

**MULTI-PARTY FRAMEWORK AGREEMENT FOR THE SUPPLY OF FUELS INCLUDING PETROLEUM AND OILS TO LOCAL AUTHORITIES FOR 2015/2016.**

THIS FRAMEWORK AGREEMENT is made on \_\_\_\_\_ BETWEEN

The Local Government Operational Procurement Centre (LGOPC) of The Reeks Gateway, Killarney, County Kerry as Central Purchasing Body (CPB) under the auspices of Kerry County Council, County Buildings, Rathass, Tralee, Co. Kerry a Local Authority (hereinafter called "KCC") of the One Part and

Contractor/Supplier \_\_\_\_\_ having its

registered address at \_\_\_\_\_

\_\_\_\_\_ (hereinafter called "the "Supplier") of the Other Part.

WHEREAS:

LGOPC is a central purchasing body within the meaning of Directive 2004/18/EC of the European Parliament and Council. LGOPC enters into this Framework Agreement on its own behalf and on behalf of other local authorities in Ireland as listed in Schedule 3 hereto that may wish from time to time to purchase Petroleum and Oils "Fuels". The Supplier wishes to provide such Petroleum and Oils "Fuels" as may be described in a Request for Mini-Tender in accordance with this Framework Agreement.

NOW IT IS HEREBY AGREED as follows:-

**Definitions and Interpretation**

In this Framework Agreement the following terms shall have the following meanings unless the context otherwise provides:

"Commencement Date" means 1<sup>st</sup> June 2015

"Contract Period" means the period of duration of this Framework Agreement as set out in Clause 2;

"Delivery Date" means the date or dates stated by the Framework Purchaser in the Draw-down Contract as the date or dates upon which the "Fuels" are to be delivered;

"Draw-down Contract" means the agreement to be entered into by the Framework Purchaser and the Supplier under and pursuant to which the Supplier will provide the "Fuels" in accordance with the terms and conditions contained therein. An indicative example of a Draw-down Contract is set out at Schedule 5.

"Framework Agreement" means:

- (i) these terms and conditions, including the Schedules;
- (ii) the Draw-down Contract
- (iii) the Request for Mini-Tender
- (iv) the Proposal
- (v) the Request For Applications as issued; and
- (vi) the Tender Submission

In the event of any ambiguity or discrepancy between these terms and conditions and the Schedules, then these terms and conditions shall prevail;

In the event of any ambiguity or discrepancy between the Draw-down Contract and these terms and conditions, then the provisions of the Draw-down Contract shall prevail.

In all other respects, in the event of any inconsistency or conflict between the documents identified at (i) to (vi) above, precedence shall be given to the above documents in descending order (so that, by way of example, these terms and conditions shall prevail over the Request for Mini Tenders).

"Framework Suppliers" means those Suppliers who have been appointed to the framework;

"Framework Purchaser" means those bodies listed in Schedule 3 hereto that may wish from time to time to purchase "Fuels" from Framework Suppliers pursuant to this Framework Agreement;

"Mini -Tender" means a tender competition between the Framework Suppliers conducted in accordance with Clause 3;

"Price" shall have the meaning given to it by Clause 5;

"Petroleum and Oils "Fuels" means the products described in Schedule 2 of the Instructions Document and any products described in the draw down contract supplied in accordance with this Framework Agreement;

"Proposal" means the proposal submitted by the Supplier to the Framework Purchaser in response to a Request for Mini-Tenders (and the term "Framework Supplier's Proposal" shall be construed accordingly);

"Request for Mini-Tenders" means an invitation to submit a proposal issued by the Framework Purchaser pursuant to Clause 3, an indicative sample of which is set out in Schedule 4;

"Request for Tender" means the request for tender as issued by the LGOPC together with any clarifications issued in respect of same;

"Specification" means the specifications or other information relating to the "Fuels" over the Contract Period, attached at Schedule 1 hereto;

"Tender Submission" means the Supplier's tender submission submitted to Corporate Services, Kerry County Council on Monday 11<sup>th</sup> May 2015.

