from the party in receipt of the overpayment.

10. Employment legislation

The Supplier shall comply with all applicable employment legislation and/or regulations or registered employment agreements within the meaning of the Industrial Relations Act 1946 to 2015, or any amendment thereof and without prejudice to the generality of the foregoing shall be solely responsible in law for the employment, remuneration, taxes, immigration and work permits of all personnel retained for the purpose of complying with this Contract.

11. Tax Clearance

- 11.1 The Supplier shall hold and maintain a current tax clearance certificate from Revenue Commissioners and shall provide evidence of this to Irish Lights upon request.
- 11.2 The Supplier shall comply with all EU and domestic taxation law and requirements.

12. Termination

- 12.1 Without affecting any other right or remedy available to it, Irish Lights may terminate the Contract:
- (a) with immediate effect by giving written notice to the Supplier if:
 - (i) there is a change of Control of the Supplier; or
 - (ii) the Supplier commits a breach of clause 6.1(c); or
 - (iii) the Supplier commits a material breach of any term of the Contract which breach is irremediable or (if such breach is remediable) fails to remedy that breach within a period of 7 days after being notified to do so; or
 - (iv) the Supplier takes any step or action in connection with its entering administration, provisional liquidation or any composition or arrangement with its creditors (other than in relation to a solvent restructuring), obtaining a moratorium, being wound up (whether voluntarily or by order of the court, unless for the purpose of a solvent restructuring), having a receiver appointed to any of its assets or ceasing to carry on business or, in connection with any analogous procedure in the relevant jurisdiction; or
 - (v) the Supplier suspends, or threatens to suspend, or ceases or threatens to cease to carry on all or a substantial part of its business.
 - (b) for convenience by giving the Supplier 20 days' written notice (or such longer period as agreed by Irish Lights).
- 12.2 In the event of termination by Irish Lights pursuant to this clause 12, the Supplier shall be entitled to payment in respect of such proportion of the Contract properly performed up to the date of termination.

13. Waiver

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

14. Intellectual Property

- 14.1 The Supplier assigns to Irish Lights with full title guarantee the Intellectual Property Rights in the Deliverables (excluding any Pre-existing Intellectual Property Rights) and shall waive or procure a waiver of any moral rights subsisting in same.
- 14.2 The Supplier hereby grants to Irish Lights a perpetual royalty free non-exclusive licence to use any Pre-existing Intellectual Property Rights subsisting in the Deliverables for the purpose of Irish Lights receiving the benefit of the Contract, including the right to grant sub-licences.
- 14.3 The Supplier hereby undertakes that all Pre-existing Intellectual Property Rights in the Deliverables are owned by or used with the consent of the owner. The Supplier hereby indemnifies and shall keep and hold Irish Lights harmless from and in respect of all and any loss, damages, action, claim, costs, expenses or demands for infringement of any Intellectual Property Rights in respect of Deliverables and/or in respect of royalties or damages arising therefrom.

15. Indemnity

- 15.1 The Supplier shall indemnify, hold harmless and defend Irish Lights and its officers, directors, employees and agents from and against all liabilities, claims, actions, proceedings, costs (including legal costs), damages and losses howsoever arising and whatsoever suffered or incurred by Irish Lights arising from or in the course of the Supplier's or its employees, sub-contractors, agents or representatives' performance or non-performance of the Contract.
- 15.2 This clause 15 shall survive termination of the Contract.

16. Insurance

The Supplier shall effect and maintain, with a reputable insurer, the necessary levels of professional indemnity insurance, employer's liability insurance, public and product liability insurance as may be required to cover any potential liability under this Contract and all insurances that are required by law and shall, on Irish Lights's request, produce both the insurance certificate giving details of cover and the receipt for the current year's premium in respect of each insurance.

