

THE STATE CLAIMS AGENCY

and

[INSERT NAME]

Agreement for the Provision of Legal Services to the State Claims Agency

DATED this the day of 2021

BETWEEN:

THE STATE CLAIMS AGENCY (the "SCA")

of Treasury Dock, North Wall Quay, Dublin 1, D01 A9T8 Ireland

AND

(Insert name) (hereinafter "Counsel")

of (insert address and eircode)

WHEREAS:

- A. The SCA wishes to create a number of Panels of Practising Barristers to provide Legal Services to it.
- B. Counsel is entered on the Roll of Practising Barristers maintained by the Legal Services Regulatory Authority (the "LSRA") and has the necessary skill, knowledge, expertise and experience to provide the Legal Services.
- C. The SCA, in reliance upon that skill, knowledge, expertise and experience, wishes to include Counsel on the Panel(s) referred to in Schedule B and may request Counsel, as a member of such Panel(s), to provide Legal Services in accordance with the terms and conditions of this Agreement.
- D. The SCA intends to enter into similar agreements with other Panel Barristers to provide Legal Services to the SCA.

WHEREAS IN CONSIDERATION OF THE MUTUAL AGREEMENTS HEREIN CONTAINED, IT IS AGREED AS FOLLOWS:

1. DEFINITIONS AND INTERPRETATION

- 1.1 The headings in this Agreement are inserted for convenience only and shall not affect the interpretation or construction of this Agreement.

- 1.2 Reference to any statute, enactment, order, regulation or other similar instrument shall be construed as a reference to that instrument as amended or as contained in any subsequent re-enactment.
- 1.3 Words importing the singular shall include the plural and vice versa.
- 1.4 The words and expressions below shall have the following meanings unless there is something in the subject matter or context inconsistent with such meanings:

“Agreement” means this agreement and the Schedules hereto;

“Cloud Computing” means the outsourcing of IT infrastructure and operations to remote servers on the Internet to manage, store or otherwise Process data;

“Commencement Date” means the date of this Agreement;

“Data Protection Incident” means a breach of security leading to accidental, unlawful or unauthorised; access and/or alteration and/or destruction and/or disclosure, and/or loss and/or Processing of Personal Data as transmitted, stored or otherwise Processed by either Party;

“Data Protection Legislation” means: The Data Protection Acts 1988 to 2018; the General Data Protection Regulation (Regulation (EU) 2016/679) (**“GDPR”**), the European Communities (Electronic Communications Networks & Services) (Privacy & Electronic Communications) Regulations 2011; (**ePrivacy Directive**); any relevant transposition of those laws, or successor or replacement to those laws and all other industry guidelines (whether statutory or non-statutory) or applicable codes of practice and guidance notes issued from time to time by the Data Protection Commissioner relating to the processing of Personal Data or to privacy.

Within this Agreement the terms **“Data Controller”**, **“Data Processor”**, **“Data Protection Impact Assessment”**, **“Data Subject”**, **“Personal Data”** and **“Processing”** shall have the same meanings as in the Data Protection Legislation and the terms **“Processed”** and **“Process”** shall be construed in accordance with the definition of **“Processing”**;

“Documents” means anything on which information is stored and includes paper and electronic documents, and emails;

“Fee” means the fees for provision of the Legal Services by Counsel to the SCA, as set out in Schedule A to this Agreement and shall be inclusive of outlays and net of VAT, and the term **“Fee”** shall be construed accordingly;

“Force Majeure” shall include any event beyond the reasonable control of a Party including act of God, war, riot, civil commotion, malicious damage, strike, lock-out, go slow, accident, fire, flood or storm which could not have been avoided by taking reasonable precautions;

“Instruction” means a request by the SCA and/or by the SCA’s nominated solicitors to Counsel to provide Legal Services in relation to a specific matter or case, and **“Instruct”** shall be construed accordingly;

