

**Invitation to Tender (ITT) for the supply of**

**Toyota or Nissan Brand New 76 Hardtop LX V8 4.5L TD 4WD or Similar Vehicle**

**National Tender REF: KEN-WSH-24486**

|  |
| --- |
| **GOAL is completely against fraud, bribery and corruption****GOAL does not ask for money for bids. If approached for money or other favours, of if you have any suspicions of attempted fraud, bribery or corruption please report immediately to email** **speakup@goal.ie****Please provide as much detail as possible with any reports** |

# About GOAL

GOAL is an international humanitarian agency, currently operating in 13 countries worldwide, dedicated to alleviating the suffering of the poorest of the poor. We are a non-denominational, non-governmental and non-political organisation. For more information on GOAL and its operations please visit [www.goalglobal.org](http://www.goalglobal.org)

GOAL has over 19-year presence in Sierra Leone with activities in Freetown Western Area, Kenema, Bombali, Moyamba, Koinadugu and Kambia Districts. GOAL Sierra Leone programme contributes to poverty and vulnerability reduction through the implementation of multi-sectoral, integrated programmes. The SL programmes specifically focus on systems strengthening and community level behaviour change programming, targeting improved maternal & child health through nutrition and hygiene, sanitation and water activities as well as child protection and empowerment interventions.

# Proposed Timelines

|  |  |  |
| --- | --- | --- |
| **Line** | **Item** | **Date**  |
| 1 | ITT published  | 10/09/2021  |
| 2 | Closing date for clarifications  | ~~27/09/2021 16:00 PM GMT~~ **Extended to 08/10/2021 14:00 Hours GMT** |
| 3 | Closing date and time for receipt of Tenders | ~~01/10/2021 14:00 PM GMT~~ **Extended to 12/10/2021 16:00 Hours** **GMT** |
| 4 | Tender Opening Location | Goal Office – 6 The Maze Freetown, Sierra Leone  |
| 5 | Tender Opening Date and time  | ~~04/10/2021 10:00 AM GMT~~ **Extended to 13/10/2021 10:00 AM GMT** |

# Overview of requirements

## Supply Specification

The specification must meet the below essential specifications:

|  |  |
| --- | --- |
| Model and brand: | Toyota or Nissan brand new 76 Hardtop LX V8 4.5L TD 4WD vehicle  |
| Engine: | Diesel |
| Engine Model  | 1VD FTV  |
| Fuel Tank capacity (Litres) | 130L |
| Number of seats: | 10 |
| Number of doors: | 5 |
| Number of cylinders: | 8 |
| Transmission: | Manual |
| Drive | 4 x 4 |
| Colour: | White |

The following specification are desirable:

* Wheel spanner
* Spare tyre
* First aid kit (see below description)
* 1kg fire extinguisher
* Transit safety box
* Fuel filter kit
* Central Door Locking with Remote
* Anti-Lock Braking System (ABS)

First Aid Kit description (or similar)

* 1x Easy to clean plastic storage case
* 1x First aid guidance leaflet
* 20x Assorted wash proof plasters
* 2x Sterile triangular bandage
* 1x Eye pad dressing with bandage
* 2x Medium dressing 12cm x 12cm
* 3x Large dressing 18cm x 18cm
* 12x Safety pins
* 1x Low adherent dressing pad 10cm x 10cm
* 2x Conforming bandages 7.5cm x 4.5m
* 1x Micro-porous tape 2.5cm x 10m
* 1x Universal stainless-steel shears 19cm
* 10x Moist wound cleansing wipes
* 1x Nitrile powder-free examination gloves (pair)
* 1x Resuscitation shield with filter valve

## Executive Summary of Proposal

The executive summary of your proposal must be concise, precise and less than 2 pages long. It must summarise how you will approach and execute this supply from a management and logistical perspective.

## Added Value Features

Give details of any additional services or functionality that may enhance your proposal (limit to 1 page)

# Terms of the Procurement

## Procurement Process

### This competition is being conducted under GOALs National Tender Procedure.

### The Contracting Authority for this procurement is GOAL

## Clarifications and Query Handling

### GOAL has taken care to be as clear as possible in the language and terms it has used in compiling this ITT. Where any ambiguity or confusion arises from the meaning or interpretation of any word or term used in this document or any other document relating to this tender, the meaning and interpretation attributed to that word or term by GOAL will be final. GOAL will not accept responsibility for any misunderstanding of this document or any others relating to this tender.

### Requests for additional information or clarifications can be made up to 5 working days (as outlined in section 5.2) before the deadline, and no later. Any queries about this ITT should be addressed in writing to GOAL via email on procurementfreetown@goal.sl.ie and answers shall be collated and published online at <https://www.goalglobal.org/tenders> in a timely manner.

## Conditions of Tender Submission

### Tenders must be completed in English.

### Tenders must respond to all requirements set out in this ITT and complete their offer in the Response Format.

### Failure to submit tenders in the required format will, in almost all circumstances, result in the rejection of the tender. Failure to resubmit a correctly formatted tender within 3 (three) working days of such a request will result in disqualification.

### Tenderers must disclose all relevant information to ensure that all tenders are fairly and legally evaluated. Additionally, tenderers must provide details of any implications they know or believe their response will have on the successful operation of the contract or on the normal day-to-day operations with GOAL. Any attempt to withhold any information that the tenderer knows to be relevant or to mislead GOAL and/or its evaluation team in any way will result in the disqualification of the tender.

### Tenders must detail all costs identified in this ITT. Additionally, tenders must detail any other costs whatsoever that could be incurred by GOAL in the usage of services and/or the availing of options that may not be explicitly identified/requested in this ITT. Tenderers’ attention is drawn to the fact that, in the event of a Contract/ Framework Agreement being awarded to them, the attempted imposition of undeclared costs will be considered a condition for default.

### Any conflicts of interest (including any family relations to GOAL staff) involving a tenderer must be fully disclosed to GOAL particularly where there is a conflict of interest in relation to any recommendations or proposals put forward by the tenderer.

### GOAL will not be liable in respect of any costs incurred by respondents in the preparation and submission of tenders or any associated work effort.

### GOAL will conduct this tender, including the evaluation of responses and final awards in accordance with the detail set out at in the Evaluation process. Tenders will be opened by at least three designated officers of GOAL.

### GOAL is not bound to accept the lowest, or any tender submitted.

### Information supplied by respondents will be treated as contractually binding. However, GOAL reserves the right to seek clarification or verification of any such information.

### GOAL reserves the right to terminate this competition at any stage.

### Unsuccessful tenderers will be notified.

### GOAL’s standard payment terms are by bank transfer within 30 days after satisfactory implementation and receipt of documents in order. Satisfactory implementation is decided solely by GOAL.

### This document is not construed in any way as an offer to contract.

### GOAL and all contracted suppliers must act in all its procurement and other activities in full compliance with donor requirements. Any contract(s) that arise from this ITT may be financed by multiple donors and those donors and/or their agents have rights of access to GOAL and/or any of its suppliers or contractors for audit purposes. These donors may also have additional regulations that it is not practical to list here. Submission of an offer under this ITT assumes Service Provider acceptance of these conditions.

### **Terrorism and Sanctions:** GOAL does not engage in transactions with any terrorist group or individual or entity involved with or associated with terrorism or individuals or entities that have active exclusion orders and/or sanctions against them. GOAL shall therefore not knowingly purchase supplies or services from companies that are associated in any way with terrorism and/or are the subject of any relevant international exclusion orders and/or sanctions. If you submit a bid based on this request, it shall constitute a guarantee that neither your company nor any affiliate or a subsidiary controlled by your company are associated with any known terrorist group or is/are the subject of any relevant international exclusion order and/or sanctions. A contract clause confirming this may be included in an eventual purchase order based on this request.