17. Confidentiality

- 17.1 All technical information, drawings, designs, specifications, documents and all other information communicated, received, provided or obtained by the Supplier arising from their participation in this Contract (hereinafter the "**Confidential Information**") are to be treated as confidential by the Supplier. Confidential Information does not include (i) information in the Supplier's possession before the date of this Contract, (ii) information which is independently developed by the Supplier and (iii) information which becomes public knowledge other than by breach of this clause.
- 17.2 The Supplier undertakes not to disclose to any party any Confidential Information except as permitted by clause 17.3.
- 17.3 The Supplier may disclose Confidential Information:
- (a) to its employees, officers, representatives, contractors, subcontractors or advisers who need to know such information for the purposes of exercising its rights or carrying out its obligations under the Contract. The Supplier shall ensure that its employees, officers, representatives, contractors, subcontractors or advisers to whom it discloses the other party's confidential information comply with this clause 17; and
 - (b) as may be required by law, a court of competent jurisdiction or any governmental or regulatory authority.

17.4 The Supplier undertakes to comply with all reasonable directions of Irish Lights with regards to the use and application of all and any Confidential Information and shall not use the Confidential Information for any purpose other than to perform its obligations under or in connection with the Contract.

17.5 The terms of this clause 17 shall survive expiry, completion or termination of this Contract for any reason.

18. Dispute Resolution

In the event of dispute between Irish Lights and the Supplier, Irish Lights and the Supplier shall immediately seek to resolve the dispute by negotiation in good faith. Where the parties are unable to resolve a dispute within 15 days, the parties will refer to mediation in accordance with the International Centre for Effective Dispute Resolution ("CEDR") procedures then in force before resorting to litigation. The costs of mediation shall be shared equally between the parties.

19. Prevention of Corruption/Ethics in Public Office

Without prejudice to any other provision of this Contract, the Supplier shall not offer, or give or agree to give, any person employed by Irish Lights any gift or consideration of any kind as an inducement or reward for doing, or forbearing to do, or having done, or forbore to do, any act in relation to the obtaining or performance of this Contract or for showing, or forbearing to show, favour or disfavour to any person in relation to this Contract. In the event of any breach of this clause 19 or the commission of any offence by the Supplier or any employee, servant, agent or subcontractor (or any employee, servant, agent of any sub-contractor) of the Supplier under the Prevention of Corruption Acts 1999 to 2001, the Bribery Act 2010, the Ethics Act 2010, the Ethics in Public Office Act 1995 or under any legislation analogous to the foregoing in any applicable jurisdiction, the Supplier shall be deemed to have committed a material breach which is not capable of any remedy and Irish Lights may terminate this Contract forthwith and to recover from the Supplier the amount of any loss resulting from such termination. The decision of Irish Lights shall be final and conclusive in any dispute, difference or question arising in respect of the interpretation of this clause or the right of Irish Lights under this clause to terminate this Contract.

20. Data Protection

20.1 The Supplier acknowledges that in performing its obligations under this Contract, the Supplier may Process Personal Data within the meaning set out in Data Protection Law on behalf of Irish Lights. In such circumstances, the Supplier acknowledges that Irish Lights is the data controller and the Supplier is the data processor, as each term is defined under Data Protection Law and the Supplier agrees that:

- (a) the Supplier shall only Process Personal Data in accordance with the documented instructions of Irish Lights, including with regard to transfers of Personal Data to a third-party country and solely as strictly necessary for the performance of its obligations under this Contract;
- (b) the Supplier shall ensure that the persons authorised by the Supplier to Process such Personal Data are bound by appropriate confidentiality obligations;
- (c) the Supplier shall implement such technical and organisational security measures as are required to comply with the data security obligations under Data Protection Law;
- (d) the Supplier may engage any sub-processor without the prior written consent of Irish Lights (subject at all times to the notification of the sub-processing to Irish Lights and Irish Lights' right to object to any sub-processor);
- (e) where any sub-contractor of the Supplier will be Processing such Personal Data on behalf of Irish Lights, the Supplier shall ensure that a written contract exists between the Supplier and the sub-contractor containing clauses equivalent to those imposed on the Supplier in this clause 20. In the event that any sub-processor fails to meet its data protection obligations, the Supplier shall remain fully liable to Irish Lights for the performance of the sub-processors obligations;
- (f) the Supplier shall inform Irish Lights promptly and in any event within 3 Business Days of receiving a request from a Data Subject to exercise their rights under Data Protection Law

and provide such co-operation and assistance as may be required to enable Irish Lights to deal with such a request in accordance with the provisions of Data Protection Law;