“Intellectual Property” means all current and future legal and/or equitable interests in registered or unregistered trademarks, service marks, patents, registered designs, utility models, applications for any of the foregoing, copyrights, unauthorised extraction and/or re-utilisation rights, unregistered designs, inventions, know-how or other intellectual property rights subsisting in or relating to the Legal Services;

“Law” means any law applicable in Ireland and shall include without limitation, common law, statute, statutory instrument, bye-law created under Irish statute, Code of Practice or Code of Conduct, Rule of Court, delegated or subordinate legislation and any form of EU law applicable in Ireland including without limitation, Decisions, Regulations and Directives;

“Legal Services” means the range of professional legal services that may be requested by the SCA including but not limited to those more particularly set out in Schedule A and at Clause 5;

“Other Counsel” means any Practising Barrister excluding the Panel Barristers;

“Parties” means the parties to this Agreement, being the SCA and Counsel, and **“Party”** shall be construed accordingly;

“Panel” means the panel of Practising Barristers appointed by the SCA, including Counsel, each of whom may be requested to provide Legal Services to the SCA from time to time;

“Panel Barristers” means the Practising Barristers on the Panel, including Counsel;

“Personal Data” includes Personal data and all Special Categories of Personal data within the meaning of the Data Protection Legislation;

“Practising Barrister” has the meaning given to that term in the Legal Services Regulation Act 2015;

“SCA” includes the employees, agents, nominated solicitors and sub-contractors of the SCA;

“Sub-Processor” means a person who is under the direct authority of Counsel and is authorised in writing to process Personal Data on that Counsel’s behalf;

“Term” means the duration of this Agreement as set out in Clause 2;

“VAT” means Value Added Tax; and

“Work Product” means all output (in whatever format) created by Counsel in relation to any Legal Services, including, without limitation, as found in any records, documents, data or reports.

2. DURATION OF AGREEMENT

This Agreement will come into effect on the Commencement Date and, unless terminated earlier in accordance with the terms of this Agreement, will continue in force until the fifth anniversary of the Commencement Date.

3. PROCEDURES FOR OPERATION OF THIS AGREEMENT

- 3.1 The SCA is not obliged to instruct Counsel to provide any Legal Services.
- 3.2 Where the SCA determines, in its sole discretion, that Counsel is the most appropriate Panel Barrister for the particular Legal Service requirement, and Instructs Counsel accordingly, the terms and conditions of this Agreement shall apply as between the Parties in respect of the provision of Legal Services by Counsel to the SCA pursuant to such Instruction, except to the extent otherwise agreed between the parties.
- 3.3 Where the SCA proposes to instruct a Panel Barrister to provide Legal Services, it will determine, at its sole discretion, which Panel Barrister it considers is the most appropriate for the particular Legal Service requirement, and may have regard to the Panel Barristers' relevant experience regarding the particular case category, their level of agreed fees, the availability of the Panel Barrister, speed of response, geographical location and such other matters as it considers relevant.
- 3.4 The SCA reserves the right to instruct Other Counsel to provide Legal Services if it considers it necessary to do so in respect of particular matters, having regard to timing, availability of resources, conflicts of interest and such other criteria as it considers relevant to such matters.

4. NON-EXCLUSIVITY

- 4.1 Counsel acknowledges that the SCA may, at all times, enter into separate agreements for the provision of any or all legal services the same as or similar to the Legal Services with Panel Barristers or Other Counsel.
- 4.2 No guarantee or representation will be deemed to have been made by the SCA in respect of the value or quantity of the Legal Services which may be requested by the SCA from Counsel. Counsel acknowledges and agrees that it has not entered into this Agreement on the basis of any such guarantee or representation.
- 4.3 Nothing in this Agreement will create an exclusive relationship between the SCA and Counsel for the provision of Legal Services.

5. LEGAL SERVICES

- 5.1 This Agreement governs the overall relationship between the SCA and Counsel with respect to the provision of Legal Services by Counsel to the SCA. Any Legal Services provided by Counsel to the SCA shall be performed subject to and in accordance with the terms of this Agreement.

