



**PANEL APPLICATION INFORMATION AND QUALIFICATION QUESTIONNAIRE**

<b>Establishment of a Panel for</b>	Mentoring panel for Business Advisory & Food Processing Services for the Irish Seafood Industry
<b>eTenders reference</b>	200238
<b>BIM internal reference</b>	46 2021 /PAN/05
<p><b>Organisations/Individuals may apply at any time for inclusion during the panel period.</b></p> <p>Depending on the number of successful panel applicants, BIM may re-fresh/re-advertise this panel competition again via <a href="http://www.etenders.gov.ie">www.etenders.gov.ie</a> and/or its website <a href="http://www.bim.ie">www.bim.ie</a> during the proposed panel period (subject to satisfactory performance, business needs, budget constraints and funding, all at the absolute discretion of BIM).</p> <p>This Qualification Questionnaire does not form part of the award process for a contract but is a means of including interested parties on a panel from which future relevant services requirements may be sourced.</p> <p>Information on BIM procurement panels is available on the BIM website at <a href="http://www.bim.ie">www.bim.ie</a></p>	
<p>Please note that information relating to this Qualification Questionnaire, including clarifications and changes, will be published on the Irish Government Procurement Opportunities Portal (<a href="http://www.etenders.gov.ie">www.etenders.gov.ie</a>) Registration is free of charge and there is no charge for documents. Please note that BIM cannot accept responsibility for information relayed (or not relayed) via third parties.</p>	

## TABLE OF CONTENTS

<b>Part 1: Disclaimer .....</b>	<b>3</b>
<b>Part 2: Summary .....</b>	<b>4</b>
<b>Part 3: About BIM.....</b>	<b>5</b>
<b>Part 4: Scope of Requirements .....</b>	<b>6</b>
<b>Part 5: Instructions to Applicants .....</b>	<b>9</b>
<b>Appendix 1 – Qualification Questionnaire .....</b>	<b>19</b>

## Part 1: Disclaimer

---

This Qualification Questionnaire issued herewith (the “**Document**”) is for information only and does not constitute, and shall not be interpreted as, an offer for sale, prospectus, or the basis of a contract.

Applicants are recommended to read the Document thoroughly. While all reasonable steps have been taken to ensure that the information set out in the Document is accurate and up to date, no representation or warranty, express or implied, is or will be made or given in relation to the accuracy or the completeness of any information contained in the Document or otherwise provided by or on behalf of Bord Iascaigh Mhara (“**BIM**”) (in writing or otherwise) to any interested party or its advisers. No responsibility or liability for any loss or damage arising as a result of reliance on these documents, or for the information contained in these documents or for any omission is or will be accepted by BIM or by any of its officers, employees, agents or professional advisers. No officer, employee, agent, or professional adviser of the company has any authority to give or make any representation or warranty, express or implied, in relation to such information. BIM’s officers, employees, agents, and professional advisers expressly disclaim any and all liability arising out of such documentation or information and any errors or omissions in or from the documents and information.

Applicants must form their own conclusions about the solution needed to meet the requirements set out in the Document and may wish to consult their legal advisers.

Applicants may not rely on anything contained in this Document as a representation of fact or promise regarding the future, nor as constituting the basis of a contract that may be concluded in relation to the Services. No enforceable commitment of any kind, implied or otherwise, or any other legal obligation in relation to BIM will exist unless and until a formal written Framework Contract has been executed by or on behalf of BIM.

BIM reserves the right to discontinue the procurement process at any time.

## Part 2: Summary

---

<b>Contracting Authority:</b>	BIM.
<b>Title of procurement:</b>	Establishment of a Mentoring panel for Business Advisory & Food Processing Services for the Irish Seafood Industry.
<b>Type:</b>	Provision of Services.
<b>Duration:</b>	October 2021 to 31 December 2023 (or maximum expenditure of €214,000, or whichever is the earliest).
<b>Procedure:</b>	Open.
<b>Stage in procedure:</b>	Single stage.

## Part 3: About BIM

---

BIM's remit is to provide commercially relevant and innovative services to the Irish seafood industry that drive growth opportunities, add value, enhance competitiveness and create jobs in a sustainable, natural resource-based industry for the benefit of coastal communities.

BIM's vision is a scaled Irish seafood industry capitalising on the growing opportunities for seafood in global markets and providing sustainable employment in our coastal communities.

BIM's mission is to grow a thriving Irish seafood industry to deliver on the Government's Food Wise 2025 targets for seafood and create sustainable jobs.

BIM will implement its mission through key strategic areas of:

- 1) Innovation
- 2) Sustainability
- 3) Skills development
- 4) Commercial competitiveness
- 5) Leadership

Further information is available at [www.bim.ie](http://www.bim.ie).

## Part 4: Scope of Requirements

---

### 4.1 Context

Due primarily to the global Covid-19 pandemic Ireland's seafood economy declined in 2020, with a drop of 12% (-€142million) compared to 2019, giving a total value of €1.1 billion. This was driven mainly by a reduction of 18% in domestic consumption due to the closure of the food-service sector with additional impacts of a 17% reduction (-€44 million) in private investment and an 8% decline (-€50 million) in exports. Global markets faced severe disruption from the Covid-19 pandemic, and when added to the continued uncertainty from the UK's departure from the EU, this made for challenging trading conditions. Despite these challenges the seafood sector remained resilient and adapted to the disruption the market faced. While there was a decrease of 18% in domestic consumption to €406 million, mainly due to a fall in sales in food service, this was somewhat offset by a 6% increase (€18m) in retail sales.

### 4.2 Objective of the panel

The seafood sector has unique challenges that require specialist skills to support them and to remain competitive. The purpose of this competition is to form a panel of suitably qualified specialist advisors, with the skills and experience necessary to advise and support Irish seafood businesses in relation to opportunities and challenges that they are faced with.

The specialist advisors (panel members) drawn from the proposed panel will analyse the specific business operation, define where challenges/opportunities need to be addressed or improved under the specified panel category requirement, and advise and/or support implementation of the recommendations.

### 4.3 Specification and requirements

As previously stated, BIM is now seeking to establish a panel of specialist advisors with the proven ability to provide advisory services and support to individual companies/operators (fishing, aquaculture and processors) in the Irish seafood industry in the following areas of expertise/categories:

1. Professional Business Advice
2. Food Processing Advice

Applicants may submit an application for one or more of the above categories.

### 4.4 Resources and capabilities

Panel members must provide evidence that they have the relevant resources and capabilities to:

- Demonstrate knowledge, experience and acumen in one, or both categories outlined in the specification of requirements.

- Carry out a rapid analysis of a company's business operations and quickly define challenges and opportunities which need to be addressed under the specified categories.
- Engage with stakeholders within seafood/food to develop and execute actionable plans that address business challenges. Specific examples of commercially focused completed projects for key sectors/stakeholders must be provided, including the impact on the business.
- Project manage diverse projects, ensuring effective timely progression and continual engagement with stakeholders (fishers, farms, processors, regulators, international stakeholders, funders, financial institutions, agencies).