## Quality Control

3rd party companies may be contracted by GOAL to carry out random quality inspections of work carried out by the contracted party. The cost of the quality control inspections will be covered by GOAL.

In cases of supplier’s quality default in addition to Liquidated Damages section 21 of GOAL Standard Terms and Conditions the costs of the quality inspections and loading surveyor will be charged to the Service Provider.

Sub-contracting: note section II in GOAL Standard Terms and Conditions (Appendix 4). GOAL may choose to visit vendors, including sub-contractors (if any) as per of the evaluation process.

## Submission of Tenders

Tenders must be delivered in one of the following two ways:

1. Electronically with your financial and technical offers in separate emails to tenders@goal.ie and in the subject field state:
	1. ***ITT KEN-WSH-24486 Toyota or Nissan Brand New 76 Hardtop LX V8 4.5L TD 4WD or Similar Vehicle for GOAL Sierra Leone Fleet.***
	2. ***Name of your firm with the title of the attachment***
	3. ***Number of emails that are sent e.g. 1 of 3, 2 of 3, 3 of 3.***
2. If electronic bid submission is not possible please submit in a sealed envelope marked ***KEN-WSH-24486 Purchasing of Toyota or Nissan Brand New 76 Hardtop LX V8 4.5L TD 4WD 5 Vehicle for GOAL Sierra Leone Fleet*** with the words **‘*not be opened before the deadline 12th October, 2021 2.00pm’***with your financial and technical offers inside in two separate envelopes marked as Financial Offer and Technical Offer to the Private Tender Box, GOAL Sierra Leone Head Office, 6 The Maze Off King Street-Freetown, Sierra Leone.

Proof of sending is not proof of reception. Late delivery will result in your bid being rejected. Envelopes found open at the tender opening will be rejected. All information provided must be perfectly legible.

## Tender Opening Meeting

Tenders will be opened on **13th October 2021 at 10:00 AM** at the following location:

GOAL Sierra Leone Head Office, 6 the Maze Off King Street-Freetown, Sierra Leone

One **authorised representative** of each tenderer may attend the opening of the bids. Companies wishing to attend are requested to notify their intention by sending an e-mail at least 48 hours in advance to the following e-mail address: procurementfreetown@sl.goal.ie. This notification must be signed by an authorised officer of the tenderer and specify the name of the person who will attend the opening of the bids on the tenderer's behalf.

Suppliers are invited to attend the Tender Opening Meeting at their own cost.

# Evaluation Process

## Evaluation stages

Tenderers will be considered for participation in the Contract subject to the following qualification process:

|  |  |  |
| --- | --- | --- |
| **Phase #** | **Evaluation Process Stage**  | **The basic requirements with which proposals must comply with** |
| *The first phase of evaluation of the responses will determine whether the tender has been submitted in line with the administrative instructions and meets the essential criteria. Only those tenders meeting the essential criteria will go forward to the second phase of the evaluation.* |
| 1 | **Administrative instructions** | 1. **Closing Date:**

Proposals must have met the deadline stated in section 2 of these Instructions to Tenderers, or such revised deadline as may be notified to Tenderers by GOAL. Tenderers must note that GOAL is prohibited from accepting any proposals after that deadline.1. **Submission Method:**

Proposals must be delivered in the method specified in section 4.5 of this document. GOAL will not accept responsibility for tenders delivered by any other method. Responses delivered in any other method may be rejected.1. **Format and Structure of the Proposals:**

Proposals must conform to the Response Format laid out in section 6 of these Instructions to Tenderers or such revised format and structure as may be notified to Tenderers by GOAL. **Failure to comply with the prescribed format and structure may result in your submission being rejected at this stage.** 1. **Confirmation of validity of your proposal:**

The Tenderers must confirm that the period of validity of their proposal is not less than **90 (ninety) days**. |
| **2** | **Essential Criteria** | 1. **Minimum mandatory requirements of specifications or contract performance.**
* Valid Business Registration Certificate
* Valid Tax Clearance Certificate
* Evidence of origin of vehicle
* Must meet the essential specifications laid on section 3.1
* Evidence of Dealership license to trade in the **brand** Product
* Must be able to deliver to Freetown (CIF 2020 Incoterms)
 |
| *The second stage of the evaluation will involve an assessment of the Tenderer’s personal and legal circumstances, economic and financial standing, to fulfil the obligations of the contract* |
| **3** | **Legal, Economic & Financial Criteria** | 1. In-depth review of financial accounts submitted; tenderer is judged to have requisite financial stability.
 |
| *Each proposal that conforms to the Essential and Qualification Criteria will be evaluated according to the Award Criteria given below by GOAL.*  |
| **4** | **Award Criteria** | Tenders will be awarded marks under each of the award criteria listed in this section to determine the most economically advantageous tenders.1. Price (CIF Freetown 2020 as applicable)
2. Delivery time
3. Bid Validity

See section 5.3 for more details. |
|  |
| **5** | **Post selection**  | References and other checks are found to be clear and quality is assessed. |

## Tender Evaluation

GOAL will convene an evaluation team which may include members of the Finance, Logistics and Programmes.

During the evaluation period clarifications may be sought by e-mail from Tenderers. Clarifications may include testimonials from customers in support of particular aspects of a tender, whether such aspects are contained in the original submission or in subsequent responses to requests for clarification. Deadlines will be imposed for the receipt of such clarifications and failure to meet these deadlines may result in the disqualification of the Tender or loss of marks. Responses to requests for clarification shall not materially change any of the elements of the proposals submitted. Unsolicited communications from Tenderers will not be entertained during the evaluation period.

## Award Criteria

**5.3.1 Price**

Prices must be in **SLL** with a clear breakdown of prices must be shown as part of the financial offer – any transport fees, taxes, customs charges, component parts, etc. must be shown separately.

Prices offered will be evaluated on full cost basis (including all fees and taxes).

Marks for cost will be awarded on the inverse proportion principle (shown below):

**Scorevendor = 80 x (pricemin / pricevendor)**

Scores for the Financial Offer will be calculated by comprising maximum available marks () by inverse proportion: Offered by Tenderer price divided by the minimum price offered in this Tender.

**5.3.2 Technical Specification /Quality**

This is a combination of three elements that will be highlighted in the technical section but also from responses to the mandatory parts of the submission as follows:

1. Previous experience in similar suppliers to other organisation with confirmed references for that experience – including details of the numbers of vehicles supplied over specific time.

2. Warranty: 100,000 Km or 3 years warranty including after sales service in country

3. The tenderer should demonstrate evidence of being able to deliver supply within a realistic time frame.

4. Overall quality and any “added value” parts to the proposal.



# Response Format

## Introduction

All proposals must conform to the response format laid out below. Where a tender does not conform to the required format the Tenderer may be requested to resubmit it in the correct format, on the understanding that the resubmission cannot contain any material change from the original. Failure to resubmit in the correct format within 3 (three) working days may result in disqualification.

By responding to this ITT, each Tenderer is required to accept the terms and conditions of this ITT and to acknowledge and confirm their acceptance by returning a signed copy with its response. Should a Tenderer not comply with these requirements, GOAL may, at their sole discretion, reject the response.

The Tenderer shall provide a response to this ITT document on a paragraph-by-paragraph basis, in the order presented in this document.

If the Tenderer wishes to supplement their Response to any section of the ITT specifications with a reference to further supporting material, this reference must be clearly identified, including section and page number.