- 5.2 Counsel shall provide legal advice and resources as required on all aspects of clinical negligence, personal injury and property damage claims and relevant counterclaims as appropriate to the Panel to which they are appointed.
- 5.3 Counsel will be required to carry out a range of legal services on behalf of the State authorities whose claims are delegated to the SCA for management, including but not limited to the legal service items referred to in the spreadsheets attached as Schedule A to this Agreement and the services set out below and generally understood to form part of the work of Counsel.
- 5.4 In respect of Legal Services for which the Counsel has been appointed by the SCA, Counsel shall, at all times, act in good faith and exercise the level of skill and care reasonably expected of a Practising Barrister regularly undertaking Legal Services of the type required.
- 5.5 Counsel will comply with all obligations, including minimum insurance requirements, imposed by the LSRA and their Codes of Practice (including Draft Codes) for Practising Barristers, and where not inconsistent with the former, with the Code of Conduct of the Bar of Ireland, and the Professional Code of the Honorable Society of King's Inns.
- 5.6 Counsel will perform the Legal Services in reasonable time and shall be available to attend meetings with the SCA staff, clients and expert advisors at locations throughout Ireland as and when reasonably required
- 5.7 Counsel shall co-operate and liaise with such Panel Barristers and/or Other Counsel instructed by the SCA to perform legal services in respect of the same matter; and such other advisors of the SCA, in each case, as reasonably required by the SCA.
- 5.8 Counsel shall be responsible for and shall ensure that all of their employees, servants, agents and subcontractors involved in providing any Legal Services pursuant to this Agreement shall comply with the terms of this Agreement and with all lawful and reasonable requests of the SCA.

6. PAYMENT, RATES AND FEES

- 6.1 The Fees payable for any Legal Services provided by Counsel to the SCA pursuant to this Agreement (or the means for calculation of such Fees) shall be as set out in Schedule A or as otherwise agreed with the SCA and shall be inclusive of outlays and net of VAT.
- 6.2 Counsel will submit invoices for Legal Services provided to the SCA in accordance with the Fees (as set out in Schedule A or otherwise agreed) once by email directly to scaaccounts@ntma.ie or to any other email address nominated by the SCA. All invoices shall include the SCA reference number and a unique invoice identifier. Invoices should be issued within 21 days of provision of the Legal Services by Counsel.
- 6.3 All payments under this Agreement shall be subject to the Prompt Payments of Accounts Act 1997 (as amended).

7 REPRESENTATIONS AND WARRANTIES

7.1 Counsel represents and warrants to the SCA that:-

- (a) They are entered into the Roll of Practising Barristers maintained by the LSRA and save as disclosed to the SCA in writing, they are not currently the subject of, and have not been the subject of, during the three years immediately preceding the date of this Agreement, any enforcement action by the LSRA or Bar Council or Honorable Society of King's Inns;
- (b) All written information furnished by or on Counsel's behalf to the SCA in connection with or pursuant to this Agreement was true and accurate when given (and continues to be so) in all material respects and they are not aware of any material facts or circumstances that have not been disclosed to the SCA which might, if disclosed, materially and adversely affect the decision of a prudent person considering whether or not to enter into this Agreement with them;
- (c) Their tax affairs are up to date and in order;
- (d) They will inform the SCA promptly if it becomes apparent that they are unlikely to be able to provide the Legal Services to the SCA or if there is likely to be a substantial delay. In particular, Counsel will inform the SCA immediately where there is an appreciable risk that they may not be able to undertake the Instructions, especially where they have been briefed for a hearing, mediation or settlement and they must in any event tell the SCA in sufficient time to allow it to make alternative arrangements regarding legal representation;
- (e) They shall perform the Legal Services diligently and in good time and with all professional care, skill and judgement to be expected of a Practising Barrister qualified and experienced in providing services of a similar nature, legal importance and value and in so doing shall not infringe the intellectual property rights of any third party;
- (f) The Legal Services shall be performed by Counsel in compliance with all applicable laws and applicable professional conduct rules, standards and regulations;

7.2 Each of their obligations under this Agreement constitutes a legally binding obligation.

7.3 Counsel shall repeat these representations and warranties in respect of each Instruction as at the date of such Instruction.