#### **4.5 Deliverables**

Panel members will be required to advise and support individual seafood businesses to address the challenges impacting their business and capitalize on potential opportunities. This will involve developing a tailored plan for each client, supporting the client through the implementation of the plan and deliver an end of project report to BIM.

#### **4.6 Numbers admitted to the panel**

There is no maximum limit to the numbers of Applicants that can be admitted to the panel.

#### **4.7 Duration of the panel**

The panel will be established for the period October 2021 to 31 December 2023 (or maximum expenditure of €214,000, or whichever is the earliest).

The initial panel application process will take place via [www.etenders.gov.ie](http://www.etenders.gov.ie).

Depending on the number of successful panel applicants for the required services, BIM may re-fresh /re-advertise this panel competition again via [www.etenders.gov.ie](http://www.etenders.gov.ie) and/or its website [www.bim.ie](http://www.bim.ie) during the proposed panel period (subject to satisfactory performance, business needs, budget constraints and funding, all at the absolute discretion of BIM).

#### **4.8 Estimated Value of the panel**

The level of expenditure cannot be guaranteed in any given year. However, the estimated total value of any services pursuant to the panel will be up to a maximum of €214,000 (excluding VAT) over the lifetime of this panel (for all panel members).

It is emphasised, however, that this figure is provided strictly for indicative purposes only as there is no guaranteed expenditure under this panel.

#### **4.9 Admission to the panel**

Admission to the panel will be subject to the Applicant passing **all** the Pass/Fail Criteria (A1 to A6) and (B1 to B3) as set out in the qualification questionnaire at Appendix A.

In addition, admission to the panel will be conditional upon the successful Applicants agreeing to the terms and conditions of the panel, a copy of which will be provided on admission to the panel and which will include requirements for the successful Applicants to provide current Tax Clearance details and copies of their relevant insurances. BIM reserves the right to limit the total number of successful Applicants appointed the panel at any one time.

#### **4.10 Awarding contracts under the panel**

Qualifying for a panel does not constitute an award of a contract nor does it indicate that any contract will be awarded. When contracts arise over the duration of the panel they may be awarded by (a) application of specific criteria; (b) rotation; (c) random selection, (d) mini- tender, or (e) price.

#### **4.11 Fees and inclusive rates**

Rates will be paid on a daily basis. Applicants should note that all fees will be paid as an inclusive rate, additional payments for travel and subsistence or any other ancillary expenditure will not be made under any circumstances.

Applicants are required to indicate a daily rate applicable to their submission. (Please complete and sign Appendix 1 – Daily Rates). Applicants should note that they cannot seek to apply higher Daily Rates for the performance of individual contracts awarded under the panel from those submitted by them in the completed Appendix 1 during the panel period.

Panel members shall not be reimbursed for any additional costs or expenses incurred by it, or its Key Personnel in the course of providing the Services unless these are agreed in advance and in writing by BIM. If this is applicable, any permitted expenses which are claimed must be properly vouched and supporting documentation shall be provided as a condition of payment.

#### **4.12 Location**

Meetings between BIM and panel members will take place at BIM's offices at Dun Laoghaire, County Dublin or as otherwise agreed by the Parties. Delivery of mentoring services will take place throughout the Republic of Ireland.

## Part 5: Instructions to Applicants

---

### 5.1 Queries

An application means the submission by an Applicant of a completed Qualification Questionnaire and associated appendices.

Every effort has been made to ensure that this Document contains all the necessary information for the completion of applications. BIM does not warrant or represent that this Document, or any other information given to Applicants, is accurate or complete. No liability is accepted for any error, misstatement or omission (negligent or otherwise) in this Document or any other information given to Applicants.

Requests for additional information and clarification on any matters must be made by via e- mail to the messaging portal on eTenders on [www.etenders.gov.ie](http://www.etenders.gov.ie)

All clarifications/additional information will be issued via the etenders website [www.etenders.gov.ie](http://www.etenders.gov.ie) and will be made available to all potential Applicants who have noted their interest on the etenders website.

All queries should be submitted on or before **Tuesday 12th October 2021** to enable clarifications to be issued to all interested Applicants prior to the deadline date for the receipt of applications.

### 5.2 Completing the Qualification Questionnaire

When completing the Qualification Questionnaire contained in Appendix 1 to this Document, Applicants should note the following conditions:

- All questions must be completed in full and without reference to other documents or other parts of the Qualification Questionnaire.
- All questions should be answered with relevance to the subject matter of this competition. For the avoidance of doubt, it is emphasised that the information requested in the Qualification Questionnaire is aimed solely at determining the suitability and choice of Applicants for entry to panel. In order to ensure that entry to the panel is fair and consistent to all Applicants, you are instructed to respond to the technical questions by giving details of your skill and experience, accurately, honestly and succinctly.
- Where a Pass/Fail 'Rule' is associated with a particular criterion, Applicants must satisfy all the requirements of the rule in order to remain eligible for consideration in the competition.
- Applicants are permitted to add lines to the pro-forma tables and boxes set out within the Qualification Questionnaire if required.
- The Qualification Questionnaire must be completed in English or Irish and where copies of original documents are provided in languages other than English or Irish, a complete and accurate English translation should be provided, or the documents will not be considered during the evaluation process.

- All financial information should be denominated in Euro (€), except where financial information is being provided in a certified or audited supporting document such as a set of financial statements in which case it is sufficient for the information to remain in its original currency.
- Failure to provide a sufficient level of detail or to explain adequately any relevant matters may result in such data or information not being taken into account during the evaluation process.
- Applicants for qualification may include individuals, partnerships, limited companies, groupings or any combination of the foregoing with or without legal personality. However, a grouping if successful will be required to establish legal personality in order to enter into the contract
- Applicants are reminded that they may rely on the resources of other entities in order to establish the suitability requirements on condition that they can prove to the satisfaction of BIM that they will have these resources at their disposal when necessary.
- If the application is from a consortium / joint venture Applicants must ensure that all the relevant information is provided and where necessary provide the information requested separately for each party. The consortium must appoint a single supplier who will assume overall responsibility for delivery, and who is authorised to sign a contract on behalf of all consortia members. BIM will not act as an arbitrator between members of project consortia.
- BIM reserves the right, subject to procurement regulations and directives, to request clarification of any matter set out in your responses to the Qualification Questionnaire or to request additional information from an Applicant after the date for submission of completed Qualification Questionnaires has expired.
- This document is not a contract, or part of a contract, or an offer to make a contract. BIM has no obligation to enter into a contract with any Applicant.
- Applicants are strictly prohibited from discussing any aspect of their application to the Qualification Questionnaire with other Applicants or otherwise exchanging information or colluding in respect of the project. Any Applicant who fails to comply with this requirement may be disqualified.
- BIM is not responsible for and will not pay for any expense or cost incurred or loss suffered by an Applicant in the preparation or submission of its application or otherwise. Furthermore, BIM is not responsible for any travel or accommodation costs incurred by the Applicant. Each Applicant is fully responsible for the entirety of all expenses and/or costs it incurs in the presentation or submission of an application or in participating in this process and competition.