- (g) the Supplier shall assist Irish Lights by implementing appropriate technical and organisational measures to allow Irish Lights to comply with requests from Data Subjects to exercise their rights under Data Protection Law;
- (h) the Supplier shall assist Irish Lights in ensuring compliance with its obligations in respect of security of Personal Data under Data Protection Law;
- (i) the Supplier shall, at the choice of Irish Lights, delete or return all such Personal Data to Irish Lights when the Supplier ceases to provide services relating to data Processing and/or delete all existing copies of such Personal Data unless EU law or the laws or the laws of an EU Member State applicable to the Supplier require storage of the Personal Data;
- (j) the Supplier shall: (i) make available to Irish Lights all information necessary to demonstrate compliance with the obligations laid down in this clause 20; and (ii) allow for and assist with audits, including inspections, conducted by Irish Lights or another auditor mandated by Irish Lights, in order to ensure compliance with the obligations laid down in this clause 20, including its data security obligations under data Protection Law provided however that Irish Lights shall be entitled, at its discretion, to accept adherence by the Supplier to an approved code of conduct or an approved certification mechanism to aid demonstration by Irish Lights that it is compliant with the provisions of this clause 20;
- (k) the Supplier shall inform Irish Lights immediately if, in its opinion, it receives an instruction from Irish Lights which infringes Data Protection Law;
- (l) the Supplier shall notify Irish Lights without undue delay after becoming aware of any breach of security leading to the accidental or unlawful destruction, loss, alteration, unauthorised disclosure of, or access to, Personal Data transmitted, stored or otherwise Processed and provide Irish Lights with such co-operation and assistance as may be required to mitigate against the effects of, and comply with any reporting obligations which may apply in respect of, any such breach; and
- (m) no such Personal Data shall be transferred outside of the European Economic Area (or within a country in respect of which an adequacy decision made by the European Commission under Article 45 GDPR is in force) by the Supplier or any of its agents or sub-processors without the prior written consent of Irish Lights which consent may be subject to terms and conditions (including, without limitation, that the data importer enters into model clauses in the form approved by the European Commission and, where relevant, complies with the provisions regarding sub-processors contained in such model contracts in respect of any sub-processors). The Supplier shall comply with the requirements of Data Protection Law in respect of transfers of such Personal Data outside of the European Economic Area, where Irish Lights consents to any such transfer.

20.2 Details regarding the subject matter, duration, nature and purpose of Processing and the Personal Data categories and Data Subject types in respect of which the Supplier may Process on behalf of Irish Lights to provide the Goods and/or Services are set out in Appendix 1. Appendix 1 may be amended by the Parties at any time in accordance with Clause 27 (Variation), including in order to provide more specific or updated details regarding the Processing of Personal Data (if any) by the Supplier under the Contract.

21. Force majeure

21.1 Provided that it has complied with clause 21.2, if a party is prevented, hindered or delayed in or from performing any of its obligations under this agreement by a Force Majeure Event (the “**Affected Party**”), the Affected Party shall not be in breach of this agreement or otherwise liable for any such failure or delay in the performance of such obligations. The time for performance of such obligations shall be extended accordingly.

21.2 The Affected Party shall:

- (a) as soon as reasonably practicable after the start of the Force Majeure Event but no later than 14 days from its start, notify the other party in writing of the Force Majeure Event, the date on which it started, its likely or potential duration, and the effect of the Force Majeure Event on its ability to perform any of its obligations under the Contract; and
 - (b) use all reasonable endeavours to mitigate the effect of the Force Majeure Event on the performance of its obligations.
- 21.3 The Affected Party shall notify the other party in writing when the Force Majeure Event ceases to affect the performance of its obligations. If the Force Majeure Event prevents, hinders or delays the Affected Party's performance of its obligations for a continuous period of more than 2 months, either party may terminate the Contract by giving 20 days' written notice to the other party.
- 21.4 In circumstances where the Supplier is the Affected Party, Irish Lights shall be relieved from any obligation to make payments under this Contract save to the extent that payments are properly due and payable for obligations actually fulfilled by the Supplier in accordance with these Terms and Conditions.

