

Page No	Description of document	Deletions	Relevant Section of FOI Acts	Reason for decision	Decision Maker's decision
1-20	Commissioner of An Garda Síochána AND The Communications Clinic AGREEMENT Media Training for Personnel in An Garda Síochána (T.003/2015)	Nil			Grant
21-29	Framework Agreement	Nil			Grant
30-37	Framework Agreement	Nil			Grant
38-41	Confidentiality Agreement	Nil			Grant
42-73	RFT	Nil			Grant
74-75	Tenderers Statement	Nil			Grant
76-77	Appendix Nine Article 45 of the EU Directive 2004/18/EC	Nil			Grant
78	Declaration as to Personal Circumstances of Tenderer	P.78	Section 35(1)(a), Section 36(1)(b), Section 36(1)(c), Section 15(1)(d)	Information obtained in Confidence, Commercially Sensitive Information, Information already in the Public Domain	Refuse
79-98 (Excl. P.96)	Proposal Document Provision of Media & Communication Skills Training	P79-98	Section 35(1)(a), Section 36(1)(b), Section 36(1)(c), Section 15(1)(d)	Information obtained in Confidence, Commercially Sensitive Information, Information already in the Public Domain	Refuse
96	Page 96 - Proposal Document Provision of Media & Communication Skills Training	P.96	Nil		Grant
99-106	Media Skills Preparation Handbook	P.99-106	Section 35(1)(a), Section 36(1)(b), Section 36(1)(c), Section 15(1)(d)	Information obtained in Confidence, Commercially Sensitive Information, Information already in the Public Domain	Refuse
107	Schedule of Fees for Media Training Services to An Garda Síochána	P.107	Section 35(1)(a), Section 36(1)(b), Section 36(1)(c), Section 15(1)(d)	Information obtained in Confidence, Commercially Sensitive Information, Information already in the Public Domain	Refuse
		Total number of pages			107
		Total number of pages for full release			78
		Total number of pages for partial release			0
		Total number of pages being withheld			29

APPENDIX 6: DRAFT SERVICES CONTRACT

COMMISSIONER OF AN GARDA SIOCHANA

AND

The Communications Clinic

AGREEMENT

MEDIA TRAINING FOR PERSONNEL

IN

AN GARDA SÍOCHÁNA

(T.003/2015)

THIS AGREEMENT is made on ^{18th October} 1 September 2015

BETWEEN;

- (1) **Commissioner of An Garda Síochána**, whose principal place of business is at Garda Headquarters, Phoenix Park, Dublin 8 ("the Client") and
- (2) The Communications Clinic with registered office at The Old Synagogue, 37 Adelaide Road, Dublin 2. Companies Office Registration Number 384597 ("Contractor")
- (3) ("the parties")
- (4) **WHEREAS:**

- A. **Commissioner of An Garda Síochána** ("Contracting Authority") invited responses ("Tenders") to Request for Tender dated 20 May, 2015 ("RFT") from economic operators ("Tenderers") for the participation in the provision of services as described in Part 2 to the RFT, "Requirements and Specifications", ("the Services") to be provided in Garda HQ Phoenix Park, References to the RFT shall include any clarifications issued by the client and same are attached hereto in **Schedule C**
- B. The Contractor submitted a response to the RFT dated the 18th June, 2015 which is attached hereto in **Schedule D** ("the Submission"). References to the Submission shall include any clarifications issued by the Contractor and same are attached hereto in **Schedule E**

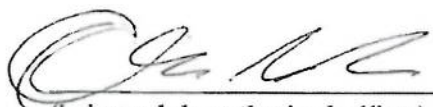
IT IS AGREED as follows:

1. The Contractor agrees to provide the services described in **Schedule C Part 2** ("the services") in accordance with this Agreement ("Agreement"). Schedule C details the nature, quality, time of delivery, key personnel and functional specification of the Services in accordance with the RFT, and the Response ("the Specification").
2. The client agrees to pay the charges to the Contractor as stipulated in **Schedule F – Contractors Response Document- Cost Schedule** ("the Charges"). The Charges are exclusive of VAT which shall be due at the rate applicable on the date of the VAT invoice.
3. For the purpose of this Agreement, the Clients Contact is the representative of the Head of the Garda Síochána Director of Communications; Garda HQ the

Contractor's Contact is Mr Eoghan McDermott Director of Training, The Communications Clinic. This Agreement is governed by the special terms and conditions as set out in **Schedule A and A1** and consists of the following documents, and in the case of conflict of wording, in the following order of priority:

- I. This agreement and Schedules;
 - II. The RFT (Schedule C)
 - III. The Response (Schedule D plus E).
4. This Agreement shall take effect on the date of this Agreement ("the Effective Date") and shall expire on 31/12/16 unless it is otherwise terminated in accordance with the provisions of this Agreement or otherwise lawfully terminated or otherwise lawfully extended as agreed between the Parties ("the Term").
5. The Client reserves the right to extend the Term for a period or periods of up to a maximum of 24 months and any such extensions permitted subject to its obligations at law.

SIGNED for and behalf of the Client



(being a duly authorised officer)

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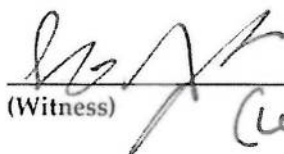
September 2015


(Witness)

SIGNED for and behalf of the Contractor


The Communications Clinic

30 September 2015


(Witness) (LORCAN NYHAN)

SCHEDULE A: TERMS AND CONDITIONS

1.. CONTRACT OBLIGATIONS

- A. The contractor undertakes to perform its obligations arising from this Agreement with due care, skill and diligence in the provision of the Services and generally in the carrying out of its obligations under this Agreement and in the appointment, monitoring and retention of its agents and subcontractors. The contractor shall require its agent and subcontractors to exercise due care, skill and diligence in the provision of the Services and generally in the carrying out of its obligations allocated by the contractor to its agents and subcontractors under this Agreement.
- B. In consideration of the payments of the Charges and subject to clause 4 then Contractor shall;
1. provide the Services according to the specification, in accordance with the RFT, in the manner set out in the Response (as accepted by the client) and in accordance with the Client's direction and the terms of this Agreement;
 2. comply with and implement any policies, guidelines and /or any project governance protocols issued by the Client from time to time and notified to the Contractor in writing;
 3. comply with all local security arrangements as notified to it by the client;
 4. provide the Services in accordance with good industry practice and comply with all applicable laws with particular but not exclusive regard to the requirements of the Safety Health and Welfare at Work Act 2005, the Waste management Act 1996, the Data Protection Acts 1988 and 2003, Freedom of Information Acts 1997 and 2003 and Employment legislation. The Contractor will be responsible for compliance with all statutory requirements of any employer and without prejudice to the generality of the foregoing shall be solely responsible in law for the employment, remuneration, taxes, immigration and work permits of all personnel retained for the purposes of complying with this agreement; and
 5. comply with the Special Conditions, if any, set out in Schedule A1 ("Special Conditions")
- C. The contractor is deemed to be the prime contractor under this Agreement and the contractor assumes full responsibility for the delivery of the services and shall assume all the duties, responsibilities and obligations associated with the position of prime contractor. The Contractor as prime contractor under Submission hereby assumes liability for its subcontractors and shall ensure that its subcontractors shall comply in all respects with the relevant terms of this Agreement to the extent that it or they are retained by the Contractor.