### **5.3 Submission of applications**

BIM is using the Tender post-box facility on [www.etenders.gov.ie](http://www.etenders.gov.ie) for submission of initial applications. All documentation must be uploaded in accordance with the instructions provided on eTenders, prior to the deadline of **Tuesday 19th October 2021**. Please note it is important to allow sufficient time for uploading of documents prior to the deadline as it is not possible to upload any material after this time.

### **5.4 Opening and evaluation of applications**

Applications will be evaluated in accordance with the pass/fail rules as specified in the Qualification Questionnaire.

### **5.5 Clarification of applications**

While not being obliged to seek clarifications from Applicants, BIM reserves the right, at its absolute discretion, to ask Applicants for clarification or elaboration of their applications to assist in its evaluation of applications.

However, it is stressed that BIM will not seek clarification where any of the pass requirements set out in the Qualification Questionnaire have not been met.

Therefore, Applicants should pay particular attention to ensure that their applications contain all the required information as even small administrative errors (such as failure to sign or date a declaration) will not be clarified by BIM where the required information forms part of the pass requirement.

### **5.6 Interference**

Any effort by the Applicant to unduly influence BIM, relevant agency personnel or any other relevant persons or bodies in the process of examination, clarification, evaluation and comparison of Applications and in decisions concerning the award of the contract shall have their Application rejected.

In accordance with Section 38 of the Ethics in Public Office Act 1995 any money, gift or other consideration from a person holding or seeking to obtain a contract will be deemed to have been paid or given corruptly unless the contrary is proved

### **5.7 Inducement to purchase**

BIM shall be entitled to disqualify an Applicant in one of the following circumstances:

- (a) if the Applicant has offered or given or agreed to give to any person any gift or consideration of any kind as an inducement or reward for doing or forbearing to do, or for having done or forborne to do, any action in relation to the obtaining or execution of this contract award procedure or showing or forbearing to show favour or disfavour to any person in relation to this contract award procedure or any other contract award procedure with BIM, or
- (b) If like acts have been done by any other person employed by the Applicant or acting on its behalf (whether with or without the knowledge of the Applicant).

## **5.8 Currency and prompt payments**

The currency and invoices in which all prices and rates shall be tendered, and which payments under the contract will be paid, shall be Euro (€). All prices and rates quoted should be exclusive of Value Added Tax (VAT).

Payments will be as agreed with the successful applicants and method of payment used by BIM is normally Electronic Funds Transfer (EFT).

BIM adheres to prompt payment legislation and other administrative requirements. In support of this, BIM has signed up to the Prompt Payment Code (PPC). As a signatory of the PPC, BIM encourages all lead suppliers to endeavour to sign up to the Prompt Payment Code. Full details can be found at <http://www.promptpayment.ie>

BIM also operates in accordance with the European Communities Late Payment in Commercial Transactions Regulations 2012 (as amended).

## **5.9 Conflict of Interest**

Any conflict of interest involving an applicant (or applicants in the event of a consortium bid) must be fully disclosed to BIM. Any registrable interest involving the applicant and BIM or employees of BIM or their relatives must be fully disclosed in the submission or should be communicated to BIM immediately upon such information becoming known to the applicant, in the event of this information only coming to their notice after the submission of a bid and prior to admittance to the panel. The terms 'registrable interest' and 'relative' shall be interpreted as per Section 2 of the Ethics in Public Office Act, 1995. Failure to disclose a conflict of interest may disqualify an applicant or invalidate an award of contract, depending on when the conflict of interest comes to light.

If BIM determines that no such conflict of interest arises or that the conflict of interest is immaterial or that the Applicant has demonstrated to the reasonable satisfaction of BIM that appropriate safeguards and measures to manage the conflict have been put in place, then BIM may decide to take no action. BIM may, in its absolute discretion, decide to terminate the contract because of an actual or potential conflict of interest or due to any actual or potential conflict that was not disclosed by the Applicant to the Authority, either before the contract was awarded or where an actual or potential conflict arose during the contract and was not brought to the attention of BIM.

## **5.10 Anti-Competitive conduct**

Applicants' attention is drawn to the Competition Act 2002 (as amended, the "2002 Act"). The 2002 Act makes it a criminal offence for Applicants to collude on prices or terms in a public procurement competition. Applicants who endeavour to influence, collude, induce or interfere in any way with the evaluation process, any award decision or the procurement competition generally may have their submission rejected. BIM reserves the right to reject any tender proposal which it considers to be anti-competitive.

### **5.11 Freedom of Information Act**

Applicants should be aware that, under the Freedom of Information Act 2014, information provided by them during this Competition may be liable to be disclosed. Applicants are asked to consider if any of the information supplied by them in response to this request should not be disclosed because of its sensitivity. If this is the case, applicants should specify the information that is sensitive and the reasons for its sensitivity. BIM cannot guarantee that any information provided by applicants, either in response to this request or while any contract awarded as a result thereof, will not be released pursuant to BIM's obligations under law, including the Freedom of Information Act 2014, EU and Irish Government Procurement Procedures or in response to questions, debates or other parliamentary procedures in or of the Oireachtas (the Irish Parliament). BIM accepts no liability whatsoever in respect of any information provided which is subsequently released or in respect of any consequential damage suffered as a result of such disclosure.

The nature of the documentation may then be taken into account by BIM in considering requests (if any) for access to such information under the Freedom of Information Act 2014 or other applicable law. The statutory requirements of the Freedom of Information Act 2014 or other applicable law will, in all circumstances, take precedence over any designation of information advised by Applicants. Applicants should note that on conclusion of a contract for the services that are the subject-matter of this competition, a right of access to the contract and associated documents will be available to the extent required by the Freedom of Information Act 2014 or other applicable law.

### **5.12 Data Protection Legislation**

"Data Protection Laws" means all applicable national and EU data protection laws, regulations and guidelines including but not limited to Regulation (EU) 2016/679 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (the "General Data Protection Regulation"), the Data Protection Acts 1988 to 2018, any relevant amendments, transpositions, successors or replacements to those laws referred to in force from time to time, any national implementing legislation, secondary legislation (including European Commission decisions) and binding EU and national guidance, any other applicable data protection laws of any other jurisdiction and any guidelines and codes of practice issued by the Office of the Data Protection Commission or other supervisory authority for data protection in Ireland from time to time. BIM will be a Controller (where Controller has the meaning given under the Data Protection Laws) in respect of any Personal Data (where Personal Data has the meaning given under the Data Protection Laws) required to be provided by the Applicant in response to the Document.

The Applicant, as Controller in respect of any Personal Data provided by it in its Tender, is required to confirm by way of statement that all Data Subjects (where Data Subject has the meaning given under the Data Protection Laws) whose Personal Data is provided by the Applicant have consented to the processing of such Personal Data by the Applicant, BIM, the Evaluation Team and the supplier of the etenders.gov.ie website, for the purposes of the participation of the Applicant in this Competition or that the Applicant otherwise has a legal basis for providing such Personal Data to BIM for the purposes of its participation in this Competition.

