

DATED DAY OF 20XX

DUBLIN CITY COUNCIL

And

XXXXXXX

LICENSE AGREEMENT

CLAUSES

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THIS LICENSE AGREEMENT is made on the day of 20XX

BETWEEN

DUBLIN CITY COUNCIL, a statutory authority having its offices at Civic Offices, Wood Quay, Dublin 8 ("**the Licensor**"),

AND

XXXXXXXXXXXXXXXXXXXXXXX, a company incorporated in Ireland under registration number **XXXXXX** whose registered address at **XXXXXXXXXXXXXXXXXX** ("**the Licensee**")

hereinafter collectively referred to as the "Parties" or separately the "Party"

RECITALS

- (A) The Licensor has power to do such things as it considers necessary or desirable to promote the interests of the local community and directly or indirectly the economic, or general development of part of its administrative area.
- (B) The Licensor is the owner of a parcel of land known as **XXXXXXXXXXXXXXXXXX**.
- (C) The Licensee wishes to install, erect, operate, and maintain a monopole including accessory equipment, devices and antenna on part of the Property for Telecommunications Services.
- (D) The Licensor is willing to grant to the Licensee a License to install erect, operate, and maintain the monopole subject to the terms and conditions contained in this Agreement.

NOW for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows:

1. Definitions and Interpretation

- 1.1 For purposes of this Agreement, the following terms shall bear the meanings hereby assigned to them, namely:

"Access Route" means the route from **XXXXXXXXXX** to the Licensed Area measuring xx metres in length and approximately xxxx metres wide as shown coloured yellow on Map **XXXXXXXXXX** attached hereto at Schedule X.

"Agreement" means this License Agreement as may be amended, supplemented or modified from time to time and includes the Schedules hereto.

“Commencement Date”

means the date upon which installation works commence on the Licensed Area pursuant to the Planning Permission.

“Information”

means in relation to either Party, any data or information (whether in oral, written or electronic form) belonging or relating to that Party, its operations, facilities, plans, affairs and business which is not in the public domain and which: (i) is marked confidential, restricted, proprietary or with a similar designation or (ii) either Party, orally or in writing has advised the other Party is of a confidential nature, or (iii) due to its character or nature, a reasonable person in a like position and under like circumstances would treat as confidential.

“Deed of Renunciation”

means the deed of renunciation in the form set out in Schedule 2 of this Agreement.

“Emergency”

means a situation where immediate action is required in order to prevent or limit injury to persons or damage to property.

“Force Majeure”

means war, acts of a public enemy revolution, civil commotion or riot, strikes (other than any strike involving predominantly employees of the Parties), acts or omissions of third parties including cable cuts, epidemic, fire, flood, earthquake, explosion, material change in law, act of government, or act of God or any other cause which is beyond the reasonable control of a Party, which arises without the fault or negligence of the Party seeking to rely on the Force Majeure.

“License Period”

means the period of five (5) years commencing on and including the Commencement Date unless earlier terminated as provided in this Agreement.

“License”

means the license granted by the Licensors to the Licensee by this Agreement.

“Licensed Area”

means the area measuring XXXX square metres as shown outlined in red on the Site Location Map (Drawing XXXXXX) submitted on planning register reference number XXXXXXXX.

“Licensee’s Facilities”

means X no. of antennae, X XXm dish together with the associated apparatus, cables, conduits, equipment cabinets, support poles, and Monopole to be erected and installed in accordance with the plans, particulars and specifications approved under the Planning Permission as shown on Drawing Nos. XXXXXXXXX to XXXXXXXX inclusive submitted on planning register reference number XXXXXXXX.

“License Fee”	means an initial payment of €XX, XXX per annum plus VAT as may be varied in accordance with the provisions of this Agreement and any additional fees payable for Monopole access granted by the Licensee to two further third party operators as determined under clause 7.
“Licensor’s Rate Card”	means the Licensor’s scale of charges for providing access to Licensor owned assets for the purpose of deploying telecommunications networks and equipment.
“Monopole”	means an XXX (XX) metres high free standing multi-operator monopole with headframe together with antennas, dishes, cabinets, equipment cabinets, and ancillary telecommunications equipment affixed thereto for Telecommunication Services.
“Parties”	means the Licensor and the Licensee, and Party shall mean either one of them.
“Payment Date”	means the 1 st January in each year of the License Period.
“Permitted Use”	means the provision, erection, construction, installation, replacement, relocation, additions and upgrades, repairs, maintenance, management and operation of the Equipment of the Licensed Area, and the right of access to and egress from the Licensed Area through the Council’s property and the right to place, lay and maintain over, under, along or upon the Council’s Property such cables (to include fibre optic cables), wires, ducting, conducting media, and supports as are necessary for the purposes of the receipt, transmission and relay of wireless, voice and data communications signals in accordance with the licences and/or approvals granted to the Licensee and/or Operators from time to time by the Commissioner for Communications Regulation (ComReg) or such other body as may be appointed from time to time to adopt the functions of ComReg.
“Planning Permission”	means the grant of planning permission issued by Dublin City Council on the XX th XXXX 20XX under planning register reference number XXXXX.
“Property”	means the lands known as XXXXXXXXXXXXXXXXXXXX, comprised in Folio XXXXX.
“Review Date”	means any one of the Review Dates.
“Review Period”	means the period beginning on the Review Date and ending on the day before the next Review Date or the period beginning on the last Review Date on the expiry of this Agreement unless earlier terminated as provided in this Agreement.