- D. During this Agreement the contractor shall be an independent contractor and not the employee of the Client. Neither Party shall have any authority to bind or commit the other. Nothing herein shall be deemed or construed to create a joint venture, partnership, and/or fiduciary or other relationship between the Parties for any purpose. The officers, employees or agents of the Contractor are not and shall not hold themselves out to be and shall not be held out by the Contractor as being servants or agents of the client for the purposes whatsoever.
- E. The contractor shall comply with all applicable obligations arising pursuant to European Communities (Protection of Employees on Transfer of Undertakings) Regulations 2003 (S.I. No. 131 of 2003) and Council Directive 2001/23/EC (together the "Regulation") and failure to so comply shall constitute a material breach of this Agreement. The contractor shall indemnify, save harmless and keep the Client indemnified from and against all liabilities (including the cost of wages, salaries and other remuneration or benefits, expenses, taxation, PSRI, payments health contributions, levies, losses, claims, demands, actions, fines, penalties, awards, (including legal expenses on an indemnity basis) from, or uncured by reason of, any claims made against the client under the Regulations by any Affected Employees. Affected Employees shall mean those employees in respect of whom the Regulations may be deemed to apply in connection with this agreement.

2. DELIVERY OF THE SERVICES

- A. The Contractor shall provide the Services within the time frame, to the locations and on the date(s) requested as specified in the specification or otherwise agreed in writing between the Parties in accordance with clause 1.
- B. The client acknowledges that the contractor may from time to time be dependent on the client to facilitate the Contractor in the carrying out of its duties under this Agreement. The Client agrees to use its reasonable endeavors to so facilitate the contractor within the timescales and in the manner agreed by it in writing in accordance with clause 1

3. KEY PERSONNEL

The Contractor undertakes and acknowledges that it is responsible for ensuring that all Key Personnel as specified in the Submission ("Key Personnel"), assigned by it to provide the Services shall be available for the term of this Agreement. The contractor acknowledges that the Key Personnel are essential to the proper provision of the Services to the Client. In the event that any of the Key Personnel assigned by the Contractor to provide the Services under this Agreement becomes unable to provide the Services for whatever reason then, the Contractor acknowledges and undertakes that it shall

6

immediately notify the Client in writing of the inability of any personnel and replace that person with a person of equivalent experience ("Replacement Personnel"). The Contractor shall provide to the Client such details as the Client may reasonably require in writing regarding any Replacement Personnel. The Client shall have absolute discretion as to the suitability of any proposed Replacement Personnel.

4. PAYMENT

- A. Subject to the provisions of this Clause 4 the Client shall pay and discharge the Charges (plus any applicable VAT), in the manner specified at Schedule C. Invoicing arrangements shall be on such terms as may be agreed between the Parties.
- B. Discharge of the Charges is subject to :
1. Compliance by the Contractor with the provisions of this Agreement including but not limited to any milestones, compliance schedules and /or operational protocols in place pursuant to clause 11.A from time to time;
 2. The furnishing by the contractor of a valid invoice and supporting documentation as may be required by the Client from time to time within 10 working days upon commissioning, the contractor is to charge 40% upon Commissioning (to cover set up, programming, training and pilot) and the balance in quarterly invoices in arrears. Any Contractor pre-printed terms and conditions are hereby disallowed;
 3. Invoices being submitted to the Client's Contact (as set out in this agreement or such other alternative contact as may be agreed between the Parties). All and any queries relating to the invoice and/or the services for any billing period (including whether or not Services have been accepted, rejected, satisfactorily re-performed or as the case may be) must be raised by the Clients Contact within 14 calendar days of receipt of invoice. In circumstances where no queries are raised within the said 14 day period the invoice shall be deemed accepted. Upon resolution of any queries on the invoice to the satisfaction of the Client or upon such deemed acceptance the invoice shall be payable by the Client. Payment is subject to any rights reserved by the client under Special Conditions at Schedule A; and
 4. The Client being in possession of the Contractor's current Tax Clearance Certificate. The Contractor shall comply with all EU and domestic taxation law and requirements including but not limited to the terms of Circular 43/2006 issued by the Department of Finance, a copy of which is available at www.irlgov.ie/finance. The contractor may supply the certificate and registration numbers, as they appear on the TAX Clearance Certification, to facilitate on-line verification of their tax status by the client.

- C. The provisions of the Prompt Payment of Accounts Act 1997, as amended or revised, and the European Communities (Late Payment in Commercial Transactions) Regulations, 2002 shall apply to all payments. Incorrect invoices will be returned for correction with consequential effects on the due date of payment.
- D. Wherever under this Agreement any sum of money is recoverable from or payable by the Contractor (including any sum which the contractor is liable to pay to the client in respect of any breach of this Agreement), the Parties may agree to deduct the sum from any sum then due, or which at any later time may become due to the contractor under the Agreement or under any other agreement or contract with the Client. 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.
- E. The charges shall include any and all expenses incurred by the contractor, its employees, servants and agents in the performance of the services.
- F. Charges shall be discharged as provided for in this Clause subject to the retention by the Client in accordance with Section 523 of the Taxes Consolidation Act, 1997 of any withholding taxes payable to the Contractor. Any and all taxes applicable to the provision of the Services will be the sole responsibility of the contractor and the contractor so acknowledges and confirms.

5. WARRANTIES, REPRESENTATIONS AND UNDERTAKINGS

- A. The Contractor warrants, represents and undertakes that:
 - 1. it has the authority and right under law to enter into, and to carry out its obligations and responsibilities under this Agreement and to provide the Services hereunder;
 - 2. it is entering into this Agreement with a full understanding of its material terms and risks and is capable of assuming those risks;
 - 3. it is entering into this Agreement with a full understanding of its obligations with regard to taxation and employment and environmental protection and is capable of assuming and fulfilling those obligations;
 - 4. it has acquainted itself with and shall comply with legal requirements or such other laws, recommendations, guidance or practices as may affect the provision of the Services as they apply to the contractor
 - 5. it has taken all and any action necessary in accordance to ensure that it has the power to execute and enter into this Agreement;

6. where applicable, the status of the supplier, declared in the "Declaration as to as to Personal Circumstances of the Tenderer" in the submission which confirms that none of the excluding circumstances listed in Article 45 of EU Council Directive 2004/18/EC as implemented by Irish law in Regulation 56 of the European Communities (Award of Public Authorities' Contracts) Regulations 2006 (Statutory Instrument 329 of 2006), apply to the Supplier, remains unchanged;
 7. it owns, has obtained or is able to obtain, valid licences for all Intellectual Property Rights (as defined in clause 7 below) that the necessary for the performance of its obligations under this Agreement and for the Client to obtain the benefit of the Services for its business purposes ; and
 8. it retains, and shall maintain for the Term of the Agreement insurances for the nature and amount specified in the RFT. The Contractor undertakes to advise the Client forthwith of any material change to its insured status, to produce proof of current premiums paid upon written request and where required produce valid certificates of insurance for inspection. The contractor shall carry out all directions of the client with regard to compliance with this clause 5A.8.
 9. the execution and performance of this Agreement does not conflict with or constitute a breach or default under any contract or agreement of any kind to which the Contractor is a party or any judgment, order, statute or regulation which is applicable to the Contractor or its assets
 10. Neither Party will be liable for any indirect, incidental, punitive or consequential loss (including loss of profit) damage, cost or expense of any kind whatsoever and howsoever caused even if such party has been advised of their possibility.
- B. The Contractor undertakes to notify the client forthwith of any material change to the status of the contractor with regard to the warranties, representations and undertakings as set out at Clause 5A and to comply with all reasonable directions of the Client with regard thereto which may include termination

6. REMEDIES

- A. The Contractor shall be liable for and shall indemnify the Client for and in respect of all and any losses, claims, demands, damages or expenses which the Client may suffer due to and arising directly as a result of the negligence, breach of contract, Breach of Duty, insolvency, recklessness, bad faith, wilful default or fraud of the Contractor its employees, sub-contractors or agents or any of them or as a result of the Contractor's failure to exercise care as outlined in Clause 1. The terms of this Clause 6.A shall survive termination of this Agreement for any reason.
- B. Save in respect of fraud (including fraudulent misrepresentation), personal injury or death, neither Party will be liable for and indirect losses (including loss of profit,

loss of revenue, loss of goodwill, indirectly arising damages, costs and expenses) of any kind whatsoever and howsoever arising even if such Party has been advised of their possibility.