## Submission Checklist

|  |  |  |  |
| --- | --- | --- | --- |
| **Line** | **Item** | **How to submit**  | **Tick attached**  |
| **Electronic submission** | **Physical submission** |  |
| 1 | This checklist  | Ticked, scan and save as ‘Checklist’ | Tick and submit.  |  |
| 2 | Company Details (appendix 1) | Complete, sign & stamp, scan and save as ‘Company Details’ | Complete, sign, stamp and submit.  |  |
| 3 | Declaration re Personal & Legal Circumstances (appendix 1) | Complete, sign & stamp; scan and save as ‘Declaration re Personal and Legal Circumstances’ | Complete, sign, stamp and submit. |  |
| 4 | Evidence of origin of supplies | Attached copy of evidence of origin of supply | Submit copy of evidence of origin of supply |  |
| 5 | Evidence of Dealership license to trade in Brand Product  | Attached copy of evidence of dealership license to trade in Toyota Product  | Submit copy of distributors licence for brand quoted |  |
| 6 | Self-declaration of finance and tax (appendix 1) | Complete, sign & stamp; scan and save as ‘Self declaration of finance & tax’ | Complete, sign, stamp and submit. |  |
| 7 | Financial Offer (Appendix 2) | Complete, sign & stamp, scan and save as ‘Financial Offer’ | Complete, sign, stamp and submit.  |  |
| 8 | GOAL Terms and Conditions (Appendix 3) | Sign, scan and save as ‘GOAL Terms and Conditions’ | Sign, stamp and submit. |  |
| 9 | Recent six (6) month bank statement | Attach copy of recent six (6) month bank statement | Submit copy of recent six (6) month bank statement |  |
| 10 | Previous experience in similar supplies to another organisation  | Attach copies of previous contract, delivery docket and references  | Submit copies of previous contract, delivery docket and references |  |
| 11 | Business registration Certificate  | Attach copy of business registration Certificate | Submit copy of business registration Certificate |  |
| 12 | Valid Tax Clear Certificate  | Attach copy of valid Tax Clear Certificate | Submit copy of valid Tax Clear Certificate |  |
| 13 | Bid Validity | Attach copy bid validity | Submit copy of bid validity |  |

# Appendix 1 - Company details

# Contact Details

This section must include the following information regarding the Individual or Company and any partners or sub-contractors:

|  |  |
| --- | --- |
| Name of the prime Tenderer |  |
| Registered address of the prime Tenderer |  |
| Company Name |  |
| Address |  |
| Previous Name(s) if applicable |  |
| Registered Address if different from above |  |
| Registration Number  |  |
| Telephone |  |
| E-mail address |  |
| Website address |  |
| Year Established |  |
| Legal Form. Tick the relevant box | 🞏 Company🞏 Partnership | 🞏 Joint Venture🞏 Other (specify): |
| VAT/TVA/Tax Registration Number  |  |
| Directors names and titles and any other key personnel  |  |
| Please state name of any other persons/organisations (except tenderer) who will benefit from this contract (GOAL compliance matter) |  |
| Parent company |  |
| Ownership |  |
| Do you have associated companies? Tick relevant box. If YES – provide details for each company in the form of additional table as per **Contact Details** | 🞏Yes 🞏No |
|  | **Primary Contact** | **Secondary Contact** |
| Name |  |  |
| Current Position in the Organisation: |  |  |
| No. of years working with the Organisation: |  |  |
| Email address |  |  |
| Telephone |  |  |
| Mobile |  |  |
| Other Relevant Skills: |  |  |
| Institution (Date from – to) |  |  |
| Degrees or Diplomas |  |  |

## Professional or Corporate Memberships

These are with external professional bodies that your company is registered with (please note this is not the company/ business registration details). Please attach copies of any relevant certificates or memberships and use more lines if necessary:

|  |  |  |  |
| --- | --- | --- | --- |
| No | Name of the body | Year of registration | Membership Number |
| 1 |  |  |  |
| 2 |  |  |  |
| 3 |  |  |  |
| 4 |  |  |  |

## Profile

Tenderers should note that the information requested below will be required under the Essential Criteria. In total the answers to these questions should take no more than 2 pages

|  |  |  |
| --- | --- | --- |
| **No** | **Description** | **Response** |
| 1 | An outline of the scope of business activities, and in particular details of relevant experience regarding contracts of this nature |  |
| 2 | Provide details of two contracts of a similar nature carried out in the last two years (please state customer name, delivery location, value of contract, and dates) |  |
| 3 | The number of years the Tenderer has been in business in its present form |  |
| 4 | A statement of overall turnover and turnover in respect to the goods and services offered under the proposed agreement for the last three years as per the following table: |
| **Year** | **Overall Turnover SLL** | **Offered Goods Turnover SLL** |
| **2020** |  |  |
| **2019** |  |  |
| **2018** |  |  |
| 5 | Where the Supplier proposes to use subcontractors or resellers/ distributors in the execution of the agreement this section should include details of the quality assurance mechanisms used by the Supplier to monitor the activities of its subcontractors or resellers/ distributors. Suppliers should note that commitment to quality, as evidenced by the existence of such quality control procedures, will be used as a Qualification Criteria  |  |
| 6 | Any other relevant information |  |

## References

At least 2 (two) relevant references who may be contacted on a confidential basis to verify satisfactory execution of contracts must be supplied. These references may not be GOAL personnel or related to a GOAL contract. Respondents should supply this information for each of the references in the following format:

|  |  |  |
| --- | --- | --- |
| 1 | Name |  |
| Organisation |  |
| Address |  |
| Phone |  |
| Fax |  |
| Email |  |
| Nature of supply |  |
| Approximate value of contract |  |
| 2 | Name |  |
| Organisation |  |
| Address |  |
| Phone |  |
| Fax |  |
| Email |  |
| Nature of supply |  |
| Approximate value of contract |  |
| 3 | Name |  |
| Organisation |  |
| Address |  |
| Phone |  |
| Fax |  |
| Email |  |
| Nature of supply |  |
| Approximate value of contract |  |
| 4 | Name |  |
| Organisation |  |
| Address |  |
| Phone |  |
| Fax |  |
| Email |  |
| Nature of supply |  |
| Approximate value of contract |  |

# Declaration re Personal and Legal circumstances

|  |  |  |
| --- | --- | --- |
| THIS FORM MUST BE COMPLETED AND SIGNED BY A DULY AUTHORISED OFFICER OF THE TENDERERS’ ORGANISATION. Please tick Yes or No as appropriate to the following statements relating to the current status of your organisation | Yes | No |
| 1 | The Tenderer is bankrupt or is being wound up or its affairs are being administered by the court or has entered into an arrangement with creditors or has suspended business activities or is in any analogous situation arising from a similar procedure under national laws and regulations |  |  |
| 2 | The Tenderer is the subject of proceedings for a declaration of bankruptcy, for an order for compulsory winding up or administration by the court or for an arrangement with creditors or of any other similar proceedings under national laws and regulations |  |  |
| 3 | The Tenderer, a Director or Partner, has been convicted of an offence concerning his professional conduct by a judgement which has the force of res judicata or been guilty of grave professional misconduct in the course of their business |  |  |
| 4 | The Tenderer has not fulfilled its obligations relating to the payment of taxes or social security contributions in Ireland or any other State in which the tenderer is located |  |  |
| 5 | The Tenderer, a Director or Partner has been found guilty of fraud |  |  |
| 6 | The Tenderer, a Director or Partner has been found guilty of money laundering |  |  |
| 7 | The Tenderer, a Director or Partner has been found guilty of corruption |  |  |
| 8 | The Tenderer, a Director or Partner has been convicted of being a member of a criminal organisation |  |  |
| 9 | The Tenderer has been guilty of serious misrepresentation in providing information to a public buying agency |  |  |
| 10 | The Tenderer has contrived to misrepresent its Health & Safety information, Quality Assurance information, or any other information relevant to this application |  |  |
| 11 | The Tenderer has colluded between themselves and other bidders (a bidding ring), and/or the Tenderer has had improper contact or discussions with any member of GOAL staff and/or members of their family |  |  |
| 12 | The Tenderer is fully compliant with the minimum terms and conditions of the Employment Law and with all other relevant employment legislation, as well as all relevant Health & Safety Regulations in the countries of registration and operations  |  |  |
| 13 | The Tenderer has procedures in place to ensure that subcontractors, if any are used for this contract, apply the same standards. |  |  |
| 14 | Consistent with numerous United Nations Security Council resolutions including S/RES/1269 (1999), S/RES/1368 (2001) and S/RES/1373 (2001), GOAL is firmly committed to the international fight against terrorism, and in particular, against the financing of terrorism. It is the policy of GOAL to seek to ensure that none of its funds are used, directly or indirectly, to provide support to individuals or entities associated with terrorism. In accordance with this policy, **the Tenderer undertakes to use all reasonable efforts to ensure that it does not provide support to individuals or entities associated with terrorism.** |  |  |
| I certify that the information provided above is accurate and complete to the best of my knowledge and belief. I understand that the provision of inaccurate or misleading information in this declaration may lead to my organisation being excluded from participation in future tenders. |
| Date |  |
| Name |  |
| Position |  |
| Telephone number  |  |
| Signature and full name |  |