“Telecommunication Services”

means services provided by mobile terrestrial networks.

“Up-front Charge”

means an up-front fee plus VAT.

“VAT”

means value added tax and any tax of a similar nature substituted for it or in addition to it.

“Working Day”

means any day from Monday to Friday (inclusive) that is not a statutory or national holiday.

“Working Hours”

shall be from 9 a.m. to 5 p.m. each Working Day.

1.2 In this Agreement unless the context otherwise requires:

- 1.2.1 the singular number includes the plural number and vice versa;
- 1.2.2 references to a Party include a reference to its successors and permitted assigns under this Agreement;
- 1.2.3 words importing persons include firms, companies and corporations and vice versa;
- 1.2.4 references to Licensor include its elected officials, chief executive, servants, agents and contractors;
- 1.2.5 references to Licensee include its personnel, employees, agents, and subcontractors;
- 1.2.6 references to numbered clauses and Schedules are references to the relevant clause of or Schedule to this Agreement;
- 1.2.7 references in any Schedule to this Agreement to numbered paragraphs relate to the numbered paragraphs of that Schedule;
- 1.2.8 any obligation on a Party not to do or omit to do anything is to include an obligation not to allow that thing to be done or omitted to be done.
- 1.2.9 where the word “including” is used in this Agreement, it will be understood as meaning “including but not limited to”;
- 1.2.10 the headings to the clauses, Schedules and paragraphs of this Agreement are for reference purposes only and shall not affect the interpretation of the Agreement.
- 1.2.11 any references to an enactment includes reference to that enactment as amended or replaced from time to time and to any regulations made under that enactment.

2. Grant and Scope of Licence

2.1 In consideration of the License Fee, and where applicable any additional sums payable in accordance with the provisions of this Agreement, the Licensor hereby grants to the Licensee a non-exclusive License subject to the observance of the terms and conditions herein contained, and subject to the provisions of clause 6, with effect from the Commencement Date and during the continuance of this Agreement:

- 2.1.1 to enter upon the Licensed Area and to carry out therein any works for or in connection with the survey, construction, installation, operation and maintenance of the Licensee’s Facilities and the fencing of the Licensed Area solely for the purposes set forth in clause 4 of this Agreement.

- 2.1.2 to pass and repass over the Access Route on foot and with vehicles and equipment to enable the Licensee to have physical access to the Licensed Area from XXXXXXXX.
 - 2.1.3 The Licensee shall have the right to access the Licensed Area on Working Days during Working Hours without prior notice to the Licensor during the License Period.
 - 2.1.4 The Licensee shall have twenty four (24) hour emergency access to the Licensed Area. Prior to entering the Licensed Area, the Licensee shall notify the Licensor's contact officer at (such number to be furnished by the Licensor on signing hereof) or such other number as may be provided by the Licensor. As part of this notification, the Licensee shall inform the Licensor's contact officer of the need to access the Licensed Area and provide a description of the emergency. In the event the Licensor's contact officer is required to provide emergency access, a call out charge of one hundred and fifty euro (€150) plus VAT shall be payable by the Licensee on each occasion.
- 2.2 For the avoidance of doubt, this License is granted specifically for the Permitted User as defined above and specified in the plans and specifications approved pursuant to the Planning Permission. No alterations or equipment upgrades are permitted to the Licensee's Facilities without the prior written consent of the Licensor, such consent not to be unreasonably withheld or delayed.
- 2.3 The Licensee hereby acknowledges the rights granted by this Agreement and that nothing in this Agreement is intended to or shall be deemed to confer any right, interest or estate in any portion of the Licensed Area, including any fee or leasehold interest or easement or any legal right or entitlement other than the right to use the Licensed Area to install, operate and maintain the Licensee's Facilities.
- 2.4 The Licensee acknowledges and understands that the Property, including the Access Route is dedicated for public purposes and that these purposes have priority over any other use, including Licensee's use of the Licensed Area and Licensee's Facilities.
- 2.5 The Licensee undertakes with the Licensor that it will not in any way impede the Licensor in the exercise of its rights of possession and control of the Property and shall comply with all reasonable directions and regulations which the Licensor makes, or may make, from time to time, and notifies reasonably in advance to the Licensee, from time to time, governing access to the Licensee's Facilities and every and any part thereof.
- 2.6 This License is a non-exclusive license, and the Licensor reserves the right to allow the Property to be used by other parties, except that the Licensor shall not allow any other party to physically enter or occupy the Licensed Area wherein the Licensee's Facilities are located. Notwithstanding the foregoing, the Licensor reserves the right to make additions, deletions, or modifications to its own facilities on the Property PROVIDED ALWAYS that any such additions, deletions or modifications will not adversely affect the transmission of telecommunications signals to and from the Licensed Area.
- 2.7 The Licensee shall relocate to an alternative licensed area owned by the Licensor upon receipt of six (6) months prior written notice from the Licensor. All costs associated with the relocation including reinstatement costs shall be borne by the Licensee, subject to a maximum of two relocation notices during the License Period.

