

Appendix 5

DATED

SERVICES FRAMEWORK AGREEMENT

BETWEEN

COMMISSION FOR REGULATION OF UTILITIES

AND

[INSERT]

IN RELATION TO

ICT MANAGED SERVICES

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THIS AGREEMENT is made on _____ 20__

BETWEEN:

- (1) **COMMISSION FOR REGULATION OF UTILITIES**, a body corporate established in accordance with the Electricity Regulation Act 1999 and having its offices at The Exchange, Belgard Square North, Tallaght, Dublin ("**CRU**" which expression includes its successors and permitted assigns and anybody to whom its functions are transferred under Applicable Law) of the one part; and
- (2) **INSERT**, a company established under [Irish] law with company registration number [insert] and its registered address at [insert] ("**Service Provider**" which expression includes its successors and permitted assigns) of the second part,

(individually called a "**Party**" and collectively called the "**Parties**").

RECITALS:

- A. CRU issued an RFT to interested parties inviting tenders for appointment to a single provider Framework in respect of the Services under which CRU may purchase Services and Deliverables in accordance with an SOW.
- B. The Service Provider submitted a Tender in response to the RFT.
- C. The Service Provider is an expert in the provision of services of a similar scope, nature, scale, complexity and importance to the contemplated Services and Deliverables.
- D. In reliance on the Service Provider's expertise and statements, representations and warranties in its Tender, CRU wishes to appoint the Service Provider to the Framework.
- E. The Framework Agreement provides for the appointment of the Service Provider to the Framework and sets out the terms upon which CRU may issue SOWs for the Services and Deliverables and upon which the Service Provider will provide the Services and Deliverables under a particular SOW to CRU.

NOW IT IS AGREED BY EACH PARTY AS FOLLOWS IN CONSIDERATION OF EACH OF THEIR RIGHTS AND OBLIGATIONS:

PART 1 – INTERPRETATION AND CONFIRMATIONS

1. DEFINITIONS AND INTERPRETATION

1.1 In this Agreement the following terms have the meaning given to them below:

1. In this Schedule:

“Acceptance Tests”	means the acceptance tests which are to be conducted, pursuant to this Agreement and, in particular, Clause 12 in respect of the Deliverables, Phase, Services or anything else (and includes, where the context so admits or requires, any one or more of them) and any cognate phrases are construed accordingly.
“Accepted”	means when CRU has confirmed in writing that the relevant Acceptance Test has been passed in accordance with Clause 12 and cognate phrases are construed accordingly.
“Agreement”	means, as the context admits or requires, the Framework Agreement or (as provided for in Clause 7) the relevant SOW.
“Applicable Law”	means any law applicable in the State and includes without limitation, common law, statute, statutory, instrument, proclamation, bye-law, directive, decision, regulation, rule, order, notice, code of practice, code of conduct, rule of court, instruments, or delegated or subordinate legislation.
“Approved Subcontractors”	means subcontractors approved in writing by CRU from time to time.
“Background IP”	means all Intellectual Property that is owned by or licensed to the Service Provider and which is or has been developed independently of, and not for the purposes of, this Agreement, the Services and the Deliverables (whether prior to, on or after the Effective Date) but which excludes Software Products.
“Back-Up Data”	the copying, replication and back-up, at such frequencies as specified by CRU (from time to time) and in the absence of such being specified by CRU, at such frequencies as align with Best Industry Practice, of all programmes, Data (whether personal or not) and information available or stored on CRU’s servers and network at the point in time at which the most recent back-up snap shot is taken.
“Best Industry Practice”	means, at any and all times, the exercise of that degree of skill, diligence, prudence, professionalism, care, attention, understanding and foresight which would reasonably be expected from a leading expert (complying with its contractual obligations and Applicable Laws) in the provision of services, works, duties, deliverables, functions, responsibilities and activities of a similar scope, nature, scale, complexity and importance to the Services and Deliverables or the relevant part of them.
“CRU’s System”	means any of CRU’s (or any of its agents’, representatives’, contractors’ or subcontractors’) communications and/or information technology infrastructure, handheld devices, software, hardware, systems, networks, databases, links, programs and/or equipment (and includes, as the context admits or requires, any part or parts of them).
“Change”	means a change to the Service Requirements, Specification, Fees, Deliverables and/or Services.
“Change Control Note”	means the written record of a Change agreed or to be agreed by the Parties pursuant to the Change Control Procedure;

“Change Control Procedure”	means the change control procedure referred to in Clause 27 and set out in Schedule 5 Part 2.
“Confidential Information”	includes, without limitation, all information about the organisation, affairs, plans, transactions, proposals, projections, strategies, finance, prices, know how, methodologies, costs, operations, accounts, strategic plan, operational processes, data systems, Intellectual Property, or activities of CRU and/or the Services, Deliverables, the Framework Agreement, SOWs, the Service Requirement, Specification, the Fees or any other information acquired by the Service Provider (whether before or after the Effective Date) as a result of or in anticipation of or in connection with this Agreement or any other information which the Service Provider ought to reasonably regard as confidential or which is marked or designated by CRU as confidential.
“Conflict of Interest”	has the meaning given to it in Schedule 4 Part 5.
“Data”	means all information, including Confidential Information, whether in oral or written (including electronic) form, created by or in any way originating with the CRU (including but not limited to his employees, agents, independent contractors and/or Sub-contractors) and all information that is the output of any computer processing, or other electronic manipulation of any information that was created by or in any way originating with the CRU provided under this Agreement (including Back-Up Data).
“Data Protection Legislation”	means all data protection, security and privacy laws and regulations applicable in Ireland, including the Data Protection Acts 1988 to 2018, the General Data Protection Regulation (GDPR), S.I. No. 336/2011 – European Communities (Electronic Communications Networks and Services) (Privacy and Electronic Communications) Regulations 2011 and any other data protection and/or privacy legislation which may applicable to the processing of Personal Data and any codes of conduct or practice, guidance or practice notes, opinions and regulations issued by the European Data Protection Board or the Data Protection Commission or any other supervisory authority for data protection in Ireland.
“Default”	means a breach or default by the Service Provider of its obligations under this Agreement and/or any negligent act or omission of the Service Provider and/or the Service Provider Personnel.
“Default Event”	has the meaning given to it in Clauses 31.6 and 31.7 (Termination).
“Delay”	means a delay in the successful achievement of a Milestone.
“Deliverables”	means the items and deliverables to be delivered to CRU and/or tasks to be achieved by the Service Provider under the SOW concerned as more particularly identified in the Project Plan, the Service Requirement, Specification and/or the Tender (and includes, as the context admits or requires any one, more or all of them or part of any of them).

“Developed Software”	means the items of bespoke computer software developed (at any time before, on or after the Effective Date) by or on behalf of the Service Provider as part of or in connection with the Services for CRU in accordance with this Agreement.
“Disaster”	means an unplanned interruption of, or inaccessibility to, or inability to use, a part or all of the Facilities of CRU.
“Dispute”	means any disputes, differences of opinion, matters and/or disagreements arising out of, in connection with or relating to this Agreement and/or its performance in any way.
“Dispute Resolution Procedure”	means the dispute resolution procedure set out in Schedule 5 Part 1.
“Effective Date”	means the date on which both Parties have executed this Agreement.
“Exit Plan”	means a plan covering Exit Services which is to be maintained in draft form by the Service Provider and approved by CRU and which, upon or in anticipation of the Exit Services, shall be agreed between and implemented by the Parties upon the request of CRU in accordance with Schedule 9.
“Exit Services”	means the services, works, functions and activities and any other obligations to be performed and delivered by or on behalf of the Service Provider under Clause 32, the Exit Plan and/or in accordance with Schedule 9 (Exit).
“Expected Service Levels”	has the meaning given to it in Schedule 8.
“Facilities”	include space, desks, disks, equipment, communications, internet access, bandwidth, links, infrastructure, systems, power, hardware, information technology, software and other resources and facilities.
“Fees”	means the fees payable by CRU to the Service Provider as determined in accordance with Clause 33 (Fees) and Schedule 4.
“Force Majeure Event”	means the occurrence of any matter beyond a Party’s reasonable control the effects of which could not have been prevented by the Party concerned taking due care and/or steps reasonably open to it but which excludes labour disputes concerning the Service Provider’s or Service Provider Personnel.
“Framework”	means the single-provider Framework in respect of the Services and Deliverables.
“Framework Agreement”	means the contract between CRU and the Service Provider that provides for the establishment of the Framework and which includes the Clauses, recitals to, and Schedules of, this agreement (which incorporate by reference the ITT and Tender).
“Framework Member”	means the Service Provider.
“Framework Rules”	means the Framework Rules as set out in Schedule 2.
“ICT Manager”	means CRU’s ICT manager from time to time, as identified by CRU to the Service Provider.

"Insolvent"	means if a Party is bankrupt, has a petition presented for its winding up, has a liquidator appointed to it or has a receiver or an examiner appointed to it or over part or all of its assets or enters into a composition with its creditors (save for the purposes of a bona fide reconstruction or amalgamation on terms approved in advance by CRU), and/or the Party is unable to pay its debts as they fall due within the meaning of section 570 of the Companies Act 2014 (or any event similar to the foregoing occurs in any other jurisdiction);
"Intellectual Property" or "IP"	includes, without limitation, copyrights, discoveries, concepts, domain names, patents, secret processes, database rights, technologies, trade secrets (including know how), inventions, ideas, improvements, information, all copyright works, business methods, logos, designs, trademarks, service marks, topography and semi-conductor chip rights, business names, literary, dramatic, musical and artistic works anywhere in the world (whether any of the foregoing is registered or unregistered and including any application in relation to any of the aforesaid) which exist now or come into existence in the future in any part of the world;
"Key Personnel"	means: (i) the Tendered Personnel (unless agreed otherwise by CRU in writing); and (ii) Supplemental Personnel for the SOW concerned; and (iii) anyone else identified in the SOW concerned under "Key Personnel".
"Liabilities"	means all costs, judgments, claims, decrees, prosecutions, orders, demands, damages, expenses, compensation, charges, settlements, penalties, losses, fines, awards, proceedings, demands and liabilities (including any liability to tax) and expenses (including reasonable legal expenses and other professional fees and expenses and all costs associated with any settlement entered into by CRU) whatever.
"Milestone or Milestone Date"	means the periods, dates and deadlines by which particular work or tasks or the provisions of the Services or particular Deliverables or obligations of the Service Provider are required to be performed, delivered, completed or Accepted as set out in the Project Plan (and includes, as the context admits or requires, any one, more or all of them).
"Minimum Service Levels"	has the meaning given to it in Schedule 8.
"Operating Manuals"	means the operating manuals and documents to be provided by the Service Provider to CRU pursuant to Clause 19.
"Phases"	mean, if applicable, each of the phases identified in the Project Plan, Specification or Service Requirement (or agreed between the Parties otherwise) in which the Service Provider will deliver each phase of the Services and in which it will commence or provide the Services and includes, as the context admits or requires, any one or more of them or any part of any of them.
"Price Matrix"	means the price matrix set out in Schedule 4 Part 2.

“Procurement Documents”	means any documents issued by CRU in connection with the procurement process for appointment to the Framework including the contract notice, pre-qualification questionnaire, invitation to tender and clarifications (or any analogous or similarly named documents).
“Project Managers”	means the Service Provider Project Manager as determined in accordance with Clause 22.
“Project Plan”	means the Project Plan to be developed and followed by the Service Provider as set out in the Tender or Supplemental Tender, as the case may be, unless and until it is replaced by a new version in accordance with Clause 11.
“Relevant Consent”	means all approvals, consents, licences, permissions, Certificates, authorisations and agreements required under contract and/or Applicable Law or which would prudently be obtained in accordance with Best Industry Practice in connection with the performance of this Agreement and/or the provision of the Services and/or Deliverables;
“Replacement Service Provider”	means any third party supplier of Replacement Services appointed by CRU from time to time or CRU if it commences providing those Replacement Services internally.
“RFST”	means a request for supplemental tender or information issued by CRU prior to the award of a particular SOW (and includes, as the context admits or requires, any one, more or all of them).
“Replacement Services”	means any services which are identical or substantially similar to any of the Services and which CRU receives in substitution for any of the Services (in whole or in part) following the termination or expiry of this Agreement or part of it, whether those services are provided by CRU internally or by any third party.
“Services”	means the provision subject to, and in accordance with, this Agreement, of the services, works, duties, functions, responsibilities and activities and Deliverables described in output terms in the Service Requirement, the Project Plan and/or the Specification and/or required by this Agreement and any reasonably incidental and/or related services, whether provided before or after the date of execution of this Agreement under an SOW (and includes, as the context admits or requires any one, more or all of them or part of any of them).
“Service Credits”	means the amounts payable in respect of a Service Failure pursuant to Clause 23 (Service Levels) and which is calculated in accordance with Schedule 8 (Service Levels).
“Service Failure”	has the meaning given to it in Schedule 8 (Services Levels).
“Service Improvement Plan”	means a fully costed written proposal prepared by the Service Provider in accordance with Clause 25.

“Services IP”	means any and all Intellectual Property (i) in or related to the Services and/or Deliverables; (ii) required in order to obtain the full benefit of the Services and/or Deliverables; and/or (iii) created by or on behalf of the Service Provider arising out of or in connection with the Services, the Deliverables and/or the SOW concerned before, on or after the Effective Date (including the Developed Software) but which excludes the Background IP.
“Service Levels”	means the service levels which are used to measure the Service Provider’s performance of certain aspects of the Services, each of which are more particularly described in Performance Measurement Table set out in Schedule 8 (Service Levels) or as further prescribed in the SOW (and references to Service Levels include, as the context so admits or requires, any one, more or all of them and/or the corresponding Minimum Service Level and/or Expected Service Level).
“Service Provider Personnel”	means any Sub-contractors, employees, representatives and/or agents of the Service Provider or its Sub-contractors of any tier in any way involved in the performance of the Service Provider’s obligations under this Agreement and/or the Services and/or Deliverables.
“Service Provider’s System”	means the Service Provider’s communications and/or information technology infrastructure, handheld devices, software, hardware, systems, networks, databases, links, programs and/or equipment that it is required to supply and/or use in the provision of the Services in order to satisfy and comply with the Service Requirement, Service Specification, Service Standards and this Agreement (and includes, as the context admits or requires, any part or parts of them).
“Service Requirement”	means the description of the minimum outputs which CRU requires, and milestone dates or timelines which the Service Provider is required to successfully achieve, in respect of the provision of the Services and Deliverables by the Service Provider in respect of a particular SOW, as more particularly set out in Schedule 1 of the Agreement and the SOW, RFST and Supplemental Tender concerned.
“Services Standards”	means (i) Applicable Laws; (ii) Relevant Consents; (iii) Service Requirement; (iv) Service Levels; (v) Best Industry Practice; (vi) Tender; (vii) Service Specification; (viii) Milestones; (ix) Project Plan; (x) SOW; (xi) RFST and (xii) any written instruction from CRU (and which includes, as the context admits or requires, any one, more or all of them individually or collectively).
“Software Product”	means the items of non-bespoke computer software from third parties, the licence of which is to be either granted or procured by the Service Provider for CRU as part of the Services in accordance with this Agreement, and which Software Products are exhaustively identified and described in the SOW concerned.

“Source Code”	means computer programs or data in eye-readable form and in such form that it can be compiled, rebuilt, understood and interpreted by a reasonably skilled programmer into equivalent object code, together with all technical information and documentation necessary for the use, reproduction, modification and enhancement of such computer programs.
“SOW”	means, as the context admits or requires, any one, more or all of the scopes of work (including its annex which incorporates the Supplemental Tender by reference) executed by CRU and the Service Provider in accordance with Clause 7 and which incorporates by reference the relevant RFST and Supplemental Tender and, in accordance with Clause 7, certain specific Clauses of the Framework Agreement.
“Specification”	means the specification and amplification of what the Service Provider shall do to meet the Service Requirements and which is set out in its Tender or Supplemental Tender, as the case may be, unless and until replaced by a new version in accordance with Clause 11.
“Solution”	means the solution which the Service Provider has developed to satisfy the Service Requirements and its obligations under this Agreement, and everything which it is to provide in connection with them, including the Services, Service Provider Personnel, Specification, Service Provider’s System, Facilities and anything else and which includes the Solution as described in the Tender, Specification and/or Supplemental Tender (and includes, as the context admits or requires, any part or parts of them).
“Standby Capability”	means the Facilities which are to be made available by the Service Provider to CRU for the use of CRU in the event of a Disaster and which Facilities must satisfy and comply with the Service Requirement and Specification.
“Sub-contractor”	means a subcontractor of Service Provider engaged by Service Provider to provide any part of the Services and/or Deliverables under this Agreement and under any applicable SOWs;
“Supplemental Personnel”	has the meaning given to it in Clause 6.5.
“Supplemental Tender”	means, in respect of a particular SOW, a supplemental tender and any related documents submitted by the Service Provider to CRU in respect of the Services and Deliverables concerned in accordance with the Framework Rules and which is more particularly identified in the annex to the SOW concerned (but which excludes any qualifications, assumptions, caveats or similar contained in it).
“Tender”	means the Service Provider’s tender and any related documents and which is more particularly set out or identified in Schedule 4 Part 2 but which excludes any qualifications, assumptions, caveats or similar contained in it.

“Tendered Personnel”	means those individuals and Sub-contractors identified in Schedule 4 Part 4 and/or any replacements as approved in writing by CRU in accordance with Clause 6.3.
“Term”	means: (a) In respect of the Framework Agreement, the term of this Agreement as determined in accordance with Paragraph 2 of the Framework Rules; and (b) in respect of an SOW, the term set out in the Annex of the SOW concerned (or if no such term is set out, the period commencing on the SOW taking legal effect in accordance with its terms and ending on the completion of the Services and Deliverables concerned), and in each of the above cases, includes any extended term.
“Termination Notice”	has the meaning given to it in Clause 31.5 (Termination).
“Testing”	means use by CRU of the Standby Capability for testing purposes in accordance with Clause 21.
“Testing Days”	means any day within a year, up to a maximum of ten (10) days per year.
“Third Party Supplier”	means an external supplier, other than the Service Provider, of products, material, hardware, software and/or services that in any way are relevant to the Services and/or the obligations and responsibilities of the Service Provider under this Agreement.
“Training”	means the training in the use and operation of the Services and Deliverables for the nominees of CRU in accordance with Clause 19 and the Training Plan and “Train” shall be construed accordingly.
“Training Plan”	shall mean the plan for the Training created in accordance with Clause 19.
“Working Day”	means any day of the week excluding Saturdays, Sundays and bank and public holidays in Ireland.
“Value Added Tax” or “VAT”	means any tax imposed in compliance with Council Directive of 28 November 2006 on the common system of value added tax (EC Directive 2006/112), as may be amended from time to time, and any other tax of a similar nature;

1.2 In this Agreement, the following rules apply:

- 1.2.1 Any reference to any provision of any legislation includes any modification, amendment, re-enactment, extension or consolidation of the legislation together with any secondary legislation made under it for the time being in force.
- 1.2.2 The masculine gender includes the feminine and neuter and the singular number includes the plural and vice versa and references to

persons include human persons and incorporated and unincorporated bodies.