## **1. Entire Agreement**

This Framework Agreement contains the entire agreement between the parties and contains all the terms which the parties have agreed with respect to its subject matter and shall prevail over and supersede all prior agreements, understandings, statements and communications between the Supplier and any Framework Purchaser. Without prejudice to the generality of the foregoing, the Framework Agreement shall apply to the exclusion of any terms and conditions which the Supplier may purport to apply at any time, whether contained in any acknowledgement of a purchase order or otherwise.

Neither party has relied on any other written or oral agreement, representation, arrangement or understanding.

The Supplier acknowledges that it has not been induced to enter into this Framework Agreement by a statement or promise which this Framework Agreement does not contain. The LGOPC is not liable in equity, contract or tort or in any other way for a representation that is not set out in this Framework Agreement.

## **2. Scope of Appointment and Framework Period**

In consideration for payment by the LGOPC of the sum of €1 and for other good and valuable consideration to the Supplier (receipt of which is hereby acknowledged by the Supplier) and subject to the terms and conditions set out in this Framework Agreement, the LGOPC hereby appoints the Supplier on a non-exclusive basis to provide the "Fuels" if instructed to do so from time to time pursuant to Clause 3, and the Supplier hereby accepts such appointment, in each case upon the terms and subject to the conditions of this Framework Agreement.

The appointment of the Supplier to the Framework does not constitute a commitment or guarantee by any of the Framework Purchasers to procure any "Fuels" from the Supplier and does not confer any exclusivity on the Supplier. The Framework Purchasers may procure the "Fuels" in other ways outside of the Framework from any provider or from other national/regional/local frameworks/tenders in place.

The Framework Agreement shall take effect on the Commencement Date and shall continue in full force and effect for a period of twenty four months from and including the Commencement Date (the "Framework Period"), unless it is otherwise terminated in accordance with the provisions of this Framework Agreement or otherwise lawfully extended in line with the provisions of the Request for Applications. For the avoidance of any doubt, the term of a Draw-down Contract may last longer than the Framework Period. Notwithstanding the expiry of the Framework Period, a Draw-down Contract that is not completed prior to the end of the Framework Period shall be governed by this Framework Agreement.

### **3. Draw-down Contracts**

Where a Framework Purchaser wishes to acquire "Fuels", it will do so by means of a Mini-Tender. The Framework Purchaser shall issue a Request for Mini-Tenders to all Framework Suppliers that the Framework Purchaser believes to be capable of providing the "Fuels" via the LAQuotes system, inviting each to submit a Proposal.

The Supplier shall comply with any procedures, processes, time limits, instructions or other requirements issued by the Framework Purchaser in relation to the Mini-Tender and shall bear any and all costs associated therewith.

Proposals received in response to a Mini-Tender will be evaluated on the basis of price only.

The Supplier will be required to meet the supply contract requirements as published with each Request for Mini-Tender.

The Supplier that submits the lowest price proposal shall be awarded maximum marks.

If a Framework Purchaser selects the Supplier to provide the "Fuels", the Supplier shall enter into a Draw-down Contract with the Framework Purchaser.

A purchase order shall issue and shall be appended to each separate Draw-down Contract. Default by a Framework Purchaser or Provider in relation to any one purchase order shall not entitle the other to treat such as a breach of the entire Framework Agreement and/or terminate this Framework Agreement.

By signing and returning or otherwise acknowledging a Draw-down Contract, the Supplier acknowledges and agrees that it shall have entered into a legally binding contract with the Framework Purchaser to supply the "Fuels" specified in the relevant Draw-down Contract to the Framework Purchaser incorporating terms and conditions set out in this Framework Agreement. In any circumstance where the Supplier does not formally accept a Draw-down Contract, dispatch or delivery the "Fuels" by the Supplier to the Framework Purchaser shall be deemed conclusive evidence of the acceptance of a purchase order and the terms and conditions of the Draw-down contract thereby constituted.

Each Framework Purchaser shall be responsible for awarding Draw-down Contracts in accordance with the Mini-Tender procedure set out in this Framework Agreement and LGOPC shall not have any responsibility or liability whatsoever or howsoever arising from the award of any Draw-down Contract or outcome of a Mini-Tender.

The Supplier shall perform all Draw-down Contracts in accordance with the requirements of this Framework Agreement, the terms and conditions of the respective Draw-down Contracts and in accordance with Irish law.