- 2.8 The Licensee warrants to the Licenser that it has in place all requisite approvals, consents, easements, rights of way and wayleaves over and along public roads for the purpose of erecting, installing and commissioning the Monopole.
- 2.9 The Licensee hereby further acknowledges that the License granted under this Agreement is personal to the Licensee. The Licensee shall be entitled, however, to license the use of the equipment on the Monopole to a maximum of XXX third party operators subject to the terms and conditions of this Agreement.

3. Licensee's Facilities

- 3.1 The Licensee's Facilities to be constructed and installed by the Licensee shall become the exclusive property of the Licensee upon the Licenser's written acceptance of the Licensee's Facilities. This acceptance may be withheld by the Licenser if the Licenser determines, in its sole discretion, that the Licensed Facilities fail to conform with the plans and specifications approved pursuant to the Planning Permission.
- 3.2 The Licensee shall be solely responsible for the costs and expense of constructing, installing, operating and maintaining the Licensee's Facilities during the License Period or any Renewal Term thereafter.
- 3.3 The Licensee has the right to remove the Licensee's Facilities at its sole cost and expense on or before the termination of this Agreement.
- 3.4 The Licensee's Facilities shall be under the control of the Licensee.
- 3.5 The Licensee shall remove all of Licensee's Facilities from the Licensed Area, at its sole costs and expense, upon the expiry or termination of this Agreement. Any reinstatement works required by the Licenser on the Licensed Area shall be carried out by the Licensee to the written satisfaction of the Licenser, and at the cost of the Licensee.

4. Purpose

- 4.1 The Licensed Area shall be used by the Licensee, at its sole cost and expense, for the purpose of installing, erecting the Licensed Facilities for the provision of Telecommunication Services.

5. Approvals

- 5.1 This License is expressly made contingent upon the Licensee obtaining all necessary statutory permits, licenses, consents, authorisations and any other approvals required for the lawful construction and operation of the Licensee's Facilities (including without limiting the generality of the foregoing, any planning permissions, rights-of-way, wayleaves and authorisation under the European Communities (Electronic Communications Networks and Services) (Authorisation) Regulations, 2003).
- 5.2 The Licensee shall during the continuance of this Agreement comply with all Acts of the Oireachtas and statutory instruments or regulations made thereunder including the Environmental Protection Agency Acts 1992 to 2011, the Safety, Health and Welfare at Work Acts 2005 to 2014, the Planning and Development Acts 2000 to 2022, the Building Control Acts 1990 to 2015, the General Data Protection Regulation 2016/679, the Data Protection Acts 1988 to 2018, the Communications Regulation Acts 2002 to 2017 and the International Commission of Non-Ionising Radiation Protection (ICNIRP) EMF Guidelines for limiting EMF exposure for protection against known adverse health effects.

- 5.3 The Licensee shall bear the costs and expenses related to the procurement of such approvals. If the Licensee fails to procure all required approvals within a reasonable period of time, not to exceed six months from the Commencement Date, the Licensors shall have the right to terminate the Agreement by a ten (10) Working Days written notice to the Licensee.
- 5.4 In the event that any permit, license, authorisation or approval issued to the Licensee is cancelled, expires, lapses or is otherwise withdrawn or terminated by a statutory authority so that the Licensee can no longer lawfully use the Licensed Facilities for the purposes set forth in clause 4, the Licensors shall have the right to terminate this Agreement by a ten (10) Working Days written notice to the Licensee. If the Licensee has pursued an administrative remedy within the relevant specified time period, the Licensors shall not issue this notice of termination until the conclusion of that administrative process.