- 1.2.3 Any headings to Clauses, Paragraphs, Schedules are for convenience only and do not affect the meaning of this Agreement. Unless the contrary is stated and references to:
- (a) "Schedules" mean the schedules to this Agreement;
 - (b) "Clauses" mean the Clauses of this Agreement; and/or
 - (c) "Paragraphs" mean the paragraphs contained in the Schedule in question or (where the Schedule in question comprises more than one part) the part of the Schedule in which the reference occurs.
- 1.2.4 In the event of any ambiguity or conflict arising between any one or more of the Service Requirement, Specification, Procurement Documents, Tender, RFST, SOW or Supplemental Tender, the conflict or inconsistency will be resolved in such manner as gives rise to the greatest standard and level of performance of the Services (and does not give rise to any breach of Irish or European public procurement law).
- 1.2.5 In the event of any ambiguity or conflict between Clauses and Paragraphs and the documents comprising this Agreement, the Clauses and Paragraphs take precedence except if, and to the extent, otherwise expressly stated in this Agreement (other than the Tender or Supplemental Tender).
- 1.2.6 Unless a right or remedy of CRU is expressed to be an exclusive right or remedy, the exercise of it by CRU is without prejudice to CRU's other rights and remedies under this Agreement and/or at law or in equity. CRU's rights and remedies survive any delivery, inspection, acceptance, payment, reports or performance pursuant to this Agreement and extend to any substituted or remedial Services and/or Deliverables provided by the Service Provider.
- 1.2.7 The grant of any approval, Acceptance, confirmation or consent by CRU, or the failure by CRU to respond to any communication, in respect of any matters (including any Deliverables):
- (a) does not pass any liability or responsibility to CRU in connection with same;
 - (b) does not imply or suggest compliance with the Service Standards and/or this Agreement;
 - (c) does not in any way diminish the responsibility and liability of the Service Provider in connection with same.
- 1.2.8 Any obligation on the part of the Service Provider in this Agreement not to do or omit to do any act or thing is deemed to include an

obligation not to permit or suffer such act or thing to be done or omitted, as the case may be.

- 1.2.9 Any phrase introduced by the terms “including”, “include”, “in particular” or any similar expression shall be construed as illustrative and shall not limit the sense of the words preceding those terms.
- 1.2.10 “Writing” or any similar expression includes transmission by facsimile or comparable means of communication but excludes email.
- 1.2.11 Any reference to subsidiary or holding company has the meaning given to such terms by Sections 7 and 8 of the Companies Act, 2014.

2. CONFIRMATIONS

- 2.1 The Service Provider acknowledges and agrees that CRU has entered into the contract and:

- 2.1.1 the Framework Agreement in reliance on the statements, representations and warranties contained in the Framework Agreement and the Tender; and
- 2.1.2 each SOW in reliance on the statements, representations and warranties contained in the Framework Agreement, Tender, SOW and Supplemental Tender.

- 2.2 The Service Provider hereby warrants, represents, agrees and confirms that:

- 2.2.1 the Service Provider is and will remain for the Term duly organised, validly existing and in good standing under the laws of its country of establishment and has full power, capacity and authority to enter into this Agreement and perform its obligations under this Agreement;
- 2.2.2 the Service Provider has sufficient financial and economic standing and working capital to perform and meet its obligations under this Agreement;
- 2.2.3 the execution and performance of this Agreement by it does not conflict with or constitute a breach or default under any contract or agreement of any kind to which it is a party or any Relevant Consent, judgment, order, or Applicable Law which is applicable to it or its assets;
- 2.2.4 it is not aware of any matter or conflict or circumstance which might restrict or impede it from entering into and performing the contract

which includes this Agreement or may have a material impact on the decision of CRU to enter into the contract with the Service Provider;

- 2.2.5 the representations, statements and warranties contained in the Tender and, as applicable, the Supplemental Tender, are true, valid, correct, complete and accurate and are not misleading;
 - 2.2.6 none of the circumstances set out in Regulation 57 of the European Communities (Award of Public Authorities Contracts) Regulations 2016, apply to the Service Provider;
 - 2.2.7 any registrable interest, within the meaning of the Ethics in Public Office Act 1995, and any other conflict-of-interest or transparency disclosure obligations arising under applicable law (including public procurement law), involving the Service Provider, CRU, or employees of CRU, or their relatives, have been fully disclosed in writing to CRU prior to the date of this Agreement;
 - 2.2.8 it has not offered, given or agreed to give any officer or employee of CRU or any person connected with the procurement process for this Agreement any gift or consideration of any kind as an inducement or reward in connection with this Agreement or the related tender process; and
 - 2.2.9 the Service Provider has no actual or potential Conflict of Interest in respect of any aspects of the Services, the Agreement, the Deliverables and/or the subject matter of any of them except to the extent otherwise expressly set out in Schedule 4 Part 5 (Conflict of Interests) and/or the SOW concerned.
- 2.3 Clause 2.2 is deemed to be repeated on the date of execution of any SOW with respect to the facts and circumstances existing at that time, as if made at that time.
- 2.4 The Service Provider will immediately and fully disclose in writing any change in events or circumstances which in any way relates to or is connected with any of the confirmations given by it in Clause 2.2.

PART 2 – THE FRAMEWORK

3. APPOINTMENT

- 3.1 CRU hereby appoints the Service Provider to, and the Service Provider accepts its appointment to, the Framework on and from the Effective Date for the Term subject to, and in accordance with, the Framework Agreement.
- 3.2 The Service Provider will prioritise its obligations under the Framework Agreement and each SOW in relation to the other business activities of the

Service Provider to ensure that it can comply with its covenants and obligations in the manner contemplated by the Framework Agreement and each SOW.

- 3.3 The Service Provider hereby acknowledges and agrees that, despite its appointment to the Framework or the execution of any SOW:
 - 3.3.1 it does not have any exclusive right to provide the Services or Deliverables, or anything similar or identical to the Services or Deliverables, to CRU;
 - 3.3.2 CRU may use its own personnel or other third parties in relation to the provision of the Services or Deliverables or anything similar or identical to the Services or Deliverables, including persons who are not appointed to the Framework; and
 - 3.3.3 there is no guarantee of any scope, value, volume or frequency of SOWs, Services or Deliverables.
- 3.4 CRU has no obligations, and has no liability (whether for breach of contract or other duty, negligence, or anything else) to the Service Provider, in connection with this Agreement, SOWs, the Deliverables or the Services except as and to the extent expressly stated otherwise in this Agreement.
- 3.5 The Parties have entered into the Framework Agreement in consideration of their respective rights and obligations under the Framework Agreement, and

the payment of one euro by CRU to the Service Provider (the sufficiency and payment of which the Service Provider hereby acknowledges and accepts).

4. SCOPE OF THE FRAMEWORK

- 4.1 The scope of the Framework is determined by reference to the scope of the Framework as described and referred to in the Procurement Documents and any services and deliverables that can be reasonably inferred from them.
- 4.2 The Framework is between CRU and the Service Provider.
- 4.3 The Service Provider hereby acknowledges and agrees that if there is an overlap between the scope of this Framework, and any other framework or contract which CRU is entitled to use, CRU may choose at its absolute discretion whether or not to use this Framework or the other framework or contract to meet its particular requirements. The Service Provider waives any claim to the contrary.
- 4.4 The performance of SOWs awarded during the Term of the Framework Agreement may continue after the expiration of that Term and the terms and conditions of the contract will apply to any term thereafter or extended term.

5. FRAMEWORK RULES

- 5.1 If CRU, during the Term, has a requirement for Services or Deliverables which are within the scope of the Framework it may procure the Services and/or Deliverables by awarding an SOW subject to, and in accordance with, the Framework Rules and applicable RFST to the Service Provider.
- 5.2 The Service Provider acknowledges the terms of the Framework Rules and confirms that it considers them (and any criteria or other matters referred to in them) to be compliant with all Applicable Laws in all respects and waives any claims to the contrary.
- 5.3 The Service Provider will comply with the Framework Rules. If it breaches the Framework Rules, it may be removed from the Framework by CRU.

6. SUPPLEMENTAL TENDERS

- 6.1 The general rule is that the Service Provider must, from time to time and upon request / invitation by CRU:
 - 6.1.1 submit a Supplemental Tender in accordance with the Framework Rules and RFST; and
 - 6.1.2 where offered an SOW by CRU, enter into an SOW subject to, and in accordance with, the Framework Rules and RFST.

The Service Provider may only decline to do so on a demonstrable objectively justifiable ground, such as where it can show that it does not have capacity to

deal with the SOW despite its best efforts (provided that Clause 31.7.9 and 31.7.10 continue to apply even in that case).

6.2 The Service Provider's price in any Supplemental Tender may be based upon rates that are less, but not more, than the rates set out in the Price Matrix.

6.3 The Service Provider must include in its Supplemental Tender the Tendered Personnel for the role for which they were originally proposed in its Tender, unless CRU agrees in writing in advance to a replacement of a particular member of the Tendered Personnel. CRU will only agree to the replacement of any of the Tendered Personnel provided that, in particular:

6.3.1 the replacement, in CRU's view, has no less relevant experience, expertise, skills and qualifications and, in the case of a Sub-contractor, economic and financial standing, than the person being replaced; and

6.3.2 there is a valid objective reason for the replacement.

Any replacement agreed to by CRU in respect of a particular Supplemental Tender is then a member of the "Tendered Personnel" for the SOW concerned

(but not for the purposes of any other Supplemental Tenders, unless CRU expressly states otherwise in its written approval of the person concerned).

- 6.4 Multiple requests during the Term of the Framework Agreement by the Service Provider to replace Tendered Personnel may be treated by CRU as a material breach of this Framework Agreement and all SOWs.
- 6.5 The Service Provider may, in a Supplemental Tender, supplement the Tendered Personnel with additional personnel or Sub-contractors ("**Supplemental Personnel**") provided that:
 - 6.5.1 it makes clear in the Supplemental Tender that the Supplemental Personnel are not Tendered Personnel (i.e. they were not proposed in the original Tender for appointment to the Framework);
 - 6.5.2 it includes in the Supplemental Tender detailed CVs and other relevant information regarding the proposed Supplemental Personnel for consideration by CRU;
 - 6.5.3 the use of the Supplemental Personnel is necessary for the effective and proper delivery of the Services and/or Deliverables; and
 - 6.5.4 the Service Provider does not use this Clause 6.5 to diminish the role or involvement of the Tendered Personnel in a manner which is to the detriment of CRU or the Services and/or Deliverables concerned.
- 6.6 CRU may object in writing, at any time and from time to time, to the use of any Supplemental Personnel proposed in a Supplemental Tender including where CRU considers that:
 - 6.6.1 a particular person does not have sufficient experience, expertise, skills and qualifications and, in the case of a Sub-contractor, economic and financial standing, to perform the role concerned;
 - 6.6.2 the use of the person concerned is not necessary for the effective and proper delivery of the Services and/or Deliverables; and/or
 - 6.6.3 the use of the person concerned may diminish the role or involvement of the Tendered Personnel in a manner which is to the detriment of CRU or the Services and/or Deliverables concerned.

PART 3 - SOWs

7. SOWs

- 7.1 The Service Provider may only, and will not otherwise, provide any Services or Deliverables, except pursuant to an SOW duly executed by both the Service Provider and CRU in accordance with this Clause 7.
- 7.2 Where an SOW is used, it will be executed substantially in the form set out in Schedule 7 and will specifically refer to the Framework Agreement. An SOW shall not enter into force, be legally binding or have any other effect unless the

SOW has been signed by the authorised representatives of both CRU and the Service Provider.

- 7.3 Until the authorised representatives of CRU and the Service Provider have both duly executed an SOW, the Service Provider may not commence the corresponding work detailed in that SOW.
- 7.4 Each executed SOW is a separate contract between the Service Provider and CRU for the relevant Services and Deliverables that automatically expires and terminates at the expiration of its Term. Each SOW is a separate and divisible contract from each other SOW and the Framework Agreement.
- 7.5 Clauses 1 to 41 (except Clauses 3.1 and 3.5 and Clauses 4 - 6) and the recitals and Schedules of the Framework Agreement (including Procurement Documents and Tender) are, subject to Clause 7.7, incorporated into each SOW. Any reference to "Agreement" in this Agreement is, for the purposes of any SOW, replaced with a reference to that SOW (except where the context otherwise admits or requires).
- 7.6 The Service Provider shall provide Services and Deliverables subject to, and in accordance with, the terms of each SOW duly executed by it and CRU (including the terms and conditions incorporated into it in accordance with Clause 7.5).
- 7.7 In the event and to the extent only of any conflict or ambiguity between:
- 7.7.1 the Framework Agreement; and
- 7.7.2 an SOW,
- the Framework Agreement prevails for the purposes of that particular SOW except to the extent that the SOW concerned expressly provides in a particular respect that it prevails over, or amends, the Framework Agreement.
- 7.8 Any amendment to the terms and conditions of the Framework Agreement agreed from time to time by CRU and the Service Provider in accordance with Clause 40.5 shall be deemed to apply to all future SOWs entered into on or after, and to any existing SOW (and any Services and Deliverables provided under it) on and from, the effective date of such amendment (unless stated otherwise in the amendment concerned).

PART 4 - SERVICES

8. DUE DILIGENCE

- 8.1 The Service Provider acknowledges, understands and confirms that:
- 8.1.1 it has had an opportunity to ask questions and carry out a thorough due diligence exercise in relation to the Service Requirements and its obligations under this Agreement;
- 8.1.2 it has asked for and obtained all information it requires to establish the nature, extent and requirements of, and what it is required to do to fully perform its obligations under this Agreement and, in particular, to

provide the Services and Deliverables in accordance with the Service Requirements and Specification;

8.1.3 it has made and shall make its own enquiries to satisfy itself as to the accuracy, completeness, fitness for purpose and adequacy of any information supplied to it by or on behalf of CRU or any third party with whom the Service Provider has or may engage in connection with the Services and/or this Agreement; and

8.1.4 it has entered into this Agreement in reliance on its own due diligence alone.

8.2 Throughout the Term of each SOW, the Service Provider shall be responsible for specifying to CRU all information reasonably required by the Service Provider for the purposes of recommending, advising, establishing, setting-up and providing the Services and the Service Provider shall do so in sufficient detail to enable CRU to supply all such information to the Service Provider, so far as it is available to CRU. The Service Provider shall review all such information supplied by CRU to the Service Provider promptly on receipt and shall promptly following receipt notify CRU of any further information reasonably required by the Service Provider. This Clause 8 fully applies to all such information.

8.3 Except as expressly set out in this Agreement, no representations, warranties or conditions are given or assumed by CRU or any other person in respect of any information or assistance which they provide or have provided, directly or indirectly, to the Service Provider and any such representations, warranties or conditions are excluded to the fullest extent permitted by Applicable Law.

8.4 CRU, its agents, contractors, representatives, officers or employees are not liable to the Service Provider or any third person in or under contract, tort (including negligence or breach of statutory duty), Applicable Law or otherwise as a result of:

8.4.1 any inaccuracy, error, omission, unfitness for purpose, or inadequacy of any kind whatever in any information disclosed by or on behalf of CRU or anyone else to the Service Provider; or

8.4.2 any failure by any of them to make available to the Service Provider any materials, documents, drawings, plans or other information relating to this Agreement and the Service Provider's obligations under this Agreement.

9. THE SERVICES

9.1 The scope of, and requirements with respect to, the Services and Deliverables are set out in Schedule 1 (Service Requirement). The Service Provider will provide the Services and Deliverables in a manner that satisfies the Service Requirement, SOW and Specification and is consistent and compliant with all the commitments, representations and warranties set out in its Tender and, as applicable, Supplemental Tender.

9.2 The Service Provider warrants that the Specification takes account of and effectively incorporates all elements of the Service Requirements and that it is

able to provide all of the Services and Deliverables described in the Specification.

9.3 The Service Provider:

- 9.3.1** is responsible at all times for the clarity, accuracy, fitness, suitability and completeness of the Specification and its compliance with the requirements of this Agreement;
- 9.3.2** is responsible for seeking any guidance from CRU in respect of any issues on which it is unclear; and
- 9.3.3** agrees and acknowledges that, irrespective of any comments or approval by CRU, all design risk in the Specification remains with the Service Provider and all risk in the development and implementation of the Services and Specification remain with the Service Provider exclusively.

If any inconsistency or gap is found between the Specification and the requirements of this Agreement, including the Service Requirements, the Service Provider shall promptly remedy this at no additional charge.

9.4 The Service Provider acknowledges and agrees that CRU is deemed to have fully relied on the Service Provider's skill, expertise and experience in providing the Services and Deliverables, all advice given by the Service Provider in connection with or as a part of the Services and Deliverables and all matters relating to them.

9.5 The Service Provider will continually throughout the Term provide the Services, and all incidental and related activities and services subject to, and in accordance with, the relevant SOW to the satisfaction of CRU and in accordance with, and in such a manner as will fully satisfy and comply with each and all of the Service Standards and any Milestone Dates or timelines. In the event of any conflict or inconsistency between any of the Service Standards, the Service Provider will notify CRU in writing accordingly and the conflict or inconsistency will be resolved in such manner as gives rise to the greatest standard and level of performance of the Services.

9.6 If CRU is not satisfied with the standard of any part of the Services or Deliverables provided, CRU, at its absolute discretion, may either:

- 9.6.1** require the Service Provider, within a specified period and at no charge, to re-perform and/or re-execute the relevant Services or Deliverables to its satisfaction; or
- 9.6.2** perform and/or execute all or part of the relevant Services or Deliverables by using CRU's own personnel or by engaging a third party to do so and all costs and expenses incurred by CRU in such regard will be deducted from any sums due or to become due to the Service Provider under this Agreement, or will be recoverable from the Service Provider by CRU as a debt free from counterclaim, set-off or similar.

9.7 CRU may terminate the SOW concerned with immediate effect if the Service Provider does not comply with any requirement under Clause 9.6 within the time

specified or if CRU is not satisfied with the standard of any such remedial Services and Deliverables undertaken by the Service Provider.

10. IMPLEMENTATION

- 10.1 The Service Provider shall manage and ensure the smooth, seamless and successful commencement of the Services by, and, where applicable, transition of the Services from CRU's current service providers to the Service Provider with minimum disruption to CRU and any other aspects of the Services.
- 10.2 The Service Provider shall provide the Services subject to, and in accordance with, the Project Plan and so that all Milestones are successfully achieved and completed (and anything stated in the Project Plan to be subject to Acceptance Tests is Accepted) by the applicable Milestone Dates.
- 10.3 If the Services are split into Phases, the Service Provider shall commence and provide each Phase of the Services on and from (and not before) the date the commencement of the specific Phase concerned is authorised by CRU in writing.
- 10.4 The Service Provider, on and from when authorised to commence a Phase by CRU, shall do all that is necessary to commence and complete such Phase in a timely, complete, smooth, successful and seamless manner and with minimum disruption to CRU and any other aspects of the Services. If the Service Provider is not ready to commence a particular Phase of the Services, it shall notify CRU accordingly in writing.
- 10.5 CRU may, before issuing authority to commence a Phase, review the operation of any aspects of the Services within that Phase to confirm they function in material conformance with the Specification in accordance with Clause 12.
- 10.6 The Service Provider acknowledges and agrees that CRU is not required to authorise commencement of a Phase unless and until:
 - 10.6.1 the Service Provider has completed the prior Phase to CRU's satisfaction;
 - 10.6.2 the Service Provider has otherwise satisfied CRU that the Service Provider is ready to, and has done all that is necessary to, enable the Service Provider to commence the relevant Phase in a successful, smooth and seamless manner and with minimum disruption to CRU and any other aspects of the Services; and
 - 10.6.3 CRU is in a position to permit the Service Provider to commence the Phase concerned without CRU breaching any contract with any current

provider of some or all of the services, tasks and duties that fall within the scope of the Phase concerned.