8. INSURANCE AND INDEMNITY

8.1 Counsel shall have and maintain insurances at the minimum level required by the LSRA, the Code of Conduct of the Bar of Ireland, and the Professional Code of the Honorable Society of King's Inns and shall promptly produce proof of such insurance to the SCA at their request.

- 8.2 Counsel will indemnify the SCA from and against all direct losses, claims, demands, damages or expenses which the SCA may suffer, consequent upon the negligence, breach of contract, breach of duty, data breach, recklessness, bad faith, wilful default or fraud of Counsel and their employees, servants, agents and subcontractors, it being understood that Counsel shall not be liable for indirect, special or consequential losses and that the SCA shall take reasonable action to mitigate its losses.

9. WORK PRODUCT

- 9.1 Counsel acknowledges and agrees that ownership of the Work Product and the Intellectual Property therein will vest solely in the SCA.
- 9.2 On completion of the Legal Services or upon termination of this Agreement for any reason, Counsel shall, upon written request and to the extent not already provided to the SCA, deliver to the SCA all Work Product in a format that enables the SCA access and use same.
- 9.3 Subject always to Counsel's duties of confidentiality as set out in this Agreement, Counsel may retain:
- (a) Copy of the Work Product for the purposes of, or as required by, any law, regulation or legal process and for the purposes of their internal compliance procedures; and
 - (b) Copies of any computer records and files created pursuant to automatic archiving and back-up procedures.

10. ASSIGNMENT AND SUB-CONTRACTING

Counsel may not sub-contract or assign any element of the Legal Services without the prior consent of the SCA, which consent may be withheld at the SCA's absolute discretion. If and to the extent that the SCA consents to Counsel sub-contracting or assigning any element of the Legal Services, Counsel shall remain responsible for performance of the Legal Services (including, without limitation, any sub-contracted or assigned elements) and shall procure that any sub-contracting or assigned Other Counsel has entered into a written Agreement in similar terms as this Agreement with the SCA.

11. CONFIDENTIALITY, MEDIA COMMUNICATION, ELECTRONIC COMMUNICATIONS AND DATA STORAGE

- 11.1 Counsel agrees to take all appropriate steps to ensure that they, their employees, servants, agents and/or sub-contractors protect the confidentiality of, and keep confidential, all information and documentation coming to their attention (whether written or oral and whether disclosed to Counsel by other means whether directly or indirectly) in connection with the provision of any Legal Services. Counsel, or their employees, servants, agents and subcontractors shall not, for any reason, disclose or permit such information or documentation to be disclosed to any third party except to enable Counsel carry out their duties and obligations under this Agreement or with the prior written consent of the SCA or where required to do so as a matter of Law.

- 11.2 All communications with, and Legal Services provided to, the SCA by Counsel, their employees, servants, agents and/or subcontractors, are confidential and no comments should be made to the media or any third party without the prior express written approval of the SCA.
- 11.3 Counsel shall ensure that all documents and information relating to the provision of the Legal Services are kept securely and confidentially at all times, and all documents are disposed of by secure and confidential means or returned to the SCA for secure destruction.
- 11.4 The SCA reserves the right to publish information relating to the provision of Legal Services by Counsel, including Counsel's name, the number of instructions received, and the fees paid by the SCA to Counsel in any particular period.
- 11.5 The SCA may disclose details of the Agreement, any Instruction and any information or documentation in connection with the provision of any Legal Services, including:
- (a) If required to do so by law, or by order of a court, tribunal or other competent body;
 - (b) At the request of any Minister, Department or official of the Irish Government;
 - (c) To its internal auditor, and to the appointed auditor of the Irish State, the Comptroller and Auditor General;
 - (d) To the Strategy Committee of the SCA and/or to any board member, director, officer or employee of the National Treasury Management Agency or any of its associated agencies, including the SCA.
- 11.6 Counsel shall use commercially reasonable procedures to check for the then most commonly known viruses before sending information electronically to the SCA or to any other third person on behalf of the SCA while performing the Legal Services.