6. License Period and Termination

- 6.1 The period of this Agreement shall be five (5) years from the Commencement Date of this Agreement, unless otherwise terminated in accordance with the provisions of this Agreement.
- 6.2 The Licensee shall have the option to extend the period of this Agreement for two (2) successive five (5) year periods (each a "Renewal Term") subject to the Council's consent thereto. Such Renewal Term shall be on such terms and conditions that may be agreed between parties provided the Licensee is not in default of any term or condition of this Agreement (i) on the date the Licensee notifies Licensors of its intent to seek a Renewal Term and (ii) on the date the Renewal Term is otherwise scheduled to commence.
- 6.3 In order to exercise the renewal options granted by clause 6.2, the Licensee shall notify the Licensors in writing of its intent to renew not less than Twelve (12) months prior to the expiration of the License Period or, as the case may be, prior to the expiry of any subsequent Renewal Term thereafter. Upon the exercise of a renewal option, this Agreement shall continue under such further terms and conditions as may be agreed noting that the License Fee for a Renewal Term shall be determined pursuant to clause 7.7. Except as set forth in clause 6.2, the Licensee shall have no further option to extend the period of the Agreement.
- 6.4 The Licensee shall give to the Licensors at least thirty (30) Working Days in writing of its intention not to extend this Agreement prior to the expiration of the License Period or any subsequent Renewal Term, as applicable.
- 6.5 Without prejudice to any other right or remedy it may have, the Licensors shall have the right by giving written notice to the Licensee at any time to immediately terminate this Agreement if there occurs a material breach by the Licensee of a term or condition of this Agreement which is irremediable or if remediable is not remedied to the Licensors' satisfaction within twenty (20) Working Days of a written notice of non-performance to the Licensee specifying the breach and requiring it to be remedied. Non-performance after a first notice of non-performance shall be considered a material breach of Agreement.
- 6.6 On the giving of notice of termination of this Agreement for whatever reason the Licensee shall take all such steps as are necessary to remove the Licensee's Facilities from the Licensed Area.

- 6.7 If after the expiry or termination of this Agreement for any reason the Licensee's Facilities remains in the Licensed Area and the Licensee fails to remove them within fifteen (15) Working Days after being requested in writing by the Licenser to do so the Licenser may remove the Licensee's Facilities and the Licensee indemnifies the Licenser against any liability incurred by it to any third party by reason of the said removal. The Licenser may dispose of the Licensee's Facilities by sale or otherwise unless the Licensee claims the same within thirty (30) Working Days of the said removal.
- 6.8 The expiry or termination of this Agreement for any reason shall be without prejudice to:
- 6.6.1 any rights or remedies available to, or any obligations or liabilities accrued to, the Parties at the date of such expiry or termination; and
- 6.6.2 clauses 10, 24 and 26 and such of the provision of this Agreement as are expressly or by implication to operate thereafter.
- 6.9 For the avoidance of doubt, notwithstanding termination of this Agreement for any reason whatsoever, the Licensee shall not be entitled to claim a refund, in whole or in part, of the License Fee.
- 6.10 Any continued use by the Licensee of the Licensee's Facilities with the consent of the Licenser shall not constitute or be construed as a renewal or continuation of this Agreement.

7. Payments by Licensee

- 7.1 In consideration of the grant by the Licenser of the License under this Agreement, the Licensee shall pay the License Fee, the Up-Front Charge and, where applicable, the additional sums payable in accordance with the provisions of clause 7.2, 7.3 and clause 7.6 which payments will be non-refundable.
- 7.2 The one time Up-Front Charge shall be paid by the Licensee to the Licenser concurrently with the execution of this Agreement which payment shall be non-creditable and not subject to set-off against any other amount due under this Agreement.
- 7.3 The License Fee shall be paid annually in advance on the Payment Day by standing order or by electronic funds transfer to an account designated by the Licenser in writing. The Licenser shall issue an invoice in respect of the License Fee to the Licensee twenty (20) Working Days before the Payment Date.
- 7.4 The Licensee shall be liable to pay additional fees to the Licenser upon the Licensee granting access to the Monopole to XX further third party operators based on the charges set out in the Licenser's Rate Card applicable on the date upon which the Licensee provides such access to the Monopole. The Licenser shall issue an invoice in respect of the License Fee to the Licensee twenty (20) Working Days before the Payment Date. For the avoidance of doubt the use of the Monopole is restricted to three third party operators.
- 7.5 The License Fee shall be apportioned from the Commencement Date to the next Payment Date.
- 7.6 Where this Agreement is to expire on a date less than six (6) months from the Payment Date, then the License Fee shall be apportioned from the Payment Date to the date of expiry of the Agreement.
- 7.7 In the event of the Licensee extending this Agreement for a Renewal Term the Licenser upon giving twenty (20) Working Days written notice of variation to the Licensee may

increase the License Fee on and from the commencement of the Renewal Term. For the avoidance of doubt the License Fee shall be set in accordance with the current Licensor's Rate Card and shall not decrease on or from any Renewal Term as a result of this clause 7.7.