# self-declaration of finance and tax

|  |
| --- |
| **Turnover history** |
| **Turnover figures entered into the table must be the total sales value before any deductions**‘Turnover of related products’ is for companies that provide items or services in multiple sectors. Please enter information on turnover of items or services that are similar in nature to the items or services requested under this tender.  |
| **Trading year** | **Total turnover** | **Turnover of related products** |
| **2020** |  |  |
| **2019** |  |  |
| **2018** |  |  |
| Include a short narrative below to explain any trends year to year |
|  |
| 1. **GOAL operates within the law of the country of operation and within international legal requirements. GOAL expects all companies to fulfil their legal obligations, including meeting their tax liabilities and duties in accordance with the relevant tax legislation. Please comment below if you feel there are any matters you need to bring to GOAL’s attention.**
 |
| *Please continue on a separate sheet if necessary.*  |

I certify that the information provided above is accurate and complete to the best of my knowledge and belief. I understand that the provision of inaccurate or misleading information in this declaration may lead to my organisation being excluded from participation in future tenders.

Signed: (Director) \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Date: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Print Name: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Company Name: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Address: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

# Appendix 2 - Financial Offer

Please use the Financial Offer document provided.

# Appendix 3 - GOAL terms and conditions

1. SCOPE AND APPLICABILITY

These Terms and Conditions of Contract for Procurement of Goods apply to all deliveries of goods made to GOAL notwithstanding any conflicting, contrary or additional terms and conditions in any purchase order or other communication from the Supplier. No such conflicting, contrary or additional terms and conditions shall be deemed accepted by us unless and until we expressly confirm our acceptance in writing.

1. LEGAL STATUS

The Supplier shall be considered as having the legal status of an independent contractor vis-à-vis GOAL. The Supplier, its employees, sub-contractors and associates shall not be considered in any respect as being the employees of GOAL. The Supplier shall be fully responsible for all work and services performed by its employees, subcontractors and associates, and for all acts and omissions of such employees, subcontractors and associates.

1. SUB-CONTRACTING

In the event the Supplier requires the services of a sub-contractor, the Supplier shall obtain the prior written approval of GOAL for all sub-contractors. The Supplier shall be fully responsible for all work and services performed by its sub-contractors and suppliers, and for all acts and omissions of such sub-contractors and suppliers. The approval of GOAL of a sub-contractor shall not relieve the Supplier of any of its obligations under this Contract. The terms of any sub-contract shall be subject to and conform to the provisions of this Contract.

1. OBLIGATIONS

The Supplier shall neither seek nor accept instructions relating to this contract from any authority external to GOAL. Suppliers may not communicate at any time to any other person, government or authority external to GOAL, any information known to them by reason of their association with GOAL which has not been made public, except in the course of their duties or by authorization ofGOAL: nor shall Suppliers at any time use such information to private advantage. These obligations do not lapse upon termination/expiration of their agreement with GOAL.

1. ACCEPTANCE AND ACKNOWLEDGEMENT

Initiation of performance under this contract by the supplier shall constitute acceptance of the contract, including all terms and conditions herein contained or otherwise incorporated by reference.

1. WARRANTY

The Supplier warrants upon delivery and for a period of twelve (12) months from the date of delivery that goods purchased under this Contract will conform in all material aspects to the applicable manufacturer's specifications, government or international standard or contractually agreed standard for such goods and will be free from material defects in workmanship, material and design under normal use. The warranty does not cover damage resulting from misuse, negligent handling, lack of reasonable maintenance and care, accident or abuse by anyone other than the Supplier.

1. CHECKS AND AUDIT

The Supplier shall allow any external auditor authorised by GOAL to verify, by examining the documents and to make copies thereof or by means of on-the-spot checks of original documents, the implementation of the contract and conduct a full audit, if necessary, on the basis of supporting documents for the accounts, accounting documents and any other document relevant to the financing of the project. The Supplier shall ensure that on-the-spot access is available at all reasonable times. The Supplier shall ensure that the information is readily available at the moment of the audit and if so requested, that the data be handed over in an appropriate form. These inspections may take place up to 7 years after the final payment.

Furthermore, the Supplier shall allow any external auditor authorised by GOAL carrying out verifications as required to carry out checks and verification on the spot in accordance with the procedures set out by the donor or in the European Union legislation for the protection of the financial interests of the European Union against fraud and other irregularities.

To this end, the Supplier undertakes to give appropriate access to any external auditor authorised by GOAL carrying out verifications as required to the sites and locations at which the project is implemented, including its information systems, as well as all documents and databases concerning the technical and financial management of the action and to take all steps to facilitate their work. Access given to agents of any external auditor authorised by GOAL carrying out verifications shall be on the basis of confidentiality with respect to third parties, without prejudice to the obligations of public law to which they are subject. Documents must be easily accessible and filed so as to facilitate their examination and the Supplier must inform GOAL of their precise location.

The Supplier guarantees that the rights of any external auditor authorised by GOAL carrying out verifications as required to carry out audits, checks and verification shall be equally applicable, under the same conditions and according to the same rules as those set out in this Article, to the Supplier's partners, and subcontractors. Where a partner or subcontractor is an international organisation, any verification agreement concluded between such organisation and the donor applies.

1. RULE OF ORIGIN AND NATIONALITY

If any rules of origin and nationality are applicable due to donor requirements, limiting the eligible countries for goods, legal and natural persons, such rules shall be stated or referred to in the contract document. In such instances the Supplier must adhere to these rules and be able to document and certify the origin of goods and nationality of legal and natural persons as required.

Failure to comply with this obligation shall lead, after formal notice, to termination of the contract, and GOAL is entitled to recover any loss from the Supplier and is not obliged to make any further payments to the Supplier.

1. INSPECTION & TESTING

The duly accredited representatives of GOAL or the donor shall have the right to inspect/test the goods called for under this Contract at Supplier’s stores, during manufacture, in the ports or places of shipment, and the Supplier shall facilitate such inspections. GOAL may issue a written waiver of inspection at its discretion. Any inspection carried out by representatives of GOAL or the donor or any waiver thereof shall not prejudice the implementation of the other relevant provisions of this Contract concerning obligations subscribed by the Supplier, such as warranty or specifications.

1. LICENCE

The Contract is subject to the obtaining or holding of any license or other governmental authorisation that may be required. It shall be the responsibility of the Supplier to obtain such license or authorisation. GOAL may, at its discretion, use its best endeavours to assist.

1. FORCE MAJEURE

Force Majeure shall mean Acts of God, strikes, lockouts, discontinuation or termination of donor funding, laws or regulations of operating country, industrial disturbances, acts of the public enemy, civil disturbances, act of war (whether declared or not), explosions, blockades, insurrection, riots, epidemics, landslides, earthquakes, extreme weather events, civil disturbances, and any other similar unforeseeable events which are beyond the parties' control and cannot be overcome by due diligence.