22. Notices

- 22.1 Notice may be served on the Supplier by hand delivery or by sending it by post to its registered office or place of business or by email to an email address as may be notified to Irish Lights by the Supplier. Notice may be served on Irish Lights by email at procurement@irishlights.ie or such other postal or email address as may be notified to the Supplier by Irish Lights.
- 22.2 Notices shall take effect on the date of service or such other date specified in the notice. The date of service shall be deemed to be (i) the date of the email where the email is sent between 9am and 5.30pm on Business Days, or where the email is sent outside these business hours, the following Business Day or (ii) the date of hand delivery or, (iii) if posted, 2 days following postage.

23. Status

- 23.1 Nothing in the Contract is intended to, or shall be deemed to, establish any partnership or joint venture between the parties, constitute either party the agent of the other, or authorise either party to make or enter into any commitments for or on behalf of the other party save to the extent, authorised by the Contract.
- 23.2 Unless otherwise stated in the Contract, each party confirms it is acting on its own behalf and not for the benefit of any other person.

24. Non-Exclusivity

The Supplier acknowledges that it does not have any exclusive right to provide the Goods and/or Services, or good and services similar or identical to the Goods or Services, to Irish Lights, and that nothing in this Contract shall preclude Irish Lights from purchasing goods or services from a third party at any time during the term of this Contract.

25. Media

No media releases, public announcements or public disclosures relating to this Contract or its subject matter, including but not limited to promotional or marketing material, shall be made by the Supplier without the prior written consent of Irish Lights.

26. Entire Agreement

This Contract constitutes the entire agreement between the parties and supersedes and extinguishes all previous agreements, promises, assurances, warranties, representations, and understandings between them whether written or oral, relating to its subject matter.

27. Variation

Except as set out in this Contract, no variation of the Contract shall be effective unless it is agreed in writing and signed by the parties (or their authorised representatives).

28. Severability

If any condition, clause or provision or part provision of this Contract is or becomes invalid, illegal or unenforceable, then such provision shall be deemed severed and the validity, legality or enforceability of the remainder of the Contract shall not in any way be affected or impaired thereby.

29. Governing Law

This Contract shall in all respects be governed by and construed in accordance with the laws of Ireland and the Supplier hereby irrevocably submits to the jurisdiction of the Irish Courts to hear and determine any disputes arising out of or in connection with this Contract. The submission to such jurisdiction shall not (and shall not be construed so as to) limit the right of Irish Lights to take proceedings against the Supplier in any other court of competent jurisdiction, nor shall the taking of proceedings in any one or more jurisdiction preclude the taking of proceedings in any other jurisdiction whether concurrently or not.

Appendix 1 – Details of Data Processing

Subject Matter of the Processing:	The Supplier is under contract to provide Goods and/or Services to Irish Lights. The provision of these Goods and/or Services may necessitate the Supplier Processing data including Personal Data on behalf of Irish Lights, as will be more particularly described elsewhere in the Contract, and in particular in the the the Goods Specification or Service Specification as applicable.
Duration of the Processing:	The duration of the Processing of any Personal Data shall correspond to the terms of the Contract for the Services between the Supplier and Irish Lights, subject to any additional periods under law for which the Supplier is required to continue Processing Personal Data.
Nature and Purposes of the Processing:	The Supplier shall Process Personal Data as necessary to provide the Goods and/or Services required by the Contract and otherwise to perform its obligations under the Contract.
Description of the Personal Data Processed:	<p>Depending on the Goods and/or Services provided by the Supplier, the Supplier may Process the following (non-exhaustive) categories of Personal Data:</p> <ul style="list-style-type: none"> • First and Last name. • Title. • Position. • Date of Birth. • Home contact details (address, telephone number, mobile number, personal email address). • Business contact details (address, telephone number, mobile number, personal email address, work location). • Family life. • Civil Partnership and Marital status. • Employer name & address. • Employee number. • Personal Public Service Number (PPSN). • Personal life data. • Professional life data. • Connection data. • Location data. • Financial and bank details. • Employment details. • Education details.
Categories of Data Subjects:	<p>Depending on the Goods and/or Services provided by the Supplier, the Supplier may Process Personal Data relating to the following categories of Data Subjects:</p> <ul style="list-style-type: none"> • Irish Lights staff and contractors. • Irish Lights suppliers, their staff and contractors. • Individuals seeking employment with Irish Lights. • Retired Irish Lights staff and former Irish Lights contractors. • Individuals otherwise engaging with Irish Lights.