- 7.8 In addition to the License Fee and the Up-Front Charge, the Licensee shall pay the Licensor on receipt of a valid invoice a fee of €X, XXX plus VAT in respect of the administration of this Agreement for the purpose of acceding to any requests of the Licensee including the review of documentation within twenty (20) Working Days of the receipt from the Licensor of an invoice demand.
- 7.9 The Licensee acknowledges that it shall not be entitled to withhold the License Fee.

8. Further Obligations of Licensee

8.1 The Licensee shall during the License Period:

- (a) observe and perform any conditions attaching to any permission, license, approval, authorisation or consent granted to it in respect of the construction, installation, operation and maintenance of the Licensee's Facilities.
- (b) pay all outgoings and charges associated with this Agreement including structural surveys, engineering reports, approvals, permits, taxes, rates, utilities including connection charges and separate meter installation fees.
- (c) ensure that no nuisance is caused directly or indirectly by reason of the granting of this Agreement.
- (d) ensure that this Agreement is exercised in a quiet, peaceful and orderly manner, making good any damage caused.
- (e) keep and maintain the Licensed Area and the Licensee's Facilities safe and secure, and in good repair, order and condition.
- (f) keep the Licensed Area clean and tidy and free from any refuse.
- (g) notify the Licensor in writing of each new third party operator locating on the Monopole prior to being permitted access to the Monopole.
- (h) re-instate any Licensor's property in the manner and at a location specified by the Licensor upon the expiry or sooner termination of this Agreement.
- (i) relocate to an alternative licensed area upon receipt of six (6) months prior written notice from the Licensor. All costs associated with the relocation including reinstatement costs shall be borne by the Licensee, subject to a maximum of two relocation notices during the License Period.
- (j) comply with the provisions of this Agreement.
- (k) sign a Deed of Renunciation in the form set out in Schedule X prior to the execution of this Agreement.
- (l) to pay any stamp duty chargeable on this Agreement on any document executed to give effect to this agreement.

8.2 The Licensee shall not during the License Period or any Renewal Term:

- (a) except as permitted by law, in the performance and exercise of its rights and obligations under this Agreement, interfere in any manner with the existence and/or operation of any of the following without the prior written approval of the affected party: (i) sanitary sewers and facilities, (ii) water utility facilities; (iii) storm drain facilities; (iv) gas and electric facilities; and (v) any telecommunication facilities existing prior to the Commencement Date. Except for an Emergency or other compliance period required by an affected party, if such interference is not remedied within five (5) Working Days of receiving

written notice from the Licensor, the Licensor shall have the right to immediately terminate the Agreement.

- (b) sub-license or grant or otherwise transfer any right, interest or entitlement in the License without the prior written consent of the Licensor and six (6) months prior written notice is required. For any permitted assignment of this Agreement, the Licensee must also provide the Licensor with a copy of the assignment and the assignee is deemed to assume automatically (but nonetheless must assume in writing) the assigning party's obligations under this Agreement in writing.
- (c) display any signs, notices or manufacturers' motifs or advertising material on any part of the Licensed Area or the Licensed Facilities.
- (d) store any Hazardous Material in the Licensed Area or at or on the Monopole.
- (e) permit access to the Monopole by any more than three (3) third party operators.

9. Rights and Obligations of Licensor

- 9.1 The Licensor shall not during the License Period knowingly do or permit anything to be done which might cause interference with damage or cause injury to the Licensee, the Licensed Area or any of the Licensee's Facilities.
- 9.2 The Licensor may at any time enter the Licensed Area for the purpose of observing or inspecting the Licensee's activities, monitoring compliance with this Agreement or exercising any right or obligation which the Licensor has under this Agreement.