#### 4. The Supplier's Obligations

The Supplier shall supply the "Fuels" meeting the Specification to the Framework Purchaser and shall ensure that its staff shall provide the "Fuels" to the Framework Purchaser:

- in accordance with the terms of the Framework Agreement, including, for the avoidance of doubt the Tender Submission, the Proposal and the Draw-down Contract;
- diligently, conscientiously and in a professional manner and with all due care and skill;
- in compliance with all reasonable instructions of the Framework Purchaser in relation to the supply of "Fuels";
- in adherence with best industry standards as regards quality control and assurance
- in compliance with all requirements and/or obligations of any law, statute, statutory instrument, rule, order, regulation, directive and/or byelaws or other legislative measures;
- in absolute co-operation with the Framework Purchaser;
- maintaining the minimum quality levels of "Fuels" as set out in the Specification appended at Schedule 1.

The Supplier shall employ sufficient staff to provide the supply of the "Fuels" who shall be properly trained, skilled and qualified.

The Supplier shall, and shall ensure that its sub-contractors shall, ensure that the rates of pay and conditions of employment of each employee, including in relation to sick pay and pension contributions of each employee, comply with all applicable law and that those rates of pay are no less favourable than those laid down by the National Minimum Wage Act.

Failure by the Supplier to meet its obligations under this Clause shall be considered a material breach of the Framework Agreement.

#### 5. Price

The Price shall be as set out in the Draw-down Contract

The Supplier shall supply the "Fuels" at the Price(s) tendered in the Proposal submitted pursuant to a Mini-Tender.

Unless otherwise stated, the Price shall be:

- exclusive of any applicable Value Added Tax (which shall be payable by the Framework Purchaser subject to receipt of a VAT invoice in accordance with the Draw-down Contract);
- payable in euro (€); and
- inclusive of any costs and/or expenses incurred by the Supplier in the supply of the "Fuels" and the Supplier shall not seek to recover such costs and/or expenses from the Framework Purchaser.

#### 6. Terms of Payment

The Supplier shall send an invoice to the Framework Purchaser on delivery of the relevant "Fuels" or at such other time(s) as set out in the Draw-down Contract. Each invoice must:

- Quote the LAQuotes (supplygov) mini-tender reference number

- Quote the Price
- Contain a detailed list of the "Fuels" supplied, quantities, grades and the date(s) of delivery.

Subject to the Framework Purchaser being satisfied as to the due performance of the Draw-down Contract, the Supplier shall be paid the Price established through the Mini-Tender as set out in the purchase order and in the Draw-down Contract.

Each Framework Purchaser may retain or set off against the Price any amount owed to that Framework Purchaser by the Supplier on any account whatsoever.

The Supplier shall provide a current tax clearance certificate prior to the first payment being made under this agreement. Payments will not be made until a current tax clearance certificate is furnished to Framework Purchaser by the Supplier and the Supplier will not be entitled to and the Framework Purchaser will not pay any interest or penalties as a result of late payment caused by the Supplier's failure to provide a current tax clearance certificate in a timely manner.

Wherever under this Agreement any sum of money is recoverable from or payable by the Supplier (including any sum which the Supplier is liable to pay to the Framework Purchaser in respect of any breach of this Agreement), the Parties may agree to deduct that sum from any sum then due, or which at any later time may become due to the Supplier under the Agreement or under any other agreement or contract with the Framework Purchaser. Any overpayment by either Party, whether of the Charges or of VAT or otherwise, shall be a sum of money recoverable by the Party who made the overpayment from the Party in receipt of the overpayment.

## 7. Confidentiality

During the Contract Period and at any time after the termination or expiry of this Framework Agreement (for any reason) each of the Parties to this Framework Agreement agrees to hold confidential all information, documentation and other material received, provided or obtained (whether in writing, orally or by another means and whether directly or indirectly) arising from their participation in this Framework Agreement and shall not disclose same to any third party except:

- o to its professional advisors subject to the provisions of this clause 7; or
- o as may be required by law; or
- o as may be necessary to give effect to the terms of this Framework Agreement subject to the provisions of this clause 7; or
- o in the case of the Framework Purchaser by request of any person or body or authority whose request the Framework Purchaser or persons associated with the Framework Purchaser considers it necessary or appropriate to so comply.

