

REQUIREMENTS FOR AGENTS, SUPPLERS, CONTRACTORS, ADVISORS AND OTHER THIRD PARTIES ARISING IN CONNECTION WITH ESB POLICIES

SECTION 1 – SCOPE AND DEFINITIONS

1.1 For the purpose of the following requirements:

“**ESB**” means Electricity Supply Board and all of its subsidiary companies;

“**Laws**” means all statutes, statutory instruments, regulations, bye-laws, rules and orders made under any statute or directive having the force of law which impose obligations on Third Parties in all jurisdictions in which goods and/or Services are provided, manufactured and/or assembled by such Third Parties to or on behalf of ESB;

“**Requirements**” means the requirements for Third Parties as set out in this document; and

“**Third Party**” means (a) a sales agent, vendor, contractor, representative, advisor and other third party acting on behalf of any ESB company and (b) a contractor or supplier of goods, works and / or services (collectively “**Services**”), to any ESB company and “**Third Parties**” shall be construed accordingly.

“**ESB Personnel**” means employees, officers and directors of ESB.

“**Government Official**” means:

- (i) any officer or employee of any state, provincial, county or municipal government or government department or agency;
- (ii) any officer or employee of any commercial enterprise that is owned or controlled by a government;
- (iii) any officer or employee of any public international organization, such as the International Monetary Fund, the European Union and the World Bank; or
- (iv) any person acting in an official capacity for any government, agency, enterprise, or organization, identified above.

“**Restricted Party**” means a person that is:

- (i) listed on, or owned or controlled by a person listed on, or acting on behalf of a person listed on, any Sanctions List; located in, incorporated under the laws of, or owned or (directly or indirectly) controlled by, or acting on behalf of, a person located in or organized under the laws of a country or territory that is the target of country-wide or territory-wide Sanction(s); or
- (ii) otherwise a target of a Sanction (“target of Sanctions” signifying a person with whom a US person or other national of a Sanctions Authority would be prohibited or restricted by law from engaging in trade, business or other activities).

“**Sanction**” means an economic sanctions law, regulation, embargo or restrictive measure administered, enacted or enforced by a Sanctions Authority.

“**Sanctions Authority**” means any of

- (i) the United States;
- (ii) the United Nations;
- (iii) the European Union;
- (iv) the United Kingdom of Great Britain and Northern Ireland; and

- (v) the respective governmental institutions and agencies of any of the foregoing, including, without limitation, the Office of Foreign Assets Control of the US Department of Treasury (“OFAC”), the United States Department of State, and Her Majesty’s Treasury (“HMT”).

“**Sanctions List**” means the “Specially Designated Nationals and Blocked Persons” list maintained by OFAC within its “the Consolidated Sanctions List”, the Consolidated List of Financial Sanctions Targets maintained by HMT or any similar list maintained by, or public announcement of Sanctions designation made by, any of the Sanctions Authorities, each as amended, supplemented or substituted from time to time.

“**Third Party Personnel**” means all persons (including sub-contractors of all tiers and their employees) employed or otherwise engaged by a Third Party in the provision of goods and/or Services to or on behalf of ESB.

SECTION 2 – ESB CODE OF ETHICS

- 2.1 It is the policy of ESB to conduct all of its business in an honest and ethical manner. All Third Parties doing business with ESB shall conduct themselves at all times in accordance with the principles enshrined in ESB’s *Employee Code of Ethics* set out at <http://www.esb.ie/main/about-esb/code-of-ethics.jsp>

SECTION 3 - ANTI BRIBERY AND CORRUPTION

- 3.1 ESB’s *Employee Code of Ethics* and its *Policy on Fraud and other Unlawful Activities* prohibits bribes, inducements or facilitation payments by ESB Personnel and by Third Parties. Requirements for Third Parties arising in connection with this code and policy are as follows:

- 3.2 General Anti-Corruption Requirements: It is the policy of ESB that all Third Parties comply at all times with applicable anti-corruption laws, including (to the extent applicable) the Criminal Justice (Corruption Offences) Act 2018 (in Ireland), and the UK Bribery Act 2010 (in the UK). Notwithstanding the generality of the foregoing, Third Parties shall not:

- (i) offer, pay, promise or authorize any bribe, inducement, facilitation payment or benefit of any kind to, or
- (ii) accept any bribe, inducement, facilitation payment or benefit of any kind from,

ESB Personnel or any person or entity that has any business relationship with ESB.