11. PROJECT PLAN AND SPECIFICATION

11.1 The Service Provider shall, upon request by CRU, promptly organise collaborative workshops or calls with CRU at such times as CRU may agree for the purpose of discussing the contents of the Specification or Project Plan.

11.2 CRU may give the Service Provider specific comments on, or requests for amendment to, either or both of the Specification or Project Plan as it reasonably considers necessary to reflect CRU's requirements. If CRU does so, the Service Provider shall immediately meet with CRU to discuss such comments with a view to agreeing appropriate changes. The Service Provider shall:

11.2.1 take account of all comments and requests for amendment received from CRU;

11.2.2 incorporate appropriate changes into a revised version of the Project Plan or Specification, as the case may be, to reflect CRU's comments and requests for amendment; and

11.2.3 submit the revised version of the Project Plan or Specification to CRU within the timescale set out by CRU.

In making such changes, the Service Provider will not seek to vary the Fees and/or any of the Milestones. Once approved in writing by CRU, the revised Project Plan or Specification, as the case may be, shall replace any previous version of it.

11.3 Any Dispute regarding comments or requests for amendments to the Specification or Project Plan by CRU may be referred by either Party to the Dispute Resolution Procedure. If the Dispute concerned is not resolved to CRU's satisfaction within one (1) week (or such other timeline as CRU may agree to), CRU may, at its discretion, terminate this Agreement by issuing a Termination Notice.

12. ACCEPTANCE TESTS

12.1 CRU shall determine what aspects of the Services (including Phases) and Deliverables are subject to Acceptance Testing. Acceptance Tests shall be set by CRU (or, at CRU's request, the Service Provider, in which case the Acceptance Tests submitted by the Service Provider are subject to CRU's approval).

12.2 The Acceptance Tests for any aspect of the Services or Deliverables shall be designed to indicate whether the relevant part of the Services or Deliverables has complied with all relevant requirements of the Service Requirements and Specification and any related matter considered appropriate by CRU.

12.3 The Service Provider shall bear all risk and responsibility for ensuring that every aspect of the Services and/or Deliverables is fully functional, complete and performs in compliance with (a) the Service Requirements; (b) Specification and

(c) the terms of this Agreement, at all times during the Term irrespective of any Acceptance.

- 12.4 The Service Provider, prior to any Acceptance Tests (or re-Acceptance Testing), shall do and have completed all that is necessary (including appropriate tests and any remedial work necessary following such tests to remedy any defects) to satisfy itself that each relevant aspects of the Services or Deliverable, as the case may be, has addressed all the requirements set out in the Service Requirements and Specification and is ready and suitable for Acceptance Testing.
- 12.5 The Service Provider shall notify the ICT Manager of any defects, faults or failures identified by the Service Provider in the performance of its own tests unless they have been fully remedied by the Service Provider. CRU may, at its discretion, either require the Service Provider to remedy or procure to be remedied such defects, faults or failures, or alternatively, may proceed to Acceptance Testing in whole or in part. This does not remove or reduce the Service Provider's obligation to comply with this Agreement in all respects.
- 12.6 The Parties shall conduct the Acceptance Tests in the manner agreed between the Parties. The Service Provider shall provide all such assistance and information as may be reasonably required by CRU in the conduct of the Acceptance Tests and, if the Service Provider or someone else conducts any Acceptance Tests, CRU may be represented at, supervise and interrogate the Acceptance Tests.
- 12.7 The Parties shall bear their own costs in relation to Acceptance Tests. However, if a part of the Service or a Deliverable is not Accepted, CRU is entitled to recover from the Service Provider any reasonable additional costs it may incur as a direct result of further review or re-Acceptance Testing in such respect.
- 12.8 The Acceptance Tests shall be recorded as successful or unsuccessful by notice in writing from CRU to the Service Provider. Any failure to pass the Acceptance Tests or rerun of the Acceptance Tests pursuant to this Clause 12 shall not operate to reset subsequent Milestone Dates unless otherwise agreed by CRU in writing.
- 12.9 If an Acceptance Test is recorded as unsuccessful, CRU may at its discretion:
- 12.9.1 require the Service Provider to do all that is necessary to remedy the cause of the failure of the Acceptance Test by a date designated by CRU and to then repeat the Acceptance Test concerned in accordance with this Clause 12; or
 - 12.9.2 choose to accept the proposed Services or Deliverables concerned "as is" (but at the risk of the Service Provider), subject, at CRU's discretion, to:
 - (a) a reduction in the applicable Fees which reflect the reduced value of the Services or Deliverables to CRU (such reduction to be

agreed between the Parties based on reasonable and objective criteria, both acting reasonably);

- (b) a commitment by the Service Provider to rectify the failures within an agreed timescale;
- (c) any reasonable conditions stipulated by CRU; and/or
- (d) a combination of the above.

12.10 If an Acceptance Test is not passed within the timeline designated by CRU pursuant to Clause 12.9.1, CRU, despite the fact that the Service Provider may be able to remedy the underlying reason for which the failure of the Acceptance Tests, may terminate this Agreement by serving a Termination Notice.

13. DELAYS

13.1 If, at any time, the Service Provider becomes aware or suspects that it shall not (or is unlikely to) successfully achieve any obligation by the applicable Milestone Date, it shall immediately notify CRU of the Delay, the reasons for the Delay, the consequences of the Delay for the rest of the Project Plan and how the Service Provider proposes to mitigate the Delay.

13.2 The Service Provider shall deploy all additional resources and efforts, and take all reasonable steps, as are required to eliminate or mitigate the consequences of any Delay irrespective of its cause.

13.3 If the Service Provider would have been able to successfully achieve an obligation by its Milestone Date, but proves that it has failed to do so as a result of CRU's failure to comply with its obligations under this Agreement, the Service Provider shall be allowed an extension of time to achieve the Milestone (and any other Milestone proven to be effected by the Delay) equal to the Delay proven to have been caused by CRU's failure. Any extension of time shall only be effective if agreed in writing.

13.4 If the Service Provider proves to CRU's satisfaction that a Delay is attributable in part to the Service Provider's Default and in part to CRU's failure to comply with its obligations under this Agreement, the Parties shall negotiate in good faith with a view to agreeing a fair and reasonable apportionment of responsibility for the Delay and shall record such agreement in writing.

13.5 The Service Provider shall fully and effectively indemnify, hold harmless and keep so indemnified CRU from and against any and all Liabilities (including additional or increased costs and expenses or third party claims) whatever suffered, incurred and/or paid out by CRU arising out of, in connection with and/or as a result of any failure by the Service Provider to fulfil its obligations by the applicable Milestone Date (including any failure for any or all Phases to be commenced and made fully operational by the relevant Milestone Date).

13.6 Any Disputes about or arising out of Delays shall be resolved through the Dispute Resolution Procedure. Both Parties shall continue to work together to

resolve the causes of, and mitigate the effects of, any Delay pending the resolution of the Dispute.

14. SOLUTION

- 14.1 The Service Provider shall successfully design, develop, implement, test, manage and use the Service Provider's Solution in the performance of the Services so that the Service Provider's Solution and Services comply with and satisfy the Service Requirement and Specification.
- 14.2 The Service Provider is exclusively responsible for ensuring that all aspects of the Service Provider's Solution at all times are compatible with, and properly functions and interfaces with, any relevant aspects of CRU's System to CRU's satisfaction. The Service Provider shall, at its own expense, successfully develop, implement, test and manage the interfaces between CRU's System and any relevant aspects of the Service Provider's Solution as necessary to provide the Services and as required by the Service Requirement and Specification. The Service Provider shall further successfully develop or procure the development, implementation, testing and maintenance of any modifications and/or enhancements to such interfaces as are or may be necessary for the Service Provider's continuous compliance with this Clause 14, including as a result of any changes or replacements to CRU's System.

15. CRU'S SYSTEM

- 15.1 CRU shall give the Service Provider access to CRU's System to the extent reasonably necessary for the Service Provider to provide the Services. The Service Provider shall only access and use CRU's System, and any Data accessible through it, as is reasonably and properly required for the purpose of performing the Services subject to, and in accordance with, this Agreement.
- 15.2 If it is necessary for the Service Provider Personnel to have access (either on-site or remotely) to and use of any of CRU's System, the Service Provider shall:
 - 15.2.1 ensure that CRU's System and all related documentation, Data and materials are treated as Confidential Information;
 - 15.2.2 limit such access and use solely to performance of the relevant Services, and to those persons who have a need to do so for that purpose;
 - 15.2.3 shall advise CRU in writing in advance of the name of each person who will be granted such access;
 - 15.2.4 strictly follow all security and other rules and procedures of CRU in relation to them and will keep all login and password details safe, secure and confidential; and
 - 15.2.5 take all reasonable steps and measures to prevent damage (including loss, damage or corruption of data) to, or unauthorised access to or

use of them and to prevent the introduction of any malicious code, viruses or bugs as a result of the use or access to any of them.

- 15.3 The Service Provider acknowledges and agrees that no person other than an employee of the Service Provider may be granted access to CRU's System except where:

15.3.1 CRU agrees otherwise in writing; and

15.3.2 such third party has entered into an appropriate confidentiality agreement with CRU on terms reasonably satisfactory to CRU.

16. SERVICE PROVIDER PERSONNEL

- 16.1 The Service Provider will use at all times in the provision of the Services and the Deliverables under an SOW, the Key Personnel.
- 16.2 The Service Provider will provide CRU with access to each of the Service Provider Personnel at all times.
- 16.3 The Service Provider will remove any member of the Service Provider Personnel (including Key Personnel) or any other person involved in the provision of the Services or Deliverables whose removal is requested in writing by CRU if it considers such person to be unsatisfactory or undesirable and will promptly replace the person concerned with a replacement acceptable to CRU.
- 16.4 The Service Provider may not replace any of the Key Personnel for an SOW without CRU's prior written consent. CRU may agree or refuse its consent at its discretion. CRU will only agree to a replacement provided, in particular, that the proposed replacement, in CRU's view, has no less experience, expertise, skills, and qualifications than the person being replaced and, if it is a Sub-contractor, has sufficient economic and financial standing.
- 16.5 Any changes to the Key Personnel will only be effective if agreed to in writing by CRU. Unless stated otherwise in the written approval, an approval only applies in respect of a particular SOW and does not apply in respect of other SOWs or the Framework Agreement.
- 16.6 The Service Provider will ensure that all of the Service Provider Personnel complies with all safety and security requirements of CRU in relation to access to its premises, data, systems and infrastructure.
- 16.7 The Service Provider, subject to Clause 16.1, may not subcontract any of its rights and obligations under this Agreement to any third party without CRU's prior written approval. The Service Provider is responsible for the acts and omissions of its Sub-contractors as if such acts and omissions were acts and omissions of the Service Provider. The use by the Service Provider of any Sub-contractor does not relieve the Service Provider from any obligation, liability or responsibility under this Agreement. Where the context requires and permits,

references to the Service Provider in this Agreement also include any relevant and duly appointed Sub-contractor.

17. SERVICE PROVIDER GENERAL OBLIGATIONS

17.1 The Service Provider warrants, represents, undertakes, confirms and agrees to CRU that:

- 17.1.1** it is an expert in, and is fully competent in all areas of, providing services, works, deliverables, tasks and functions of a similar scope, nature, scale, importance and complexity to the Services and Deliverables;
- 17.1.2** it can, and will, fully meet, satisfy and comply with the Procurement Documents, Project Plan, Service Requirement, Service Levels, Specification, Tender, the Service Standards, SOW and, as applicable, RFST and Supplemental Tender in providing the Services and Deliverables and performing its obligations under this Agreement;
- 17.1.3** it will undertake (or procure the undertaking of) all such steps as are required to ensure that the Services and Deliverables are provided and available, as the case may be, during the periods and/or at the time and date required by the Procurement Documents, Service Requirement, Specification, Service Levels, Service Standards, Tender and, as applicable, RFST and Supplemental Tender;
- 17.1.4** it will perform the Services and Deliverables using persons with all necessary experience, qualifications, skills, expertise, training and language skills and whom are fully acquainted with the Services, Deliverables and all requirements related to their role;
- 17.1.5** it has, and will provide, everything necessary and/or required for the proper provision of the Services and Deliverables on time in accordance with the Service Standards and this Agreement including, without limitation, all resources, Facilities, personnel, expertise, materials and sources of supply;
- 17.1.6** it will provide the Services and Deliverables and perform its obligations under this Agreement subject to, and in accordance with, the Service Standards and Agreement in a timely, workmanlike and cost effective manner and so as to give CRU the full and complete benefit of its experience, expertise and resources;
- 17.1.7** it will adopt and adhere to the project management methodologies and quality control and security systems and standards referred to in the Procurement Documents, Service Standards, Project Plan, Specification, Service Requirement, Tender, SOW and, as applicable,

RFST and Supplemental Tender at all relevant times in providing the Services and Deliverables;

- 17.1.8 the Services, all Deliverables and any materials and goods supplied to CRU in providing the Services and Deliverables are, and will be, fit for the purpose intended;
 - 17.1.9 all Deliverables will be written in excellent English in a clear, accurate, factual, neutral, not overly academic, style;
 - 17.1.10 it will, and will procure that Service Provider Personnel will, co-ordinate, co-operate and liaise with CRU and any other persons involved or connected with the Services or Deliverables and, where requested, will attend meetings with CRU and others;
 - 17.1.11 it will provide CRU with regular activity and progress reports detailing its performance of this Agreement in advance of any meetings and promptly upon request from time to time;
 - 17.1.12 it will keep during the Term and for a period of six (6) years following the expiration or termination of this Agreement detailed records of all matters undertaken by the Service Provider in relation to the Services and Deliverables and the discharge of its obligations under this Agreement and will promptly provide such records to CRU at any time within that period in hard copy and/or electronic form in a format specified by CRU;
 - 17.1.13 it will, and will procure that the Service Provider Personnel will, act subject to, and in accordance with, any requirements, procedures, policies, rules, guidelines and/or directions notified by CRU to the Service Provider from time to time; and
 - 17.1.14 it will act reasonably and in good faith in relation to its, and CRU's, rights and obligations under this Agreement.
- 17.2 The Service Provider shall regularly, and at least every three (3) months, test its disaster recovery and security management plans to ensure that they are consistent with Best Industry Practice, the Service Requirements and Specification and that it is able to fully and properly implement each of them at any time.

18. SOFTWARE

- 18.1 The Service Provider will deliver to CRU any Developed Software in both Source Code and object code forms, and will promptly provide CRU with any updates to them.
- 18.2 The Service Provider will not, without the ICT Manager prior and specific written consent, use in the provision of the Services and/or include in the Deliverables

(including Developed Software) or introduce into CRU's System any open source code or software that would:

- 18.2.1 breach the terms applicable to any software owned by or licensed to CRU;
- 18.2.2 create, or purport to create, obligations for CRU with respect to IP rights owned or licensed by CRU; and/or
- 18.2.3 grant, or purport to grant, to any third party, any rights or immunities under IP rights owned or licensed by CRU.

19. TRAINING AND OPERATING MANUALS

- 19.1 The Service Provider will undertake an analysis of the training needs of CRU in order for CRU, and its personnel, to be able to obtain the full benefit of the Deliverables and Services. The required standard for the training is such that all CRU personnel as CRU may nominate receive training at CRU (or such other appropriate premises set out in the Training Plan) to provide them with the skills and knowledge required for their role and to obtain the full benefit of the Deliverables and Services.
- 19.2 The Service Provider will then, in conjunction with CRU, create a Training Plan to the satisfaction of CRU to reflect the training required and any Training offered in the Specification and the Service Provider will then provide such training to CRU and its personnel in a timely manner in accordance with this Agreement.
- 19.3 The Service Provider will provide all necessary personnel and training materials for the Training.
- 19.4 The Service Provider will provide a set of high quality Operating Manuals in English, in hard copy and in such electronic format and quantity as CRU may reasonably require containing sufficient information to enable CRU and its personnel to operate and make full and proper use of the Deliverables and Services. Without taking away from the generality of the foregoing, the Operating Manuals will be in such a way to be clear to a trained user and to provide clear and unequivocal instructions concerning the use of the Deliverables and the Services. CRU may make copies of the Operating Manuals. The Service Provider will provide CRU, as a part of the Services, in a similar manner with a hard and electronic copy of all amendments, revisions and updates from time to time of the Operating Manuals which, without taking away from the generality of the foregoing, will include information concerning enhancements, improvements, modifications or upgrades of or to the Services or Deliverables and this will be carried out at no charge to CRU.

20. CO-ORDINATION

- 20.1 This Clause applies where the Services include a managed service.
- 20.2 The Service Provider shall, and is exclusively responsible for, managing and co-ordinating all Third Party Suppliers (and the related services, contracts,

warranties and service level agreements) and is required to do so in such a way that delivers best value for money and best quality of service to CRU.

20.3 The Service Provider shall not authorise any Third Party Supplier to provide any service or thing or do anything else that incurs an additional cost for CRU without the ICT Manager's prior written consent.

20.4 The Service Provider shall not do or omit to do anything that causes CRU to breach its agreement with any Third Party Supplier or that results in CRU incurring any unnecessary or avoidable costs under any such agreement.

21. DISASTER RECOVERY

21.1 This Clause applies where the Services includes a disaster recovery service.

21.2 The Service Provider shall regularly, and at least every three (3) months, test its Standby Capability to ensure that it is consistent with Best Industry Practice, the Service Requirements and Specification and that it is able to fully and properly implement it at any time.

21.3 CRU shall be entitled, from time to time, to use the Standby Capability for Testing for such period as it reasonably requires. When CRU wishes to carry out Testing, it shall notify the Service Provider in writing in the same way as at Clause 21.7 and the provisions of Clauses 21.7 and 21.8 shall apply to such request in the same way.

21.4 The Service Provider will provide CRU such assistance as it may require with the transition to and testing and use of the Standby Capability

21.5 The Testing by CRU shall test whether the Services and Standby Capability:

21.5.1 are in the reasonable opinion of CRU able to operate in a proper and effective manner;

21.5.2 provide for the most recent snapshot of the Back-Up Data to be properly available to CRU at and through the Standby Capability;

21.5.3 will enable business continuity for CRU in the event of a Disaster; and

21.5.4 adapt to a live running environment and at the required performance levels and operate under normal business conditions,

having in all cases regard to the needs, nature, and volume requirements of CRU and whether the Services and Standby Capability work with CRU's hardware and software systems and are capable of handling in a proper and efficient manner the needs of CRU.