10. Representations, Warranties and Acknowledgments

- 10.1 The Licensor hereby represents and warrants to the Licensee that:
 - 10.1.1 it has taken all requisite corporate action to approve the execution, delivery and performance of this Agreement;
 - 10.2.1 to its knowledge, its execution of and performance under this Agreement will not violate any applicable existing regulations, rules or statutes or any contract or other agreement the Party is subject to; and
 - 10.3.1 to its knowledge there are no pending or threatened actions, suits, claims, or other proceedings that would materially and adversely affect its ability to perform its obligations under this Agreement.
- 10.2 Except as expressly provided herein, the Licensor disclaims any and all warranties, express or implied, with respect to the condition of the Licensed Area, including without limitation, any warranty or fitness for a particular purpose.
- 10.3 The Licensee represents and warrants to the Licensor that:
 - 10.3.1 it is a company duly incorporated and validly existing under Irish Law and has the requisite authority to execute this Agreement and to perform its obligation thereunder;
 - 10.3.2 it has taken all requisite corporate action to approve the execution, delivery and performance of this Agreement and the Deed of Renunciation;
 - 10.3.3 its execution of, and performance under this Agreement will be in accordance with law;
 - 10.3.4 there are no pending or threatened actions, suits, claims, or other proceedings which would materially and adversely affect its ability to execute this Agreement or the Deed of Renunciation and perform its obligations under this Agreement;

- 10.3.5 it has obtained, and shall use commercially reasonable efforts to maintain all consents, approvals, authorisations, licenses, and other regulatory approvals as may be necessary (as at the date of performance) to permit the Licensee to perform its obligations under this Agreement;
- 10.3.6 it shall not create or permit to exist any liens, encumbrances or charges to be placed upon the Licensed Area or the Licensee's rights under this Agreement;
- 10.3.7 it will use the Licensed Facilities in accordance with law.
- 10.4 The Parties acknowledge and agree that it is the strict intention of the Parties that this Agreement will not create a tenancy and that the Licensed Area does not constitute a tenement within the meaning of the said landlord and tenant legislation.
- 10.5 The Parties acknowledge that the Access Route is the agreed existing route between XXXXX and the Licensed Area.
- 10.6 The foregoing representations, warranties and acknowledgements shall survive the execution and delivery of this Agreement.

11. LIABILITY

- 11.1 Except as otherwise set forth in this Agreement, the Licensor shall have no liability for any transaction which the Licensee may enter with a third party operator for the use of the Monopole or for the contents of any communications transmitted via the Monopole or for any information or content on the Internet.
- 11.2 Subject to clause 11.3, neither Party shall have any liability for the following losses, whether direct, indirect or consequential:
- (a) loss of revenue;
 - (b) loss of actual or anticipated profits;
 - (c) cost of downtime;
 - (d) loss of contracts;
 - (e) loss of anticipated savings;
 - (f) loss of business;
 - (g) loss of opportunity;
 - (h) loss of goodwill;
 - (i) loss of reputation;
 - (j) loss of, damage to or corruption of data; or
 - (k) any indirect or consequential loss;
- and all such liability is excluded whether it is foreseeable, known, foreseen or otherwise.
- 11.3 Nothing in this clause shall exclude or limit the liability of the Licensee to
- 11.3.1 to pay the License fee or other payments under this Agreement; or
 - 11.3.2 repair (or, if repair is not practicable, replace) any tangible physical property intentionally or negligently damaged by the Licensee or its employees or agents.
- 11.4 Nothing in this Agreement shall exclude or limit either Party's liability for fraud, death or personal injury caused by its negligence or for any other liability which cannot be excluded or limited by applicable law.

12. INSURANCE

- 12.1 The Licensee shall secure, prior to commencing any activities under this Agreement, and maintain in place, during the License Period, with an insurance office or offices of

good reputation, the following insurances to cover the liabilities that may arise under or by virtue of this Agreement:

- (i) public liability insurance with a minimum limit of liability in respect of any one claim or series of claims arising from any one event in the sum of €6,500,000.00 (six million five hundred thousand) Euro;
- (ii) employer's liability insurance with a minimum limit of liability in respect of any one claim or series of claims arising from any one event in the sum of €13,000,000.00 (thirteen million) Euro

12.2 The Licensee shall deliver to the Licensor upon request copies of the said policies of insurance with sufficient evidence showing payment of the last premium due.

12.3 In the event that (i) a claim is filed against the Licensor for which Licensor believes, in good faith, there may be coverage under an insurance policy required by this Agreement, and (ii) Licensor has tendered such claim to the insurer that issued such policy, and (iii) such insurer has not agreed, within sixty (60) Working Days, to cover such claim, including defence and indemnity, without reservation, then the Licensor has the right to demand of Licensee, and to receive within twenty (200) Days, a copy of such insurance policy.

12.4 In addition to other remedies the Licensor may have if the Licensee fails to provide or maintain any insurance policies to the extent and within the time herein required, the Licensor may, at its sole option direct the Licensee to stop or cease operations under this Agreement until the Licensee demonstrates compliance with the requirements under this clause or terminate this Agreement. Exercise of any of the above remedies, however, is an alternative to other remedies the Licensor may have and is not the exclusive remedy for the Licensee's failure to maintain insurance.