- 3.3 Bribery of Government Officials Strictly Prohibited: It is the policy of ESB that Third Parties shall not make any payment, authorize, offer to pay or give anything of value to any Government Official to obtain or retain business, direct business to any person or gain any other improper commercial advantage. Examples of prohibited actions include:

- (i) Payment or offer of payment to influence a Government Official’s decision to award a contract or other business opportunity to ESB.
- (ii) Payment or offer of payment to influence a Government Official’s decision to issue any government authorization or documentation, such as any approval, permit or license;
- (iii) Payment or offer of payment to influence a Government Official’s decision to relieve ESB of otherwise required government obligations, such as paying taxes, passing inspections or obtaining required permits;
- (iv) Payment or offer of payment to a Government Official to influence legislation or any judicial proceedings;
- (v) Any of the above made indirectly.

- 3.4 Gifts, Hospitality and Entertainment: Gifts, hospitality and entertainment shall not be given, directly or indirectly, to Government Officials to improperly influence or reward an official act or decision or as an actual or intended *quid pro quo* for any benefit to ESB. No payment or promise of payment for gifts, hospitality, or entertainment to any Government Official may be made by any Third Party on behalf of any ESB company unless such payment or promise has been approved by ESB.
- 3.5 Accurate Books and Records: It is the policy of ESB that Third Parties shall keep accurate books and records, in reasonable detail, with respect to (a) all transactions carried out by such Third Parties that are related in any way to ESB, (b) all work performed for or on behalf of ESB, and (c) all payments made for or on behalf of ESB.

SECTION 4 – LAWS AND EMPLOYMENT STANDARDS

4.1 Third Parties shall:

- (i) at all times comply with all Laws. Without prejudice to the generality of the foregoing, Third Parties shall at all times comply with Laws:
 - (a) which impose obligations on Third Parties in relation to Third Party Personnel, including but not limited to obligations in respect of rates of pay and other terms and/or conditions of employment, obligations relating to the deduction and/or payment of employment related taxes, obligations in respect of work permits and/or work visas, and laws relating to the use of child, forced or compulsory labour, health and safety in the workplace, non-discrimination, working hours and freedom of association; and
 - (b) pay rates of pay and observe conditions of employment which are not lower than those established for Third Party Personnel engaged in the trade or industry of the Third Party where the Services are carried out, which shall include compliance with all collective, national, and/or trade association agreement(s) which establish terms and conditions of employment for Third Party Personnel (including minimum rates of pay) engaged in the provision of Services for or on behalf of ESB on ESB or third party premises (in either case a “Site”);
- (ii) not engage in any activity, practice or conduct which would constitute,
 - (a) (in Ireland) a revenue offence of facilitating the fraudulent evasion of tax under section 1078(1A)(c)(ii) of the Taxes Consolidation Act 1997, and/or
 - (b) (in the United Kingdom) either (a) a UK tax evasion facilitation offence under section 45(5) of the Criminal Finances Act 2017; or (b) a foreign (non UK) tax evasion facilitation offence under section 46(6) of the Criminal Finances Act 2017.
- (iii) establish, maintain and enforce its own policies and procedures as are both reasonable to prevent the facilitation of tax evasion by another person and to ensure compliance with clause 4.1(ii).

4.2 While engaged in the provision of Services for or on behalf of ESB on a Site, Third Party Personnel shall conduct themselves in accordance with the principles set out in ESB’s Respect and Dignity at Work Policy, a copy of which will be provided on request. Third Parties acknowledge and agree that behavior by Third Party Personnel in breach of this provision shall be grounds for immediate removal of the person(s) involved from any Site.

SECTION 5 – ANTI-SLAVERY AND HUMAN TRAFFICKING

5.1 ESB has a zero-tolerance approach to modern slavery and human trafficking, is committed to acting ethically and with integrity in all of its business dealings and relationships and to implementing and enforcing effective systems and controls to ensure that no forms of modern slavery or human trafficking are taking place anywhere in ESB's own business or in any of its supply chains.

5.2 Third Parties shall:

- (i) comply at all times with anti-slavery and anti-human trafficking laws to the full extent applicable to their business operations and conduct themselves at all times in accordance with the principles enshrined in the ESB *Policy on Modern Slavery*, available on the ESB website (www.esb.ie); and
- (ii) provide ESB with such supporting evidence of compliance as ESB may reasonably request.

SECTION 6 – SANCTIONS

6.1 Each Third Party warrants that neither it nor any affiliate, nor any of their respective directors, officers, employees or any persons acting on any of their behalf:

- (i) is a Restricted Party;
- (ii) is in breach of any Sanction(s); or
- (iii) has received notice of or is otherwise aware of any claim, action, suit, proceeding or investigation against it with respect to Sanction(s) by any Sanctions Authority.

6.2 Each Third shall notify ESB immediately in the event that it or any affiliate:

- (i) becomes a Restricted Party;
- (ii) is at any time in breach of any Sanction(s); or
- (iii) at any time receives notice of, or otherwise becomes aware of, any claim, action, suit, proceeding or investigation against it with respect to Sanction(s) by any Sanctions Authority.