The terms "Data Controller", "Data Subject", "Personal Data" and "Processing" shall have the same meanings as in Data Protection Law and "Processed" and "Process" shall be construed in accordance

with the definition of “Processing”. The categories of Personal Data that shall be subject to terms of this Section 5.12 shall consist of such Personal Data (including sensitive personal data (or “special categories” of personal data) disclosed by BIM to the Applicant from time to time or which is otherwise received by the Applicant in the course of providing Services and such Personal Data shall be limited to what is necessary in order for the Applicant to perform the Services in question. The purposes of such Processing shall be solely for the provision of the Services or per BIM’s instructions from time to time.

The Applicant agrees that to the extent that it Processes Personal Data for or on behalf of BIM, it is subject to, and agrees to comply fully with Data Protection Law.

In respect of the processing of Personal Data by the Applicant or its staff under or in connection with the Framework Agreement, the Applicant shall, and shall procure that its staff shall:

- (a) only process the Personal Data to the extent required to provide the Services in accordance with the terms of the panel or otherwise in accordance with documented instructions of BIM from time to time;
- (b) promptly comply with any request from BIM requiring the Applicant to amend, transfer or delete any Personal Data;
- (c) implement appropriate technical and organisational measures to:
- (d) protect Personal Data against unauthorised or unlawful Processing and against accidental or unlawful loss, destruction, damage, alteration, or disclosure which measures shall be in accordance with the requirements of Data Protection Law including, without prejudice to the generality of the foregoing, Article 32 of the General Data Protection Regulation 2016/679 the “GDPR”; and
- (e) comply with Data Protection Law;
- (f) ensure that all staff engaged in the provision of the Services are bound by confidentiality obligations and shall further ensure that such staff are made aware of and observe the Applicant’s obligations under this Framework Agreement with regard to the security and protection of Personal Data;
- (g) not do or permit anything to be done which might cause BIM in any way to be in breach of Data Protection Law;
- (h) provide written evidence of the Applicant’s compliance with Data Protection Law as may be requested by BIM from time to time;
- (i) cooperate and assist, as requested by BIM, and put appropriate technical and organisational measures in place to enable BIM to comply with any exercise of rights by a Data Subject under Data Protection Law in respect of Personal Data processed by the Applicant under the Agreement (including, without limitation, in relation to the retrieval and/or deletion of a Data Subject’s Personal Data);

- (j) not process the Personal Data anywhere outside of the European Economic Area without the prior written consent of BIM (and subject then, in the event of any transfer outside the European Economic Area, to the execution of any document or agreement which, in the reasonable opinion of BIM, is required in order to lawfully effect any such transfer of Personal Data);
- (k) inform BIM, prior to processing the Personal Data, in the event that the Applicant is required by EU or Irish law to transfer the Personal Data outside the EEA, of that legal requirement;
- (l) subject to BIM giving the Applicant reasonable notice (except where an urgent audit or inspection is required to investigate a breach or suspected breach or where required by the Data Protection Commission), the Applicant agrees to allow for and contribute to audits, including inspections of its data processing facilities, by BIM, or an auditor appointed by BIM, in order for BIM to verify the Applicant's compliance with its obligations under this Section 5.12;
- (m) cease processing the Personal Data immediately upon the termination or expiry of the Agreement or, if sooner, the Services to which it relates and as soon as possible thereafter, at BIM's option and request, either return, or delete from its systems, the Personal Data and any copies of it or of the information it contains and the Applicant shall confirm in writing that this sub-clause has been complied with in full. The provisions of this sub-clause shall not apply to the extent the Applicant is obliged by applicable law in force in Ireland or in the EU to keep copies of the Personal Data.

The Applicant shall notify BIM as soon as reasonably practicable:

- a) and in any event within twenty-four (24) hours of receiving any legally binding request for disclosure of Personal Data by a law enforcement or other competent authority unless prohibited by law from doing so;
- b) of receiving any request directly from a Data Subject without responding to that request, unless required by law or it has been otherwise authorised by BIM to do so; and
- c) of receiving any correspondence, notice or other communication whether orally or in writing from the Data Protection Commission or any other regulator or person, relating to the Personal Data.

Without prejudice to the other provisions of this Section 5.12, if the Applicant or any of its staff becomes aware of any Data Protection Incident, then the Applicant shall promptly and without undue delay (but in any event within twenty-four (24) hours of discovery) notify BIM by telephone and by email. The Applicant shall, at no additional cost to BIM, provide BIM with all resources, assistance and cooperation as are required by BIM for BIM to notify the Data Protection Commission of a Data Protection Incident and for BIM to provide such reports or information as may be requested by it in relation to such Data Protection Incident and/or for BIM to notify the relevant Data Subjects of such Data Protection Incident, as applicable. For the purposes of this sub-clause, "Data Protection Incident" means a 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.

The Applicant shall, at no additional cost to BIM, provide BIM with all resources and assistance as are required by BIM for BIM to discharge its duties pursuant to Articles 35 and 36 of the GDPR including, but not limited to, promptly at the request of BIM providing information in respect of any data protection impact assessment which BIM conducts.

The Applicant may only authorise a third party (a “Sub-processor”) to Process the Personal Data being processed for or on behalf of BIM with the prior written consent of BIM and provided that:

- (a) the Sub-processor's contract is on terms which are substantially the same as those set out in this Section 5.12;
- (b) the Sub-processor will be subject to the same obligations as those which the Applicant is subject to under this Section 5.12; and
- (c) the Sub-processor’s contract insofar as it relates to the Services or any part thereof terminates automatically on termination of the Agreement for any reason.

Where the Applicant appoints or otherwise uses the services of a Sub-processor, the Applicant shall be fully liable to BIM for the performance, acts and omissions of such Sub-processor. Nothing in this Section 5.12 shall relieve the Applicant of any liability for the acts or omissions of its staff, employees or contractors in relation to the Personal Data.

The Applicant agrees and warrants that the technical and organisational measures referred to in this Section 5.12 are appropriate to protect Personal Data against accidental or unlawful destruction or accidental loss, alteration, unauthorised disclosure or access, in particular where the processing involves the transmission of data over a network, and against all other unlawful forms of processing, and that these measures ensure a level of security appropriate to the risks presented by the processing and the nature of the Personal Data to be protected having regard to the state of the art.

### **5.13 Withholding Tax**

Payments shall be subject to Irish ‘Professional Services Withholding Tax’ at the prevailing rate (currently at 20%) as laid down by the Revenue Commissioners in Ireland. Non-residents may be able to reclaim such deducted Tax from the Office of the Revenue Commissioners in Ireland, International Claims Section located currently at Government Buildings, Nenagh, Co. Tipperary, Ireland (Tel: 353-1-6733533).