12. DATA PROTECTION

- 12.1. Counsel acknowledges and agrees that they shall only Process Personal Data to the extent required to provide Legal Services in accordance with this Agreement and solely as necessary for the performance of their obligations in the provision of the Legal Services or otherwise in accordance with documented Instructions received from the SCA from time to time;
- 12.2 Counsel acknowledges and agrees that they shall not modify, amend or alter the contents of any Personal Data;
- 12.3 Counsel acknowledges and agrees that they shall not disclose or permit the disclosure of Personal Data to any third party, including, but not limited to, Sub-Processors, unless specifically authorised to do so by the SCA;

- 12.4 Counsel acknowledges and agrees that they shall promptly comply with any request from the SCA requiring Counsel to amend, transfer or delete any Personal Data;
- 12.5 Counsel acknowledges and agrees that they shall implement appropriate technical and organisational measures required by the Data Protection Legislation, including, but not limited to:
- (a) Protect Personal Data against unauthorised or unlawful Processing and against accidental or unlawful loss, destruction, damage, alteration, or disclosure;
 - (b) Ensure that all communications containing Personal Data and/or confidential or commercially sensitive information are sent only by secure means including encryption, unless otherwise agreed in advance by the SCA or its agents;
 - (c) Only store Personal Data and/or confidential or commercially sensitive information on their main network environment or on an encrypted laptop;
 - (d) Not transfer any Documents or information or Personal Data received in connection with the Legal Services onto a USB key or any other removable storage device;
 - (e) Ensure each of their employees, servants, agents and Sub-Processors is subject to binding obligations with respect to maintaining the levels of security and protection provided for in this Agreement and Data Protection Legislation;
 - (f) Not do or permit anything to be done which might cause the SCA to be in breach of Data Protection Legislation;
 - (g) Maintain written records of all Processing of Personal Data and provide written evidence of Counsel's compliance with Data Protection Legislation as may be requested by the SCA from time to time;
 - (h) Co-operate as reasonably requested by the SCA to enable it to comply with any exercise of rights by a Data Subject under Chapter III of the GDPR in respect of Personal Data processed by Counsel under this Agreement;
 - (i) Not transfer Personal Data outside the European Economic Area, including use of Cloud Computing;
 - (j) Inform the SCA, prior to Processing the Personal Data, in the event that Counsel is required by EU or Irish law to transfer the Personal Data outside the EEA;
 - (k) Submit to an audit of all Processing activities (and related facilities) carried out pursuant to the Agreement, such audit shall be carried out by the SCA, its authorised representatives (bound by a duty of confidentiality) and/or representatives of the relevant regulatory or supervisory authority; and
 - (l) Cease Processing Personal Data immediately upon the termination or expiry of this Agreement and, as soon as possible thereafter, at the SCA's option, either delete all electronically held Personal Data, unless instructed by the SCA to return the Personal Data and any copies of it. The provisions of this sub-clause shall not apply

to the extent the Counsel is obliged by applicable law to keep copies of the Personal Data.

12.6 Counsel shall notify the SCA as soon as is reasonably practicable and in any event within twenty-four (24) hours of:

- (a) Receipt of any legally-binding request from a law enforcement agency or other competent authority (unless such disclosure is prohibited by law) for disclosure of Personal Data relating to a Data Subject, whose Personal Data is in Counsel's possession by virtue of this Agreement;
- (b) Receipt of any request directly from a Data Subject, without responding to that request, unless required by law to respond or otherwise authorised by the SCA to do so;
- (c) Receipt of any correspondence, notice or other communication whether orally or in writing from the relevant data protection regulator or any other regulator or person, relating to Personal Data which is subject to this Agreement; or
- (d) Becoming aware of a potential breach of this Clause 12 or any other obligation specified by the Data Protection Legislation.