6.3 Without prejudice to Section 7, ESB shall, at its discretion, have the right, upon written notice to a Third Party, to terminate its agreement(s) with that Third Party if that Third Party or any affiliate thereof:

is or becomes a Restricted Party; or
is in breach of any Sanction(s); or
receives a notice of or otherwise becomes aware of any claim, action, suit, proceeding or investigation against it with respect to Sanction(s) by any Sanctions Authority.

SECTION 7 - GENERAL

7.1 Subcontracting: As a condition of any permitted subcontracting of the provision of goods and/or Services provided by a Third Party to any sub-contractor(s), Third Parties shall obtain the agreement in writing of such sub-contractor(s) to comply with the terms of these Requirements. Notwithstanding the foregoing, any act or omission by any such subcontractor(s) in breach of the terms of these Requirements shall be deemed a breach by the applicable Third Party for the purposes of section 7.6 below.

7.2 Reporting Violations: Except to the extent explicitly prohibited by applicable law, Third Parties are required to report violations of the foregoing Requirements, including applicable bribery and anti-corruption laws, and/or any requests for payments, gifts or other benefits by Government Officials, violations of anti-slavery / human trafficking laws and/or the ESB *Policy on Modern Slavery* to the

ESB Company Secretary, ESB, Two Gateway, East Wall Road, Dublin 3, Ireland or by email to cosec@esb.ie.

- 7.3 **Audit /Investigation:** ESB may take any remedy available at law where a Third Party violates any part of these Requirements. If ESB has reasonable grounds to believe that a Third Party has been engaged in any activity in violation of these Requirements, ESB reserves the right to carry out an audit / investigation of the Third Party, and/or suspend the payment of payment(s) to the Third Party, until ESB has conclusively and satisfactorily confirmed that there has been no such infringement. Furthermore, in the event that a Third Party engages in any unlawful act or practice in connection with the subject matter of these Requirements and/ or acts in violation of these Requirements ESB shall (notwithstanding any other rights conferred by law or under these Requirements) have the right to terminate its agreement with such Third Party.
- 7.4 **Co-Operation:** Third Parties shall co-operate fully with ESB and/or its appointed agent in auditing compliance by them (and/or their sub-contractors) with these Requirements. In all such audits, the onus shall be on the Third Party to demonstrate compliance with these Requirements and applicable legislation.
- 7.5 **Records:** For the term for which Third Parties provide goods and/or Services to or on behalf of ESB and for twenty-four (24) months thereafter Third Parties shall maintain full records of salaries and wages (and deductions therefrom) paid to Third Party Personnel and shall, upon request (and subject to compliance with applicable data protection laws), make copies of all such records available to ESB or its agent. Third Parties shall, to the extent required under applicable law, obtain all necessary consents from Third Party Personnel to facilitate compliance by such Third Parties with the obligations set out in this section 7.5.
- 7.6 **Penalties and Remedies:** In the event of any breach by a Third Party of these Requirements, ESB shall be entitled at its sole discretion to:
- (i) direct the applicable Third Party to promptly expel from any Site any sub-contractor and/or Third Party Personnel found to be in breach of any of the above provisions. Any such person shall not be allowed access to the Site until ESB is reasonably satisfied that the breach has been remedied and shall not reoccur; and/or
 - (ii) refuse to permit any such sub-contractor and/or Third Party Personnel from taking any further part in the provision of goods and/or Services for or on behalf of ESB; and/or
 - (iii) withhold payments due to the Third Party pending the resolution of any investigation into any alleged non compliance with these Requirements; and/or
 - (iv) terminate ESB's agreement(s) with the applicable Third Party with immediate effect and without any compensation payable to the Third Party (other than agreed payment for goods or Services already provided up to the date of such termination).
- 6.7 In addition to the remedies provided for in section 7.6 above, in the event of ESB forming the view that a Third Party (or any of its sub-contractors) are in breach of any of these Requirements, ESB shall be entitled to inform, and disclose all relevant information in its possession to, the competent authorities in any jurisdiction in which such breach is believed to be occurring.
- 6.8 In all cases the costs of compliance with the obligations set out in these Requirements shall be borne by the Third Party. Notwithstanding any provision to the contrary in any agreement between ESB and a Third Party, each such Third Party shall indemnify and keep indemnified ESB against any and all costs, losses, penalties, expenses (including without limitation legal costs), claims, actions, damages, liabilities, demands and proceedings which may be incurred by ESB arising out of any breach by that Third Party of these Requirements.



6.9 Further Information. Any questions about these Requirements should be directed to your ESB contact or a representative of the ESB legal department.