The Supplier undertakes that it will properly instruct its staff on the absolute need to maintain privacy and confidentiality of all matters affecting the business of the Framework Purchaser or any persons doing business with the Framework Purchasers or in any way arising from documents or records of any kind which may come under the hand of the Supplier or its staff while engaged by a Framework Purchaser.

The Supplier undertakes to comply with all reasonable directions of the Framework Purchaser with regard to use and application of all and any confidential information. The Supplier acknowledges that the security of the Local Authorities and the State and its information is of paramount important to the Framework Purchaser. Accordingly the Supplier confirms that it will from time to time, during the currency of this Framework Agreement as may be requested by the Framework Purchaser submit full personal details

(including those of subcontractors) who are assigned to supply the "Fuels" (or any part thereof) under this Framework Agreement. The Supplier further acknowledges that checks may be carried out in relation to all such personnel by police authorities and the Supplier shall comply with all reasonable directions of the Framework Purchaser arising there from.

## 8. Contract Review

8.1 The Framework Purchasers may review the Supplier's performance from time to time during the Term according to the below Performance Measurement Table.

8.2 On completion of a Framework Contract, if so requested by the Framework Purchaser, the Supplier concerned shall collate and provide to the Framework Purchaser the information required for the Framework Purchaser to review that Supplier's performance according to the Performance Measurement Table below.

8.3 A Supplier is said to have reached Level 1, Level 2 or Level 3, if, during the review for one of the indicators listed in the below table, the number of occurrences of that indicator equals or exceeds the number listed in the column headed "Level 1", "Level 2", or "Level 3".

8.4 If a Supplier has reached Level 1, the Framework Purchaser will give that Supplier a written notification and the Supplier must demonstrate to the Framework Purchaser's satisfaction that it has implemented steps to redress the problem.

8.5 If a Supplier has reached Level 2, the Framework Purchaser will exclude that Supplier from each Mini-Tender in which it is due to participate until the Supplier has demonstrated to the Framework Purchaser's satisfaction that it has implemented steps to redress the problem. Until the foregoing has been satisfactorily remedied, Mini-Tender competitions may be run without prejudice as if the Supplier was excluded and the Framework Agreement had been terminated with the Supplier

8.6. Only the LGOPC has authority to terminate a Supplier from this Framework Agreement. The Framework Purchaser may notify the LGOPC if a Supplier has reached Level 3 and the LGOPC may terminate the Framework Agreement as between the LGOPC and that Supplier pursuant to clause 9 below.

Employers Objective		Indicator	Measurement Period	Level 1 (Rule 8.4)	Level 2 (Rule 8.5)	Level 3 (Rule 8.6)
Health and Safety	Management of Safety	Failure to maintain safety measures as set out in the Safety Statement for handling/delivery of fuels	Term	n/a	1	2
		Requirement for immediate cessation of delivery on foot of H&S concerns	Term	n/a	1	2
Performance	Mobilisation	Failure to deliver the nominated supplies on the dates as agreed at RFT stage	Term	2	3	5

The Framework Purchaser and the Supplier shall be committed to continuously improving the Supplier / Framework Purchaser relationship.

The Supplier shall implement such recommendations and comply with any Framework Purchaser's findings to the extent necessary to ensure that the supply of "Fuels" continue to be delivered and the Supplier continues to meet its obligations in accordance with the requirements set out in this Framework Agreement.

## 9. Termination

Without prejudice to any other rights or remedies to which it may be entitled, the LGOPC shall be entitled at any time to terminate this Framework Agreement without liability to the Supplier by giving written notice to the Supplier to take effect immediately or on the date specified in the said notice if:-