12.7 Without prejudice to any other provision of the Agreement, the SCA may, on reasonable notice, request a detailed written description of:

- (a) The technical and organisational methods employed by Counsel and its Sub-Processors (if any) for the Processing of Personal Data; and/or
- (b) The Processing activities carried out by Counsel on behalf of the SCA, containing at minimum the amount of detail as required by Article 30(2) of the GDPR. Within ten (10) days of receipt by Counsel of the SCA's written request (which shall include a detailed description of the SCA's requirements), Counsel shall deliver a written report to the SCA in sufficient detail to enable the SCA to reasonably determine whether or not any applicable Personal Data is being or has been Processed in compliance with the Data Protection Legislation and this Agreement.

12.8 Without prejudice to the other provisions of this Agreement, if Counsel becomes aware of any **Data Protection Incident ("DPI")**, Counsel shall, promptly and without delay, (but in any event within twenty-four (24) hours of discovery) notify the SCA by telephone and by email. Counsel shall, at no additional cost to the SCA, provide it with all resources, assistance and cooperation, and, take all reasonable steps as are required or requested by the SCA to enable them comply with any notification or other obligations under the Data Protection Legislation and with the SCA internal investigation and resolution procedures.

12.9 Counsel shall, at no additional cost to the SCA, provide it with all resources and assistance as are required to discharge its duties pursuant to Articles 32 to 36 GDPR including, but not limited to, promptly at its request, providing information in respect of any Data Protection Impact Assessment which it conducts.

12.10 Counsel may only authorise their administrative assistant and nominated devil as a Sub-Processor to Process the Personal Data for or on behalf of the SCA with its prior consent and provided that:

- (a) The Sub-Processor's contract is on terms which are substantially the same as those set out in this Clause and Agreement;
- (b) The Sub-Processor will be subject to the same obligations as those to which Counsel is subject to under this Agreement; and
- (c) Save and except where the Sub-Processor has executed a separate agreement with the SCA in its own right, the Sub-Processor's contract terminates automatically on termination of this Agreement.

12.11 Where Counsel appoints or otherwise uses the services of a Sub-Processor, Counsel shall be fully liable to the SCA for the performance, acts and omissions of such Sub-Processor.

12.12 The Parties agree that if one Party is held liable for a violation of the Data Protection Legislation committed by the other Party, the latter will, to the extent to which it is liable, pay full compensation for damages suffered. Iteration of the liabilities contemplated as set out in articles 82, 83 and 84 of the GDPR are hereby incorporated. Nothing in this Agreement is intended to constitute or shall be deemed to constitute a waiver of any of the rights or remedies available to the Parties, whether at law or in equity, all of which are hereby reserved.

13. CONFLICTS OF INTEREST

13.1 Counsel confirms that all actual or potential conflicts of interest (whether legal, non-legal, commercial or otherwise, in each case perceived or actual) will be disclosed in full prior to accepting an Instruction and/or undertaking Legal Services. The SCA, at their sole discretion, will decide on a case by case basis the appropriate course of action after such disclosure.

13.2 Counsel confirms that they will disclose in full to the SCA within forty-eight hours of it coming to their attention all actual or potential conflicts of interest (whether legal, non-legal, commercial or other interests, in each case perceived or actual) which they or any of their employees, servants, agents or subcontractors may have in performing any Legal Services. The SCA, at their sole discretion, will decide on a case by case basis on the appropriate course of action after disclosure.

14. TAX CLEARANCE

Counsel must, if requested, provide the SCA with evidence of tax clearance by the Irish Revenue Commissioners, including (where applicable) tax reference number and Tax Clearance Access Number to facilitate electronic verification of tax clearance status. By providing information for electronic verification, Counsel grants permission to the SCA to use such information in order to verify the Counsel's tax clearance status. The SCA shall not be obliged to pay Counsel for Legal Services unless at the time for payment the SCA has received current and valid evidence required under this Clause.

15. GOVERNING LAW AND JURISDICTION

- 15.1 This Agreement shall be governed by and construed in accordance with the laws of Ireland. Each of the parties hereto submits to the exclusive jurisdiction of the Courts of Ireland.
- 15.2 The parties agree to enter into mediation to settle any dispute arising in connection with this Agreement. Unless the mediator is agreed between the parties within 21 days of the invocation of this clause, they shall be nominated by the President of the Law Society of Ireland at the request of either party.