- C. Should the client find itself obliged to order elsewhere in consequence of the failure of the contractor to deliver Services, the client shall be entitled to recover from the contractor any excess prices which may be paid by the client.
- D. Except as otherwise expressly provided by this Agreement, all remedies available to either Party for breach of this Agreement are cumulative and may be exercised concurrently or separately, and the exercise of any remedy shall not be deemed an election of such remedy to the exclusion of the other remedies.

7. INTELLECTUAL PROPERTY

- A. Intellectual Property Rights ("IPR") means all patents and patent rights, trademarks and trademark rights, trade names and trade name rights, service marks and service mark rights, service names and service name rights, brand names, copyrights and copyright rights, trade dress, business and product names, logos, slogans, trade secrets, industrial models, utility models, design models, designs, rights in confidential information, know-how, rights in the nature of unfair competition rights and rights to sue for passing off, and all pending applications for and registrations of patents, trademarks, service marks, and copyrights together with all connected and similar or analogous rights in any country or jurisdiction for the full term thereof;
- B. Pre-Existing IPR means all IPR existing prior to the date of this Agreement and all IPR in any materials, acquired or developed by or for the contractor or Client independently of this Agreement, and any IPR in Contractor's standard hardware and software products or modifications or updates to such product.
- C. All IPR title and interest in all reports, data manuals and/or other materials (other than software) (including without limitation all and any audio or audio visual recordings, transcripts, books, papers, records, notes, illustrations, photographs, diagrams) produced for the purposes of this Agreement (collectively "the Materials") (or any part or parts thereof) shall vest in the Client and the Contractor so acknowledges and confirms. For the avoidance of doubt the Contractor hereby assigns all Intellectual Property Rights, title and interest in the Materials (including by way of present assignment of future copyright) to the extent that any such Intellectual Property Rights title or interest may be deemed by law to reside in it in the Materials to the Client absolutely.
- D. The client grants to the contractor a royalty-free non-exclusive licence to use the Client's Pre-existing IPR for the term to the extent necessary to enable the contractor to fulfil its obligations under this agreement. Save as expressly set out in this clause 7 all Pre-Existing IPR shall remain the sole property of the party who owned, acquired or developed such intellectual property.

- ... The Contractor shall waive or procure a waiver of any moral rights subsisting in copyright produced under or in performance of this Agreement.
- F. Nothing in this Agreement shall prohibit or be deemed to prohibit the Contractor from providing services similar to the Services to any party other than the parties hereto. In no event shall the Contractor be precluded from independently developing for itself, or for others, materials which are competitive with, or similar to, the Services and to use its general knowledge, skills and experience, and any ideas, concepts, know-how, formats, templates, methodologies and techniques that are acquired or used in the course of providing the Services.
- G. The Contractor shall ensure that all and any necessary consents and or licences for any software, instrument, modality or methodology are obtained and in place before use for the purposes of this Agreement (to include but not to be limited to ensure that the Client shall be vested with all necessary rights so as to enable the Client to enjoy the benefit of the Services for its business purposes). The Contractor hereby indemnify the Client and shall keep and hold the Client harmless from and in respect of all and any liability loss damages claims costs or expenses which arise by reason of any breach of third party Intellectual Property Rights in so far as any rights are used for the purposes of this Agreement.

At the option of the client for and in respect of any such breach, the contractor shall at its expense and option;

1. Procure the necessary rights for the client to continue use;
 2. Replace the relevant deliverable with a non -infringing equivalent;
 3. Replace the relevant deliverable to make it non-infringing while giving equivalent performance; or
 4. If the Contractor cannot obtain the remedies in 1, 2 or 3. above, it may direct the return of the deliverable and refund the Client Charges paid for such deliverable less a reasonable amount for the Client's use of the deliverable up to the time of return, provided such reasonable amount is due to the owner of the said deliverable, TOGETHER with all direct losses thereby accruing to the Client as a result of the breach
- H. Upon the termination of this Agreement for whatever reason, the Contractor shall immediately deliver up to Client all Materials prepared up to the date of termination. As an exception to its obligation under clause 7H the Contractor may retain one copy of the Material, in paper form, in the Contractor's legal files for the purpose of and only to the extent necessary for ensuring compliance with its obligations under this Agreement. The provisions of this clause 7 will survive the expiration or termination of this Agreement for any reason.

8. CONFIDENTIALITY

- A. Each of the parties to this Agreement agrees to hold confidential all information, documentation and other material received, provided or obtained arising from their participation in this Agreement ("Confidential Information") and shall not disclose same to any third party except to:
1. Its professional advisers subject to the provisions of this clause 8; or
 2. As may be required by law; or
 3. As may be necessary to give effect to the terms of this Agreement subject to the provisions of this clause 8; or
 4. In the case of the client by request of any person or body or authority whose request the Client or persons associated with the client (including but not limited to the Legislature and /or the Civil service) considers it necessary or appropriate to so comply:
- B. The Contractor undertakes to comply with all reasonable directions of the Client with regard to the use and application of all and any confidential information and shall comply with the confidentiality agreement as exhibited in Schedule B to this Agreement ("the confidentiality agreement"). The obligation in this Clause 8 will not apply any Confidential Information
1. in the recipient's possession (with full right to disclose) before receiving it from the disclosing party; or
 2. which is or becomes public knowledge other than by breach of this Clause; or
 3. is independently developed by the recipient without access to or use of the Confidential Information; or
 4. is lawfully received from a third party (with full right of disclose)
- C. The Contractor acknowledges that the Security of the State and its information is of paramount importance to the Client. Accordingly the Contractor confirms that it will from time to time during the currency of this Agreement as may be requested by the Client submit, full personal details (including sub-contractors) who are assigned to provide the Services (or any part thereof) under this Agreement. The Contractor further acknowledges that checks may be carried out in relation to all such personnel by the police authorities' and the contractor shall comply with all reasonable directions of the Client arising there from.
- D. In the circumstances where the Client is subject to the Freedom of Information Acts 1997 and 2003, then in the event of the client receiving a request for information related to this Agreement, the client will consult the Contractor in respect of the request. The Contractor shall identify any information that is not to be disclosed on the grounds of commercial sensitivity, and shall state the reasons for this sensitivity. The client will consult the contractor about this commercially

sensitive information before making a decision on any Freedom of Information request received. The final decision on disclosure rests with the Office of the Information Commissioner and ultimately, the courts.

- E. The terms of this clause 8 shall survive expiry, completion or termination for whatever reason of this Agreement.

9. FORCE MAJEURE

- A. A Force Majeure Event" means an event or circumstance or combination of events and /or circumstances not within the reasonable control of the Affected Party (as defined in Clause 9 B below) which has the effect of delaying or preventing that Party from complying with its obligations under this agreement including but not limited to acts of God, war, out-break of disease, insurrection, riot, civil disturbance, strikes, labour disputes, lockout, rebellion, acts of terrorism, government regulations, embargoes, explosions, fires, floods, tempests, or failures of supply of electrical power, or public telecommunications equipment or lines, excluding industrial action of whatever nature or cause (strikes, lockouts and similar) occurring at the Contractor (or subcontractor or agent) places of business
- B. In the event of any failure, interruption or delay in the performance of the Parties' obligations (or of any of them) resulting from any Force Majeure Event. That Party ("the Affected Party") shall promptly notify the other Party in writing specifying:
1. the nature of the Force Majeure Event and
 2. of the anticipated delay in the performance of obligations ;
 3. the actions proposed to minimise the impact of the force Majeure Event;
- and the Affected Party shall not be liable or have any responsibility of any kind for any loss or damage thereby incurred or suffered by the other Party; provided always that the Affected Party shall use all reasonable efforts to minimise the effects of the same and shall resume the performance of its obligations as soon as reasonably possible after the removal of the cause.
- C. If the Force Majeure Event continues for 21 days either Party may terminate at 14 days notice.
- D. In the circumstances where the contractor is the Affected Party, the Client shall be relieved from any obligation to make payments under this Agreement save to the extent that the payments are properly due and payable for obligations actually fulfilled by the Contractor in accordance with the terms and conditions of this Agreement.