In the event of and as soon as possible and no later than fifteen (15) days after the occurrence of any cause constituting Force Majeure, the Supplier shall give notice and full particulars in writing to GOAL of such occurrence or change if the Supplier is thereby rendered unable, wholly or in part, to perform its obligations and meet its responsibilities under this Contract. The Supplier shall also notify GOAL of any other changes in conditions or the occurrence of any event that interferes or threatens to interfere with its performance of this Contract. On receipt of the notice required under this article, GOAL shall take such action as, in its sole discretion, it considers to be appropriate or necessary in the circumstances, including the granting to the Supplier of a reasonable extension of time in which to perform its obligations under this Contract, or termination of the Contract if any delay will force an extension to the delivery schedule.

Notwithstanding anything to the contrary in this Contract, the Supplierrecognizes that the work and services may be performed under harsh or hostile conditions caused by civil unrest. Consequently, delays or failure to perform caused by events arising out of, or in connection with, such civil unrest shall not, in itself, constitute Force Majeure under this contract.

1. DEFAULT

In case the Supplier fails to comply with any term of the Contract, including but not limited to failure or refusal to make deliveries within the time limit specified, they shall be liable for all damages sustained by GOAL, and GOAL may procure the goods from other sources and hold the Supplier responsible for any excess cost occasioned thereby. GOAL may collect damages from the Supplier in lieu of purchasing the goods from other sources. GOAL may by written notice terminate the right of the Supplier to proceed with deliveries or such part or parts thereof as to which there has been default, or if any delivery is late, GOAL may cancel such delivery or the entire Contract.

1. REJECTION

In the case of goods purchased on the basis of specifications or samples or both, GOAL shall have the right to reject the goods or any part thereof if they do not conform with the specifications of the Contract in the opinion of GOAL or is not delivered in due time.

GOAL shall have the right to reject the goods in the event that the packing is not in accordance with the terms of the Contract.

When the goods or any part thereof have been rejected, GOAL shall have the right, without prejudice to the provisions of Article 9, to demand from the Supplier the immediate delivery of acceptable goods in replacement thereof in accordance with the contract or to purchase other similar goods elsewhere and to claim from the Supplier the amount of loss or damages sustained by reason of the default.

Goods or any part thereof in GOAL's possession which have been rejected by GOAL must be removed at the Supplier's expense within such period as GOAL may specify in its notice of rejection.

After such notice has been dispatched to the Supplier, the goods or any part thereof will be held at the latter's risk. Should the Supplier fail to remove the goods as required by the notice of rejection, GOAL may dispose of them, without any liability to the Supplier whatsoever, in such manner as it deems fit

1. AMENDMENTS

No change in or modification of this Contract shall be made except by prior agreement between the Responsible Buyer in GOAL in Ireland and the Supplier.

1. ASSIGNMENTS & INSOLVENCY

The Supplier shall not assign, transfer, pledge or make other disposition of this Contract or any part thereof or of any of the Supplier’s rights, claims or obligations under this Contract except with the prior written consent of GOAL.

Should the Supplier become insolvent or should control of the Supplier change by virtue of insolvency, GOAL may without prejudice to any other rights or remedies, terminate this Contract by giving the Supplier written notice of termination.

1. PAYMENT

The Supplier shall invoice GOAL and the terms of payment shall be thirty (30) working days after presentation of a legal invoice and signed waybill or other documents showing delivery has been made.

1. INDEMNIFICATION

The Supplier agrees to indemnify, hold and save GOAL harmless and defend at its own expense GOAL, its officers, agents and employees from and against all suits, claims, demands and liability of whatever nature or kind, including costs and expenses thereof and liability arising there from, with respect to, arising from or attributable to acts or omissions of the Supplier or its employees or sub-contractors in or relating to the performance of this Contract. This provision shall extend to, but shall not be limited to, product liability claims.

GOAL will promptly notify the Supplier of any such suit, claim, proceeding, demand or liability within a reasonable period of time after having received written notice thereof, and will reasonably cooperate with the Supplier, at the Supplier’s expense, in the investigation, defence or settlement thereof, subject to the privileges and immunities of GOAL.

The Supplier shall not permit any lien, attachment or other encumbrance by any person or entity to remain on file in any public or official office or on file with GOAL against any monies due or to become due for any work done or materials furnished under this Contract, or by reason of any other claim or demand against the Supplier.

1. CONFIDENTIALITY

The Supplier shall not advertise or otherwise make public the fact that he is a Supplier to GOAL without specific approval from GOAL. Nor shall the Supplier in any manner whatsoever use the name of GOAL, or any abbreviation thereof, in connection with his business or otherwise. Non observance of these conditions shall entitle GOAL to cancel the Contract, or any part thereof, and to hold the Supplier liable for any damages which GOAL has sustained as a result thereof.

1. DISPUTES - ARBITRATION

Any claim or controversy arising out of or relating to this or any contract resulting here from, or to the breach, termination or invalidity thereof, shall be, unless settled amicably through negotiation, submitted to arbitration in accordance with Irish law.

1. SETTLEMENT OF DISPUTES

The parties shall use their best efforts to settle amicably any dispute, controversy or claim arising out of or in connection with this Contract including any disputes regarding the existence, validity or termination. Where the parties wish to seek such an amicable settlement through conciliation, the conciliation shall take place in accordance with the UNCITRAL Conciliation Rules then obtaining, or according to such other procedure as may be agreed between the parties.

Unless, any such dispute, controversy or claim between the parties arising out of or relating to this Contract or the breach, existence, termination or invalidity thereof is settled amicably under the preceding paragraph of this article within sixty (60) days after receipt by one party of the other party's request for such amicable settlement, such dispute, controversy or claim shall be referred by either party to arbitration in accordance with the UNCITRAL Arbitration rules as at present in force, including its provision on applicable law. The place of arbitration shall be Sierra Leone and the language to be used in the proceedings shall be English. The arbitral tribunal shall have no authority to award punitive damages. In addition, unless otherwise expressly provided in this Contract, the arbitral tribunal shall also have no authority to award interest. The parties shall be bound by any arbitration award rendered as a result of such arbitration and as being the final adjudication of any such dispute, controversy or claim.

1. USE OF NAME, EMBLEM OR OFFICIAL SEAL

Unless authorised in writing by GOAL, the Supplier shall not advertise or otherwise make public the fact that he is a Supplier to GOAL or use the name, emblem or official seal of GOAL or any abbreviation of the name of GOAL for advertising purposes or for any other purposes.

1. LIQUIDATED DAMAGES

Late delivery, or dispatch outside the agreed shipping schedule, shall be subject, without notice, to an assessment of liquidated damages equivalent to 1 percent of the Contract value per day or part thereof. The assessment will not exceed 10 percent of the contract value. GOAL has the right to deduct this amount from the Supplier’s outstanding invoices, if any. This remedy is without prejudice to any others that may be available to GOAL, including cancellation, for the Supplier’s non-performance, breach or violation of any term or condition of the Contract.

Acceptance of goods delivered late shall not be deemed a waiver of GOAL’s rights to hold the Supplier liable for any loss and/or damage resulted therefrom, nor shall it act as a modification of the supplier’s obligation to make future deliveries in accordance with the delivery schedule.

1. ANTI-BRIBERY/CORRUPTION

The Supplier shall comply with all applicable laws, statutes and regulations relating to anti-bribery and anti-corruption including but not limited to the UK Bribery Act 2010 and the United States Foreign Corrupt Practices Act 1977 (“Relevant Requirements”).

The Supplier shall have and maintain in place throughout the term of any contract with GOAL its own policies and procedures to ensure compliance with the Relevant Requirements.

No monies are payable to GOAL by the Supplier in association with the execution of this contract if the Supplier is approached by a GOAL member of staff for a payment, commission, ‘kickback’ or associated payment or any other advantage of any kind, and they are obliged to report the request or payment directly to GOAL’s Country Director within thirty-six hours. Failure to report any request for payment by a GOAL member of staff or actual payment by the Supplier to a GOAL member of staff to the GOAL Country Director shall result in the immediate termination of any contract and may result in the disqualification of the supplier from participation in future contracts with GOAL.