21.6 The Service Provider will remedy or procure to be remedied the defects, faults or failures identified by CRU during the Testing. Any Testing, or results of it, shall not remove or reduce the Service Provider's obligation to comply with the provisions of this Agreement.

21.7 In the event of a Disaster, CRU shall be entitled to send the Service Provider a notice that it wishes to use the Standby Capability for business continuity purposes. CRU will notify the Service Provider by telephone initially and will

then follow up with a written or emailed notice to the relevant Service Provider's Project Manager.

- 21.8 The Service Provider shall within two (2) hours of the written or emailed notice being served under Clause 21.7 make available the Standby Capability (with the most recent snapshot of the Back-Up Data properly available to CRU at and through the Standby Capability) to CRU and provide CRU with such assistance as it may require with the transition to and use of the Standby Capability.
- 21.9 CRU may use the Standby Capability for business continuity purposes whilst the Disaster lasts and for such further period after that as CRU may require.

PART 5 – CONTRACT MANAGEMENT

22. PROJECT MANAGERS

- 22.1 The Service Provider will appoint a Project Manager acceptable to CRU for each SOW ("**Service Provider Project Manager**"). Each Service Provider Project Manager is one of the Key Personnel.
- 22.2 The Service Provider will at all times fully co-operate with the ICT Manager and will permit him or her to review the performance and progress of any part of the Services and delivery of the Deliverables at all reasonable times subject to reasonable notice.
- 22.3 All invoices, communications and materials relating to this Agreement and sent by the Service Provider to CRU will be copied to the ICT Manager.
- 22.4 The Service Provider Project Manager for a particular SOW:
 - 22.4.1 is authorised to commit the Service Provider on all matters related to the Services, Deliverables and the SOW concerned;
 - 22.4.2 will perform all the duties, functions and tasks, and has and assumes all the responsibilities, allocated to him or her, as set out in this Agreement including, without limitation, those set out in the Specification; and
 - 22.4.3 will be available to meet at all reasonable times with CRU and such other persons as may be specified by the ICT Manager.
- 22.5 The Service Provider will make available to the ICT Manager copies of all test certificates, test reports, test results and any specialist reports as may be required from time to time by the ICT Manager in connection with the provision of the Services and the Deliverables.
- 22.6 CRU may change its ICT Manager at any time at its sole discretion and will notify the Service Provider in the event that it does so.

23. SERVICE LEVELS

- 23.1 The Service Provider shall ensure that the Services are provided in such a manner that the Services meet or exceed the Service Levels at all times.

Service Credits are automatically payable to CRU by the Service Provider in the event of a Service Failure.

- 23.2 The Service Provider shall provide with the ICT Manager with a monthly report detailing its performance against each of the Service Levels, and any Service Credits payable, in a format to be agreed with the ICT Manager.
- 23.3 The ICT Manager and the Project Manager shall have regular meetings throughout the Term to:
 - 23.3.1 monitor and review the performance of this Agreement, the achievement of the Service Levels and the provision of the Services; and
 - 23.3.2 review the Service Levels and Service Credits and make any changes to them or introduce new Service Levels and corresponding Service Credits upon request by CRU to reasonably improve the performance, value and/or recording of the performance of the Services (without any increase in the Fees) and/or to reflect changes in the Service Requirement, Specification and/or scope of Services.
- 23.4 If the Service Provider fails to comply with this Agreement, the Service Provider shall notify in writing the ICT Manager immediately. The Service Provider shall promptly investigate and remedy the underlying causes of the failure to comply with this Agreement and prepare and deliver to CRU a report on the causes and solution as soon as possible and in any event within ten (10) Working Days of the Service Provider becoming aware of the failure arising or receiving notice of such failure from CRU, whichever is earlier.
- 23.5 The Service Provider acknowledges and agrees that the Service Credits represent that the value of the Services to CRU diminish in the event of a Service Failure and are a price adjustment to reflect the diminution in value of the quality of Service actually provided and do not represent a penalty or an

agreed estimate of the loss or damage that may be suffered by CRU in respect of the Service Provider's failure to meet the Service Levels.

24. CRU'S STEP-IN RIGHTS

24.1 If CRU reasonably believes that it needs to take action in connection with the Services and/or this Agreement because:

- 24.1.1 there is a Default entitling CRU to issue a Termination Notice;
- 24.1.2 there is a Default that is materially preventing, affecting or materially delaying the performance of the Services or any part of them;
- 24.1.3 there is a Default, or a fault or defect in the Services (or any part of them), that the Service Provider does not remedy or CRU considers the Service Provider may not be able to remedy;
- 24.1.4 there is a Delay that has or CRU reasonably anticipates may result in the Service Provider's failure to achieve a Milestone;
- 24.1.5 there is a serious risk to the health or safety or property of persons (including CRU) or the environment;
- 24.1.6 there is a serious risk to the security, integrity and/or condition of the Data, Confidential Information or CRU's System;
- 24.1.7 it is necessary for CRU to discharge a statutory duty or to comply with Applicable Laws;
- 24.1.8 of the occurrence of or anticipated occurrence of an Insolvency Event in respect of the Service Provider or Approved Subcontractor;
- 24.1.9 any of the Services are unavailable,

then CRU (acting in good faith) is entitled to take action in accordance with this Clause.

24.2 If Clause 24.1 applies and CRU considers that it must take action, CRU shall notify the Service Provider in writing of the following:

- 24.2.1 the action it proposes to take including, without limitation, stepping-in (or engaging a third person to step-in) in place of the Service Provider

and/or suspending the Service Provider's right and obligation to provide some or all of the Services;

24.2.2 the reason for such action;

24.2.3 the date it wishes to commence such action;

24.2.4 the time period which it believes shall be necessary for such action;
and

24.2.5 to the extent practicable, the effect on the Service Provider and its right and obligation to provide the Services during the period such action is being taken.

24.3 Following service of notice in accordance with Clause 24.2, the Service Provider has five (5) Working Days within which to make representations to CRU and to persuade CRU that such action as is notified is unnecessary except if CRU indicates in such notice that circumstances do not allow time to consider such representations. If the circumstances do not require CRU to take immediate action, CRU shall consider such representations in good faith but shall not be bound to accept such representations in whole or in part.

24.4 If CRU reasonably considers that there is insufficient time to consider the Service Provider's representations due to prevailing circumstances or having considered such representations CRU is not persuaded to desist from relying on this Clause, then CRU may take such action as notified under Clause 24.2 and any consequential additional action as it believes is necessary (together, the "**Required Action**").

24.5 The Service Provider shall provide all such co-operation, information and assistance as CRU (and any other person) may require in connection with the implementation of the Required Action and shall work with CRU (and any other person) to ensure that any adverse impact of any Required Action on the Services, the Deliverables and CRU is minimised.

24.6 The Service Provider shall pay to CRU all CRU's reasonable costs in taking the Required Action if the Required Action is required as a result of the Default, negligence or wilful misconduct of the Service Provider or Service Provider Personnel.

24.7 Within a reasonable period of the expiry of the circumstances which gave rise to the Required Action by CRU, CRU will promptly cease from taking any further Required Action in respect of such circumstances in which case the Service Provider will immediately resume performance of the relevant Services with minimum disruption.

25. SERVICE IMPROVEMENT

25.1 The Service Provider commits to continuously and incrementally improve its levels of performance of the Services under this Agreement and, where

reasonably possible, to deliver on an ongoing basis cost reductions and efficiencies.

25.2 The Service Provider shall pro-actively:

25.2.1 seek to identify and implement opportunities to continually and incrementally improve the Services (including lead times); and/or

25.2.2 seek to identify and implement changes in business processes, ways of working and/or changes in technology that would enable the Services to be delivered at lower costs and/or at greater benefits to CRU,

and in so doing the Service Provider shall prepare fully costed Service Improvement Plans which it shall deliver to CRU every twelve months from the Effective Date (or its anniversary, as the case may be) for the Term. Any Service Improvement Plans shall contain sufficient detail to enable CRU to properly evaluate the benefits proposed in the Service Improvement Plan.

25.3 If CRU wants the Service Provider to implement any improvement identified by the Service Provider pursuant to this Clause, CRU shall implement the Change Control Procedure.

25.4 If the Service Provider's costs in providing the Services are reduced as a result of any business processes, ways of working and/or changes in technology or other change one hundred per cent (100%) of the cost savings shall be passed on to CRU in the manner to be agreed in accordance with the Change Control Procedure.

26. MONITORING

26.1 The Service Provider will ensure that information, records and documentation necessary to monitor effectively the performance of this Agreement are maintained and are available at all reasonable times to the ICT Manager.

26.2 CRU is entitled to revise and increase the monitoring and reporting requirements with respect to the Service Provider during the course of the Project including the frequency of the Service Provider's reporting requirements.

26.3 The submission and receipt of any reports by the Service Provider to CRU does not in any way diminish or prejudice the rights of CRU or reduce or diminish the Service Provider's responsibility or liability. CRU's response, delay or failure to respond to any communication from the Service Provider does not constitute or

imply any review or verification by CRU, or relieve the Service Provider from any responsibility or liability.

27. CHANGE

27.1 Changes are subject to the Change Control Procedure.

PART 6 – INSURANCE, LIABILITY AND TERMINATION

28. INSURANCE

28.1 The Service Provider will, at its sole cost and expense, effect and maintain for the benefit of CRU for the Term of each SOW, and such further period as may be required or ought prudently to be effected and maintained after the expiration or termination of this Agreement, insurance cover with reputable insurers to cover its liabilities that may arise under or in connection with this Agreement (whether before or after the Effective Date) including, without limitation:

28.1.1 public liability insurance with minimum cover of six million five hundred thousand euro €6.5 million for each and every claim;

28.1.2 employer's liability insurance with minimum cover of thirteen million euro €13 million for each and every claim;

28.1.3 professional indemnity insurance with minimum cover of two million five hundred thousand euro €2.5 million for each and every claim (which professional indemnity insurance will be kept in place for at least six (6) years from the expiration or termination of the Agreement); and

28.1.4 Cyber liability insurance with minimum cover of one million euro €1,000,000 for each and every claim

28.2 The policy or policies of insurance referred to in Clause 28.1 will be shown by the Service Provider to CRU whenever CRU requests, together with satisfactory evidence of payment of premiums.

29. INDEMNITY AND LIABILITY

29.1 The Service Provider hereby agrees to indemnify, hold harmless and keep so indemnified on demand CRU (and its officers, employees, contractors and agents and the State) from and against any Liabilities howsoever arising which CRU (and its officers, employees, contractors and agents and the State) may suffer, sustain, incur or pay out arising out of and/or in connection with the negligence, Default, act or omission of the Service Provider and/or Service Provider Personnel. This indemnity survives the termination or expiration of this Agreement for whatever reason.

29.2 Save in respect of fraud, abandonment, wilful breach of any provision of this Agreement, personal injury or death (in each case, for which no limit applies), the limit of the Service Provider's liability to CRU under this Agreement whatsoever and howsoever arising shall not under any circumstances exceed the amount of the insurance to be maintained for the applicable liability or matter as specified in Clause 28.1 or, where that liability or matter is or ought to be

covered by two or more insurances specified in Clause 28.1, the higher of the amounts of insurance to be maintained..

30. COMMENCEMENT AND DURATION

- 30.1 This Agreement commences, and takes legal effect, on and from the Effective Date and continues in full force and effect after that for the Term, subject to Clause 32 (Termination). This Agreement automatically expires on the expiry of the Term unless otherwise extended by the Parties in writing.

31. TERMINATION

- 31.1 The Parties' rights of termination in respect of the Framework, the Framework Agreement and any SOW are set out in this Clause 31 (Termination).

- 31.2 CRU may terminate the Framework Agreement in whole or in part with at least one (1) month's prior written notice.

- 31.3 Termination or expiration of the Framework Agreement or the Framework does not affect any SOW which has already taken legal effect, unless the SOW is also terminated in accordance with its terms.

- 31.4 CRU may terminate an SOW in whole or in part with at least one (1) month's prior written notice.

- 31.5 If a Default Event occurs at any time:

31.5.1 CRU may (but is not obliged to) serve notice on the Service Provider to terminate its appointment to the Framework and the Framework Agreement; and/or

31.5.2 CRU may (but is not obliged to) serve notice on the Service Provider to terminate any or all SOWs with the Service Provider;

(in either case in whole or in part) immediately or with a designated notice period (during which the Service Provider will continue to perform the Services and Deliverables in accordance with the SOWs concerned) (a "**Termination Notice**").

- 31.6 Without prejudice to CRU's rights under Clause 31.5, if CRU considers that the Default Event is capable of remedy and steps can be taken by the Service Provider to prevent its reoccurrence, CRU may, at its absolute discretion and by notice in writing, suspend the effect of a Termination Notice issued by it in respect of a particular SOW and/or the Framework Agreement for a period of ten (10) Working Days (or such other period as CRU may stipulate) within which the Service Provider will have the opportunity to agree with CRU a scheme for remedy of such failure and to remedy the failure within an agreed period. Any failure by the Service Provider to comply with such agreed scheme within the

agreed period is a Default Event for the purposes of any SOW and for the purposes of the Framework Agreement.

31.7 Each of the following are Default Events, namely if:

- 31.7.1 CRU terminates any SOW for cause in accordance with its terms;
- 31.7.2 the Service Provider becomes Insolvent or CRU considers there is a risk that the Service Provider is about to become Insolvent;
- 31.7.3 a Force Majeure Event continues for more than ten (10) Working Days;
- 31.7.4 CRU becomes entitled to terminate this Agreement or issue a Termination Notice under any other Clause or under any Schedule in this Agreement;
- 31.7.5 the Service Provider threatens to cease, or ceases, providing the Services (in whole or in part) under any SOW or abandons any SOW or the Framework Agreement;
- 31.7.6 the Service Provider commits a material breach (whether repudiatory or not) of the Framework Agreement and/or any SOW;
- 31.7.7 the Service Provider commits a number of Defaults or repeated Defaults which, taken together, constitute, in the sole opinion of CRU, a material breach (whether repudiatory or not) of the SOW and/or the Framework Agreement or are to CRU's material detriment;
- 31.7.8 the Service Provider or Service Provider Personnel commit any act tending to bring either the Service Provider into disrepute or CRU, the Services, the Deliverables and/or the related project into disrepute or otherwise negatively affecting them or the business of CRU;
- 31.7.9 the Service Provider declines, on two or more occasions during the Term of the Framework Agreement, to enter into any SOW when offered an SOW in accordance with the Framework Rules and RFST;
- 31.7.10 the Service Provider does not, on two or more occasions during the Term of the Framework Agreement, submit a bona fide Supplemental Tender in response to a RFST issued to it in accordance with the Framework Rules;
- 31.7.11 the Service Provider is in breach of Clause 2.2 or there is a change in any of the circumstances set out in Clause 2.2 in light of which CRU considers it prudent, necessary or appropriate to terminate an SOW and/or the Framework Agreement;
- 31.7.12 there is any change in the management or control of the ownership of Service Provider, its holding company and/or any of its or its holding company's subsidiaries to which CRU has not given its prior written consent;
- 31.7.13 the Service Provider, in the reasonable opinion of CRU, is unable to perform the Services and its obligations under this Agreement in the manner or standard contemplated by the RFT, RFST, Service

Requirement, Tender, Supplemental Tender and/or this Agreement and/or required by CRU; and/or

- 31.7.14 the Service Provider is in breach of Clause 35 (Intellectual Property), Clause 28 (Insurance), Clause 37 (Confidentiality) and/or Clause 36 (Data Protection).
 - 31.7.15 if, in CRU's reasonable opinion, there is a material detrimental change in the economic and/or financial standing and/or the credit rating of the Service Provider or its subcontractors which are Tendered Personnel which adversely impacts on the Service Provider's ability to supply Services under potential SOW;
 - 31.7.16 if, in CRU's reasonable opinion, any statement in the Service Provider's Tender or any Supplemental Tender was untrue, incorrect or misleading when made or ceases to be true or correct;
 - 31.7.17 the Service Provider fails in any one (1) calendar month to achieve any single Minimum Service Level;
 - 31.7.18 the Service Provider fails, for two (2) consecutive calendar months, to achieve the same individual Expected Service Level; and/or
 - 31.7.19 the Service Provider fails, for three (3) consecutive calendar months, to achieve any of the Expected Service Levels (whether or not it is the same or a different Expected Service Level in each of the three (3) months).
- 31.8 CRU may terminate the Framework Agreement and/or any SOW by notice in writing with immediate effect if, in the reasonable opinion of CRU, it is necessary or prudent to terminate it in order to comply with the requirements of applicable public procurement law or settle any complaint or challenge received by CRU in such respect.
- 31.9 Upon the termination or expiration of the Framework Agreement and/or any SOW, the Service Provider will, upon request, promptly furnish to CRU all documentation, information, materials, reports and data that it has obtained, produced, generated or prepared, prior to termination or expiration, in connection with the Services and/or Deliverables in hard copy and/or in electronic form in a format specified by CRU and to the extent requested by CRU.
- 31.10 If the Framework Agreement or an SOW expires or is terminated (or rendered ineffective pursuant to a Court order):
- 31.10.1 CRU will be liable only to pay the Service Provider Fees directly attributable to the proportion of the Services and Deliverables properly

completed in accordance with an SOW prior to the date of termination or expiration; and

31.10.2 the Service Provider will immediately pay CRU in respect of any Fees paid in advance in respect of Services or Deliverables to be provided after the date of termination or expiration,

and CRU will have no obligation or liability to pay any other sums or Fees to the Service Provider in such event.

31.11 CRU and Service Provider agree that termination or expiry of this Agreement (in whole or in part) does not affect either Party's rights or obligations accruing prior to the effective date of the termination or expiration or any rights or obligations of either Party which the Agreement, the Exit Plan and/or any Service Standards provide survive or commence after the expiration or termination of this Agreement. The termination or expiration of this Agreement for whatever reason does not affect the enforceability of provisions of this Agreement expressed to operate following termination or expiration or which by implication have effect following termination or expiration (including any indemnities).

31.12 The Service Provider shall continue to provide the Services during any notice period subject to the terms of this Agreement.

31.13 The Service Provider will promptly provide CRU with all such information and data as CRU may require (including in relation to employees' terms and conditions and benefits where the European Communities (Protection of Employees on Transfer of Undertakings) Regulations 2003 may apply on the commencement of any new contract) in order to facilitate a fair and equal public procurement process in respect of the Services or Deliverables, or anything similar or identical to them. CRU may request this information prior to termination or expiration.

32. EXIT SERVICES

32.1 The Service Provider (unless otherwise agreed) shall, within four (4) weeks of the date of execution of this Agreement, prepare and provide to CRU a draft Exit Plan that reflects Best Industry Practice and provides for the seamless and smooth termination of the Services and transition of the Services to a replacement service provider and shall keep it current and up-to-date at all times and shall review and update it at least every twelve (12) months. The Service Provider shall update and revise the draft Exit Plan to reflect any comments or suggestions of CRU at any time and from time to time.