10. TERMINATION

- A. Notwithstanding the provisions of clause 12 and subject to the provisions of sub-clause 10B, this Agreement may be terminated by either party by serving 2 month's written notice to the other party. For greater certainty, neither party shall be entitled to any additional amounts or compensation in the event that the Agreement is terminated in accordance with this Clause 10.A.
- B. Either Party shall have the (in addition to any other rights which it has at law) to terminate this Agreement immediately and without liability for compensation or damages on the happening of any of the following:
 - 1. If the other Party commits any serious breach or a series of breaches of any provision of this Agreement and fails to remedy such breach (es) (if the breach (es) are capable of remedy) within 30 days after receipt of a request in writing from the other party;
and/or
 - 2. if the other Party becomes insolvent, becomes bankrupt, is wound up, commences winding up, has a receiving order made against it, makes any arrangement with its creditors generally or takes or suffers any similar action as a result of debt, or an event having an equivalent effect.
- C. Where applicable, the client shall have the right, in addition to any other rights which it has at law, to terminate this agreement immediately and without liability for compensation or damages in circumstances where the Client becomes aware of any of the excluding circumstances listed in Article 45 of EU Council Directive 2004/18/EC as implemented by Irish law in Regulation 56 of the European Communities (Award of Public Authorities' Contracts) Regulations 2006 (Statutory Instrument 329 of 2006), apply to the Contractor.
- D. Where applicable, the client shall have the right, in addition to any other rights which it has at law, to terminate this agreement immediately and without liability for compensation or damages in circumstances where the Client becomes aware the Contractor, its employees, servants or agents ceases to hold any licence or professional qualification or has his name removed from any register which is or which the Client consider necessary to or desirable for the performance of the duties under this Agreement;
- E. Termination of this Agreement shall not affect any antecedent and accrued rights, obligation or liabilities of either Party, nor shall it affect any provision of this Agreement which is expressly or by implication is intended to come into or continue in force on or after such termination.
- F. On completion on or termination of this Agreement, howsoever arising, the Contractor shall immediately return all Confidential Information, records, papers, materials, media and other property of the Client which is in its possession on behalf of An Garda Síochána. As an exception to its obligation under clause 10E

the Contractor may retain one copy of the Material, in paper form, in the Contractor's legal files for the purpose of and only to the extent necessary for ensuring compliance with its obligations under this Agreement.

- G. If requested, the contractor shall, upon the termination of this Agreement for any reason or prior to the expiration of the Term promptly furnish such anonymised information relating to the terms and conditions of the employment of all persons providing the Services as may be required by the client. The Contractor agrees to the Client releasing any such anonymised information to third party tenderers for the purposes of any procurement competition for the provision of the Services upon expiry of the Term or earlier termination of this agreement for whatever cause.
- H. Upon termination of the Agreement for whatever reason the Contractor agrees to furnish to the Client, all Confidential Information or at the written direction of the Client shall destroy forthwith in a secure manner all (or such part or parts thereof as may be identified by the Client) Confidential Information in its possession (whether in documentary form, oral, audio-visual, audio-recorded or otherwise including any copy or copies thereof) and shall erase any Confidential Information held by the Contractor in electronic form and the Contractor will upon request furnish a certificate to that effect should the Client so request in writing. For the avoidance of doubt "document" includes documents stored on a computer storage medium and data in digital form whether legible or not.

11. CONTRACT MANAGEMENT

- A. The client and the Contractor shall liaise on a regular basis to address any issues arising which may impact on the performance of this Agreement and to agree milestones, compliance schedules and operational protocols as required by the Client from time to time. If requested in writing by the Client the contractor shall meet formally with the Client to report on progress and shall comply with all written directions of the Client.
- B. The Contractor agrees to:
 - 1. Liaise with and keep the Client fully informed of any matter which might affect the observance and performance of the Contractor's obligations, including the time scale of completion of key components of the Services;
 - 2. Comply with the reporting arrangements and protocols required by the Client from time to time; and
 - 3. Comply with all reasonable directions of the Client
- C. The client or its representative may inspect the Contractor's premises, lands and facilities (or such part or parts thereof relating solely to this Agreement) with due

access to relevant personnel and records upon reasonable notice in writing to ensure compliance with the terms of this Agreement. The contractor shall comply with all reasonable directions of the client thereby arising. The cost of inspection shall be borne by the Client.

12. DISPUTES

Subject to clause 13A and to the Parties' respective rights to apply to the courts upon any cause of action at any time, the Parties shall seek to resolve any disputes between them, arising out of or relating in any way to the issues covered by the Agreement, amicably. The Parties may agree procedures and protocols for dispute resolution from time to time.

13. GOVERNING LAW, CHOICE OF JURISDICTION AND EXECUTION

- A. This Agreement shall in all aspects be governed by and construed in accordance with the laws of Ireland and the Parties hereby agree that the courts of Ireland have exclusive jurisdiction to hear and determine any disputes arising out of or in connection with this Agreement.
- B. This Agreement shall be executed in duplicate and each copy of the Agreement shall be signed by all the parties hereto. Each of the parties to this Agreement confirms that this Agreement is executed by their duly authorised officers.

14. NOTICES

- A. Any notice or other written communication to be given under this agreement shall either be delivered personally or sent by registered post, facsimile and/or email transmission. The Parties will from time to time agree primary and alternative contact persons and details for the purposes of this clause 14.
- B. All notices shall be deemed to have been served as follows:
 - 1. if personally delivered, at the time of delivery;
 - 2. if posted by registered post at the expiration of 48 hours after the envelope containing the same was delivered into the custody of the postal authorities (and not returned undelivered); and
 - 3. if communicated by email or facsimile transmission at the time of acknowledgement of transmission;

15. ASSIGNMENT AND SUBCONTRACT

Subject to a Party's obligation by law, any assignment to a third party, sub-contract or other transfer of a Party's rights or obligations under this Agreement requires the prior written consent of the other Party. Prior to any such assignments, the assignee will be obliged to sign an undertaking to comply with all obligations under this Agreement. Any attempted assignment not complied with in the manner prescribed herein shall be null and void.

16 ENTIRE AGREEMENT

This Agreement constitutes the entire agreement and understanding of the parties, and any and all other previous agreements, arrangements and understandings (whether written or oral) between the parties with regard to the subject matter of this Agreement (save where fraudulently made) are hereby excluded.

17 SEVERABILITY

If any term or provision herein is found to be illegal or unenforceable, then such term or provision shall be deemed severed and all other terms and provisions shall remain in full force and effect.

18 WAIVER

No failure or delay by either party in exercising any right, power or remedy shall operate as a waiver of it, nor shall any single or partial exercise preclude further exercise of same or some other right, power or remedy.

19 NON-EXCLUSIVITY

Nothing in this agreement shall preclude the Client from purchasing services (or services) from a third party at any time during the currency of the Agreement.

20 MEDIA

No media releases, public announcements nor public disclosures relating to this Agreement or its subject matter, including but not limited to promotional or marketing material, shall be made by the Contractor without the prior written consent of the Client.