- o the Supplier commits a material breach of any term or condition of this Framework Agreement or the relevant Draw-down Contract or fails to perform any obligation or responsibility hereunder, and if such breach is capable of being remedied, fails to remedy the breach within thirty (30) days of the notice given by the Framework Purchaser or the LGOPC requiring the Supplier to do so;
- o the Supplier delivers the "Fuels" supply contract which does not meet the requirements of this Framework Agreement, the Specification and/or a Draw-down Contract including the Delivery Date;
- o the Supplier contravenes any of Clause 4;
- o the Supplier contravenes Clause 7;
- o the Supplier reached Level 3 under the Performance Measurement Table as described in Clause 8;
- o the Supplier becomes bankrupt, or convenes a meeting for the purposes of, proposes to make or makes any composition or arrangement with, or conveyance or assignment for the benefit of its creditors, or any application is made under any bankruptcy Act for the time being in force for a sequestration of its estate, or a trustee is granted by it on behalf of its creditors, or if the Supplier, being a company, enters into a voluntary or compulsory liquidation (other than for the purpose of an amalgamation or reconstruction, the terms of which have been agreed by the LGOPC), or if a receiver or examiner is appointed over any of its assets, or if the Supplier is unable to pay its debts within the meaning of Section 214 of the Companies Act, 1963 (as amended by Section 123 of the Companies Act, 1990), or the Supplier takes or suffers any analogous action under any other applicable law;
- o The LGOPC reasonably believes that any of the events mentioned in the clause above or any analogous event is about to occur in relation to the Supplier in any jurisdiction and notifies the Supplier accordingly;
- o the Supplier ceases or threatens to cease to carry on business;
- o the Supplier is struck off the register of companies;
- o any representation or warranty made by the Supplier in connection with this Framework Agreement or a Draw-down Contract shall in the opinion of the LGOPC prove to be untrue or incorrect in a material respect as of the date when made;
- o the Supplier has committed any fraudulent act or any criminal activity or is guilty of gross negligence in the performance of this Framework Agreement or a Draw-down Contract; or
- o the LGOPC has reason to believe that gratuities, in the form of entertainment, gifts or otherwise, were offered or given by the Supplier or any agent or representative of the Supplier, to any employee of the LGOPC or the Framework Purchaser with a view towards securing any agreement for the provision of the "Fuels" or any other contract. Paying the expenses of normal business meals shall not be prohibited by this provision;
- o the LGOPC suspects that the Supplier has entered into or implemented an agreement or has made or implemented a decision or has engaged in a concerted practice that is prohibited by Section 4(1) of the Competition Act 2002 in which case the Supplier may be reported by the LGOPC or the Framework Purchaser to the Competition Authority of Ireland; and

- without cause, the LGOPC also terminates its agreements with the other Framework Suppliers.

Should conditions arise which, in the opinion of the LGOPC in its absolute discretion, necessitate the termination of this Framework Agreement and/or a Draw-down Contract, the LGOPC may terminate the Framework Agreement and/or a Draw-down Contract upon written notice to the Supplier.

Should conditions arise which, in the opinion of a Framework Purchaser in its absolute discretion, necessitate the termination of a Draw-down Contract, the Framework Purchaser may terminate the Draw-down Contract upon written notice to the Supplier. Such termination shall take effect on the date specified in the said notice and shall be without prejudice to any claims which either party may have against the other party under this Framework Agreement and/or a Draw-down Contract.

Neither the LGOPC nor any Framework Purchaser shall be liable to the Supplier for any loss of profit, loss of contracts or other economic losses and/or expenses or for any indirect, economic, or consequential loss suffered or incurred by the Supplier arising out of or in connection with this Framework Agreement or any Draw-down Contract.

In the event of the Agreement being terminated by LGOPC on any of the grounds listed above during a Draw-down Contract, the Supplier shall be liable for any loss incurred by LGOPC or the relevant Framework Purchaser as a result of such termination including the cost of finding an alternative Supplier to carry out the Supplier's uncompleted supply of "Fuels".

Termination of this Framework Agreement or any Draw-down Contract pursuant to the above clauses shall not relieve or discharge either party from any obligations which have accrued prior to such termination. Unless expressly stated to the contrary, the service of a notice to terminate the Framework Agreement shall not operate as a notice to terminate any Draw-down Contract made under the Framework Agreement. Termination or expiry of the Framework Agreement shall not cause any Draw-down Contracts to terminate automatically. For the avoidance of doubt, all Draw-down Contracts shall remain in force unless and until they are terminated or expire in accordance with their own terms

## 10. **Assignment, Transfer and Sub-Contracting**

The Supplier shall not sub-contract, assign or transfer this Framework Agreement or any part thereof or the benefit or advantage of this Framework Agreement to any third party without the prior written consent of the relevant Framework Purchaser or LGOPC. In the event of such consent being given, the Supplier shall ensure that the sub-contractor is a reasonable and prudent supplier and that the sub-contractor shall carry out its obligations in accordance with the terms of this Framework Agreement. Notwithstanding the foregoing, the Supplier acknowledges that it remains fully liable and responsible for the provision of the "Fuels" and the acts and omissions of the sub-contractor as if they were its own.