This contract shall be automatically terminated, and the Supplier shall have no right to any form of compensation, if it emerges that the award or execution of the contract has given rise to unusual commercial expenses.

Such unusual commercial expenses are commissions not mentioned in the main contract or not stemming from a properly concluded contract referring to the main contract, commissions not paid in return for any actual and legitimate service, commissions remitted to a tax haven, commissions paid to a recipient who is not clearly identified or commissions paid to a company which has every appearance of being a front company

1. ANTI-PERSONNEL MINES

The Supplier guarantees that it is not engaged in the sale or manufacture, either directly or indirectly, of anti-personnel mines or any components produced primarily for the operation thereof. Any breach of this representation and warranty shall entitle GOAL to terminate this Contract immediately upon notice to the Supplier, at no cost to GOAL.

1. ETHICAL PROCUREMENT

The Supplier represents and warrants that neither it, nor any of its suppliers is engaged in any practice inconsistent with the following code of conduct for suppliers: Employment is freely chosen, freedom of association and the right to collective bargaining are respected, working conditions are safe and hygienic, no child labour/protection of children is ensured, living wages are paid, working hours are not excessive, no discrimination is practiced, regular employment is provided, no harsh or inhumane treatment is allowed, any harm to the environment shall be avoided or limited. Any breach of this representation and warranty shall entitle GOAL to terminate this Contract immediately upon notice to the Supplier, at no cost to GOAL.

1. PRIOR NEGOTIATIONS SUPERSEDED BY CONTRACT

This Contract supersedes all communications, representations, arrangements, negotiations, requests for proposals and proposals related to the subject matter of this Contract.

1. INTELLECTUAL PROPERTY INFRINGEMENT

The Supplier warrants that the use or supply by GOAL of the goods sold under this Contract does not infringe on any patent, design, trade-name or trade-mark. In addition, the Supplier shall, pursuant to this warranty, indemnify, defend and hold GOAL harmless from any actions or claims brought against GOAL pertaining to the alleged infringement of a patent, design, trade-name or trade-mark arising in connection with the goods sold under this Contract.

1. TITLE RIGHTS

GOAL shall be entitled to all intellectual property rights including but not limited to patents, copyrights and trademarks, with regard to material which bears a direct relation to, or is made in consequence of, the services provided to the organisation by the Supplier. At the request of GOAL, the Supplier shall take all necessary steps, execute all necessary documents and generally assist in securing such property rights transferring them to the organisation in compliance with the requirements of the applicable law.

Title to any equipment and supplies which may be furnished by GOAL and any such equipment shall be returned to GOAL at the conclusion of this Contract or when no longer needed by the Supplier. Such equipment, when returned to GOAL, shall be in the same condition as when delivered to the Supplier, subject to normal wear and tear.

1. PACKING

The Supplier shall pack the goods with new, sound materials and with every care, in accordance with the normal commercial standards of export packing for the type of goods specified herein. Such packing materials used must be adequate to safeguard the goods while in transit. The Supplier shall be responsible for any damage or loss that can be shown to have resulted from faulty or inadequate packing.

1. SHIPMENT AND DELIVERY

All goods shall be delivered to the agreed place of delivery as stated in the Contract, at the Supplier's risk of loss of or damage to the goods until delivery, unless otherwise provided for in the Contract.

1. INSURANCE

The Supplier shall provide and thereafter maintain for the duration of this contract and any extension thereof all appropriate workmen’s compensation insurance or its equivalent with respect to its employees to cover claims for personal injury and death in connection with this contract. The supplier shall, upon request, furnish proof to the satisfaction of the GOAL, of such liability insurance. The supplier shall further provide such health and medical insurance for its agents and employees, as the supplier may consider advisable. The service provider will in all cases ensure they have third party liability cover for the duration of the contract.

1. TERMINATION OF CONTRACT

Either party may cancel this Contract before the expiry date of the Contract by giving notice in writing to the other party. The period of notice shall be five days in the case of contracts (including purchase orders) with a total period of less than two months or fourteen days in the case of contracts with a longer period.

In the event of the Contract being terminated prior to its due expiry date in this way, the Supplier shall be compensated only for the actual supplies delivered to the satisfaction of GOAL. Additional costs incurred by GOAL resulting from the termination of the Contract by the Supplier may be withheld from any amount otherwise due to the Supplier from GOAL.

GOAL reserves the right to withhold payments while any investigation is taking place into suspected wrongdoing or breaches of policy. GOAL reserves the right to make no payment of sums due (even when goods or services have been supplied), in instances where wrongdoing is present.

1. OVERRIDING CLAUSE

In the event of any conflict or inconsistencies between these Terms and Conditions or any other document which forms part of the Contract, the Contract shall prevail except where they have been amended (by specific reference to the relevant clause and paragraph of these Terms and Conditions) as provided for herein.

1. WITHHOLDING TAX

GOAL reserves the right to deduct withholding tax from the Supplier's invoice if so required by law. This will apply unless the Supplier has supplied in advance the required documentation proving its exemption from withholding tax (e.g. withholding tax exemption certificate).

1. GOVERNING LAW AND JURISDICTION

These Terms and Conditions shall be governed by the laws of Ireland and subject to the exclusive jurisdiction of the Irish Courts.

1. BANK GUARANTEE

When specifically requested by GOAL, a bank guarantee from a well reputed bank acceptable to GOAL in the currency in which the Contract is payable and for an amount to be prescribed by GOAL shall be obtained by the Supplier at his expense and deposited with GOAL before the start of the Contract. In the event of any loss, damage and/or extra costs incurred by GOAL by reason of the Supplier's default, negligence or failure to perform the terms and conditions of the Contract or any part thereof, that part of any such loss, damage and/or extra costs which is represented by the full or by any lesser amount of such guarantee shall be immediately and initially reimbursable to GOAL from such guarantee without prejudice to its right to hold the Supplier liable for the full amount of such loss, damage and/or extra cost. The guarantee shall be valid for a period of not less than 30 days after the date of arrival at destination of the last specified delivery.

1. ENVIRONMENTAL STANDARDS

Suppliers should as a minimum, comply with all statutory and other legal requirements relating to environmental impacts of their business. Areas which should be considered are:

* Waste Management
* Packaging and Paper
* Conservation
* Energy Use
* Sustainability
* Sourcing and origin of raw materials
* Supply chain transparency
1. HUMAN TRAFFICKING

GOAL has adopted a policy supporting the prohibition of trafficking in persons including the trafficking-related activities for any purpose, including the use of forced labour. Suppliers and their employees, and agents shall not: —

* Engage in severe forms of trafficking in persons during the period of performance of the contract;
* Procure commercial sex acts during the period of performance of the contract;
* Use forced labour in the performance of the contract;
* Destroy, conceal, confiscate, or otherwise deny access by an employee to the employee’s identity or immigration documents, such as passports or drivers' licenses, regardless of issuing authority;
* Use misleading or fraudulent practices during the recruitment of employees or offering of employment, such as failing to disclose, in a format and   language accessible to the worker, basic information or making material misrepresentations during the recruitment of employees regarding the key terms and conditions of employment, including wages and fringe benefits, the location of work, the living conditions, housing and associated costs (if employer or agent provided or arranged), any significant cost to be charged to the employee, and, if applicable, the hazardous nature of the work

Should the Supplier become aware of, or suspect, human trafficking activities during the execution of the contract the Contractor must immediately inform GOAL to enable appropriate action to be taken.