21 CONFLICTS, REGISTRABLE INTERESTS AND CORRUPT GIFTS.

- A. The Contractor confirms that it has carried out a conflicts of interest check and is satisfied that it has no conflicts in relation to the Services and its obligations

undertaken under this Agreement. The Contractor hereby undertakes to advise the Client forthwith should any conflict of interest come to its attention during the currency of this Agreement and to comply with the Client's directions in respect thereof

- B. Any Registerable interest involving the Contractor (sub-contractor or agent as the case may be) and the client, the Ceann Comhairle (Speaker), or any member of the Government, or any member of the Oireachtas (Parliament), or their relatives must be fully disclosed to the client immediately upon such information becoming known to the Contractor (subcontractor or agent as the case may be) and to comply with the Client's directions in respect thereof, to the satisfaction of the client. The terms 'Registerable Interest' and 'Relative' shall be interpreted as per Section 2 of the Ethics in Public Office Act, 1995 (as amended) a copy of which is available to download at www.finance.gov.ie.
- C. The contractor shall not offer or agree to give any public servant or civil 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 21C or the commission of any offence by the Contractor, any subcontractor, agent or employee under the Prevention of Corruption Acts, 1889 to 2005 shall entitle the client to terminate this Agreement forthwith and to recover the amount of any loss resulting from such cancellation, including but not limited to recovery from the Contractor of the amount or value of any such gifts, consideration or commission.

SCHEDULE A1: SPECIAL CONDITIONS

SCHEDULE B: CONFIDENTIAL AGREEMENT

SCHEDULE C: CONTRACTING AUTHORITIES REQUEST FOR TENDER DATED
11 JULY 2014 PLUS CLARIFICATIONS

SCHEDULE D: CONTRACTORS RESPONSE TO RFT DATED 4 AUGUST 2014

SCHEDULE E: CLARIFICATIONS ISSUED BY CONTRACTOR

SCHEDULE F: FEES CHARGED BY THE CONTRACTOR

SCHEDULE G: CHANGE CONTROL PROCEDURE

1. At any time during the term of this Agreement, either Party may propose a change or changes to any part or parts of this Agreement.
2. The change control procedures set out in this Schedule will apply to all changes irrespective of whether the Contractor or the Client proposes the change.
3. A change control notice ("Change Control Notice") shall be prepared for all change requests. The Change Control Notice will provide an outline description of the change requested, the rationale for the change, the effect that the change will have on the Services (where known) and an estimate of the effort and cost required to prepare an impact assessment ("Impact Assessment").
4. All Change Control Notices proposing changes to this Agreement must be submitted for review to Procurement Section, An Garda Síochána.
5. The Client must indicate its acceptance or rejection of the change control request and/or Impact Assessment within a reasonable timeframe of its completion and Tender Submission for review, subject to a maximum of twenty (20) Working Days or such other period agreed between the Parties.
6. On approval of an Impact Assessment, this Agreement and/or the Schedules should be updated and revised as appropriate and in writing.
7. In the event that the Client rejects the Impact Assessment, the change(s) shall not take place and the Parties shall continue to perform their obligations under this Agreement.
8. The Contractor and the Client will agree a reasonable charge in advance for investigating each proposed variation and preparing each estimate, whether or not the variation is implemented. If the Client's request for any variation is subsequently withdrawn but results in a delay in the performance of the Services then the Contractor will not be liable for such delay and will be entitled to an extension of time equal to not less than the period of the delay.
9. The Contractor's costs, if any, associated with the implementation of an accepted Impact Assessment and change request will only be borne by the Client if the change is as a result of Client's requirements differing from the Services.
10. All Change Control Notices and Impact Assessments will be numbered and dated. The Project Managers will maintain a log of all Change Control Notices and Impact Assessments.
11. Until any change, as aforesaid, is formally agreed between the Parties in accordance with this Schedule, the Contractor will, unless otherwise agreed in writing continue to perform and be paid in accordance with this Agreement as if such variation had not been proposed.

APPENDIX 6: FRAMEWORK AGREEMENT

Framework Agreement for [Media Training for Personnel in An Garda Síochána]

THIS FRAMEWORK AGREEMENT IS MADE ON THE First DAY OF October 2015

("the Agreement")

BETWEEN Commissioner of An Garda Síochána whose principal place of business is at Garda Headquarters, Phoenix Park, Dublin 8 ("the Contracting Authority") and The Communications Clinic with offices at 37 Adelaide Road, Dublin 2. ("the Framework Member") ("Parties")

WHEREAS

1. By Request for Tender as advertised in the supplement to the Official Journal of the European Union, OJEU Notice number _____ of _____ and entitled "*Media Training for Personnel in Garda Síochána*" dated 15/05/15 ("RFT") the contracting Authority invited service provider ("Tenderers") to tender to participate in a framework for the provisions of Media Training to An Garda Síochána the "Framework") as described in the Requirements and specifications at Appendix 1 of the RFT ("Services") to be provided to the Contracting Authority and /or Framework Clients (as hereinafter defined). The purpose of the tender competition was to conclude Framework Agreements (as hereinafter defines). References to the RFT shall include any clarifications issued by the Contracting Authority. The RFT is hereby incorporated by reference into this Agreement.
2. The Framework Member submitted a response to the RFT dated the 18/06/15 ("submission"). Reference to the submission shall include any clarifications issued to the Framework Member. The Submission is hereby incorporated by reference into this Agreement.
3. Parties Eligible to participate in this Framework ("Framework Clients")

1. DEFINITIONS

"Commencement Date means _____ 1st October _____ 2015 ;

"Contract" means a contract which is awarded in accordance with Clause 6 of this Framework Agreement. The term "**Services Contract**" refers to the draft contract attached to this RFT at Appendix 7.

"Framework Agreement" means the terms and conditions as set out hereto.

"Framework Term" means the period in years set out in Clause 2.5;

"Month" means 28 days including weekends and bank holidays

Unless otherwise specified herein, a defined term used in this Agreement shall have the same meaning as assigned to it in the RFT.

- 1.1 To the extent that any specific term or condition in a Contract is in consistent or conflicts with any term or condition of this Framework Agreement, the relevant term or condition of the Contract shall prevail.
- 1.2 Headings are included for ease of reference only and shall not affect the contraction of this Framework Agreement.
- 1.3 Unless the context requires otherwise, words in the singular may include the plural and vice versa.
- 1.4 Reference to any statute, enactment, order, regulation or other legislative instrument shall be construed as a reference to the statute, enactment, order, regulation or instrument as amended, unless specifically indicated otherwise.

2. APPOINTMENT OF FRAMEWORK MEMBERS AND TERM OF THE FRAMEWORK

- 2.1 In consideration of payment by the Framework Member of the sum of €1 (the receipt of which is hereby acknowledged by the Contracting Authority), the framework Member accepts its appointment under the terms and conditions of this framework Agreement.
- 2.2 Membership of this Framework does not entitle the Framework Member to be consulted in respect of, or awarded any contract or Contract during the Framework period. The contracting authority and /or Framework Clients may at its sole discretion choose not to enter into any Contracts falling within the scope of this framework agreement. The Contracting Authority may terminate this Framework agreement in accordance with Section 17 hereto.
- 2.3 The Contracting Authority does not give any guarantee and/or warrant the actual value of any of the Services and/or number of contracts (if any) which may be procured in connection with this agreement and the Parties acknowledge that the Contracting Authority and /or Framework Clients are not bound to enter into any new Contract or other contractual arrangement with the Framework Member as a result of entering into this agreement. The Contracting Authority and /or Framework Clients are not and will not be under obligation to avail of the Framework. This Framework Agreement does not confer exclusivity on Framework Members.
- 2.4 While this Framework Agreement shall form the basis for the award of contracts falling within the scope of the Framework as set out in clause 4 during the framework Term, the Contracting Authority and /or Framework Clients may at their

sole discretion opt to carry out a separate contract award procedure for contracts falling within its scope. In this event the Contracting Authority and /or Framework Clients shall observe all applicable public procurement rules and shall not afford any advantage to the Framework Member.