### **5.14 Tax Clearance Certificate**

It will be a condition of any contract that the successful Applicant(s) shall, for the term of such contract(s), comply with all applicable EU and domestic tax laws. Applicants are referred to [www.revenue.ie](http://www.revenue.ie) for further information. Prior to the award of any contract the successful Applicant shall be required to supply its Tax Clearance Access Number and Tax Reference Number to facilitate online verification of their tax status by BIM.

By supplying these numbers the successful Applicants acknowledge and agree that BIM has the permission of the successful Applicants to verify its tax cleared position online. Prior to the award of any contract arising out of this competition, the successful Applicant shall be required to supply its

Tax Clearance Access Number and Tax Reference Number, where relevant, to facilitate online verification of their tax status by BIM or to provide a copy of their Tax Clearance Certificate (where applicable). By supplying these numbers, the successful Panel member, acknowledges and agrees that BIM has the permission of the successful panel member to verify its tax cleared position online.

#### **5.15 Irish Legislation and Law**

Applicants should be aware that national legislation applies in other matters such as Employment, Working Hours, Official Secrets, Data Protection and Health and Safety. Applicants must have regard to statutory terms relating to minimum pay and to legally binding industrial or sectoral agreements in delivering contracts awarded to BIM.

The contract[s] awarded on foot of this process will be governed by Irish law.

#### **5.16 Correction of errors**

In general, the following approach will be applied to manifest errors:

- Where there is a discrepancy between the hard copy and the electronic copy of the submission, the hard copy will take precedence.
- Where there is a discrepancy between amounts in figures and words the amount in words shall apply.
- Where there is a discrepancy between the unit price and the total amount derived from the multiplication of the unit price and the quantity, the unit price as quoted will normally govern.

#### **5.17 Change in the composition of a Qualification Questionnaire**

BIM reserves the right, but is not obliged, to disqualify any Applicant that makes any change to its composition after submission of a Qualification Questionnaire.

#### **5.18 Notification of evaluations**

All Applicants will be informed of the outcome of their application following evaluation and any necessary clarifications. Potential outcomes can be:

- (a) Letter of Intent of admittance to panel.
- (b) Letter of regret.

#### **5.19 Policy on personal debriefings**

Based on the provision of the information to unsuccessful applicants as outlined above and due to resourcing constraints BIM will not be offering individual debriefing meetings to unsuccessful applicants.

## **5.20 Replacement personnel**

Notification must be sent in writing as soon as possible to BIM on any proposed change of nominated personnel, such change to be subject to the written approval of BIM. Replacement personnel must be of equal or better standing than the existing personnel in terms of qualifications and experience.

## **5.21 Copyright**

BIM will have copyright ownership of any material developed for use by BIM under the terms of this panel. The Applicant may have a non-exclusive licence to use such material but only for its own purposes (to be agreed with the successful panel member).

## **5.22 Brand names, etc.**

Please note in relation to this document; where reference is made to a particular make, source, process, trademark, type or patent that this is not to be regarded as a de facto requirement. In all such cases, it should be understood that the reference in question is accompanied by the words "or equivalent".

## Appendix 1 – Qualification Questionnaire

Mentoring panel for Business Advisory & Food Processing Services for the Irish Seafood Industry		
Reference:	Category	Application for (please v)
1.	Professional Business Advice	
2.	Food Processing Advice	

REF	PASS/FAIL CRITERIA	PASS REQUIREMENT
A1	Applicant summary	Applicants must complete this section. If the Applicant is a grouping, then a separate questionnaire must be completed for each group member.
A2	Tax compliance	Applicants are required to complete a Self-Declaration Form (A4). Applicants should note that where relevant they will be required to provide the evidence self-declared prior to being awarded work under this panel. Refer to individual rules regarding members of a grouping.
A3	Insurance	
A4	Tax and Insurance Self-Declaration Form	Applicants to complete the details as outlined A2 and A3 above.
A5	Declaration of Bona Fides	Applicants must complete, sign and date this Declaration. Non-compliant Applicants under any of the headings will be automatically disqualified.
A6	Confidentiality agreement	Applicants must review, sign and date this Declaration. Non-compliant Applicants under any of the headings will be automatically disqualified.

**Note: Information should be submitted using the form in Section A below.**

REF	PASS/FAIL CRITERIA	REQUIREMENT
B1	<b>Manpower and skills</b>	<p>Applicants must demonstrate access (for each panel category that the Applicant is applying for) to at least one expert with the requisite skills required to undertake work related to the services required.</p> <p>Panel members must provide evidence that they have the relevant resources and capabilities to:</p> <ul style="list-style-type: none"> <li>• Demonstrate knowledge, experience and acumen in one, or both categories outlined in the specification of requirements.</li> <li>• Carry out a rapid analysis of a company’s business operations and quickly define challenges and opportunities which need to be addressed under the specified categories.</li> <li>• Engage with stakeholders within seafood/food to develop and execute actionable plans that address business challenges. Specific examples of commercially focused completed projects for key sectors/stakeholders must be provided, including the impact on the business.</li> <li>• Project manage diverse projects, ensuring effective timely progression and continual engagement with stakeholders (fishers, farms, processors, regulators, international stakeholders, funders, financial institutions, agencies).</li> </ul>
B2	<b>Previous experience</b>	<p>Applicants must demonstrate the successful delivery of <b>two</b> comparable contracts/projects (for each panel category that the Applicant is applying for) indicating relevant experience for the services outlined in B1 above. These contracts/projects must have been delivered in the past three years and must clearly demonstrate relevant previous experience.</p>
B3	<b>Daily rate(s)</b>	<p>Applicants to provide competitive daily rate(s). BIM reserves the right to review rates for value for money in advance of approving any assignment.</p>

**Note: Information should be submitted using the form in Section B below**

**SECTION A - PASS/FAIL CRITERIA (1)**

<b>A1. APPLICANT SUMMARY</b>	
<b>Rule: Pass/Fail only</b>	
<b>Pass requirement: Applicants must complete all this section in full.</b>	
<b>Applicant name/Economic Operator name:</b>	
<b>Address:</b>	
<b>Contact person:</b>	
<b>Position:</b>	
<b>Office telephone:</b>	
<b>Mobile telephone:</b>	
<b>Email:</b>	
<b>Website:</b>	
<b>Date of Establishment, if applicable</b>	
<b>VAT Registration No:</b>	
<b>Legal Structure – Company (Ltd), Partnership, Sole Trader, any other</b>	
<b>Brief overview of Organisation including services, supplies offered, and markets served</b>	

<b>Name of other parties forming part of the tender submission, if applicable:</b>
--

<b>Name:</b>	<b>Proposed Role</b>	<b>Confirmation that relevant information provided for each party</b>

**A2. TAX CLEARANCE CERTIFICATE DECLARED BY SELF-DECLARATION****Rule: Pass/Fail only**

**Pass requirement:** Applicants must complete the self-declaration (A4) providing information regarding their tax compliance. This applies to all group members and to both Irish Resident suppliers and Non-Resident suppliers.