In respect to any contract funded by the UK Government the Supplier is expected to be familiar with the terms of the UK Modern-Slavery Act 2015, and to abide by the conditions of that Act.

|  |  |
| --- | --- |
| Signed: |  |
| Print name:  |  | Position: |  |
| Company Name: |  | Date: |  |
| Address: |  |

# Appendix 4- GDPR terms and conditions

1. ***DATA PROTECTION***

*Definitions*

*The following words and phrases used in this [Agreement] and the Schedules shall have the following meanings except where the context otherwise requires:*

|  |  |
| --- | --- |
| *“Data Controller”* | *the party who (either alone or jointly or in common with other persons) determines the purposes for which and the manner in which any Personal Data are, or are to be, processed;* |
| *“Data Processor”* | *a person or entity who processes Personal Data on behalf of the Data Controller on the basis of a formal, written contract, but who is not an employee of the Data Controller;* |
| *“Data Subject”* | *an individual who is the subject of Personal Data, i.e. to whom the data relates either directly or indirectly;* |
| *“Data Protection Legislation”* | *all applicable privacy and data protection laws including the General Data Protection Regulation ((EU) 2016/679) and any applicable national implementing laws, regulations and secondary legislation in Ireland relating to the processing of Personal Data and the privacy of electronic communications, as amended, replaced or updated from time to time, including the Privacy and Electronic Communications Directive (2002/58/EC);*  |
| *“Personal Data”*  | *any information relating to an identified or identifiable natural person that is processed by the Provider as a result of, or in connection with, the provision of the Services. An identifiable natural person is one who can be identified, directly or indirectly, in particular by reference to an identifier such as a name, identification number, location data, an online identifier or to one or more factors specific to the physical, physiological, genetic, mental, economic, cultural or social identity of that natural person;* |
| *“Processing, processes and process”* | *either any activity that involves the use of Personal Data or as the Data Protection Legislation may otherwise define processing, processes or process. It includes any operation or set of operations which is performed on personal data or on sets of personal data, whether or not by automated means, such as collection, recording. organisation, structuring, storage, adaptation or alteration, retrieval, consultation, use, disclosure by transmission, dissemination or otherwise making available, alignment or combination, restriction, erasure or destruction. Processing also includes transferring Personal Data to third parties;* |
| *“SCC”* | *the European Commission's Standard Contractual Clauses for the transfer of Personal Data from the European Union to data processors established in third countries (controller-to-processor transfers), as set out in the annex to Commission Decision 2010/87/EU; and* |
| *“Services”*  | *refers to the services to be carried out by the Data Processor under the terms of the Master Agreement.* |

 *The Parties acknowledge that for the purposes of Data Protection Legislation, in performing its obligations under this Agreement, the Supplier, to the extent that it processes Personal Data received from the Provider, is a "****Data Processor****" and the Provider is the "****Data Controller****"; as defined in the Data Protection Legislation.*

* 1. ***Data Controller Obligations***
1. *The Data Controller retains control of the Personal Data and remains responsible for its compliance obligations under the Data Protection Legislation, including for the processing instructions it gives to the Data Processor.*
2. *The Data Controller shall authorise the Data Processor to process the Personal Data in any manner that may reasonably be required in order to provide the Services and Annex A describes the subject matter, duration, nature and purpose of processing and the Personal Data categories and Data Subject types in respect thereof.*
	1. ***Data Processor Obligations***
3. *The Data Processor shall comply with the Data Protection Legislation when processing Personal Data.*
4. *The Data Processor shall act only on the written instructions of the Data Controller in relation to the processing of the Personal Data under this Agreement and shall promptly comply with any request or instruction from the Data Controller requiring the Data Processor to amend, transfer, delete or otherwise process the Personal Data, or to stop, mitigate or remedy any unauthorised processing.*
5. *Without prejudice to other legal provisions concerning the Data Subject’s right to compensation and liability of the Parties generally, as well as legal provisions concerning fines and penalties, the Data Processor will carry full liability in the instance where it is found to have infringed Data Protection Legislation, by determining the purposes and means of processing.*

***1.2.1 Use and Processing of Data***

*The Data Processor shall:*

1. *only use such Personal Data for the purposes of performing its obligations under this Agreement;*
2. *only process the Personal Data to the extent, and in such a manner, as is necessary in order to deliver the Services under this Agreement and in accordance with the Data Controller’s written instructions from time to time. The Data Processor will not process the Personal Data for any other purpose or in a way that does not comply with this Agreement or the Data Protection Legislation. The Data Processor must promptly notify the Data Controller if, in its opinion, the Data Controller's instruction or performance by the Data Processor of this Agreement would not comply with the Data Protection Legislation;*
3. *maintain the confidentiality of all Personal Data and shall not disclose Personal Data to any third party or allow any third party to use such data in any circumstances other than:*
4. *at the specific written request of the Data Controller;*
5. *where this Agreement specifically authorises the disclosure in order to deliver the Services;*
6. *in strict compliance with clause 1.2.6 of this Agreement; or*
7. *where such disclosure is required by law. If a law, court, regulator or supervisory authority requires the Data Processor to process or disclose Personal Data, the Data Processor must first inform the Data Controller of the legal or regulatory requirement and give the Data Controller an opportunity to object or challenge the requirement, unless the law prohibits such notice;*
8. *assist the Data Controller with undertaking an assessment of the impact of processing any Personal Data, and with any consultations with the Data Protection Commissioner or any other data protection or regulatory authority, if and to the extent an assessment or consultation is required to be carried under Data Protection Legislation; and*
9. *comply with any further written instructions with respect to processing by the Data Controller and any such further instructions shall be incorporated into Annex A*

***1.2.2 Access to Information***

*The Data Processor shall:*

1. *upon the request of a Data Subject, inform such Data Subject that it is a Data Processor and that the other Party is a Data Controller;*
2. *inform the Data Controller immediately in the event of:*
3. *the exercise by any Data Subject of any rights under Data Protection Legislation in relation to any Personal Data;*
4. *a request to rectify, block or erase any Personal Data;*
5. *a request, complaint or communication relating to either Party’s obligations under the Data Protection legislation;*
6. *receiving any request from the Data Protection Commissioner or any other data protection or regulatory authority in connection with the Personal Data processed under this Agreement;*
7. *receiving any request from any third party for disclosure of Personal Data where compliance with such request is required or purported to be required by law.*
8. *co-operate with the Data Controller and provide assistance to deal with all requests and communications from Data Subjects and the Data Protection Commissioner or any other data protection or regulatory authority;*
9. *co-operate with and provide such information and access to any facilities, premises or equipment from or on which Personal Data is, has been, or is to be processed pursuant to this Agreement as the Data Controller may reasonably require to enable it to monitor compliance by the Data Processor with the obligations in this clause 1.2 of the Agreement;*
10. *maintain, and make available upon request by the Data Controller, acting reasonably, and/or the Data Protection Commissioner or any other competent data protection or privacy authority, a central register, in the form set out in Annex A below, which describes the processing for which the Data Processor is responsible and shall include:*
11. *the nature, duration and purpose(s) for which such Personal Data is processed;*
12. *a description of such Personal Data that it processes (including the categories of personal data and data subjects’ types);*
13. *any recipients of such Personal Data; and*
14. *the location(s) of any overseas processing of such Personal Data;*