- 2.5 The Framework agreement shall take effect on the commencement date and expire *[insert term of framework]* thereafter unless terminated earlier in accordance with these terms and conditions or unless extended by the Contracting Authority for a further *[insert extension to a maximum Framework Term of four years]*, such option to extend shall be at the absolute discretion of the Contracting Authority. The maximum Framework Term shall be four (4) years in the aggregate.

3. FRAMEWORK MANAGEMENT PROVISIONS

The Framework Member hereby agrees and undertakes to notify the Contracting Authority where it becomes aware of any breaches to the rules of this Framework agreement.

4. SCOPE MANAGEMENT PROVISIONS

This Framework Agreement relates to the provision of a MEDIA SKILLS TRAINING service. As more particularly described in the Requirement and Specification at Appendix 1 of the RFT.

5. INTRODUCTION

This Framework Agreement must be considered in the context of the terms and conditions of the Services Contract furnished at Appendix 7 of this RFT. Those terms and conditions will apply to any contract awarded pursuant to this Framework Agreement.

6. APPLICABLE LAW AND JURISDICTION

This Framework Agreement and any contracts awarded under it will be subject to the law of Ireland and the jurisdiction of the Irish courts

7. TAX CLEARANCE

- 7.1 It will be a condition of the award of any contract under this RFT that the Framework Member shall for the term of any such contract, comply with all EU and domestic taxation law and requirements including but not being limited to Circular 43/2006 issued by the Department of Finance. This Circular and further information are available at www.finance.gov.ie and www.ros.ie.
- 7.2 Prior to the award of any contract arising out of this Competition the Framework Member shall promptly produce a Tax Clearance Certificate from the Irish

24

Revenue Commissioners. Framework Members must furnish their original Tax Clearance Certificate on request from the Contracting Authority and Framework Members may supply the certificate and registration numbers, as they appear on the Tax Clearance Certificate, to facilitate online verification of their tax status by the Contracting Authority. Where relevant, the provisions of this paragraph 7.2 apply equally to sub-contractors.

8. COMPLIANCE

- 8.1 The Framework Member shall comply with all relevant legislation regulatory requirements and best industry practice in the delivery of the Services. The term "legislation" shall be deemed to mean any Act of the Oireachtas (Parliament), regulation, statutory instrument, European Community or other international obligation, direction of a regulatory or other competent authority, condition or any consent, authorised, lease or other permission granted by any regulatory or competent authority and any decision of a court of competent jurisdiction, in each case having effect in Ireland.
- 8.2 Each Framework Member will be solely responsible in law for the employment, remuneration, taxes, immigration, visa and work permits or other authorisations appropriate to the work carried out for, or on behalf of a Contracting Authority. The Contracting Authority reserves the right to seek confirmation that the relevant requirements are being met.

9. ANTI COMPETITIVE CONDUCT

The attention of the Framework Members is drawn to the application of the Competition Act 2002. The Act makes it a criminal offence for Tenderers to collude on prices or terms in a public tendering procedure.

10. CONFLICTS OF INTEREST

Any conflict of interest or potential conflict of interest on the part of a Framework Member, individual employees or corporate or individual service providers (whether sub-contractors or third party retainers) of a Framework Member, must be fully disclosed to the contracting Authority as soon as the conflict or potential conflict becomes apparent. In the event of any conflict or potential conflict of interest, the Contracting Authority may invite Framework Member, to propose means by which the conflict might be removed. The Contracting Authority will, at its absolute discretion, decide on the appropriate course of action.

11. REGISTERABLE INTEREST

Any Registerable Interest involving the Framework Member and the Contracting Authority, other members of the Government, members of the Oireachtas (Parliament), or employees and officers of the Contracting Authority and /or divisions/agencies under the Contracting Authority, and their relatives must be fully disclosed prior to the award of the contract. In the event of this information only coming to the notice of the Framework Member prior to the award of any contract, it must be communicated to The Contracting Authority immediately upon such information becoming known. The terms 'Registerable Interest' and 'Relative' shall be interpreted as per Section 2 of the Ethics in Public Office Act, 1995.

12. FORCE MAJEURE

12.1 In the event of any failure, interruption or delay in the performance of the Parties' obligations (or of any of them) resulting from any Force Majeure Event not reasonably within the control of the Party concerned ("the Affected Party") the Affected Party shall promptly notify the other Party in writing specifying:

1. the name of the force Majeure Event
2. the anticipated delay in the performance of obligations;
3. the action proposed to minimise the impact of the Force Majeure

and the Affected Party shall not be liable or have any responsibility of any kind for any loss or damage thereby incurred or suffered by the other party; **provided** always that the Affected Party shall use all reasonable efforts to minimise the effects of the same and shall resume the performance of its obligations as soon as reasonably possible after the removal of the cause

12.2 If the Force Majeure continues for 30 calendar days either Party may terminate at 14 days' notice.

13. CONFIDENTIALITY

13.1 All communications issued between the Contracting Authority and the Framework Members must be treated as being strictly confidential. The Framework Member undertakes to comply with all reasonable directions of the Contracting Authority with regard to the use and application of all and any confidential information and shall comply with the Confidentiality Agreement executed by the Framework Member. Framework Members shall not release details of such communications other than in an "In Confidence" basis to those who have a legitimate need to know. All of the Framework Member's personnel, including sub-contractors, who provide the Services, may be required, at the

26
absolute discretion of the Contracting Authority, to sign a confidential agreement in a format as determined by the contracting authority.

- 13.2 No publicity regarding this Framework Agreement or contracts awarded is permitted unless and until the contracting Authority has given prior written consent to the relevant communication.

14. LOCAL SECURITY ARRANGEMENTS

All personnel calling to any of the offices or facilities of the Contracting Authority will be required to comply with local security arrangements and protocols.

15. GIFTS

Framework Member shall not offer, give or agree to give to any person holding an office in the contracting Authority any gift, or consideration of any kind as an inducement or reward action in relation to the obtaining or execution of this Agreement or any Contract.

Any breach of this clause may entitle the Contracting Authority to cancel any existing contracts to recover from the Framework Member any loss resulting from such termination and to terminate the Framework Agreement.

16. COSTS AND EXPENSES OF FRAMEWORK

All costs and expenses incurred by the Framework Member relating to this Framework Agreement shall be borne by the Framework Member. The Contracting Authority shall not be responsible or liable for any costs or expenses of whatsoever nature incurred by the Framework Member in this regard.

17. TERMINATION

- 17.1 Subject to the provisions of sub-clause 17.2, this Agreement may be terminated by the contracting authority by serving 30 days written notice to the Contractor. This Agreement may be terminated by the Framework Member by serving 90 days written notice to the Contracting Authority. Neither party shall be entitled to any additional amounts or compensation in the event that the Agreement is terminated in accordance with this clause 17

- 17.2 The contracting Authority shall have the right (in addition to any other rights which it has at law) to terminate this Agreement immediately and without liability for compensation or damages on the happening of any of the following events:

- 17.2.1 if the Framework Member commits any serious breach or a series of breaches of any provision of this Agreement and fails to remedy such breach(es) to the reasonable satisfaction of the Contracting Authority, (if the breach(es) are capable of remedy), within 30 days after receipt of a request

in writing from the Contracting Authority. A failure to comply with the framework management provisions as set out in Schedule 1 shall be deemed to be a serious breach of this Agreement; and /or

17.2.2 if the Framework Member becomes insolvent, becomes bankrupt, is wound up, commences winding up, has a receiving order made against it, makes any arrangement with its creditors generally or takes or suffers any similar action as a result of debt, or an event having an equivalent effect; and / or

17.2.3 in circumstances where the Contracting Authority becomes aware that any of the excluding circumstances listed in Article 45 of EU Council Directive 2004/18/EC as implemented by Irish law in Regulation 56 of the European Communities (Award of Public Authorities' Contracts) Regulations 2006 (Statutory Instrument 329 of 2006), apply to the Framework Member.