32.2 Upon termination or expiry of the Term or issue of a Termination Notice or termination of the Services (in whole or in part), the Parties shall, upon request by CRU, implement the Exit Plan and the Service Provider shall provide the Exit Services in accordance with Schedule 9 (Exit) and the Exit Plan.

32.3 The Service Provider shall not, upon the termination, expiration or suspension of this Agreement (in whole or in part), act or omit to act in a manner that is

detrimental to the storage or preservation of the Software Products or the reputation or goodwill of CRU.

PART 7 – FINANCIAL TERMS

33. FEES

- 33.1 The Service Provider's maximum rates for the duration of the Framework Agreement and any SOW are set out in the Price Matrix. The Service Provider will base its price for any SOW on the rates set out in the Price Matrix or lower rates.
- 33.2 The Fees payable for an SOW will be set out in the SOW concerned. The Fee set out in the SOW is, subject to Clause 33.5, inclusive of all insurances overheads and other costs and expenses and is unconditionally fixed for the Term of the SOW.
- 33.3 If the Fee for an SOW is on a time basis, the Service Provider must provide the Services and Deliverables in a cost efficient manner and subject to any maximum Fee.
- 33.4 If some or all of the Fee is subject to delivery of a Deliverable to CRU, that part of the Fee will not be payable until such Deliverable is completed by the Service Provider to CRU's satisfaction.
- 33.5 CRU will only pay the Service Provider in respect of expenses if:
 - 33.5.1 the Service Provider directly and actually incurs such expenses in providing the Services and Deliverables;
 - 33.5.2 the expenses are reasonably and properly incurred and vouched;
 - 33.5.3 such expenses are expressly identified in the SOW concerned as being recoverable expenses; and
 - 33.5.4 CRU approves of such expenditure in writing prior to it being incurred.
- 33.6 The Service Provider will issue an invoice to CRU, with an official purchase order number, in respect of the Fees payable pursuant to an SOW at the times and in the manner set out in the SOW concerned and in accordance with Part 2 of Schedule 4. The invoice will contain such information as CRU requires from time to time including a detailed breakdown and time analysis of all work undertaken.
- 33.7 CRU will pay the Service Provider in euro the Fees and, if applicable, expenses payable in accordance with Clause 33.5, pursuant to an undisputed invoice

requesting payment within thirty (30) Working Days of receipt of a valid undisputed invoice provided it is issued in accordance with Clause 33.6.

- 33.8 Either Party may refer a Dispute in relation to an invoice to the Dispute Resolution Procedure.

34. TAX

- 34.1 The Fees (including the expenses) do not include Value Added Tax which will be paid, if chargeable, by CRU at the rate and in the manner for the time being prescribed by Irish law.

- 34.2 All payments to be made pursuant to this Agreement in respect of professional services, if any, are subject to withholding tax at the rate and in the manner prescribed by Irish law.

- 34.3 The Framework Agreement, and any payments under any SOW, is conditional on the Service Provider at all times being in possession, during the operation of the Framework Agreement and SOWs, of a valid and current tax clearance certificate issued by the Irish Revenue Commissioners. The Service Provider will furnish same to CRU on an annual basis and at such other times as may be required by CRU. The Service Provider will inform CRU immediately if it ceases to possess a valid and current tax clearance certificate.

- 34.4 The Service Provider is solely responsible:

34.4.1 for all tax liabilities in respect of the expenses and Fees paid by CRU to the Service Provider under an SOW including income tax and social welfare insurance or similar (including any levies or universal service charges);

34.4.2 for remitting all VAT payments to the relevant authorities on the Fees and expenses paid by CRU to the Service Provider under an SOW;

34.4.3 for making all deductions and payments properly payable and deductible by an employer in relation to any employees of the Service Provider including deductions for income tax and social welfare insurance contributions or similar (including any levies or universal service charges); and

34.4.4 for ensuring that the persons engaged by the Service Provider which are not its employees file all the appropriate tax returns and comply with all appropriate revenue and social welfare laws and similar in relation to their remuneration from the Service Provider,

and the Service Provider will fully comply with its obligations and responsibilities in this respect.

- 34.5 The Service Provider hereby irrevocably agrees to fully and effectively indemnify and hold harmless, and keep so indemnified, CRU (and its officers, employees, contractors and agents and the State) on demand from and against any Liabilities (including interest and fines) suffered and/or incurred by or taken against CRU (and its officers, employees, contractors and agents and the State) arising out of or in connection with or as a result of any claims or investigations by the relevant authorities or any other party against CRU (and its officers,

employees, contractors and agents and the State) in respect of demands for income tax, levies, universal social charge or social welfare insurance or other similar contributions relating to the provision of the Services and Deliverables by Service Provider and/or Service Provider Personnel. This indemnity survives the termination or expiration of this Agreement for any reason whatever.

PART 8 – INFORMATION, DATA AND IP

35. INTELLECTUAL PROPERTY

35.1 The Service Provider (and any other third party) has no, and will not acquire any, right, title or interest in or to the Intellectual Property of CRU or its third party licensors, including Intellectual Property relating to its software; equipment, hardware, documentation, processes, procedures; know-how, Data and any other Intellectual Property, data or information of CRU.

35.2 The Service Provider agrees to respect CRU's and its third party licensor's legal and beneficial rights in and to each of their Intellectual Property and the Service Provider will not act or omit to act in any manner which adversely affects the rights of CRU or its third party licensors in or to either of their Intellectual Property.

35.3 In consideration of the payment of €1.00 and for other good and valuable consideration (the receipt and sufficiency of which the Service Provider hereby acknowledges and accepts):

37.3.1 the Service Provider acknowledges and agrees that all right, title and interest in or to the Services IP automatically and absolutely vests (or vested) in CRU upon creation (including the right to sue for past infringement) free from all encumbrances; and

37.3.2 the Service Provider hereby irrevocably, unconditionally and absolutely assigns, transfers and sets over unto CRU all right, title and interest in and to all existing and future Intellectual Property in or to the Services IP to the extent that it does not vest upon creation in CRU pursuant to Clause 37.3.1 (including the right to sue for past infringement) free from all encumbrances,

excluding, for certainty, the Background IP.

35.4 The Service Provider irrevocably and unconditionally waives, and undertakes to procure the waiver of, all moral rights in respect of the Services and the Deliverables (including the Services IP) to which it may now or at any time in the future be entitled, whether under the Copyright and Related Rights Act 2000 to 2007 or under any similar laws in force from time to time in Ireland or in any part of the world in favour of CRU, its employees, servants, agents, contractors, licensees, assignees and designees.

35.5 CRU hereby agrees to grant the Service Provider, subject to the ICT Manager's prior written consent in any case (which consent will not be unreasonably delayed or withheld), a revocable non-exclusive, non-transferable, limited licence to use CRU's Intellectual Property solely to the extent necessary for the Service Provider to provide the Services and/or deliver the Deliverables in accordance with the relevant SOW, and not for any other purpose. This licence will immediately cease upon the earlier of its termination by CRU or the termination

or expiry of the relevant SOW (or earlier to the extent that any such Intellectual Property is not required by Service Provider for the purpose of fulfilling its obligations to provide the Services and Deliverables under the relevant SOW).

35.6 The Service Provider hereby grants to CRU an irrevocable, non-terminable, perpetual, fully paid up, worldwide, royalty free, non-exclusive, transferable, sub-licensable licence for CRU (and its employees, service providers, consultants, agents, representatives and other contractors) to use, update, amend, improve, adapt, distribute and/or modify the Background IP in any way whatever in connection with, and/or in order to obtain the full benefit of, the Services IP, the Services, the Deliverables and/or this Agreement and/or for any related and/or connected purpose whatever. This Clause 35.6 survives the termination or expiration of this Agreement.

35.7 The Service Provider:

37.7.1 hereby grants to CRU an irrevocable, non-terminable, perpetual, fully paid up, royalty free, worldwide non-exclusive licence for CRU (and its employees, service providers, consultants, agents, representatives and other contractors) to use, update, amend, improve, adapt, distribute and/or modify the Software Products to the extent that the Service Provider can, using its best endeavours, procure such terms; or

37.7.2 if, and to the extent that it does not have the power to itself grant such a licence, will procure, at its sole cost and expense, the direct grant by the owner or authorised licensors to CRU of an irrevocable, non-terminable, perpetual, fully paid up, royalty free, worldwide non-exclusive licence for CRU (and its employees, service providers, consultants, agents, representatives and other contractors) to use, update, amend, improve, adapt, distribute and/or modify the Software Products to the extent that the Service Provider can, using its best endeavours, procure such terms,

in any way whatever in connection with, and/or in order to obtain the full benefit of, the Services IP, the Services, Developed Software, Software Products, the Deliverables and/or this Agreement and/or for any related and/or connected purpose whatever. The Service Provider shall, in any given case, notify the ICT Manager in advance of the best licence terms available in respect of any Software Product.

35.8 The Service Provider warrants, represents and undertakes that:

37.8.1 it has the right to grant, assign, convey and set unto, CRU as the case may be, all rights, licences, interests in and to all Intellectual Property granted by it under this Agreement; and

37.8.2 the normal use and possession by CRU or any other person in accordance with this Agreement of any Intellectual Property supplied, procured, made available, generated, created or used by or on behalf of the Service Provider under this Agreement and/or in connection with the Services and/or the Deliverables does not, and will not, infringe the Intellectual Property of any third party.

35.9 The Service Provider hereby indemnifies and shall hold harmless and keep CRU (and its officers, employees, contractors and agents and the State) fully and effectively indemnified on demand from and against any Liabilities

howsoever arising which CRU (and its officers, employees, contractors and agents and the State) may suffer, sustain, incur or pay out arising out of or in connection with any breach of the warranty in Clause 35.8 and/or any threat or claim that the normal use or possession by CRU (or any other person in accordance with this Agreement) of the Services, Deliverables, Developed Software, Software Products, Background IP and/or Services IP infringes the rights of any third party. This indemnity survives the termination or expiration of this Agreement for any reason.

36. DATA PROTECTION & SECURITY

36.1 In this Agreement the following terms shall have the meanings respectively ascribed to them:

“Data Controller” has the meaning given under the Data Protection Legislation;

“Data Processor” has the meaning given under the Data Protection Legislation;

“Data Subject” has the meaning given under the Data Protection Legislation;

“Data Subject Access Request” means a request made by a Data Subject in accordance with rights granted under the Data Protection Legislation to access their Personal Data;

“Personal Data” has the meaning given under Data Protection Legislation; and

“Processing” has the meaning given under the Data Protection Legislation.

36.2 The Service Provider shall comply with all applicable requirements of the Data Protection Legislation.

36.3 The Parties acknowledge that for the purposes of the Data Protection Legislation, the CRU is the Data Controller and the Service Provider is the Data Processor in respect of Data which is Personal Data. Schedule 10 sets out the scope, nature and purpose of Processing by the Service Provider, the duration of the Processing and the types of Personal Data and Categories of Data Subject.

36.4 Without prejudice to the generality of Clause 36.3, the Service Provider shall, in relation to any Personal Data processed in connection with the performance by the Service Provider of its obligations under this Agreement: -

(1) process that Personal Data only on the written instructions of the CRU;

(2) ensure that it has in place appropriate technical and organisational measures, (which may, on request, be reviewed and approved by the CRU), to protect against unauthorised or unlawful processing of Personal Data and against accidental loss or destruction of, or damage to, Personal Data, appropriate to the harm that might result from the unauthorised or unlawful processing or accidental loss, destruction or damage and the nature of the data

to be protected, having regard to the state of technological development and the cost of implementing any measures (those measures may include, where appropriate, pseudonymising and encrypting Personal Data, ensuring confidentiality, integrity, availability and resilience of its systems and services, ensuring that availability of and access to Personal Data can be restored in a timely manner after an incident, and regularly assessing and evaluating the effectiveness of the technical and organisational measures adopted by it);

(3) ensure that all Service Provider Personnel who have access to and/or process Personal Data are obliged to keep the Personal Data confidential;

(4) not transfer any Personal Data outside of the European Economic Area unless the prior written consent of the CRU has been obtained and the following conditions are fulfilled;

- i. appropriate safeguards are in place in relation to the transfer, to ensure that Personal Data is adequately protected in accordance with Chapter V of GDPR;
- ii. the data subject has enforceable rights and effective legal remedies;
- iii. The Service Provider complies with its obligations under the Data Protection Legislation by providing an adequate level of protection to any Personal Data that is transferred; and
- iv. The Service Provider complies with reasonable instructions notified to it in advance by the CRU with respect to the processing of the Personal Data.

36.5 The Service Provider shall promptly notify the CRU if it receives a Data Subject Access Request to have access to any Personal Data or any other complaint, correspondence, notice, request any order of the Court or request of any regulatory or government body relating to the CRU's obligations under the Data Protection Legislation and provide full co-operation and assistance to the CRU in relation to any such complaint, order or request (including, without limitation, by allowing Data Subjects to have access to their data).

36.6 The Service Provider shall without undue delay report in writing to the CRU any data compromise involving Personal Data, or any circumstances that could have resulted in unauthorised access to or disclosure of Personal Data.

36.7 The Service Provider shall assist the CRU in ensuring compliance with its obligations under the Data Protection Legislation with respect to security, impact assessments and consultations with supervisory authorities and regulators.

36.8 The Service Provider shall at the written direction of the CRU, amend, delete or return Personal Data and copies thereof to the CRU on termination of this Agreement unless the Service Provider is required by the laws of any member of the European Union or by the laws of the European Union applicable to the Service Provider to store the Personal Data.

36.9 The Service Provider shall permit the CRU, the Data Protection Commission or other supervisory authority for data protection in Ireland, and/ or their nominee to conduct audits and or inspections of the Service Provider's facilities, and to have access to all data protection, confidentiality and security procedures, data equipment, mechanisms, documentation, databases, archives, data storage devices, electronic communications and storage systems used by the Service Provider in any way for the provision of the Services. The Service Provider shall comply with all reasonable directions of the CRU arising out of any such inspection, audit or review.

36.10 The Service Provider shall fully comply with and implement policies which are communicated or notified to the Service Provider by the CRU from time to time.

36.11 The Service Provider shall maintain complete and accurate records and information to demonstrate its compliance with this Clause 36 and allow for inspections and contribute to any audits by the CRU or the CRU's designated auditor from time to time.

36.12 The Service Provider shall: -

(1) take all reasonable precautions to preserve the integrity of any Personal Data which it processes and to prevent any corruption or loss of such Personal Data;

(2) ensure that a back-up copy of any and all such Personal Data is made weekly and this copy is recorded on media from which the data can be reloaded if there is any corruption or loss of the data; and

(3) in such an event and if attributable to any default by the Service Provider or any Sub-contractor, promptly restore the Personal Data at its own expense or, at the CRU's option, reimburse the CRU for any reasonable expenses it incurs in having the Personal Data restored by a third party.

36.13 The Service Provider shall not appoint any third party processor of Personal Data without the prior consent of CRU. Where CRU provides such consent, the Service Provider shall enter into a written agreement incorporating terms which are substantially similar to those set out in this Clause 36 as between the Client and the Service Provider, the Service Provider shall remain fully liable for all acts or omissions of any third-party processor appointed by it pursuant to this Clause 36. The Service Provider shall provide confirmation of this to CRU.

36.14 Save for Clauses 36.2, 36.3, 36.4(4) and 36.5, all the obligations on the Service Provider in this Clause 36 relating to the processing of Personal Data shall apply to the processing of all Data.

36.15 The provisions of this Clause 36 shall survive termination and or expiry of this Agreement for any reason.

37. CONFIDENTIALITY

- 37.1** The Service Provider undertakes and agrees to keep secret and strictly confidential and to not disclose the Confidential Information to any third party without CRU's prior written consent provided that the provisions of this Clause 37 (Confidentiality) do not apply to any Confidential Information to the extent that it:
- 37.1.1** is in or enters the public domain other than by breach of this Agreement (or other obligation of confidentiality); or
 - 37.1.2** is obtained from a third party who is lawfully authorised to disclose such information without breach of any obligation of confidentiality.
- 37.2** Nothing in this Clause 37 (Confidentiality) prevents the Service Provider from disclosing Confidential Information to the extent that it is required to do so by judicial, administrative, governmental or regulatory process in connection with any action, suit, proceedings or claim or otherwise by Applicable Law provided that it gives CRU as much advance notice of such disclosure as reasonably possible and permits CRU to take lawful steps to prevent its disclosure.
- 37.3** The Service Provider may disclose Confidential Information to any of the Service Provider Personnel to the extent necessary for the proper performance of the Services and Deliverables provided that such person is under equivalent written legal obligations to those provided for under this Clause 37 (Confidentiality).
- 37.4** The Service Provider will use the Confidential Information and any other data or information it acquires as a result of or in anticipation of or in connection with this Agreement, the Deliverables and/or the Services, only for the purposes of this Agreement and will use all reasonable endeavours to keep the Confidential Information safe, secure and confidential.
- 37.5** The Service Provider will immediately notify CRU in writing if the Service Provider suspects that the confidentiality and/or security of CRU's Confidential Information has been breached.
- 37.6** The Service Provider, upon the earlier of (i) the termination or expiration of this Agreement or (ii) when it no longer requires the Confidential Information to provide the Services or Deliverables, will:
- 37.6.1** return to CRU all Confidential Information (and any copies of it) insofar as it is in tangible form, provided that the Service Provider may retain one single copy of it if required for professional indemnity purposes which copy shall only be used for such purposes;
 - 37.6.2** irrevocably delete all Confidential Information in electronic form; and
 - 37.6.3** provide a signed statement to CRU certifying that it has complied with this Clause 37 (Confidentiality).
- 37.7** The Service Provider acknowledges and agrees that damages would not be an adequate remedy for any breach by it of this Clause 37 (Confidentiality) and that CRU is entitled to injunctive relief for any threatened or actual breach of this Clause 37 (Confidentiality) and that no proof of special damages is

necessary for the enforcement of the provision of this Clause 37 (Confidentiality).

- 37.8 The obligations of this Clause 37 (Confidentiality) survive the expiration or termination of this Agreement for whatever reason.

PART 9 - MISCELLANEOUS

38. FORCE MAJEURE

- 38.1 If a Party (the “**Affected Party**”) is prevented, hindered or delayed from or in performing any of its obligations under an SOW by a Force Majeure Event:

38.1.1 the Affected Party’s obligations under the SOW are suspended while the Force Majeure Event continues to the extent that it is prevented, hindered or delayed from performing them by the Force Majeure Event;

38.1.2 as soon as reasonably possible after the start of the Force Majeure Event, the Affected Party shall notify the other Party in writing of the Force Majeure Event, the date on which the Force Majeure Event started and the effects of the Force Majeure Event on its ability to perform its obligations under the SOW concerned; and

38.1.3 the Affected Party shall make all reasonable efforts to mitigate the effects of the Force Majeure Event on the performance of its obligations under the SOW concerned and immediately after the end of the Force Majeure Event the Affected Party shall notify the other Party that the Force Majeure Event has ended and resume performance of its obligations under the SOW concerned.