The Supplier shall also maintain during the term of this Framework Agreement and for 6 years thereafter records and documentation relating to the sub-contractor and "Fuels" provided by it and shall make same available to the LGOPC upon request. Failure or neglect by any Framework Purchaser to enforce at any time any provision of this Framework Agreement or any Draw-down Contract shall not be construed or deemed to be a waiver of that Framework Purchaser's rights hereunder, nor in any way affect the validity of the whole or any part of this Framework Agreement, nor prejudice the Framework Purchaser's rights to take subsequent action.

## 11. **Force Majeure**

No delay or failure in performance by either party hereto shall constitute default hereunder or give rise to any claim for damages or loss including anticipated profits if such delay or failure is caused by Force Majeure. Unless otherwise instructed by Framework Purchasers, the Supplier shall recommence performance as soon as possible after the Force Majeure has ceased.



Force Majeure shall mean an occurrence beyond the control and without the fault or negligence of the party affected and which the said party is unable to prevent or provide against by the exercise of reasonable diligence including, but not limited to: - acts of God or the public enemy; expropriation or confiscation of facilities; any form of Government intervention; war, hostilities, rebellion, terrorist activity; local or national emergency, sabotage or riots; floods, unusually severe weather conditions which could not reasonably have been anticipated; fires, explosions or other catastrophes; national or district strikes or any other concerted acts of workmen or other similar occurrences other than strikes or concerted acts of the Supplier's workforce.

If any delay or failure in performance, as set out above, persists for 14 days or more, Framework Purchasers shall have the right to terminate the relevant Draw-down Contract by giving 7 days notice in writing to the Supplier.

## **12. Conflicts Registrable Interests and Corrupt Gifts**

The Supplier confirms that it has carried out a conflicts of interest check and is satisfied that it has no conflicts in relation to the supply of "Fuels" and its obligations undertaken under this Framework Agreement. The Supplier hereby undertakes to advise the Framework Purchaser forthwith should any conflict or potential conflict of interest come to its attention during the currency of this Framework Agreement and to comply with the Framework Purchaser's directions in respect thereof. Any registrable interest involving the Supplier (and any subcontractor or agent as the case may be) and the Framework Purchaser, or their relatives must be fully disclosed to the Framework Purchaser immediately upon such information becoming known to the Supplier and to comply with the Framework Purchaser's directions in respect thereof, to the satisfaction of the Framework Purchaser. The terms "registrable interest" and "relative" shall be interpreted as per section 2 of the Ethics in Public Office Act, 1995. The Supplier shall not offer or agree to give any public servant any gift or consideration or commission of any kind as an inducement or reward for doing or forbearing to do or for having done or forborne to do any action in relation to the obtaining or execution of this or any other public contract. Any breach of this clause 10 or the commission of any offence by the Supplier, any sub-contractor, agent, or employee under the Prevention of Corruption Acts, 1889 to 2005 shall entitle the Framework Purchaser to terminate this Framework Agreement forthwith and to recover the amount of any loss resulting from such cancellation, including but not limited to recovery from the Supplier of the amount or value of any such gift, consideration or commission.

## **13. Delivery**

The Supplier shall deliver the "Fuels" on or before the Delivery Date, unless otherwise agreed to in writing by the Framework Purchaser in accordance with the Framework Purchaser's requirements. Time of delivery of the "Fuels" shall be the essence of this Framework Agreement, unless otherwise agreed in writing.

If a Delivery Date cannot be met by the Supplier, the Supplier shall promptly notify the Framework Purchaser. Notwithstanding such notice, unless a substitute delivery date for the "Fuels" has been expressly agreed by the Framework Purchaser in writing, the Supplier's failure to effect the delivery of the "Fuels" on the Delivery Date shall entitle the Framework Purchaser, without prejudice to any other remedy it may have, to terminate the Draw-down Contract.