17.3 Termination of this agreement shall not affect any antecedent and accrued rights obligation or liabilities of either Party, nor shall it affect any provision of this Agreement which is expressly or by implication is intended to come into or continue in force on or after such termination

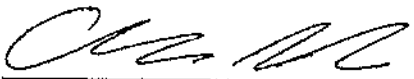
18. FREEDOM OF INFORMATION

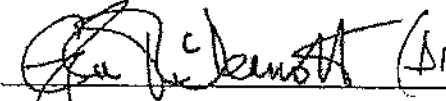
The Framework Member acknowledges that under the Freedom of Information Acts 1997 and 2003, information furnished to the Contracting Authority by the Framework Member may be released pursuant to the Contracting Authorities statutory obligations. If the Member considers that any of the information supplied by it to the Contracting Authority under this Framework Agreement or any Contract should not be disclosed because of its commercial sensitivity it should, when providing such information, identify this and specify the reasons for its commercial sensitivity. The Contracting Authority will consult the Framework Member about this sensitive information before making a decision on any Freedom of Information request received. The contracting Authority accepts no liability whatsoever in respect of any information provided which is subsequently released (irrespective of notification) or in respect of any consequential damage suffered as a result of such obligations.

19. DISPUTE RESOLUTION


Subject to Clause 6 and to the Parties' respective rights to apply to the courts upon any cause of action at any time, Parties will seek to resolve any disputes between them arising out of or relating in any way to the issues covered by the Agreement amicably.

IN WITNESS WHEREOF this Framework Agreement has been executed by the Parties hereto as of the date first above written

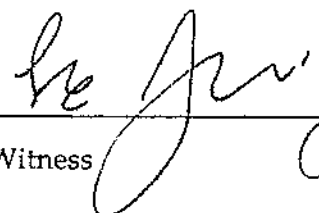
SIGNED BY 
being an Officer so authorised by the
CONTRACTING AUTHORITY

SIGNED BY  (DIRECTOR)
being an Officer so authorised by the
FRAMEWORK MEMBER

In the presence of


Witness

In the presence of

 (LORCAN NYHAN)
Witness

**SCHEDULE 1 TO THE FRAMEWORK AGREEMENT FRAMEWORK
MANAGEMENT PROVISIONS**

To be Agreed prior to commencement of the Framework Agreement

APPENDIX 6: FRAMEWORK AGREEMENT

Framework Agreement for [Media Training of Personnel in An Garda Síochána]

THIS FRAMEWORK AGREEMENT IS MADE ON THE _____ DAY OF _____ 201_____
("the Agreement")

BETWEEN Commissioner of An Garda Síochána whose principal place of business is at Garda Headquarters, Phoenix Park, Dublin 8 ("the Contracting Authority") and [The Communications Clinic] with offices at The Old Synagogue, 37 Adelaide Rd, Dublin 2 ("the Framework Member") ("Parties")

WHEREAS

1. By Request for Tender as advertised in the supplement to the Official Journal of the European Union, OJEU Notice number _____ of _____ and entitled " _____ " dated _____ ("RFT") the contracting Authority invited service provider ("Tenderers") to tender to participate in a framework for the provisions of - _____ An Garda Síochána the "Framework") as described in the Requirements and specifications at Appendix 1 of the RFT ("Services") to be provided to the Contracting Authority and /or Framework Clients (as hereinafter defined). The purpose of the tender competition was to conclude Framework Agreements (as hereinafter defines). References to the RFT shall include any clarifications issued by the Contracting Authority. The RFT is hereby incorporated by reference into this Agreement.
2. The Framework Member submitted a response to the RFT dated the 18/06/2015_ ("submission"). Reference to the submission shall include any clarifications issued to the Framework Member. The Submission is hereby incorporated by reference into this Agreement.
3. Parties Eligible to participate in this Framework ("Framework Clients")

1. DEFINITIONS

"Commencement Date means _____ 201____ ;

"Contract" means a contract which is awarded in accordance with Clause 6 of this Framework Agreement. The term "Services Contract" refers to the draft contract attached to this RFT at Appendix 7.

"Framework Agreement" means the terms and conditions as set out hereto.

"Framework Term" means the period in years set out in Clause 2.5;

37

"Month" means 28 days including weekends and bank holidays

Unless otherwise specified herein, a defined term used in this Agreement shall have the same meaning as assigned to it in the RFT.

- 1.1 To the extent that any specific term or condition in a Contract is in consistent or conflicts with any term or condition of this Framework Agreement, the relevant term or condition of the Contract shall prevail.
- 1.2 Headings are included for ease of reference only and shall not affect the contraction of this Framework Agreement.
- 1.3 Unless the context requires otherwise, words in the singular may include the plural and vice versa.
- 1.4 Reference to any statute, enactment, order, regulation or other legislative instrument shall be construed as a reference to the statute, enactment, order, regulation or instrument as amended, unless specifically indicated otherwise.

2. APPOINTMENT OF FRAMEWORK MEMBERS AND TERM OF THE FRAMEWORK

- 2.1 In consideration of payment by the Framework Member of the sum of €1 (the receipt of which is hereby acknowledged by the Contracting Authority), the framework Member accepts its appointment under the terms and conditions of this framework Agreement.
- 2.2 Membership of this Framework does not entitle the Framework Member to be consulted in respect of, or awarded any contract or Contract during the Framework period. The contracting authority and /or Framework Clients may at its sole discretion choose not to enter into any Contracts falling within the scope of this framework agreement. The Contracting Authority may terminate this Framework agreement in accordance with Section 17 hereto.
- 2.3 The Contracting Authority does not give any guarantee and/or warrant the actual value of any of the Services and/or number of contracts (if any) which may be procured in connection with this agreement and the Parties acknowledge that the Contracting Authority and /or Framework Clients are not bound to enter into any new Contract or other contractual arrangement with the Framework Member as a result of entering into this agreement. The Contracting Authority and /or Framework Clients are not and will not be under obligation to avail of the Framework. This Framework Agreement does not confer exclusivity on Framework Members.
- 2.4 While this Framework Agreement shall form the basis for the award of contracts falling within the scope of the Framework as set out in clause 4 during the framework Term, the Contracting Authority and /or Framework Clients may at their

32

sole discretion opt to carry out a separate contract award procedure for contracts falling within its scope. In this event the Contracting Authority and /or Framework Clients shall observe all applicable public procurement rules and shall not afford any advantage to the Framework Member.

- 2.5 The Framework agreement shall take effect on the commencement date and expire *[insert term of framework]* thereafter unless terminated earlier in accordance with these terms and conditions or unless extended by the Contracting Authority for a further *[insert extension to a maximum Framework Term of four years]*, such option to extend shall be at the absolute discretion of the Contracting Authority. The maximum Framework Term shall be four (4) years in the aggregate.

3. FRAMEWORK MANAGEMENT PROVISIONS

The Framework Member hereby agrees and undertakes to notify the Contracting Authority where it becomes aware of any breaches to the rules of this Framework agreement.

4. SCOPE MANAGEMENT PROVISIONS

This Framework Agreement relates to the provision of a----- service. As more particularly described in the Requirement and Specification at Appendix 1 of the RFT.

5. INTRODUCTION

This Framework Agreement must be considered in the context of the terms and conditions of the Services Contract furnished at Appendix 7 of this RFT. Those terms and conditions will apply to any contract awarded pursuant to this Framework Agreement.