- 38.2 The Service Provider is not entitled to invoke the provisions of this Clause 38 (Force Majeure) in respect of any SOW, Services, Deliverables or otherwise to the extent that:

38.2.1 the Force Majeure Event is attributable to its Default, acts, errors, omissions, negligence, failure to take reasonable precautions against the relevant Force Majeure Event or wilful act;

38.2.2 it has not complied with its obligations to implement and maintain a Disaster recovery plan and/or Standby Capability to the extent required pursuant to the SOW concerned and/or the Service Standards; and/or

38.2.3 the Force Majeure Event is one which a reasonable Service Provider should have foreseen and accordingly provided for the cause in question.

- 38.3 If the Service Provider does not fully comply with this Clause 38 (Force Majeure) it forfeits its rights under it.

39. NOTICES

- 39.1 Any notice under or in connection with the Framework Agreement or an SOW must be in writing in the English language and must be delivered personally or sent by pre-paid registered or certified delivery post to the Party intended to

receive the notice at its address set out at the front of the Framework Agreement or any revised address notified in accordance with, and for the purposes of, this Clause 39 (Notices).

- 39.2 Unless the contrary is proved, each notice is deemed to have been given or made and delivered (if by post) two (2) Working Days after posting or (if delivered by hand) the next Working Day after it was left at the relevant address.

40. MISCELLANEOUS

- 40.1 Each Party will bear its own costs and expenses in relation to the preparation, execution and implementation of the Framework Agreement and any SOW including all costs, legal payments and other expenses so incurred.
- 40.2 No media releases, public announcements nor public disclosures relating to the Framework Agreement or any SOW or their subject matter, including but not limited to promotional, advertising or marketing material, may be made by the Service Provider without the prior written consent of CRU.
- 40.3 The Service Provider will, from time to time upon the request of CRU, execute any additional documents and do any other acts or things or procure any of the foregoing which may reasonably be required by CRU to implement the provisions or the purposes of the Framework Agreement or any SOW.
- 40.4 The Service Provider is not entitled to novate, assign, transfer or otherwise dispose of the Framework Agreement or any SOW (in either case in whole or in part), or any of its rights or obligations under them, to any extent without the prior written consent of CRU. CRU may subcontract, novate, assign, transfer or otherwise dispose of the Framework Agreement or any SOW, or any of its rights or obligations under them, in whole or in part to any person without the prior consent of the Service Provider and the Service Provider will execute such documents to give effect to any such matter upon request by CRU.
- 40.5 Amendments to the Framework Agreement or an SOW may be made only by mutual agreement of both Parties in writing.
- 40.6 The provisions of the Framework Agreement and any SOW may only be waived by CRU in writing. A waiver by CRU of any breach by the Service Provider of any of the provisions of the Framework Agreement or any SOW does not constitute a general waiver of the relevant provision or of any subsequent act contrary to it. The delay, failure or neglect by CRU to enforce any provision of the Framework Agreement or SOW is not (and will not be deemed to be) a waiver of CRU's rights under it and does not prejudice CRU's right to take subsequent action in respect of such provision.
- 40.7 The Framework Agreement and each SOW does not in itself constitute any Party the legal representative, employee, employer, joint venturer, partner or agent of the other Party nor does any Party or any successor of any Party have the right or authority to assume, create or incur any liability or obligation of any kind expressed or implied against or in the name of or on behalf of any other Party. The Service Provider is, at all times in connection with the operation of this Agreement, an independent contractor.
- 40.8 Each Party is entering into the Framework Agreement and each SOW as a principal on its own behalf. If the Service Provider comprises of more than one

person, all the provisions of the Framework Agreement and each SOW are entered into jointly and severally by each such person and all such persons are jointly and severally liable under the Framework Agreement and each SOW.

- 40.9 The Framework Agreement and each SOW is effective only upon the same being executed by or on behalf of each Party. The Framework Agreement and each SOW may be executed in any number of counterparts and by the different Parties on separate counterparts, each of which when executed constitute an original; all such counterparts together constituting but one and the same instrument.
- 40.10 This Agreement represents the entire of the understanding of the Parties concerning the subject matter of this Agreement and overrides and supersedes, in particular, all prior discussions, letters, agreements and other matters concerning it which are hereby revoked by mutual consent of the Parties. The Service Provider confirms that it has not relied on, and has no remedies in respect of, any representations, conditions and terms except those expressly set out in the Agreement and that the Parties have not entered into any collateral Agreement. Nothing in this Clause 40.10 excludes any liability which one Party would otherwise have to the other Party in respect of any statements made fraudulently.
- 40.11 If any provisions of the Framework Agreement or any SOW is held by any court of competent jurisdiction or other competent authority to be unenforceable, illegal or void in whole or in part, then such part may be severed by the relevant court or competent authority from the remainder of the Framework Agreement or SOW, as the case may be, which will remain in full force and effect to the fullest extent permitted by Applicable Law.
- 40.12 The Service Provider agrees that, both during the Term of the Framework Agreement and each SOW and for a period of six (6) months after such terms, it shall not employ or solicit or endeavour to solicit or entice away from the service of CRU any person employed by CRU in any capacity whatsoever, whether or not such an employee would commit a breach of his employment agreement in so doing.
- 40.13 CRU may recover any money due from the Service Provider under or for breach of the Framework Agreement and/or any SOW (i) as a simple contract debt due and recoverable in any Court of competent jurisdiction; and/or (ii) by deducting the money from any other money due or to become due to the Service Provider under the Framework Agreement or any SOWs.
- 40.14 The Service Provider acknowledges and agrees that CRU is subject to the Freedom of Information Act 2014 and/or, as applicable, the European Communities (Access to Information on the Environment) Regulations 2007 to 2014 and that, accordingly, information (including, without limitation, the Fees) may be released by it purportedly pursuant to Applicable Laws. CRU is not liable in any way to the Service Provider (or any other person) in respect of any information released by it purportedly pursuant to Applicable Laws and/or any Liabilities suffered or incurred by the Service Provider in connection with such release.
- 40.15 Any right or remedy the CRU has under this Agreement may be enforced separately from or concurrently with any other right or remedy available to it. All

rights and remedies the CRU has under this Agreement are in addition to and not exclusive of its rights and remedies at law or in equity.

41. DISPUTE RESOLUTION AND GOVERNING LAW

- 41.1 Any Disputes will be resolved subject to, and in accordance with, the Dispute Resolution Procedure.
- 41.2 The formation, interpretation and operation of the Framework Agreement and each SOW, and all matters and Disputes arising out of or in connection with the Framework Agreement and each SOW, is subject to Irish Law and the Parties, subject to Clause 41.1, each submit to the exclusive jurisdiction of the Irish Courts.
- 41.3 Nothing contained in this Clause 41 shall limit the right of either Party to bring enforcement proceedings in another jurisdiction on foot of an Irish order or seek interim, protective or provisional relief in the courts of Ireland or another jurisdiction

SCHEDULE 1 – SERVICE REQUIREMENT

Part 1 – ICT Managed Services

The Service Provider will, in particular (and without prejudice to the more general description in other parts of this section), be required to provide the following specific services as a part of the Services:

- (i) Provision of a fully managed service desk based on best practice ITIL managed services framework. This will include a multi-channel helpdesk with a dedicated email address and contact number as well as a portal for end users to log tickets. The helpdesk must allow for the recording, categorisation, prioritisation, escalation and reporting of all incidents and service requests.
- (ii) Proactive 24/7 monitoring of key servers and network devices to enable rapid identification and resolution of potential issues. The Tenderer will be required to provide regular reports giving an executive summary of such monitoring, highlighting any key issues and resolution actions.
- (iii) The Service Provider must be able to fully support the CRU core ICT environment based upon, VMWare, Microsoft Operating Systems including MS 2016 Server onwards and end user devices based on MS Windows 11 and any future operating system, all versions of M365 including Business Premium, F3, E3 and E5, Co-pilot, PowerBI, Visio & Project.
- (iv) The Set-up, configuration and maintenance, including relevant software installation, of new or existing Servers (including deploying new VMs), PCs, smart phone devices, laptops, tablets or network hardware (including Wi-Fi systems), as required. As well as the decommissioning of hardware that is no longer required, and the updating of the CRU ICT Asset Register, as required. CRU currently has a policy of refreshing hardware on a regular basis. It is expected that approx. 400 new PCs (laptops, tablets and/ or desktops) will be replaced during the next 4 years and configuration, setup and deployment of these new devices is within scope of the standard MSP services and the fixed annual price. CRU will retain ownership of all hardware, unless otherwise agreed in a given case. CRU will remain responsible for the proper disposal of its ICT

assets in accordance with its internal policies, however the Managed Services Provider will be required to assist the CRU ICT Manager and ICT Team, by providing support, and any required information, during the disposal process, and by readying hardware for disposal (i.e. wiping clean any data etc.).

- (v) Set-up and maintenance of all user profiles, including access rights to in-scope ICT systems and services. This will include setting user permissions for on-premise and cloud-based solutions, including but not limited to, Active Directory/ Azure Entra ID, MS Dynamics, MS Business Central, and other CRU Business Applications, etc.
- (vi) Set-up of users on security systems for accessing the CRU network, e.g. DUO MFA System, Fortinet VPN, Microsoft Authenticator, Cisco Umbrella, Sophos, etc.
- (vii) Monitoring email and internet usage solutions, i.e. Mimecast, Lookout for Work, Sophos Intercept X, Cisco Umbrella, etc. The Service Provider will be required to provide detailed reports, to the ICT Manager, as and when required, on the effectiveness of these services/ solutions. These reports may be subject to review at the quarterly service review meeting.
- (viii) Supporting the CRU ICT department. in the implementation of various CRU ICT user policies. The Service Provider will be required to provide quarterly reports of the effectiveness of this service to the ICT Manager, as and when required. All existing and new ICT Policies will be made available to the successful tenderer.
- (ix) The MSP must manage the CRU Software Licence Portfolio and associated support arrangements. This will involve working with the CRU ICT Manager / ICT Dept. to ensure that all required licences are in place for the software packages, solutions and services in use. Where appropriate, the service provider will also ensure that sufficient third-party support arrangements are in place and will manage those arrangements on behalf of the Commission. This may involve the transfer of existing software license agreements to the MSP. The MSP will help maintain the Commission's compliance with all software licensing during the contracted period, including support with the renewal process of such arrangements, as required. The service provider will also be responsible for managing any Microsoft Audits, or similar audits, should any arise during the contract period.
- (x) The service provider will be responsible for managing the software/SaaS renewals portfolio for all solutions used by CRU. CRU currently has a number of SaaS solutions and other ad-hoc solutions that require annual renewal, and the service provider must ensure this inventory is maintained and kept up to date. The service provider will be required to provide the CRU ICT Manager with a minimum of 60 days' notice of any renewal. A full inventory of current SaaS solutions will be made available to the successful tenderer. CRU will utilise OGP Frameworks where possible for software renewals, however the MSP may be asked to submit a quotation, or multiple quotations, to the CRU ICT Manager / ICT Dept., if required, for products that cannot be renewed via the OGP Frameworks. Renewals will be at the discretion of the CRU ICT Manager and must only be renewed once a Purchase Order (PO) has been issued and confirmation of the order has been provided by CRU. The MSP will be required to demonstrate value for money and to provide any and all discounts where available. They must also provide written assurance on competitive pricing. The cost of the software renewals must not exceed any list price or recommend retail price.

- (xi) Patch & firmware management – the service provider must deploy all stable software patches and firmware updates as they become available for all software/ hardware systems, solutions and services employed by the Commission. The MSP will also be responsible for upgrading Operating Systems of in-scope user devices, as requested, i.e. from W11 to the next Operating System and W2016 Server to next Server Operating System. The service provider will be required to provide monthly / quarterly reports outlining the software versions and patch levels for all key services and systems on the Production Site, DR Site and Azure Site. Patch management includes, but is not limited to, all ICT assets, both physical and virtual, and specifically all Microsoft updates / patches, VMware updates, and manufacturer updates for hardware in use within the CRU. All patch and firmware updates are within the scope on the general ICT Managed Services contract and the associated annual fixed price.
- (xii) The MSP will be responsible for all Firewall and VPN support & maintenance. This includes the existing physical Fortinet 100F firewalls (4) and any future replacement devices. This involves supporting the 2 Production firewalls (100F's), the 2 DR firewalls (100F's) and the Azure virtual firewall. The MSP will be responsible for resolving all faults and/or issues and making required changes as needed. The MSP must manage all firewall service tickets and record all changes in the CMDB.
- (xiii) Support and deliver core business software upgrades. The service provider will be required to work with all third-party suppliers, in line with relevant support arrangements, as appropriate, to apply and test key software upgrades. The responsibility for ensuring the successful upgrade of the various software packages employed by the Commission will lie with the MSP service provider and the third-party suppliers, working in conjunction with each other to achieve the successful upgrade of the various solutions. This support will include, but is not limited to, deploying new Server VMs for 3rd Parties, provisioning remote access for them and assisting in the configuration of the environment.
- (xiv) Manage hardware warranties and support arrangements – the service provider will be required to work with CRU to ensure that the required hardware warranties and support arrangements are in place, and kept up to date, including supporting the renewal of such arrangements if required. The MSP will also be required to manage the replacement of faulty hardware, under warranty agreements, and to co-ordinate the deployment and commissioning of same.
- (xv) Management of all daily back-ups and replications. The service provider will be responsible for monitoring and maintaining a comprehensive backup and replication of all data and systems for CRU. This will involve ensuring the current, and future backup / replication solutions are monitored daily on both the production and DR sites. The current solutions that are in place are Veeam Backup and Replication, and Wasabi Cloud Storage. The service provider will be required to provide detailed reports for review at the quarterly service review meetings. The backup and replication solution must be closely monitored, and all issues must be resolved as quickly as possible.
- (xvi) As part of the day-to-day management, the service provider may be asked by the CRU ICT Manager, or another appointed individual, to provide a restore of the full system or individual VMs or files to the end of previous business day. This will form part of the general ICT Managed Services and is essential for Business Continuity / Disaster Recovery.

- (xvii) Proactive monitoring of key servers and network devices to enable rapid identification of potential issues and steps taken / required to resolve them. The service provider will be required to provide quarterly reports providing a detailed Executive Summary of such monitoring, highlighting any key issues and resolution of actions.
- (xviii) Monthly reporting on agreed Key Performance Indicators (KPIs) to the CRU ICT Manager. The purpose of these reports will be to assist the CRU ICT Manager to ascertain the quality of service being provided, to ensure that the agreed Service Level Agreement (SLA) targets are being met, and to identify any trends that may need to be dealt with. Incident reports will need to be provided at the request of the CRU ICT Manager for any Priority 1 tickets.
- (xix) The Service Provider will be responsible for ensuring a smooth transition from the current support arrangements (if necessary) to any new support arrangements at the end of the contracted period. Each tenderer should include within their tender response how they propose to manage that transition and the expected time required to migrate to the new structure.
- (xx) Service providers must be in a position to fully support, develop and integrate with the Commission's existing business systems / applications.
- (xxi) The Service Provider will be required to work with the CRU ICT Dept. in the continuous improvement and ongoing development of the existing Business Continuity Plan (BCP) and Disaster Recovery (DR) Plan. This will involve quarterly testing of the BCP/ DR solution to ensure that the solution is functioning correctly and remains fit-for-purpose. Reports of all testing will be required and will be reviewed at the quarterly service review meeting. Any issues identified must be resolved immediately and is within scope of the ICT Managed Services Contract.
- (xxii) CRU conducts annual cybersecurity penetration testing of all in-scope systems, networks and applications, and the Service Provider will be responsible for implementing recommendations, as required, for remediation of any technical misconfigurations or other technical issues identified.
- (xxiii) The service provider will be required to provide out of hours cover in the event of emergencies and should provide the CRU ICT Manager and / or other recommended authorised individuals with an out of hours number and ensure service engineers are available to respond to such events. This service is part of the general ICT Managed Services and must be included within the annual reoccurring charges.
- (xxiv) The Service Provider will be required to familiarise themselves with all CRU business applications and provide 1st level troubleshooting support prior to invoking any external third-party support. The MSP must ensure that all environmental issues, for example; networking issues, security issues and any other minor issues are eliminated before escalation to the 3rd Party Support Providers. The CRU ICT Dept. will provide general information to the successful MSP on all business applications used within CRU. This information will be provided via the CRU knowledgebase.

(xxv) The CRU telephony system is a mix of a legacy NEC IP phone system and Microsoft Teams. The physical NEC solution and its associated PBX is expected to be removed from the production during the initial contract term, and the MSP will be required to provide support services for the NEC system until it is decommissioned. The MSP must provide ongoing support & maintenance for the MS Teams solution throughout the full contract term.

(xxvi) If CRU instructs the Service Provider to obtain a domain name for CRU, the Service Provider shall act as an agent for CRU when doing so, including in dealing with the relevant domain name registration authority.

(xxvii) The CRU may instruct the Service Provider to procure certain goods or services on behalf of CRU from time to time, including but not limited to: (i) new software licences; (ii) software licence renewals (both of licences originally procured by the Service Provider and licences procured by other service providers); (iii) hardware; (iv) any other goods or services, (together, "Third Party Services"). Where CRU instructs the Service Provider to procure Third Party Services on its behalf, the Service Provider shall procure such Third-Party Services in accordance with the following procedures:

- a. the Service Provider shall conduct an initial assessment of the value of the Third Party Services;
- b. in all cases subject to CRU's final approval of award to a particular supplier or service provider (unless this final approval required is expressly waived by CRU on a case-by-case basis):
 - i. For any contracts for Third Party Services that are individually (or together, where the Third-Party Services are required to be aggregated in accordance with applicable procurement rules or guidance) less than €5,000, the Service Provider shall award such contracts on the basis of written quotes from one or more competitive suppliers or services providers;
 - ii. For any contracts for Third Party Services that are individually (or together, where the Third Party Services are required to be aggregated in accordance with applicable procurement rules or guidance) above €5,000 but below the current applicable national procurement threshold for open advertising on etenders.gov.ie (currently, at the same of this Agreement, €50,000), the Service Provider shall:
 - a. obtain written quotes from three different suppliers / service providers based on written specifications (for example, by email); and
 - b. award the contract to such supplier or service provider whose quote offers the best value for money.

For any Third Party Services that are assessed as being individually (or together, where the Third Party Services are required to be aggregated in accordance with applicable procurement rules or guidance) above the current applicable national procurement threshold for open advertising on etenders.gov.ie (currently €50,000), the Service Provider shall inform CRU, in which case CRU shall provide further instructions as regards the required process for the procurement of such Third Party Services.

The Service Provider shall ensure in all cases that national guidelines and procurement law, including circular 05/2023 and any replacement circular or national guidance, is complied with and where the relevant national thresholds are

changed, the thresholds in this section shall be deemed to be changed accordingly from the date of publication of the change of the national thresholds.