***1.2.3 Disclosure and Data Sharing***

*The Data Processor (or any subcontractor) shall:*

1. *only disclose such Personal Data to, or allow access by, its employees, agents and delegates who have had appropriate training in data protection matters and whose use of such Personal Data is strictly necessary for the performance of the Services;*
2. *ensure all such employees, agents and delegates of the Data Processor who can/or do access such Personal Data are informed of its confidential nature and are bound by confidentiality obligations and use restrictions in respect of the Personal Data, including but not limited to a restriction on copying, publishing, disclosing or divulging such Personal Data to any third party without the prior written consent of the Data Controller;*
3. *not divulge such Personal Data whether directly or indirectly to any person or firm without the prior written consent of the Data Controller except, subject to clause 1.2.6 of the Agreement, to those of its employees, agents and delegates who are engaged in the processing of the Personal Data or except as may be required by any applicable laws or any court to which the data processor or its Affiliates are subject; and*
4. *not transfer or otherwise process any Personal Data to a third party outside the European Economic Area (EEA) except with the express prior written consent of the Data Controller.*
5. *Where such consent is granted, the Data Processor may only process, or permit the processing, of Personal Data outside the EEA under the following conditions:*
6. *the Data Processor is processing Personal Data in a territory which is subject to a current finding by the European Commission under the Data Protection Legislation that the territory provides adequate protection for the privacy rights of individuals. The Data Processor must identify in Annex A the territory that is subject to such an adequacy finding; or*
7. *the Data Processor participates in a valid cross-border transfer mechanism under the Data Protection Legislation, so that the Data Processor (and, where appropriate, the Data Controller) can ensure that appropriate safeguards are in place to ensure an adequate level of protection with respect to the privacy rights of Data Subjects as required by Article 46 of the General Data Protection Regulation ((EU) 2016/679). The Data Processor must identify in Annex A the transfer mechanism that enables the Parties to comply with these cross-border data transfer provisions and the Data Processor must immediately inform the Data Controller of any change to that status; or*
8. *the transfer otherwise complies with the Data Protection Legislation for the reasons set out in Annex A.*
9. *If any Personal Data transfer between the Data Controller and the Data Processor requires execution of SCC in order to comply with the Data Protection Legislation (where the Data Controller is the entity exporting Personal Data to the Data Processor outside the EEA), the Parties will complete all relevant details in, and execute, the SCC, and take all other actions required to legitimise the transfer.*
10. *If the Data Controller consents to appointment by the Data Processor located within the EEA of a subcontractor located outside the EEA in compliance with the provisions of this Clause 1.2.3, then the Data Processor must identify valid cross-border transfer mechanism which may include the entry into of a SCC with such subcontractor, which shall be put in place prior to any such transfers.*

***1.2.4 Security Systems***

*The Data Processor shall:*

1. *at all times during the term of this Agreement, implement appropriate technical and organisational measures to protect such Personal Data held or processed by it against unauthorised or unlawful processing and against accidental and unlawful loss, destruction, alteration, disclosure or damage.*
2. *promptly upon becoming aware of the above, notify the Data Controller of any actual or suspected incident of unauthorised or unlawful processing or accidental loss, destruction or damage to Personal Data and provide all co-operation and information reasonably required by the Data Controller in relation to the incident; including corrective action unless such action is contrary to the law.*

***1.2.5 Data Retention and Disposal***

*The Data Processor shall:*

1. *promptly upon termination or expiry of this Agreement and, at any other time, on request by the Data Controller, return to the Data Controller or delete all Personal Data, including that of employees of the Data Controller, together with all copies thereof in any media in its power, possession or control, except to the extent the Data Processor is required to retain a copy of such Personal Data to comply with Data Protection Legislation.*
2. *promptly upon becoming aware of the same and without undue delay, notify the Data Controller of any actual or suspected incident of accidental, unauthorised, or unlawful destruction or disclosure of or access to Personal Data, including where Personal Data is lost or destroyed, becomes damaged, corrupted or unusable and shall provide all co-operation and information reasonably required by the Data Controller in relation to the incident; including:*
3. *description of the nature of such incident, including the categories and approximate number of both Data Subjects and Personal Data records concerned;*
4. *the likely consequences; and*
5. *description of the measures taken and corrective action, or proposed to be taken to address such incident, including measures to mitigate its possible adverse effects, unless such action or measures are contrary to the law. The Data Processor shall provide such corrective action and measures at its own expense.*
6. *immediately following any accidental, unauthorised, or unlawful incident, the Parties will co-ordinate with each other to investigate the matter. The Data Processor will co-operate with the Data Controller in the Data Controller's handling of the matter, including:*
7. *assisting with any investigation;*
8. *providing the Data Controller with physical access to any facilities and operations affected;*
9. *facilitating interviews with the Data Processor's employees, former employees and others involved in the matter;*
10. *making available all relevant records, logs, files, data reporting and other materials required to comply with all Data Protection Legislation or as otherwise reasonably required by the Data Controller; and*
11. *taking reasonable and prompt steps to mitigate the effects and to minimise any damage resulting from such incident or unlawful Personal Data processing.*
12. *The Data Processor will not inform any third party of any such incident without first obtaining the Data Controller's prior written consent, except when required to do so by law.*
13. *The Data Processor agrees that the Data Controller has the sole right to determine:*
14. *whether to provide notice of such incident to any Data Subjects, supervisory authorities, regulators, law enforcement agencies or others, as required by law or regulation or in the Data Controller's discretion, including the contents and delivery method of the notice; and*
15. *whether to offer any type of remedy to affected Data Subjects, including the nature and extent of such remedy.*
16. *The Data Processor will cover all reasonable expenses associated with the performance of the obligations under clause 1.2.5 of this Agreement unless the matter arose from the Data Controller's negligence, wilful default or breach of this Agreement.*
17. *The Data Processor will also reimburse the Data Controller for actual reasonable expenses that the Data Controller incurs when responding to such incident to the extent that the Data Processor caused such incident, including all costs of notice and any remedy*

***1.2.6 Third Parties***

*The Data Processor shall:*

1. *not engage any sub-contractor to assist it in the fulfilment of its obligations under the Agreement without the prior written consent of the Data Controller and unless there is a written contract in place between the Data Processor and the sub-contractor which requires the sub-contractor to:*
2. *only carry out processing as may be necessary from time to time for the purposes of its engagement by the Data Processor in connection with the Agreement;*
3. *comply with obligations equivalent to those imposed on the Data Processor in this Clause 1.2 of the Agreement;*
4. *notify the Data Controller of any changes to the sub-contractor or the written contract;*
5. *ensure that, in the event of delegation to an affiliate or other delegate, or the appointment of an agent, such affiliate, delegate or agent shall comply with obligations equivalent to those imposed on the Data Processor in this Clause 1.2 of the Agreement; and*
6. *remain fully liable for all acts or omissions of any sub-contractor and/or affiliate.*

***1.2.7 Right of Audit***

*The Data Processor shall:*

1. *without unreasonable delay, provide a copy of all data and data-related activity logs maintained by the Data Processor and other related information to the Data Controller upon receipt of a written request by the Data Controller or a request in the course of an audit or inspection. Such data shall be provided in the format and on media as reasonably specified by the Data Controller; and*
2. *agree that where a sub-contractor has been engaged by the Data processor, the Data Controller may, upon giving reasonable notice and within normal business hours, carry out similar compliance and information security audits and checks of the sub-contractor to ensure adherence to the terms of this Agreement, in the manner as set out in clause 1.2.2 of this Agreement.*

*\*\*\*\*\*\*\*\*\**

*ANNEX A*

*PROCESSING ACTIVITY LOG\**

|  |  |
| --- | --- |
| *DESCRIPTION* | *DETAILS* |
| *Name and contact details of:**(i) the Data Processor or Data Processors;* *(ii) of each Data Controller on behalf of which the processor is acting; and (iii) where applicable,* the data protection officer |  |
| *Categories of processing carried out on behalf of each Data Controller* | [This should be a high-level description of what the processing is about i.e. its subject matter] |
| Where applicable, transfers of Personal Data to a third country or an international organisation, including the identification of that third country or international organisation | [Clearly set out the nature of any applicable overseas transfers of personal data] |
| Where applicable*, transfer of Personal Data outsider the EEA*  | *[Identify the territory that is subject to such an adequacy finding; or the cross-border transfer mechanism being relied upon.]* |
| Where possible, a general description of the technical and organisational security measures | [High level description – there is no requirement to divulge specific detail with regard to security arrangements] |

To be maintained by the Data Processor and revised accordingly.