13. Indemnity

13.1 The Licensee agrees to indemnify, defend (at Licensor's option), and hold harmless the Licensor from and against any and all actions, claims, losses, costs (including legal fees), damages, awards or liability of any kind or nature (collectively referred to hereinafter as "Claims"), arising out of or in any way connected with this Agreement, including claims, brought or threatened against the Licensor arising out of the Licensee's:

- (i) wilful or negligent acts or omissions,
- (ii) performance or failure to perform its obligations at law,
- (iii) use of the Licensed Area and the Licensee's Facilities and
- (iv) work performed by or on behalf of the Licensee, relative to this Agreement, except for those Claims which arise out of the sole negligence of the Licensor.

13.2 The obligations set forth in this indemnification provision (i) shall be in effect without regard to whether or not the Licensor and the Licensee, fails to maintain, insurance coverage for any such claims; and (ii) shall survive the termination of this Agreement.

14. Force Majeure

14.1 Upon the occurrence of an event of Force Majeure which prevents performance of all or part of the obligations of a Party (save in relation to the obligation to make payments), such obligations are suspended solely to the extent circumstances may require without that Party incurring any liability, provided that such event of Force Majeure is not caused by the negligence or an intentional act of that Party or its employees and agents.

- 14.2 The Party affected by the event of Force Majeure shall promptly notify the other Party in writing of the force majeure event as soon as reasonably possible providing details of the obligations that have been effected and the estimated extent and duration of any inability to perform its obligations and in any event within three (3) Working Days after commencement of the event which constitutes a Force Majeure.
- 14.3 The affected Party shall use all reasonable endeavours to avoid or mitigate the effects of an event of Force Majeure as and when it exists upon the performance of its obligation under this Agreement.
- 14.4 Upon the cessation of the Force Majeure, the affected Party shall as soon as reasonably possible, and in any event within two (2) Working Days notify the other Party in writing of such cessation and shall resume the performance of its obligations under this Agreement promptly.
- 14.5 If following sixty (60) Working Days from the date of notification under clause 14.2 the event of Force Majeure persists the Licensee may forthwith terminate this Agreement by service of notice in writing without any liability whatsoever.

15. Confidentiality

- 15.1 Subject to clause 15.2, each Party undertakes to the other that it will maintain and treat in confidence and use its reasonable endeavours to procure that its directors, employees and professional advisers, sub-contractors and agents maintain and treat in confidence, the other Party's Confidential Information.
- 15.2 Clause 15.1 shall not apply to any information which:
- 15.2.1 is in or comes into the public domain other than by default of the recipient Party; or
 - 15.2.2 is or has already been independently generated by the recipient Party; or
 - 15.2.3 is lawfully received by the recipient from a third Party on an unrestricted basis; or
 - 15.2.4 is in the possession of or is known by the recipient Party prior to the date of this Agreement, to the extent that such recipient Party is not bound by any existing obligation of confidentiality in respect of such information to the other Party hereto.
- 15.3 Nothing in this clause shall prohibit or restrict either Party disclosing any Confidential Information to the extent to which the same is required to be disclosed by law, regulation or pursuant to an order of a competent authority, or to a professional adviser, provided the recipient provides, in the case of disclosure by law, regulation or order, the disclosing Party with reasonable written notice prior to any such disclosure and in the case of disclosure to a professional advisor that the professional advisor undertakes to treat the Confidential Information as confidential (in terms materially the same as this clause).
- 15.4 On termination of this Agreement for whatever reason the recipient Party shall return to the disclosing Party (or, at the discretion of the disclosing Party, destroy) all copies of Confidential Information of the other Party which it has in its possession.
- 15.5 The provisions of this clause shall survive the termination or expiry of this Agreement for a period of three (3) years.

16. Dispute Resolution

- 16.1 This clause shall not be applicable to disputes arising in respect of clauses 7 (Payments By Licensee) or a material breach of this Agreement.

- 16.2 Save as provided in clause 16.1 above, each Party shall use its best endeavours to resolve any disputes arising concerning implementation, application or interpretation of this Agreement in the first instance through negotiation between the Parties through the normal contacts. This phase of the dispute resolution shall be referred to as 'Stage 1'.
- 16.3 In the event of the Parties failing to resolve the dispute at Stage 1 negotiation within ten (10) Working Days either Party shall have a right to submit the dispute for arbitration by an independent arbitrator. The arbitration shall be held in Dublin and shall be governed by the provisions of the Arbitration Act 2010. The arbitrator shall be appointed by agreement between the Parties or, in default thereof, by the President for the time being of the Law Society of Ireland or other officer endowed with the functions of such President. If the arbitrator shall relinquish his appointment or die, a substitute arbitrator may be appointed in his place in the manner hereinbefore provided.