16. TERMINATION

- 16.1 Either party may terminate this Agreement without cause at any time by giving notice in writing to the other party to take effect on the date notified by the terminating party that is at least 30 (thirty) days after the date of the notice.
- 16.2 The SCA may terminate any Instructions without cause at any time by notice in writing to the Counsel to take effect on the date notified by the SCA.
- 16.3 The provisions of this Clause 16 (Termination) shall be without prejudice to any other rights or remedies which the SCA may have under this Agreement or at law.
- 16.4 The SCA may, without prejudice to any other right or remedy, terminate this Agreement and/or any Instructions upon serving written notice to the Counsel to take effect on the day of its service or upon such other date as may be specified in such notice if in the opinion of the SCA:-
- (a) Counsel fails to perform any element of the Legal Services to the SCA's satisfaction, or conducts themselves in a manner which SCA considers to be incompatible with the performance of the Legal Services;
 - (b) Counsel fails to comply with any material obligation of this Agreement and/or any Instructions;
 - (c) Any of the representations and warranties made or deemed to be made by Counsel are untrue in any respect;
 - (d) Counsel becomes bankrupt or makes any composition or arrangement for the benefit of its creditors or any application is made under the Bankruptcy Acts 1988 to 2015; and
 - (e) Counsel is found guilty by a competent authority of any fraudulent act or criminal activity, or has been grossly negligent in performing their obligations under this Agreement and/or any Instructions.
- 16.5 On termination of this Agreement and/or any Instructions by the SCA for any reason:
- (a) Counsel shall cease performing all Legal Services (except as instructed in writing by the SCA in the notice terminating the Agreement or the Instructions);

- (b) The SCA may complete the Legal Services (or part thereof) itself, or employ others to do so, and may use or make available to others the Work Product prepared by Counsel; and
- (c) Counsel shall be entitled to payment for such Legal Services properly completed in accordance with this Agreement up to the date of termination. Such payments for Legal Services duly performed shall be the only payment to which the Counsel shall be entitled.

16.6 The SCA shall not be liable to Counsel for any losses suffered or incurred by Counsel arising out of or in connection with this Agreement or Instructions issued to Counsel pursuant to this Agreement or termination of this Agreement or any Instructions.

16.7 Where Counsel is called to the Inner Bar during the Term, Counsel must submit to the SCA their proposed fees for consideration and it is a matter for determination by the SCA, at its sole discretion, whether Counsel may be admitted to the relevant Panel for Senior Counsel.

17. SEVERANCE

Each of the provisions of this Agreement is severable and distinct from the others and if, at any time, one or more of such provisions becomes invalid, illegal or unenforceable, the validity and legality or enforceability of the remaining provisions will not in any way be affected or impaired thereby.

18. FORCE MAJEURE

18.1 A party affected by Force Majeure (the “affected party”) shall notify the other party promptly in writing of the nature and extent of the circumstances in question. Both parties shall consult each other and make every reasonable effort to mitigate the effect of such Force Majeure in relation to their obligations under the Agreement.

18.2 Neither party will be liable to the other nor deemed in default under this Agreement if and to the extent that such party’s performance is prevented by reason of Force Majeure.

18.3 The Force Majeure shall be deemed to (i) commence when the party declaring Force Majeure notifies the other party of its existence, and (ii) continue as long as the results or effects of the Force Majeure prevent the party performing its obligations under the Agreement. If either party is delayed at any time by Force Majeure, then the delayed party shall notify the other party in writing of such delay within 48 hours.

18.4 The affected party shall notify the other party immediately in writing once the Force Majeure has ended and shall forthwith resume performing its obligations.

18.5 If a Force Majeure continues for more than six months, such that the performance of Legal Services becomes impossible, either party may terminate the Agreement by giving notice in writing to the other party. Such termination shall be without prejudice to either party’s accrued rights at the date of termination.