The Framework Purchaser shall not be deemed to have taken delivery of "Fuels" until a delivery note has been signed by a duly authorised representative of the Framework Purchaser. For the avoidance of doubt, the taking of delivery of "Fuels" shall not infer that the Framework Purchaser has satisfied itself as to the quality and conformance to Specification of those "Fuels".

#### 14. Insurance

The Supplier shall maintain in force during the term of this Agreement full and comprehensive insurance policies in respect of all customary liabilities and risks undertaken by the Supplier in connection with the provision of the supply of "Fuels", including but not limited to:

1. Employers liability insurance with a limit of indemnity of no less than €13 million for any one claim or series of claims arising out of a single occurrence with a maximum excess of €6,500;
2. Public liability insurance with a limit of indemnity of no less than €6.5 million for any one claim or series of claims arising out of a single occurrence with a maximum excess of €6,500; and

The Supplier shall ensure that its insurance policies are taken out with reputable insurers acceptable to the LGOPC within the jurisdiction of the EU and that the level of cover and other terms of insurance are acceptable to and agreed by the Framework Purchasers.

The Supplier shall comply with all terms and conditions of its insurance policies at all times. If cover under the insurance policies shall lapse or not be renewed or be changed in any material way or if the Supplier is aware of any reason why the cover under its insurance policies may lapse or not be renewed or be changed in any material way, the Supplier shall notify the LGOPC without delay.

It shall be the Supplier's responsibility to ensure that any agent or sub-contractor of the Supplier effects and maintains all insurance required by law and all such other insurance as are necessary for the provision of the supply of "Fuels". Any deficiencies in the cover or policy limits of the insurance policy of such agents or sub-contractors shall be the sole responsibility of the Supplier.

The Supplier shall not do or suffer to be done anything which may render the said policy or policies of insurance void or voidable.

#### 15. Risk and Title

Title to "Fuels" (if applicable) shall pass on delivery to the Framework Purchaser in accordance with Clause 12 unless payment is made prior to the Delivery Date, in which event, title shall pass to the Framework Purchaser on payment. Where title in "Fuels" has passed to the Framework Purchaser prior to the Delivery Date pursuant to this Clause 14, the Supplier shall keep such "Fuels" separate from other Products and clearly mark the "Fuels" as the property of the Framework Purchaser.

#### 16. Miscellaneous Provisions

Any amendments to the terms of this Framework Agreement shall be signed by the Parties to this Framework Agreement and endorsed on this Framework Agreement.

If any provision of this Framework Agreement is held by any competent authority to be invalid, unlawful or unenforceable in whole or part, the validity of the other provisions of this Framework Agreement and the remainder of the provision in question shall not be affected thereby.

It is acknowledged by all parties that the Supplier will at all times be an independent contractor, and nothing in this Framework Agreement will be construed (and the Supplier will not hold out its relationship) as constituting a partnership, joint venture, representation, agency or employer and employee relationship between any Framework Purchaser and the Supplier.

This Framework Agreement and any contractual obligations arising out of or in connection with this Framework Agreement shall be governed and construed in accordance with the laws of Ireland.

IN WITNESS whereof the parties hereto have executed this Framework Agreement the day and year first herein WRITTEN.

Signed on behalf of LGOPC by:

\_\_\_\_\_  
*A duly authorised representative*

\_\_\_\_\_  
*Date*

Signed on behalf of the Supplier by:

\_\_\_\_\_  
*A duly authorised representative*

\_\_\_\_\_  
*Date*

**SCHEDULE 1 - The Specification**

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"Fuels" shall comply with the Specification in the Instructions Document and at Request for Tenders with any requirements set out in any Mini-Competition.

SCHEDULE 2 – DECLARATIONS

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The Declarations have been completed as part of Instructions Document requirements.

SCHEDULE 3 - Framework Purchasers

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The Framework Purchasers are as nominated in the Schedule attached to the Instructions Document.