17. Relationship of the Parties

- 17.1 This Agreement will not constitute or imply any partnership, joint venture, agency, fiduciary relationship or other relationship between the Parties other than the contractual relationship expressly provided for in this Agreement.
- 17.2 This Agreement will not constitute a Party as the agent, employee or representative of the other Party or empower a Party to act for, bind or otherwise create or assume any obligation on behalf of the other Party, and neither Party will have, nor represent that it has, any authority to make any commitments on the other Party's behalf.

18. NOTICES

- 18.1 Any notice to be given under this Agreement shall be in writing and shall be given or served by hand or by courier or by registered post or recorded delivery to the address for the receiving Party set out at the beginning of this Agreement and marked for the attention of:
- 18.1.1 in case of the Licensor as the receiving Party, the Chief Executive, with a copy marked for the attention of the Law Agent; and
- 18.1.2 in case of the Licensee as the receiving Party, the Chief Executive Officer (or equivalent).
- 18.2 If a notice is given by hand or by courier, it shall be deemed to have been received on the date of delivery provided a delivery receipt is obtained. If a notice is sent by registered post or recorded delivery, unless it is returned undelivered by An Post, it shall be deemed to have been received on the third day after the date of posting whenever and whether or not it is received.
- 18.3 In proving the giving of a notice it shall be sufficient to prove that the notice was left, or that the envelope containing the notice was properly addressed and posted to the address of the receiving Party.

19. WAIVER

The failure of either Party to enforce or to exercise at any time or for any period of time any right or remedy pursuant to this Agreement does not constitute, and shall not be construed as, a waiver of such right or remedy and shall not prevent any further exercise of right or remedy or the exercise of any other right or remedy.

20. Amendments

Any variation to the terms and conditions of this Agreement shall be recorded by memorandum in writing, executed by both Parties, which variation shall be read in conjunction with the terms and conditions of this Agreement.

21. Data Protection

- 21.1 The Licensor agrees to comply and have adequate measures in place to ensure that its staff and contractors comply at all times with the provisions and obligations contained in the Data Protection Acts, 1988 to 2018.
- 21.2 Any information and data provided by the Licensee to the Licensor and used by the Licensee directly or indirectly in the performance of this Agreement shall remain the property of the Licensee and shall only be used for the purposes of this Agreement and shall not be further processed or disclosed without the consent of the Licensee.
- 21.3 The Licensor shall take all reasonable precautions to preserve the integrity and prevent any corruption or loss, damage or destruction of the Licensee's data and information.
- 21.4 In the event of termination of this Agreement the Licensor shall when requested to do so by the Licensee erase all information and data provided by the Licensee and all copies of any part of the information and data provided by the Licensee from the Licensor's record systems.

22. Severability

If any provision of this Agreement is held by a court to be void, illegal, invalid or unenforceable, such provision will, to the extent permitted, be severed from this Agreement and rendered ineffective as far as possible without modifying the remaining provisions of this Agreement and will not in any way affect any other circumstances of or the validity or enforcement of this Agreement.

23. Counterparts

This Agreement may be executed in counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same document.

24. Entire Agreement

This Agreement contains the whole agreement between the Parties in respect of the License and supersedes and replaces any prior written or oral agreements, understandings or representations between them relating to same. The Parties confirm that they have not entered this Agreement based on any representation, undertaking or promise given or be implied from anything said or written in negotiations between the Parties prior to this Agreement except as expressly stated in this Agreement. Nothing in this Agreement excludes liability for fraud.

25. Costs

Each Party shall be responsible for all the costs and expenses incurred by it in connection with and incidental to the preparation and completion of this Agreement.

26. Governing Law

This construction, validity, and performance of this Agreement shall be governed by the Irish and shall be subject to the exclusive jurisdiction of the Irish courts to which the Parties submit.

IN WITNESS whereof this Agreement the Parties to this Agreement have executed this Agreement in the manner following and on the day and year first above **WRITTEN**.

PRESENT when the Corporate
Seal of **Dublin City Council**
was affixed hereto:

City Council Official,
Wood Quay,
Dublin 8.

Chief Executive of Dublin City Council Civic Offices,

PRESENT when the Corporate
Seal of **the Licensee**
was affixed hereto:

DATED DAY OF 20XX

DUBLIN CITY COUNCIL

And

XXXXXXX

LICENSE AGREEMENT