**A3. INSURANCES DECLARED BY SELF-DECLARATION****Rule: Pass/Fail only**

**Pass requirement:** Applicants should complete the self-declaration (A4) providing information regarding the insurances in place and are asked to note that the following levels will be required for the Applicants being awarded this contract. This applies to all group members.

<b>Insurance Type</b>	<b>Required Level - €</b>
Employers Liability (not required for sole traders)	13 million
Public Liability	6.5 million
Professional Indemnity	1 million

**NOTE**

BIM will satisfy itself of the capacity of Applicants with regard to the tax, and insurance requirements prior to awarding work under this panel.

<b>A4. TAX CLEARANCE CERTIFICATE AND INSURANCES DECLARED BY SELF-DECLARATION</b>		
<b>TAX CLEARANCE</b>	<b>YES</b>	<b>No</b>
	<b>Please indicate your answer by marking 'X' in the relevant box</b>	
(A) I confirm being tax compliant with the Irish Revenue Commissioners and that our tax affairs are in order.		
(B) Do you grant BIM permission to verify your tax clearance position online?		
<b>Tax Clearance Certificate information:</b>		
Applicant Name:		
Applicant PPSN/Tax Reference Number:		
Tax Clearance Access Number (TCAN):		

<b>INSURANCES</b>			
I confirm that we have the following insurances in place:			
<b>Insurance type</b>	<b>Level in place - €</b>	<b>Details of any excess - €</b>	<b>Expiry date</b>
Employers Liability			
Public Liability			
Professional Indemnity			
<b>AND</b>			
I confirm that if successful, where the levels required under the contract are higher than those currently held I will be in a position to put the required forms and levels of insurances required in place.	<b>Yes</b>	<b>No</b>	
<b>AND</b>			

I confirm that I will provide the following promptly on request at any time prior to the award decision being made: <ul style="list-style-type: none"> <li>• Evidence of insurances in place <b>or</b></li> <li>• Letter from Insurance Broker confirming that the required levels could be put in place if successful</li> </ul>	<b>Yes</b>	<b>No</b>
<b>Signed:</b>		
<b>Position:</b>		
<b>Date:</b>		

## DECLARATION OF BONA FIDES/STATUTORY OBLIGATIONS

### A5. DECLARATION OF BONA FIDES/STATUTORY OBLIGATIONS

**Rule: Pass/Fail only**

**Pass requirement:** Applicants must complete, sign and date this declaration. BIM reserves the right at its discretion to exclude a non-compliant Applicant under each heading. This must be completed by each group member.

**Note:**

In the case of a consortium, each individual member must complete and sign this declaration

This Declaration, duly completed and signed by an authorised signatory, must be submitted by all Economic Operators.

This Declaration relates to an award procedure under Public Sector Directive 2014/24/EU (Article 57).

**MANDATORY EXCLUSION**

Economic Operators will be excluded from the procurement process if, within the past five years, there is evidence of a conviction relating to a specific criminal offence listed below (see 1.1) or if they have been the subject of a binding legal decision which found a breach of legal obligations to pay tax or social security contributions (see 1.2) (except where this is disproportionate e.g. where only minor amounts are involved).

1.1	Has the Economic Operator or a member of their proposed consortium, (if applicable), Director, or Partner or any other person who has powers of representation, decision or control, been convicted of any of the following offences?	Yes	No
		<b>Please indicate your answer by marking 'X' in the relevant box</b>	
1.1.a	Participation in a criminal organisation, as defined in Article 2 of Council Framework decision 2008/841/JHA;		
1.1.b	Corruption, as defined in Article 3 of the Convention on the fight against corruption involving officials of the European Communities or officials of Member States of the European Union and Article 2(1) of Council Framework Decision 2003/568/JHA as well as corruption as defined in Irish Law or the jurisdiction in which the Economic Operator is established;		
1.1.c	Fraud within the meaning of Article 1 of the Convention on the protection of the European Communities' financial interests;		

1.1.d	The subject of a conviction for terrorist offences or offences linked to terrorist activities or for inciting or aiding or abetting or attempting to commit an offence;		
1.1.e	The subject of a conviction for money laundering or terrorist financing;		
1.1.f	The subject of a conviction of child labour and other forms of trafficking in human beings;		
<b>1.2</b>	<b>Non-payment of taxes or social security obligations</b>		
<p>Has it been established by a judicial or administrative decision having final and binding effect in accordance with Irish law or the legal provisions of the country in which the Economic Operator is established (if outside Ireland) that the Economic Operator is in breach of obligations related to the payment of tax and social security contributions?</p> <p><b>Note:</b></p> <p>If the response to 1.2 above is in the affirmative, please provide further information on the decision and the amounts involved.</p>			
<p><b><u>DISCRETIONARY EXCLUSION</u></b></p> <p><b>An Economic Operator who answers ‘Yes’ in any of the situations set out in paragraphs 2.1.a to 2.1.i will be excluded.</b></p>			
2.1	<p><b>Please indicate if any of the following situations have applied, within the past three years, or currently apply, to your organisation.</b></p> <p><b>The Economic Operator:</b></p>	Yes	No
		<p><b>Please indicate your answer by marking ‘X’ in the relevant box</b></p>	
2.1.a	Has, in the performance of any public contract, failed to comply with applicable obligations in the field of environmental, social and labour law applying at the place where the works were carried out or the services provided, as established by EU law, national law, collective agreements or by international, environmental, social and labour law listed in Annex X of Directive 2014/24/EU;		
2.1.b	Is bankrupt or the subject of insolvency or winding-up proceedings, its assets are being administered by a liquidator or by the court, or has entered into an arrangement with creditors, suspended its business activities or is in any analogous situation arising from a similar procedure under national laws and regulations;		

2.1.c	Is guilty of grave professional misconduct which renders its integrity questionable;		
2.1.d	Has entered into agreements with other economic operators aimed at distorting competition;		
2.1.e	Has a conflict of interest within the meaning of Article 24 of 2014/24/EU that cannot be effectively remedied by other, less intrusive, measures;		
2.1.f	Confirms that it has had prior involvement in the preparation of the procurement procedure which has resulted in a distortion of competition, as referred to in Article 41 of 2014/24/EU, that cannot be remedied by other, less intrusive, measures;		
2.1.g	Has shown significant or persistent deficiencies in the performance of a substantive requirement under a prior public contract, a prior contract with a contracting entity, or a prior concession contract, which led to early termination of that prior contract, damages or other comparable sanctions.		
2.1.h	<ul style="list-style-type: none"> <li>• Is guilty of serious misrepresentation in supplying the information required for the verification of the absence of grounds for exclusion or the fulfilment of the selection criteria; or</li> <li>• Has withheld such information or is not able to submit supporting documents required under Article 59 of Directive 2014/24/EU; or</li> </ul>		
2.1.i	<p>Has undertaken to:</p> <ul style="list-style-type: none"> <li>• unduly influence the decision-making process of the contracting entity, or</li> <li>• obtain confidential information that may confer upon the Applicant undue advantages in the procurement procedure; or</li> <li>• negligently provide misleading information that may have a material influence on decisions concerning exclusion, selection or award.</li> </ul>		