18.6 Notwithstanding any other provisions pertaining to the performance of Services, the affected party shall be deemed not to be in breach of this Agreement or otherwise liable to the other

party for any delay in performing or not performing its obligations as a result of a Force Majeure, and provided the affected party has notified the other party in accordance with Clause 18.1, the time for performing the affected obligation shall be extended appropriately.

19. WAIVER

No right or remedy given to the SCA under or pursuant to any provision of this Agreement will, whether or not exercised and notwithstanding any additional waiver, preclude the exercise by the SCA of any other right or remedy hereunder, nor will it preclude the exercise by the SCA of any right or remedy to which it might be otherwise entitled under common law or under statute.

20. VARIATIONS

Variation of this Agreement is valid only if in writing and signed by an authorised representative of each Party.

21. FREEDOM OF INFORMATION

The SCA is subject to the provisions of the Freedom of Information Act 2014. Where required by law, the SCA will consult with Counsel before making a decision on a request received but the statutory requirements of the Freedom of Information Act 2014 will take precedence over any designation of information advised.

22. NOTICES

22.1 Unless otherwise specified, any notice to be given by the SCA to Counsel under this Agreement may be sent by secure email delivery to [insert email address] or by hand or by registered post to [insert address with Eircode] (or to such other address as Counsel may notify to the SCA, in writing, from time to time).

22.2 Any notice to be given by Counsel to the SCA may be sent by secure email delivery to stateclaims@ntma.ie or by hand or by registered post to: The Director, State Claims Agency, Treasury Dock, North Wall Quay, Dublin 1, D01 A9T8 (or to such other address as the SCA may notify to Counsel, in writing, from time to time).

22.3 Any notice given or delivered by the parties under this Agreement will be effective only:

- (a) If by way of email, when received in legible form during normal business hours;
- (b) If by way of hand, when it has been left at the relevant address in an envelope addressed to the relevant recipient at that address; and
- (c) If by way of registered post, three business days after being deposited in the registered post in an envelope addressed to the relevant recipient at that address.

23. PERFORMANCE AND INSPECTION

23.1 The SCA, or any person acting on its behalf, may inspect and review the performance by Counsel of the Legal Services and/or arrange for an independent party to do so.

23.2 If, as a result, of any such inspection or review, the SCA is reasonably of the opinion that the particular Legal Services are or were not being performed in accordance with this Agreement, the SCA may so inform Counsel in writing. Counsel shall immediately take such steps as may be necessary to comply with its obligations within the period stipulated by the SCA. Any notification under this clause shall not constitute a waiver of any term or condition of this Agreement and shall be without prejudice to any of the SCA's rights under this Agreement or otherwise.

24. GENERAL

This Agreement supersedes any previous agreements between the SCA and Counsel relating to the Legal Services.

25. COUNTERPARTS

This Agreement may be executed in two counterparts, each of which when executed shall be deemed to be an original and each of the counterparts taken together shall constitute one and the same agreement.

IN WITNESS whereof this document has been executed on the date which appears on page 1 above.

Signed for and on behalf of the State Claims Agency

Authorised Signatory

Authorised Signatory

Signed by Counsel

SCHEDULE A

LEGAL SERVICES and FEES

INSERT RELEVANT GIS and/or CIS PART B EXCEL SPREADSHEET(S) TO INCLUDE ALL FIXED FEE ITEMS,
ALL FEES TENDERED AND ALL NOTES ON SPREADSHEETS.

DRAFT

SCHEDULE B

COUNSEL NAME SC/BL		
REGION	PANEL NUMBER	SCHEME
<i>For example</i> Dublin and Provincial	1	CIS

DRAFT

THE STATE CLAIMS AGENCY

and

[COUNSEL NAME]

Agreement for the Provision of Legal Services to the State Claims Agency

DRAFT

STATE CLAIMS AGENCY
TREASURY DOCK
NORTH WALL QUAY
DUBLIN 1

[INSERT DATE/REF]