The Contract Manager shall review and consider the provisions in Schedule 1 relating to Third Party Services, noting that such provisions materially affect the operation of the Framework and the procedures governing the procurement of goods and services thereunder. In consequence, and as an internal governance matter, CRU shall update its internal approval and governance requirements to ensure alignment with these provisions prior to the execution of any SOWs. Without prejudice to the Framework Rules, expenditure above defined cumulative thresholds shall be supported by an internal business case or equivalent justification document in accordance with CRU governance procedures. For the avoidance of doubt, CRU's procurement and approval thresholds, are: (i) for contract values between €5,000 and €50,000, a Request for Quotation ('RFQ') process shall be undertaken and Manager approval obtained; (ii) for contract values up to the current applicable national procurement threshold for open advertising on etenders.gov.ie, a Contract Notice shall be published on the national eTenders platform and Director approval obtained; and (iii) for contract values exceeding the current applicable national procurement threshold for open advertising on etenders.gov.ie; a procurement process pursuant to an OJEU Contract Notice shall be undertaken, subject to the prior written approval of the Commission.

Part 2 – SOC-Services

The Service Provider will, in particular (and without prejudice to the more general description in other parts of this section), be required to provide the following specific services to all staff as a part of the Services ("**SOC-As-A-Service**"):

- The Service Provider must provide CRU with a 24/7 365 day per year Managed Security Operations Centre (SOC) Service. SOC monitoring tools and/ or agents, as required, must be deployed to all devices and assets within the CRU ICT environment. The MSP must have at least 1 SOC-Analyst available to CRU at all times, to respond to any critical incidents in real-time.
- The Service Provider must ensure that they have a holistic view of all CRU ICT infrastructure and assets and must ensure that all security threats and vulnerabilities are monitored.
- The SOC Service must perform continuous vulnerability checks across the CRU ICT environment and technology. This service must cover, but is not limited to, endpoints, network, cloud resources, web and proxy, VMs, system and application data, network shares, end user behavior analytics, etc. The Service Provider must use the existing solution, ConnectSecure, and any future solutions to remediate vulnerabilities.
- The SOC Service must be able to identify risks and qualify threats, and provide an automated response, if necessary, to ensure CRU systems and data is protected from cybersecurity attacks.
- The SOC Service must include threat investigation and triage. This will involve, but is not limited to, isolation of identified threat(s), incident analysis, real-time threat hunting, impact analysis, incident response and escalation, as required.

- The service provider must be familiar with AI based SIEM solutions and use the existing solution, Darktrace, for monitoring threats.
- The Service Provider will be responsible for liaising with any 3rd Party vendors, if required, to restore CRU ICT Assets and Infrastructure to optimum performance.
- The service provider will be required to maintain a proactive approach throughout the lifetime of the MSP Services Framework Agreement. This will involve keeping up to date with all new and emerging cyber security threats and ensure that all recommended preventative action is taken to protect the CRU ICT systems and networks.
- The Service Provider must provide the CRU ICT Manager with regular reports on the SOC Service, the frequency of these reports will be agreed at the outset of the Services Framework Agreement. The SOC Service will be reviewed on a quarterly basis, at the regular Service Review Meeting with the CRU ICT Manager and their Team. Any deficiencies identified with the service must be rectified immediately. Failure to rectify any deficiencies in the SOC Service may result in the termination of the service(s).
- The Service Provider SOC Resources will be required to meet with CRU resources once a month to discuss open items, ongoing threats, vulnerability reports and remediation steps and actions that are in progress, planned and/or scheduled.
- The Service Provider must ensure that the SOC Service is continuously reviewed and improved and must implement any identified efficiency gains that enhance the overall delivery of the service. All changes to the SOC Service must be fully agreed with the CRU ICT Manager, prior to implementation.
- The Service Provider must also act on any instructions provided to them by the CRU ICT Manager in respect of any cybersecurity alerts raised via 3rd Parties or national agencies, i.e. recommendations issued by the National Cyber Security Centre (NCSC) or via An Garda Síochána.
- The Service Provider must also act on any instructions provided to them by the CRU ICT Manager in respect of recommendations required from Cybersecurity Audit Reports, i.e. where deficiencies or configuration / mis-configuration issues have been identified and pose a risk to CRU ICT Assets or users.
- The Service Provider must deliver the services required as per the SLA set out in Section 2.5 below.
- The service provider will be responsible for ensuring a smooth transition from their SOC Service to any new future support arrangements, if required, at the end of the Services Framework Agreement. This will involve liaising and supporting the transition process with any future MSP.

Part 3 – Project Work

Below is an indicative list of projects that the CRU ICT Dept. will be focusing on over the next 4 years (this list is not exhaustive and does not limit the scope or type of projects that may be drawn down pursuant to this Services Framework Agreement under SoWs). CRU does not guarantee that all or any of the below projects will be delivered through the provision of professional services via the MSP under SoWs, and reserves the right to issue individual tenders, on a per project basis, if there is a possibility of achieving better value for money, through open competition.

- Cyber awareness training for all staff, delivered by qualified MSP resources as needed.
- Development of a secure, integrated CRU intranet and staff portal supporting collaboration and hybrid work.
- Ongoing support, maintenance, and enhancement of the Microsoft Business Central finance system.
- Delivery and support of CRM and workflow solutions (e.g., Dynamics, Salesforce).
- Implementation of an integration platform to unify applications/data and support digital transformation.
- Implementation of an Enterprise Architecture Solution to standardise ICT infrastructure and align with organisational goals.
- Support for various AI initiatives including search, cybersecurity tools, and chatbots.
- Deployment of business intelligence and reporting tools to enhance access to CRU datasets.
- Cloud migration assessment, strategy, and cost benefit analysis with MSP support.
- Review and potential replacement of firewalls reaching end of life (post 2027).
- Comprehensive software licensing audit for compliance and optimisation.
- Implementation of an industry portal for licensing, consultations, secure file transfer, and automation.
- Upgrade or replacement of the records/document management solution.
- Review and development of a future focused telephony solution for hybrid work.
- LAN upgrade involving switch replacement in main and DR sites (post 2027).
- Support for ISO27001/Cyber Fundamentals readiness, including alignment with NIST and related frameworks.
- Delivery of penetration testing initiatives including physical, social engineering, phishing, vishing, and smishing

SCHEDULE 2 – FRAMEWORK RULES

THE FRAMEWORK

1. CRU has, pursuant to the Framework Agreement, established a Framework for the procurement of the Services and Deliverables which, in broad terms, comprise:

To be completed on drafting.

2. The Framework is for the period starting on [XXXX] (“**Effective Date**”) and ending on [XXXX]. This is the “**Term**” of the Framework Agreement.

THE FRAMEWORK MEMBER

3. The Framework Member appointed to the Framework is the Service Provider.

ELIGIBILITY FOR AN SOW

4. The Framework Member is not eligible for a particular SOW if, at the time the SOW is being awarded:
 - (a) it has had its Framework Agreement terminated;
 - (b) it is suspended from the Framework at any point during the process for, or up until, the award of the SOW concerned; and/or
 - (c) it has a Conflict of Interest in relation to the SOW concerned and is notified, in accordance with Paragraph 10 of the Framework Rules by CRU that it is not eligible for the SOW concerned.
5. CRU may (but is not obliged to) make amendments to particular Clauses for a particular SOW where considered appropriate having regard to the particular

nature of an SOW. In this case, this will be reflected in the SOW circulated with the RFST.

6. CRU may decline to award an SOW at any stage, despite having undertaken any of the steps outlined in Paragraph 7.

AWARD OF AN SOW

7. CRU may award SOWs in the following manner:

Award Methodology – Single-Provider Framework
The Framework Member may be required to provide supplementary information in respect of its Tender by submitting a Supplemental Tender in response to a RFST and to discuss the more precise details of a proposed SOW where considered necessary by CRU concerned in order to complete and execute an SOW. CRU may, at its absolute discretion, offer or not offer an SOW to the Framework Member following consideration of the Supplemental Tender.

PRE-CONDITIONS TO DRAWDOWN CONTRACTS

8. CRU may (but is not required to) make the award and execution of an SOW subject to satisfaction of the pre-conditions set by CRU at its absolute discretion. These may include, but are not limited to:
 - (a) provision of evidence demonstrating, to the satisfaction of CRU, that the insurance required under the SOW concerned is in place;
 - (b) provision of a current and valid Tax Clearance certificate issued by the Irish Revenue Commissioners in respect of any or all members of the Framework Member and/or any or all of its subcontractors of any tier for that SOW;
 - (c) confirmation from the Framework Member that it can properly undertake and complete the Services and Deliverables within the programme set out in the SOW concerned;
 - (d) provision of evidence demonstrating, and/or confirmation to CRU's reasonable satisfaction, that any information contained in the Framework Member's Tender (including in relation to its economic and financial standing and/or technical and professional ability) and/or Supplemental Tender for that SOW (if there is one), remains true and correct in all material respects (i.e. in all respects which may

have impacted upon CRU's decision to appoint it to the Framework and/or award it the SOW);

- (e) confirmation from the Framework Member that it is in compliance in all respects with its Framework Agreement; and/or
- (f) confirmation that there is no Conflict of Interest or, if there is, confirmation that the Framework Member will implement measures to address any Conflict of Interest which are satisfactory to CRU at its absolute discretion.

CONFLICTS OF INTEREST

9. A Framework Member must notify CRU in writing of any actual, potential or perceived Conflict of Interest in connection with any SOW as soon as it becomes aware of it. If, in CRU's opinion:

- (a) a Framework Member has an actual, potential or perceived Conflict of Interest at the time it wishes to award an SOW; and
- (b) the Framework Member has not proposed suitable measures to address the risks and issues arising in such respect to the satisfaction of CRU,

CRU will inform that Framework Member that, in principle, CRU considers the Framework Member unsuitable for the particular SOW and will give it the reasons why.

10. In such case, the Framework Member is entitled to comment upon CRU's decision in principle and to suggest further means by which to address the risks and issues arising to the satisfaction of CRU. CRU may also unilaterally engage with the Framework Member with a view to agreeing, where possible, suitable measures to address the risks and issues arising in such respect to the satisfaction of CRU. If agreement:

- (a) is reached to the satisfaction of CRU, the Framework Member will be eligible to be awarded the SOW concerned.
- (b) is not reached and the matter not addressed to CRU's satisfaction, CRU will notify the Framework Member that it has been deemed unsuitable for the particular SOW. In that case, the Framework Member will not be eligible for that particular SOW (and CRU may offer the SOW concerned to another Framework Member). The decision of CRU is final in this respect.

11. If awarded an SOW, a Framework Member is required to put in place all measures put forward or agreed in such respect.

SCHEDULE 3- PROCUREMENT DOCUMENTS

TO BE COMPLETED ON DRAFTING

PART 1 – INVITATION TO TENDER

PART 2 – TENDER

SCHEDULE 4 – AGREEMENT DETAILS

PART 1 – PRICE MATRIX

To be completed on drafting

[Note: All the above information will be aligned with the Service Provider's Tender.]

PART 2 –INVOICING

2. All invoices shall be sent to ***financedept@cru.ie*** or such other contact details as may be notified in writing to the Service Provider and must contain an approved CRU Purchase Order number.

PART 3 – RECOVERABLE EXPENSES (IF ANY)

To be completed on drafting

[Note: Sets out, if applicable, any expenses which can be recovered in addition to fees]

PART 4 – TENDERED PERSONNEL

To be completed on drafting

[Note: Identifies key personnel / contractors and their specific role]

The two tables below identified “Tendered Personnel”:

TENDERED PERSONNEL - INDIVIDUALS		
Employer	Name	Specific Role

[Note: This will include personnel of any members of the Service Provider and any of its proposed sub-contractors identified in its Tender.]

[Note: This will be taken from the Service Provider’s Tender.]

PART 5 – CONFLICTS OF INTEREST

Definition of Conflict of Interest
A conflict of interest means any conflict of interest or bias or any other factor, whether arising through personal interest, current or prospective contractual obligations or any other activity or association that the Service Provider or any of the Service Provider Personnel has which would compromise the independence of the Service Provider in its performance of the Services or any aspect of the Services, Deliverables and Agreement and any of their subject matter or which could create the perception that the independence of the Service Provider in its performance of the Services might be so compromised and includes, without limitation: ▪ A substantial pecuniary interest (whether by way of a shareholding or otherwise) in any person regulated by CRU or potentially affected by any decisions of CRU; ▪ An agreement (whether oral or written) with any person regulated by CRU or potentially affected by any decisions of CRU or which represent any persons regulated or potentially affected by decisions of CRU; and/or ▪ A position of employment, directorship (whether executive or non-executive) or any position of emolument with any person regulated by CRU or potentially affected by any decisions of CRU or which represent any persons regulated or potentially affected by decisions of CRU.
The only actual or potential Conflict of Interest which the Service Provider or Service Provider Personnel has in respect of any aspect of the Services, Deliverables, Agreement and any of their subject matter is exhaustively set out below:
The Service Provider will put in place the following measures, procedures and protocols in order to address the Conflict of Interest outlined above.

SCHEDULE 5 – CONTRACT MANAGEMENT

PART 1 – DISPUTE RESOLUTION PROCEDURE

1. During any Dispute, it is mutually agreed between the Parties that they will continue their performance of the provisions of this Agreement unless CRU, at its absolute discretion, exercises its option to partially or totally suspend the obligation of the Service Provider to provide the Services in the event of a Dispute until the Dispute is resolved to CRU's satisfaction.
2. The implementation of the Dispute Resolution Procedure does not prevent CRU from terminating this Agreement further to Clause 41 or exercising its rights under Clause 24.
3. Neither Party will be prevented from or delayed in seeking orders for specific performance or interlocutory or other injunctive relief on an ex parte basis or otherwise as a result of the operation of the Dispute Resolution Procedure and the Dispute Resolution Procedure does not apply in respect of circumstances where such remedies are sought.
4. Any Dispute will first be referred to the persons appointed by CRU and the Service Provider respectively to settle the Dispute ("**Dispute Resolution Representatives**") for resolution who will seek, in good faith, to amicably and promptly resolve the Dispute within seven (7) Working Days of the Dispute being referred to them or such other later date as may be agreed between the parties in writing.
5. Any Dispute which cannot be resolved by the Dispute Resolution Representatives within that period will then be referred to a Director (or his or her nominee) on behalf of CRU and the Chief Executive Officer (or equivalent) on behalf of the Service Provider who will meet within seven (7) Working Days of any failure to resolve the issue pursuant to Paragraph 4 solely in order to resolve the Dispute and seek, in good faith, to amicably and promptly resolve the Dispute. Such meeting will be minuted and chaired by the Party calling for the meeting (but the chairman will not have a casting vote).

PART 2 - CHANGE CONTROL PROCEDURE

1. PRINCIPLES

- 1.1 If CRU or Service Provider sees a need to Change any aspect of the Services or Deliverables, CRU may at any time request, and the Service Provider may at any time recommend, such Change only in accordance with the Change Control Procedure set out in Paragraph 2.
- 1.2 Until such time as a Change is made in accordance with the Change Control Procedure, CRU and Service Provider will, unless otherwise agreed in writing,

continue to perform this Agreement in compliance with its terms prior to such Change.

- 1.3 Any discussions which may take place between CRU and the Service Provider in connection with a request or recommendation before the authorisation of a resultant Change is without prejudice to the rights of either Party.
- 1.4 Any work undertaken by the Service Provider and the Service Provider Personnel which has not been authorised in advance by a Change, and which has not been otherwise agreed in accordance with the provisions of this Schedule, is undertaken entirely at the expense and liability of the Service Provider.
- 1.5 The Service Provider acknowledges and agrees that:
 - (a) flexibility is required in the provision of the Services and Deliverables and the performance of its obligations under this Agreement;
 - (b) CRU may require the Service Provider to vary the nature, scope, timing and volume of the Services or any aspects of the Services or Deliverables (including the Service Requirement) in accordance with the Change Control Procedure; and
 - (b) the Service Provider will act reasonably in relation to all such matters and any requests or discussions regarding proposed Changes.
- 1.6 The Parties agree that all fees and costs proposed by the Service Provider pursuant to and as part of the Change Control Procedure shall be reasonable and shall be consistent with the prices set out by it in the Tender and, as applicable, Supplemental Tender.
- 1.7 CRU reserves the right to negotiate with the Service Provider for additional Services or Deliverables that might arise in the event that unforeseen circumstances affect the delivery of the Services or Deliverables or CRU's requirements in relation to them or for new Services or Deliverables where Article 30(4)(b) of Directive 2004/18/EC applies.
- 1.8 The Parties acknowledge and agree that the Change Control Procedure may not be applied to introduce a material change which would, in the reasonable opinion of CRU, risk breaching applicable public procurement law.

2. PROCEDURES

- 2.1 Discussion between CRU and Service Provider concerning a Change will result in any one of the following:
 - (a) no further action being taken; or
 - (b) a request to change this Agreement by CRU; or
 - (c) a recommendation to change this Agreement by the Service Provider.
- 2.2 If a written request for an amendment is received from CRU, the Service Provider will, unless otherwise agreed by CRU, submit two copies of a Change Control

Note signed by the Service Provider to CRU within one (1) week of the date of the request in respect of the Change concerned.

- 2.3 A recommendation to amend this Agreement by the Service Provider will be submitted directly to CRU in the form of two (2) copies of a Change Control Note signed by the Service Provider at the time of such recommendation in respect of the Change concerned.
- 2.4 CRU will give its response to the Change Control Note within two (2) weeks.
- 2.5 Each Change Control Note shall contain:
- (a) the title of the Change;
 - (b) the originator and date of the request or recommendation for the Change;
 - (c) the reason for the Change;
 - (d) full details of the Change, including any Service Requirement;
 - (e) the implications, if any, of the Change on the Fees;
 - (f) a timetable for implementation, together with any proposals for acceptance of the Change;
 - (g) details of the likely impact, if any, of the Change on other aspects of this Agreement, Services and/or Deliverables;
 - (i) the date of expiry of validity of the Change Control Note; and
 - (j) provision for signature by CRU and the Service Provider.
- 2.6 For each Change Control Note submitted by the Service Provider CRU will, within the period of the validity of the Change Control Note:
- (a) allocate a sequential number to the Change Control Note; and
 - (b) evaluate the Change Control Note and, as appropriate:
 - (i) request further information; or
 - (ii) arrange for two copies of the Change Control Note to be signed by or on behalf of CRU and return one of the copies to the Service Provider; or
 - (iii) notify the Service Provider of the rejection of the Change Control Note.
- 2.7 A Change Control Note signed by CRU and by the Service Provider constitutes an amendment to this Agreement.