<b>DECLARATION RE. STATUTORY OBLIGATIONS</b>			
<b>We confirm that we are fully compliant with the following legislation:</b>		<b>Please indicate your answer by marking "X" in the relevant box</b>	
		<b>YES</b>	<b>NO</b>
(i)	Employment Equality Acts 1998-2015		
(ii)	Equal Status Acts 2000-2018		
(iii)	National Minimum Wage Act 2000 as amended		
(iv)	Organisation of Working Time Act 1997 as amended		
(v)	Safety, Health and Welfare at Work Act 2005 and Safety, Health and Welfare at Work (General Application) Regulations 2013		
(vi)	Disability Act 2005		
(vii)	General Data Protection Regulation 2016/679 and the Data Protection Acts 1988 to 2018, any relevant amendments, transpositions, successors or replacements to those laws referred to in force from time to time, any national implementing legislation, secondary legislation (including European Commission decisions) and binding EU and national guidance, any other applicable data protection laws of any other jurisdiction and any guidelines and codes of practice issued by the Office of the Data Protection Commission or other supervisory authority for data protection in Ireland from time to time.		
<b>AND</b>			
We confirm that all Data Subjects whose Personal Data is provided in our Tender have consented to the processing of such Personal Data by us, BIM, the Evaluation Team and the supplier of the etenders.gov.ie website, for the purposes of our participation in this Competition or that we otherwise have a legal basis for providing such Personal Data to BIM for the purposes of our participation in this Competition and that we will provide evidence of such consent and / or legal basis to BIM upon request.			
I certify that the information provided in this declaration 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 will lead to my organisation being excluded from participation in this and future tenders.			

This Declaration is made for the benefit of BIM.

<b>Name of Economic Operator</b>	
<b>Authorised signatory</b>	
<b>Name in print or block capitals</b>	
<b>Position</b>	

**NOTE: The term Economic Operator covers equally the concepts of Contractor, Supplier and Applicant whether as Applicant or Participant under an award procedure in accordance with the relevant Public Procurement Directive.**

**A6. CONFIDENTIALITY AGREEMENT AND UNDERTAKING**

**Rule: Pass/Fail only**

**Pass requirement: Applicants must review, sign and date this declaration. Non-compliant Applicants under any of the headings will be automatically disqualified.**

Name: To be completed

Address: To be completed

(the “**Economic Operator**”)

This Agreement and Undertaking sets out the Economic Operator’s confidentiality obligations in respect of information and material disclosed to the Economic Operator by or on behalf of BIM for the Legitimate Purpose (as defined below), and is entered into by the Economic Operator in consideration of BIM engaging the Economic Operator to carry out the Legitimate Purpose and for other good and valuable consideration the receipt and sufficiency of which is hereby acknowledged by the Economic Operator.

**1. Confidential Information**

Certain business, commercial, technical, financial, operational, administrative, marketing, economic and other information and material in connection with various enterprises may be disclosed (whether in writing, orally or in any other manner) by or on behalf of BIM to the Economic Operator for the purpose (hereinafter called the “Legitimate Purpose”) of the Economic Operator furnishing to BIM the Economic Operator’s Analysis of the Finance Capabilities within Bord Iascaigh Mhara Client Companies. This information and material, the Economic Operator’s involvement in the matter, this agreement, any discussions with BIM in relation to the said information and material (including the status and existence thereof), including any memorandum, report and evaluation prepared by the Economic Operator or by parties other than the Economic Operator, is referred to in this agreement as “Confidential Information”.

The Confidential Information will be kept secret and confidential by the Economic Operator and will not, without the prior written consent of BIM (which may be given on such terms as it considers appropriate), be disclosed (whether in writing or orally), in whole or in part, to any other person nor used for any purpose (including any competitive or commercial purpose) other than to the extent necessary to carry out the Legitimate Purpose.

The Economic Operator shall observe its obligations set out in the Data Protection Legislation (as defined at Section 5.11 of the Document) as may be amended, modified or consolidated, together with any further legislation, international convention or EU charter adopted in respect of data protection. The Economic Operator acknowledges the serious adverse effects which unauthorised disclosure of personal data relating to data subjects would have upon the operations of BIM and shall endeavour, in accordance with good industry practice, to avoid any such disclosure. The Economic Operator shall obtain the prior written agreement of BIM, such agreement not to be

unreasonably withheld or delayed, to store or process personal data, as defined by the Data Protection Legislation, for the purpose of performing the Economic Operator's obligations under the agreement (and where applicable) at sites outside Ireland (excluding Northern Ireland). Failure by either party to comply with this Section A5 may constitute a serious breach of obligation.

## **2. Exceptions**

The restrictions in paragraph 1 of this agreement do not apply to:

- (i) Confidential Information which, at the time of disclosure to the Economic Operator can be shown by the Economic Operator to be in the public domain; or
- (ii) Confidential Information which, after disclosure to the Economic Operator can be shown by the Economic Operator to have become publicly available by publication or otherwise through no breach of this agreement or of any other agreement by the Economic Operator; or BIM panel– Qualification Questionnaire; or
- (iii) Confidential Information which was lawfully in the Economic Operator's possession prior to disclosure, as evidenced by the Economic Operator's written records, and which was not acquired directly or indirectly from BIM, or any of the advisers to BIM; or
- (iv) The disclosure of Confidential Information to a third party which is required by law or by the rules of any applicable regulatory organisation, in which event the Economic Operator must nevertheless comply with paragraph 6 (Disclosure) of this agreement.

## **3. Copies**

The Economic Operator will not make any copies in any form of any documents containing Confidential Information or authorise any other person to do so, except (i) for the purpose of supplying Confidential Information to persons to whom disclosure of Confidential Information is expressly permitted by this agreement or (ii) with the prior written consent of BIM or (iii) for the purpose of making one paper copy of documents sent to the Economic Operator in electronic format.

## **4. Records**

The Economic Operator will keep a record (which shall be made available to BIM on request) of the Confidential Information provided in writing to the Economic Operator and of the location of that Confidential Information. The Economic Operator will ensure that all Confidential Information (save for Confidential Information which was disclosed orally and has not been reduced into writing or stored on any disc, tape or other device) is kept in a secure place at all times and is properly protected against theft, damage, loss or unauthorised access.

## **5. Return of Confidential Information**

The Economic Operator will, upon demand by BIM made in writing at any time either return to BIM or destroy (and the Economic Operator will confirm such destruction in writing to BIM) any document (including any notes, analyses, records or memoranda prepared by the Economic

Operator) containing, or derived from, any Confidential Information and all copies which have been made by the Economic Operator or on the Economic Operator's behalf. In addition, the Economic Operator will, in these circumstances, erase (and the Economic Operator will confirm such erasure in writing to BIM) all Confidential Information from any computer, word processor or other device containing such information.