SCHEDULE 4 – Sample Request for Mini-Tenders

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**[Insert Date]**

**[Insert Name and Address of Supplier]**

Dear Sirs

We refer to the Framework Agreement for the provision of the supply of "Fuels" dated [● 2015]. Terms and expressions defined in the Framework Agreement shall bear the same meanings where used in this Request for Mini-Tenders.

**[Insert name of Framework Purchaser]** hereby issues a Request for Mini-Tenders in accordance with **Clause 3** of the Framework Agreement inviting a Proposal from you for the supply of:

***[Insert precise description/specification of the "Fuels", including the required timing for their delivery and any other relevant information]***

You are invited to submit a Proposal to include the following:

- A Price for the provision of the "Fuels". Pricing must be in euro (€) and inclusive of all costs and expenses.
- A Statement confirming that the "Fuels" meeting the Specification can be delivered by ***[insert date]***.

[One/Two] signed hardcopies of the Proposal must be submitted to ***[insert details]*** no later than ***[Insert details]*** to ***[Insert details]***. All packages must be clearly marked [●]. Packages must not bear the name, address or other marking which may identify the Supplier. Proposals received after the deadline will not be considered. Responsibility for proof of delivery to the correct location before the closing date rests with the Supplier.

Proposals received in response to this Request for Mini-Tenders will be evaluated on the basis of price only.

Should you have any queries in respect of this Request for Mini-Tenders, please contact [●] by email at [●] [or by telephone at [●]] no later than [●]. ***Insert name of Framework Purchaser*** will endeavour to respond to all reasonable queries received promptly, but does not undertake to respond to all queries. ***Insert name of Framework Purchaser***'s response will be communicated to all Framework Suppliers to whom this Request for Mini-Tenders has been issued, unless the ***Insert name of Framework Purchaser***, at its absolute discretion, is satisfied that the query and/or its response should be properly regarded as confidential or commercially sensitive.

We look forward to receipt of your Proposal.

Yours faithfully, **etc.**

SCHEDULE 5 – Sample Draw-down Contract

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[*Insert Date*]

[*Insert Name and Address of the Supplier*]

(hereinafter referred to as "the Supplier")

[Draw-down Contract Number/Purchase Order Number: [●]]

Dear Sirs

We refer to the Framework Agreement for the provision of [●] dated [●]. Terms and expressions defined in the Framework Agreement shall bear the same meanings where used in this Draw-down Contract.

[*Insert name of Framework Purchaser*] issued a Request for Mini Tenders in accordance with Clause 3 of the Framework Agreement and invited a Proposal from you for the provision of [●] on [●].

You submitted a Proposal on [●], which is attached at Appendix 1 hereto. [*Insert name of Framework Purchaser*] now wishes to engage the Supplier to provide the "Fuels" more particularly described in paragraph 1 below subject to and in accordance with the provisions of the Framework Agreement and this Draw-down Contract. [*Insert name of Framework Purchaser*] has issued the attached purchase order to effect this Draw-down Contract.

1. **Products ("Fuels")**

The Supplier shall provide the following "Fuels":

[*Insert precise description/specification of the "Fuels"*]

2. **Delivery**

The Supplier shall deliver the "Fuels":

[*Insert date(s)*]

3. **Other terms and conditions**

[Insert as applicable]

4. **Price and Payment**

Subject to the provisions of the Framework Agreement and to the due compliance by the Supplier with the Supplier's obligations and undertakings under the Framework Agreement and delivery of the "Fuels", the [*insert name of Framework Purchaser*] agrees to pay the Supplier the [sum(s)] stated hereunder at the [time(s)] stated hereunder:

[*Insert price and payment terms*].

No contract in respect of the "Fuels" described in this Draw-down Contract shall exist until this Draw-down Contract is signed by both parties.

We would be obliged if you would kindly counter-sign and return this letter to acknowledge acceptance of the terms outlined above.



Yours faithfully,

SIGNED by

\_\_\_\_\_  
a duly authorised representative  
for and on behalf of the [*insert name of Framework Purchaser*]  
in the presence of:-

COUNTER-SIGNED in acceptance of the above instructions by:

\_\_\_\_\_  
For and on behalf of [*insert name of the Supplier*]  
in the presence of:-

Date:

[Insert Proposal as Appendix 1 of the Draw-down Contract]