SCHEDULE 6 – AUDIT, MONITORING AND SPOT CHECKS

1. CRU may audit the Service Provider's compliance and/or performance of its obligations under this Agreement and/or any SOW from time to time. In addition CRU may as it sees fit, carry out other periodic monitoring and spot checks as required.
2. In addition to CRU's rights under this Schedule, CRU may employ an external agency to conduct independent audits without notice four times a year. The reasonable costs of such audit shall be met equally by the Parties.
3. Each Party shall meet its own costs of the audits, periodic monitoring and spot checks referred to in this Schedule provided that if such reveals a material failure or material non-compliance by the Service Provider with this Agreement and/or any SOW, the Service Provider shall on demand reimburse CRU for that part of the costs of such audit, periodic monitoring or spot check as was necessary to identify such material failure and in respect of the costs of any reasonable follow up audit, periodic monitoring or spot check.
4. The Service Provider agrees that CRU (including its ICT Manager) and their authorised representatives, contractors and/or agents may, with reasonable notice, enter the registered office of the Service Provider and/or any location where it is carrying out Services as is necessary to carry out audits, periodic monitoring and spot checks permitted by this Agreement including:
 - a. for verifying that the Services are being provided in accordance with this Agreement, including the Service Standards;
 - b. where applicable, for inspecting Service Provider's Certificates referred to in the Service Standards or Service Requirement to ensure that they are current;
 - c. where CRU has reasonable grounds to suspect the Service Provider is in Default of its obligations;
 - d. where permitted by the terms of this Agreement; or
 - e. where other circumstances have arisen which would give rise to CRU's right to terminate this Agreement.
5. The Service Provider shall fully co-operate with, and provide all reasonable access and assistance to, CRU (including its ICT Manager) and its authorised representatives, contractors and/or agents in connection with any audit, monitoring and spot checks carried out in accordance with this Agreement and shall ensure they have access to the Service Provider's (or will procure access to) the relevant premises, methods, activities, equipment, plant, Facilities, instructions and information required in carrying out any such audit, monitoring

or spot check and where necessary shall supply a copy of any information, data or records requested (and in the format reasonably requested by CRU).

6. The Service Provider shall, in particular, provide the ICT Manager (and such persons as may from time to time be nominated by the ICT Manager) access to:
 - a. all work places of the Service Provider and approved Sub-contractors for the purpose of inspecting work being performed pursuant to the provision of the Services;
 - b. all work places of the Service Provider and approved Sub-contractors for the purpose of inspecting records and documents (including all financial and purchasing documentation) in the possession, custody or control of the Service Provider and approved Sub-contractors in connection with the provision of the Service. This includes but is not limited to the right to audit and take copies of books, accounts, records and computer data, financial and purchasing documentation; and
 - c. any personnel, approved Sub-contractor or agent of the Service Provider for the purpose of interviewing such persons in connection with the provision of the Services.
7. The Service Provider shall ensure that its contract with each approved Sub-contractor contains provisions enabling it to comply with its obligations under this Schedule.
8. CRU acknowledges and agrees that nothing in this Schedule requires the Service Provider to disclose or give access to any information which relates to any of its dealings and contracts with its other customers and suppliers who are not engaged in relation to this Agreement.

SCHEDULE 7 – SOW

Date	
SOW No	
Project	

THIS SOW IS ENTERED BETWEEN:

- A. **COMMISSION FOR REGULATION OF UTILITIES**, a body corporate established in accordance with the Electricity Regulation Act 1999 and having its offices at The Exchange, Belgard Square North, Tallaght, Dublin ("**CRU**" which expression includes its successors and permitted assigns and anybody to whom its functions are transferred under Applicable Law) of the one part; and
- B. **INSERT**, a company established under [Irish] law with company registration number [insert] and its registered address at [insert] ("**Service Provider**" which expression includes its successors and permitted assigns) of the second part.

1. AGREED TERMS

- 1.1 The parties have entered into this SOW pursuant to the terms of the Services Framework Agreement entered into between the Service Provider and CRU dated [**TO BE COMPLETED AT DRAFTING**] ("**Framework Agreement**").
- 1.2 The Clause, recitals and Schedule of the Framework Agreement are incorporated into and form part of this SOW in accordance with, and to the extent provided by, Clause 7 of the Framework Agreement, and will apply, except to the extent that they are expressly varied by the Annex to this SOW (and which Annex forms part of this SOW).
- 1.3 This SOW commences on the date first set out above and, unless terminated earlier in accordance with its terms, continues until the date set out in the Annex at which point it will expire.
- 1.4 The Service Provider shall provide the Services and Deliverables to CRU subject to, and in accordance with, the terms of this SOW.

IN WITNESS WHEREOF, this SOW has been executed by the parties hereto through their duly authorised representatives on the date written at the head of this SOW.

Signed for and on behalf of

the Service Provider by:

Print Name:

Signed for and on behalf of

CRU by:

Print Name:

STATEMENT OF WORK

ANNEX

Term:

This SOW commences on the date first set out above and ends on *[[insert date]]*, if not terminated earlier in accordance with its terms (which, for clarity, include Clause 31 of the Framework Agreement).

Service Requirement:

The Service Requirement is set out in Schedule 1 of the Framework Agreement. The scope of this SOW is limited to the following aspects of the Service Requirement (please tick applicable box):

- | | |
|---|--------------------------|
| ICT Managed Services Part 1 (of Schedule 1) | ☐ |
| SOC- Services Part 2 (of Schedule 1) | ☐ |
| Project Work Part 3 (of Schedule 1) | ☐ |

The following specific aspects of *[Part 1 / 2 / 3]* are the subject of this SOW:

[Note: This will Include reference to which specific aspect of the relevant Service Requirement applies to this SOW]

Addition Details:

[Drafting Notes: If there are any further, additional supplementary information / requirements / scope of the work / key milestones and dates etc., these must be included here. This should include the following:]

If third party software (which is referred to as “Software Product” in this agreement) or hardware is to be procured (including renewals) under this SOW then state specifically what that is.

If any Third Party Suppliers (to whom Clause 20 applies) are relevant to the services to provided under this SOW then state that and who they are]

RFST:

The RFST (if applicable) is attached to this SOW and comprises:

[Note: To insert title and date of relevant document/ correspondence]

Supplemental Tender:

The Supplemental Tender (if applicable) is attached to this SOW and comprises:

[Note: To insert title and date of relevant document / correspondence]

Project Plan:

[Note: To include as an annex if available. If it is to be agreed as part of the services then this must be stated. If there is no project plan due to the nature of the services then this must be stated.]

Deliverables:

[Note: To include what the specific Deliverables are under the SOW. If there are no specific Deliverables due to the nature of the services then this must be stated.]

Service Levels:

[Note: To include details of any specific service levels which apply to the SOW. If the service levels set out in Schedule 8 apply then this must be stated (and if only some of those service levels apply, then state that also)]

Fees:

The Fees are determined in accordance with Clause 33 and Schedule 4 of the Framework Agreement, except (if applicable) as stated below.

[Note: To include details on how the fees will work under the SOW and what specific part of Schedule 4 applies]

Conflict of Interest:

The Service Provider warrants and represents that it has no actual, potential or perceived Conflict of Interest except as set out in Schedule 4 of the Framework Agreement and/or below:

[Note: insert as applicable]

Key Personnel:

[The Key Personnel are the Tendered Personnel.]

Subcontractors:

[Note: To include details of any subcontractors which may be used by the Service Provider as part of the Services under this SOW]

The Service Provider may use the following Sub-Contractors to provide the corresponding elements of the Services:

Name of Sub-contractor	Registered number	Registered address	Element of Services to be provided	Duration of appointment

SCHEDULE 8 – SERVICE LEVELS

This Schedule 8 contains a Service Level agreement. The following principles apply in this respect:

1. The Service Levels reflect certain key metrics for measuring performance of certain parts of the Services. However, the Service Levels are not an exhaustive statement of what the Service Provider is required to achieve in performing the Services.
2. The Service Provider's performance against the Service Levels is measured during each Measuring Period in accordance with the corresponding measurement methodology set out in Performance Measurement Table (set out below) against that Service Level.
3. The Service Provider's performance of the Services in each Measuring Period is expected to be no worse than the Expected Service Levels. The Service Provider shall accordingly do its best to meet the Expected Service Levels throughout the Term.
4. The Service Provider acknowledges that its failure to meet an Expected Service Level may have a material adverse impact on the business and operations of CRU.
5. If the Service Provider does not meet an Expected Service Level in any Measuring Period, a Service Credit is payable by the Service Provider to CRU in respect of that failure (and likewise for each following Measuring Period in which the failure continues).
6. A Service Credit is payable in respect of each failure to achieve each Expected Service Level. Consequently, Service Credits may be payable in a single calendar month in respect of more than one Expected Service Level.
7. The Service Provider acknowledges that Service Credits represent a reduction in the Fees to reflect the provision by it of a lower level of service than is required of it under this Agreement.
8. Where a Service Credit is due in accordance with this Schedule the Fees for the month immediately following the end of the Measuring Period during which the relevant Service Failure first occurred shall be reduced by the amount of the Service Credit determined in accordance with the Performance Measurement Table. Where no further Fees are due, the amount of the Service Credit(s) shall be recoverable by CRU from the Service Provider as a debt.
9. The Minimum Service Levels reflect a threshold at which CRU may terminate this Agreement in accordance with its terms.

The following terms have the following meanings in this Schedule:

“Expected Service Level” is the level of performance, in respect of a particular Service Level, which the Service Provider is expected to achieve in the performance of this Agreement during each Measuring Period, as such Expected Service Levels are more particularly set out in Performance Measurement Table (and references to Expected Service Levels includes, as the context so admits or requires, any one, more or all of

them). Each Expected Service Level is independent of the other Expected Service Levels.

“Minimum Service Level” is the threshold of performance, in respect of a particular Service Level, at which CRU may terminate this Agreement in accordance with its terms (and references to Minimum Service Levels includes, as the context so admits

or requires, any one, more or all of them). Each Minimum Service Level is independent of the other Minimum Acceptable Service Levels.

“Measuring Period” means the period during which performance against each Service Level is measured, as such period is set out for each Service Level in Performance Measurement Table.

“Service Failure” means a failure to achieve an Expected Service Level in a Measuring Period.

[Note: The detail required for this table will be updated before this agreement is executed by the parties]

Service Level	Description / Definition of Service Level	Method of Measurement	Measuring Period	Expected Service Level	Minimum Service Level	Service Credits
1.						
2.						
3.						
4.						

SCHEDULE 9 – EXIT

PART 1 – EXIT SERVICES

General

1. Upon any termination or expiry of this Agreement the Parties will each comply with their respective obligations and duties set out in this Schedule (including, if applicable, any Exit Plan) and will carry out disengagement willingly, co-operating fully with each other and the Replacement Service Provider with the minimum disruption to the continuity of the business to which the Services relate.
2. The Service Provider acknowledges and agrees that the price of the Services set out in this Schedule is included in the sums paid up until the effective date of termination or expiration of the Agreement and that no additional charge is payable in this respect.

Exit Plan

3. Upon request by CRU, the Parties will in good faith meet and develop a detailed Exit Plan (“**Exit Plan**”) setting out in detail and by reference to key milestones, the approach to be taken in relation to the disengagement and Exit Services (as defined below) including each Party’s specific roles and responsibilities and any actions to be taken by them by reference to agreed milestones.

Exit Services

4. Upon request by CRU, the Service Provider will (and will procure that its Sub-contractors will) assist and co-operate with CRU in promptly migrating the relevant Services to a Replacement Service Provider as CRU may reasonably require to ensure the smooth and seamless transition with minimal disruption to the Services and provision of the Deliverables.
5. In providing the Exit Services, the Service Provider will comply with CRU’s reasonable requirements in accordance with a reasonable timetable to be agreed between all relevant parties. Exit Services will include, without limitation, any or all of the following as reasonably required by CRU:
 - a. at CRU’s written request promptly returning free of charge CRU’s Confidential Information and any Data which was processed by the Service Provider in the provision of the Services in the format reasonably required by CRU;
 - b. removal of CRU’s electronically held Confidential Information and Data from the Service Provider’s systems by a mutually agreed date;
 - c. the migration of any Data, records, documents or information held by the Service Provider electronically or otherwise in relation to the provision of the Services (including, if applicable, all logged calls and requests) to any

Replacement Service Provider or CRU in such format as may reasonably be required by CRU;

- d. transfer of help desk phone numbers to the Replacement Service Provider at no charge;
 - e. handover of Services and Deliverables to the Replacement Service Provider, including all relevant assistance required from the Service Provider to facilitate and enable this in a prompt, smooth and seamless manner with minimal disruption to CRU and the Services;
 - f. provision of contact details for, and direct access to, Service Provider Personnel (including third party depot and warehouse personnel) so that CRU, independent of this Agreement, may contact, use and instruct such Service Provider Personnel to assist in the migration;
 - g. provision of such co-operation and information as CRU may reasonably request in order to achieve an orderly and timely handover of the Services;
 - h. provision of such other activities as may reasonably be required by CRU for the orderly assumption by the Replacement Service Provider of the Services.
6. At CRU's option (exercisable by notice in writing) all contracts entered into by the Service Provider in relation to the provision of the Services will (subject to the consent of any other contracting parties) at the request of CRU be novated in favour of the Replacement Service Provider and pending such novation the Service Provider will hold the benefit of them as bare trustee for the Replacement Service Provider provided that the Replacement Service Provider performs the Service Provider's obligations under them and CRU will use all reasonable endeavours to procure an indemnity from the Replacement Service Provider in favour of the Service Provider against all losses proven to have been incurred by the Service Provider in relation to a failure by the Replacement Service Provider to perform such obligations. If a contract to which the Service Provider is a party relates in part to the Services, the Service Provider will use all reasonable endeavours to obtain for CRU a new contract with the counterparty to it in relation to such part.
7. At CRU's option (exercisable by notice in writing), the Service Provider will sell, free from all encumbrances, such of the Service Provider equipment, stocks, supplies, consumables, materials, parts, instruments, signs and other matters used by the Service Provider in the course of providing the Services to the

Replacement Service Provider at cost price (less depreciation and/or wastage) as may be specified by CRU.

8. The Service Provider will provide access, during normal working hours, to CRU and/or the Replacement Service Provider for up to twelve (12) months after the expiry or termination of this Agreement to:
 - a. such information relating to the Services as remains in the possession or control of the Service Provider; and
 - b. such members of the Service Provider Team as have been involved in the provision of the Services and who are still employed by the Service Provider.
9. The provisions of this Schedule continue to apply despite the termination or expiry of this Agreement.

PART 2 - TUPE

1. If the TUPE Regulations are deemed or held to apply during or on the assignment, novation, suspension, expiration or termination (for whatever reason) of this Agreement in whole or in part and to certain employees of the Service Provider or a person claiming to be an employee or former employee of the Service Provider or any of its subcontractors of any tier (the “**Affected Employees**”), the following provisions of Part 2 of this Schedule apply.
2. The Service Provider will fully co-operate at all times in the transfer of any Affected Employees transferring pursuant to the TUPE Regulations to the Replacement Service Provider.
3. The Service Provider will provide the Replacement Service Provider, as soon as practicable and where feasible, with the names, addresses, dates of commencement of employment, hours of work, full remuneration details including all benefits, accrued holiday entitlement, job descriptions, copy contracts of employment or written statements of terms and conditions in compliance with the Terms of Employment (Information) Acts 1994–2014, collective agreements, customs and practices applicable to the Affected Employees and warrants and agrees that all such information will be accurate, complete and non-misleading.
4. The Service Provider will comply with its obligations to inform and consult Affected Employees under the TUPE Regulations about the transfer.
5. The Service Provider will fully and effectively indemnify, hold harmless and keep so indemnified CRU on demand from and against any and all Employment Liabilities: (i) suffered or incurred by CRU and/or a third party Replacement Service Provider; and/or (ii) to be paid out by CRU and/or the Service Provider by agreement or indemnity to a third party Replacement Service Provider, in either case as a result of or in connection with any claims made against CRU

and/or a third party Replacement Service Provider arising out of or in connection with:

- a. any failure by the Service Provider to comply with its obligations under the TUPE Regulations;
 - b. the termination or purported termination by the Service Provider or any of its subcontractors of any tier of the employment of any Affected Employees on or before the date of transfer of employment of the Affected Employees to the Replacement Service Provider;
 - c. the employment or remuneration of the Affected Employees during the period for which they were employed by the Service Provider up until the date of transfer of their employment to the Replacement Service Provider (including any sums payable in the event of a redundancy which are attributable to employment prior to the date of transfer of their employment to the Replacement Service Provider); and/or
 - d. anything done or omitted to be done by the Service Provider in respect of Affected Employees on or before the date of transfer of employment of the Affected Employees to the Replacement Service Provider.
6. If the employment of any Affected Employees transfers to CRU, CRU, subject to compliance by the Service Provider with Paragraph 5, will indemnify the Service Provider from and against any and all Employment Liabilities suffered or incurred by the Service Provider as a result of or in connection with any claims made against the Service Provider arising out of or in connection with:
 - a. any failure by CRU to comply with its obligations under the TUPE Regulations in relation to those Affected Employees whose employment transferred to CRU; and/or
 - b. anything done or omitted to be done by CRU in respect of those Affected Employees whose employment transferred to CRU after the date of transfer of employment of the Affected Employees to CRU.
7. The Service Provider, on request, will promptly agree in a legally binding contract with a Replacement Service Provider to indemnify that Replacement Service Provider on the same terms as set out in Paragraph 5, but with "CRU" replaced with "Replacement Service Provider".
8. The Service Provider will not, after a notice of termination is issued under this Agreement and/or within three (3) months of the date on which the Term is scheduled to expire, hire in connection with the Services any new employees, change the terms of employment, remuneration and/or payment of any existing employees or existing employees' entitlements to any benefits (including pensions and/or holidays), remove certain employees from the Services and/or terminate the employment of any existing employees without CRU's prior written consent, which consent will not be unreasonably withheld or delayed.
9. For the purposes of this Part:
 - **"Employment Liabilities"** includes Liabilities as well as costs (including the cost of wages, salaries and other remuneration or benefits), expenses, taxation, PRSI payments, universal service charges, health contributions, levies, losses, claims, demands, actions, fines, penalties, awards, liabilities and reasonable expenses (including legal expenses

on an indemnity basis), in each case however arising which are connected with or arising from contract or Applicable Law; and

- **“TUPE Regulations”** means the European Communities (Protection of Employees on Transfer of Undertakings) Regulations 2003 (as amended).

10. Paragraphs 1 – 10 survive the termination or expiration of this Agreement.

SCHEDULE 10 – Data Processing Addendum

Processing, Personal Data and Data Subjects

1. Processing by the Service Provider

1.1 Subject matter of processing: all information, whether in oral or written (including electronic) form, created by or in any way originating with by the CRU (including but not limited to his/her employees, agents, independent contractors and/or Sub-contractors) and all information that is the output of any computer processing, or other electronic manipulation of any information that was created by or in any way originating the CRU provided under the Agreement which relates to an identified or identifiable natural person;

1.2 Nature of processing: Collecting, recording, organising, structuring, storing, adapting, retrieving, using, disclosing to the Service Provider by transmission, dissemination or otherwise making available to the Service Provider.

1.3 Purpose of processing: to allow the Service Provider to provide the services under the Agreement.

1.4 Duration of the processing: the Term of the Agreement.

2. Types of personal data: As per 1.1 above.

3. Categories of data subject: Any natural person whose details are made known as a consequence of this Agreement.

IN WITNESS of which the Parties have signed this Agreement on the date first herein written.

SIGNED
on behalf of **COMMISSION FOR
REGULATION OF UTILITIES**
by its authorised signatory
in the presence of:

Authorised Signatory (Signature)

Print name

Witness (Signature)

Print name

Print address

SIGNED
on behalf of **THE SERVICE
PROVIDER**
by its authorised signatory
in the presence of:

Authorised Signatory (Signature)

Print name

Witness (Signature)

Print name

Print address