Notwithstanding the return or destruction of the Confidential Information, the Economic Operator will continue to be bound by the obligations of confidentiality and other obligations hereunder.

## **6. Disclosure**

In the event that the Economic Operator become aware that the Economic Operator may become compelled by law or by the rules of any applicable regulatory organisation to disclose any Confidential Information, prompt notice of that fact will be given to BIM so that BIM may seek an appropriate remedy to prevent that disclosure and the Economic Operator will take such steps as BIM may reasonably require for that purpose and will keep BIM promptly and fully informed of all developments relating to any such potential disclosure.

In the event that the Economic Operator become compelled by law or by the rules of any applicable regulatory organisation to disclose any Confidential Information, full details of any proposed disclosure will be given to BIM in advance and any such disclosure will be limited to the minimum amount of Confidential Information required to satisfy that disclosure obligation, and the Economic Operator will exercise the Economic Operator's best efforts to obtain an appropriate protective order or other reliable assurance that confidential treatment will be accorded to the Confidential Information.

## **7. Agents**

The Economic Operator will be responsible for any breach of the terms of this Agreement by the Economic Operator or any of the Economic Operator's Agents (which shall include each of the Economic Operator's employees, agents and professional advisers). The Economic Operator will ensure that the Economic Operator's Agents comply with the Economic Operator's obligations under this Agreement and any action by them will be treated as an action by the Economic Operator for the purposes of this Agreement.

## **8. Equitable remedies**

The Economic Operator acknowledges and agrees that damages would not be an adequate remedy for any breach by the Economic Operator or the Economic Operator's Agents of the provisions of this Agreement, and that BIM will be entitled to the remedies of injunction, specific performance and other equitable relief for any threatened or actual breach of the provisions of this Agreement by the Economic Operator or the Economic Operator's Agents and that no proof of special damages shall be necessary for the enforcement of this Agreement. Such remedies shall not be deemed to be the exclusive remedies for a breach of this Agreement but shall be in addition to all other remedies available at law or equity. In the event that BIM enforces the Economic Operator's

obligations hereunder, the Economic Operator shall reimburse BIM for all costs and expenses, including legal expenses, incurred by BIM in this regard.

#### **9. Remedies**

No failure or delay in exercising any right, power or privilege under this Agreement will operate as a waiver of it, nor will any single or partial exercise of it preclude any further exercise or the exercise of any right, power or privilege under this Agreement or otherwise.

#### **10. Indemnity**

The Economic Operator agrees to indemnify and save BIM harmless from and against any loss or liability resulting from, or arising in connection with, the unauthorised use or disclosure of the Confidential Information by the Economic Operator or the Economic Operator's Agents.

#### **11. General**

The undertakings, indemnities, confirmations and acknowledgements on the Economic Operator's part referred to in this Agreement are given by the Economic Operator on behalf of the Economic Operator itself and each of the Economic Operator's Agents who are at any time in receipt of Confidential Information.

This Agreement will inure to the benefit of and may be enforced by BIM and its successors or assigns and will be binding upon the Economic Operator and the Economic Operator's Agents and the Economic Operator's respective successors in interest; provided, however that any assignment by the Economic Operator of the Economic Operator's rights and obligations hereunder without BIM's prior written consent will be void.

Each of the provisions of this Agreement is separate and severable and enforceable accordingly. If at any time any of the provisions is held to be void or unenforceable, the validity or enforceability of the remaining provisions shall not be affected. If any provision is held to be void or unenforceable, the parties agree to substitute any such provision with a valid enforceable provision which achieves to the greatest extent possible the economic, legal and commercial objectives of the invalid or unenforceable provision.

#### **12. Governing Law**

This Agreement and Undertaking will be governed by and constructed in accordance with Irish Law and shall be subject to the non-exclusive jurisdiction of the Irish Courts.

(Please sign here to confirm the Economic Operator's acceptance of the above conditions).

I agree to the above conditions on behalf of the Economic Operator:

<b>Name of Economic Operator</b>	
<b>Authorised signatory</b>	
<b>Name in print or block capitals</b>	
<b>Position</b>	

**NOTE: The term Economic Operator covers equally the concepts of Contractor, Supplier and Applicant whether as Applicant or Participant under an award procedure in accordance with the relevant Public Procurement Directive.**

**SECTION B – PASS/FAIL CRITERIA (2)**

**B1 MANPOWER AND SKILLS**

**Rule: Pass/Fail only**

Applicants must demonstrate access to at least the minimum numbers of skilled personnel stated for **each** panel category that the Applicant is applying for and provide a comprehensive CV for those allocated personnel.

Panel category	Name of allocated personnel	Confirm CV enclosed
<b>Total number of suitably qualified resources.</b>		

## **B2 PREVIOUS EXPERIENCE**

### **Rule: Pass/Fail only**

Applicants should refer to instances which demonstrate that they have successfully delivered **two** contracts/projects for the panel/category service requirements as outlined in this document.

The contracts/projects referenced for consideration should provide comprehensive information to enable BIM to determine their comparability to the service requirements (for **each** panel category that the Applicant is applying for).

The contracts/projects listed should be chosen to demonstrate your skills, experience and reliability in the relevant areas of expertise (for **each** panel category that the Applicant is applying for).

All fields should be completed in full. In the event that the information requested on the value of contracts/project or identity of clients is considered confidential. Applicants must ensure that they provide sufficient information to allow BIM to judge the similarity of these contracts to the services required.

### **PREVIOUS CONTRACTS/PROJECTS:**

<b>2.1 Contract/project 1 of 2</b>	
Panel category:	
Client name:	
Client contact name:	
Client contact telephone number:	
Client contact Email:	
Details of the contract/project services provided:	
Contract/project period/delivery dates:	
Estimated value of contract/project:	
Describe how this contract/project is comparable to the services required under this panel:	

<b>2.1 Contract/project 2 of 2</b>	
Panel category:	
Client name:	
Client contact name:	
Client contact telephone number:	
Client contact Email:	
Details of the contract/project services provided:	
Contract/project period/delivery dates:	
Estimated value of contract/project:	
Describe how this contract/project is comparable to the services required under this panel:	

**Note:**

BIM reserves the right to contact any of the above clients without further contact with Applicants.

**B3 DAILY RATE(S)****Rule: Pass/Fail only**

Applicants must provide competitive daily rate(s) for the proposed key personnel (for **each** panel category that the Applicant is applying for) in the following format:

Panel category	Proposed Key Personnel	Daily rate (Based on 7.5 hour day inclusive of all expenses and exclusive of VAT) €	VAT rate (for information purposes) %

BIM reserves the right to review rates for value for money in advance of approving any assignment.

<b>Signed:</b>		
<b>Name (in print of block capitals):</b>		
<b>On behalf of:</b>		
<b>Address:</b>		
<b>Email:</b>		
<b>Telephone:</b>		<b>Date:</b>

**Note:**

This full document is provided in pdf format. In addition, the Qualification Questionnaire at Appendix 1 above is also provided in Word format.