6. APPLICABLE LAW AND JURISDICTION

This Framework Agreement and any contracts awarded under it will be subject to the law of Ireland and the jurisdiction of the Irish courts

7. TAX CLEARANCE

- 7.1 It will be a condition of the award of any contract under this RFT that the Framework Member shall for the term of any such contract, comply with all EU and domestic taxation law and requirements including but not being limited to Circular 43/2006 issued by the Department of Finance. This Circular and further information are available at www.finance.gov.ie and www.ros.ie.
- 7.2 Prior to the award of any contract arising out of this Competition the Framework Member shall promptly produce a Tax Clearance Certificate from the Irish

Revenue Commissioners. Framework Members must furnish their original Tax Clearance Certificate on request from the Contracting Authority and Framework Members may supply the certificate and registration numbers, as they appear on the Tax Clearance Certificate, to facilitate online verification of their tax status by the Contracting Authority. Where relevant, the provisions of this paragraph 7.2 apply equally to sub-contractors.

8. COMPLIANCE

- 8.1 The Framework Member shall comply with all relevant legislation regulatory requirements and best industry practice in the delivery of the Services. The term "legislation" shall be deemed to mean any Act of the Oireachtas (Parliament), regulation, statutory instrument, European Community or other international obligation, direction of a regulatory or other competent authority, condition or any consent, authorised, lease or other permission granted by any regulatory or competent authority and any decision of a court of competent jurisdiction, in each case having effect in Ireland.
- 8.2 Each Framework Member will be solely responsible in law for the employment, remuneration, taxes, immigration, visa and work permits or other authorisations appropriate to the work carried out for, or on behalf of a Contracting Authority. The Contracting Authority reserves the right to seek confirmation that the relevant requirements are being met.

9. ANTI-COMPETITIVE CONDUCT

The attention of the Framework Members is drawn to the application of the Competition Act 2002. The Act makes it a criminal offence for Tenderers to collude on prices or terms in a public tendering procedure.

10. CONFLICTS OF INTEREST

Any conflict of interest or potential conflict of interest on the part of a Framework Member, individual employees or corporate or individual service providers (whether sub-contractors or third party retainers) of a Framework Member, must be fully disclosed to the contracting Authority as soon as the conflict or potential conflict becomes apparent. In the event of any conflict or potential conflict of interest, the Contracting Authority may invite Framework Member, to propose means by which the conflict might be removed. The Contracting Authority will, at its absolute discretion, decide on the appropriate course of action.

11. REGISTERABLE INTEREST

Any Registerable Interest involving the Framework Member and the Contracting Authority, other members of the Government, members of the Oireachtas (Parliament), or employees and officers of the Contracting Authority and /or divisions/agencies under the Contracting Authority, and their relatives must be fully disclosed prior to the award of the contract. In the event of this information only coming to the notice of the Framework Member prior to the award of any contract, it must be communicated to The Contracting Authority immediately upon such information becoming known. The terms 'Registerable Interest' and 'Relative' shall be interpreted as per Section 2 of the Ethics in Public Office Act, 1995.

12. FORCE MAJEURE

12.1 In the event of any failure, interruption or delay in the performance of the Parties' obligations (or of any of them) resulting from any Force Majeure Event not reasonably within the control of the Party concerned ("the Affected Party") the Affected Party shall promptly notify the other Party in writing specifying:

1. the name of the force Majeure Event
2. the anticipated delay in the performance of obligations;
3. the action proposed to minimise the impact of the Force Majeure

and the Affected Party shall not be liable or have any responsibility of any kind for any loss or damage thereby incurred or suffered by the other party; **provided always** that the Affected Party shall use all reasonable efforts to minimise the effects of the same and shall resume the performance of its obligations as soon as reasonably possible after the removal of the cause

12.2 If the Force Majeure continues for 30 calendar days either Party may terminate at 14 days' notice.

13. CONFIDENTIALITY

13.1 All communications issued between the Contracting Authority and the Framework Members must be treated as being strictly confidential. The Framework Member undertakes to comply with all reasonable directions of the Contracting Authority with regard to the use and application of all and any confidential information and shall comply with the Confidentiality Agreement executed by the Framework Member. Framework Members shall not release details of such communications other than in an "In Confidence" basis to those who have a legitimate need to know. All of the Framework Member's personnel, including sub-contractors, who provide the Services, may be required, at the

absolute discretion of the Contracting Authority, to sign a confidential agreement in a format as determined by the contracting authority.

- 13.2 No publicity regarding this Framework Agreement or contracts awarded is permitted unless and until the contracting Authority has given prior written consent to the relevant communication.

14. LOCAL SECURITY ARRANGEMENTS

All personnel calling to any of the offices or facilities of the Contracting Authority will be required to comply with local security arrangements and protocols.

15. GIFTS

Framework Member shall not offer, give or agree to give to any person holding an office in the contracting Authority any gift, or consideration of any kind as an inducement or reward action in relation to the obtaining or execution of this Agreement or any Contract.

Any breach of this clause may entitle the Contracting Authority to cancel any existing contracts to recover from the Framework Member any loss resulting from such termination and to terminate the Framework Agreement.

16. COSTS AND EXPENSES OF FRAMEWORK

All costs and expenses incurred by the Framework Member relating to this Framework Agreement shall be borne by the Framework Member. The Contracting Authority shall not be responsible or liable for any costs or expenses of whatsoever nature incurred by the Framework Member in this regard.

17. TERMINATION

- 17.1 Subject to the provisions of sub-clause 17.2, this Agreement may be terminated by the contracting authority by serving 30 days written notice to the Contractor. This Agreement may be terminated by the Framework Member by serving 90 days written notice to the Contracting Authority. Neither party shall be entitled to any additional amounts or compensation in the event that the Agreement is terminated in accordance with this clause 17

- 17.2 The contracting Authority shall have the right (in addition to any other rights which it has at law) to terminate this Agreement immediately and without liability for compensation or damages on the happening of any of the following events:

- 17.2.1 if the Framework Member commits any serious breach or a series of breaches of any provision of this Agreement and fails to remedy such breach(es) to the reasonable satisfaction of the Contracting Authority, (if the breach(es) are capable of remedy), within 30 days after receipt of a request

in writing from the Contracting Authority. A failure to comply with the framework management provisions as set out in Schedule 1 shall be deemed to be a serious breach of this Agreement; and /or

17.2.2 if the Framework Member becomes insolvent, becomes bankrupt, is wound up, commences winding up, has a receiving order made against it, makes any arrangement with its creditors generally or takes or suffers any similar action as a result of debt, or an event having an equivalent effect; and / or

17.2.3 in circumstances where the Contracting Authority becomes aware that any of the excluding circumstances listed in Article 45 of EU Council Directive 2004/18/EC as implemented by Irish law in Regulation 56 of the European Communities (Award of Public Authorities' Contracts) Regulations 2006 (Statutory Instrument 329 of 2006), apply to the Framework Member.

17.3 Termination of this agreement shall not affect any antecedent and accrued rights obligation or liabilities of either Party, nor shall it affect any provision of this Agreement which is expressly or by implication is intended to come into or continue in force on or after such termination

18. FREEDOM OF INFORMATION

The Framework Member acknowledges that under the Freedom of Information Acts 1997 and 2003, information furnished to the Contracting Authority by the Framework Member may be released pursuant to the Contracting Authorities statutory obligations. If the Member considers that any of the information supplied by it to the Contracting Authority under this Framework Agreement or any Contract should not be disclosed because of its commercial sensitivity it should, when providing such information, identify this and specify the reasons for its commercial sensitivity. The Contracting Authority will consult the Framework Member about this sensitive information before making a decision on any Freedom of Information request received. The contracting Authority accepts no liability whatsoever in respect of any information provided which is subsequently released (irrespective of notification) or in respect of any consequential damage suffered as a result of such obligations.

19. DISPUTE RESOLUTION

Subject to Clause 6 and to the Parties' respective rights to apply to the courts upon any cause of action at any time, Parties will seek to resolve any disputes between them arising out of or relating in any way to the issues covered by the Agreement amicably.

IN WITNESS WHEREOF this Framework Agreement has been executed by the Parties hereto as of the date first above written

SIGNED BY _____
being an Officer so authorised by the
CONTRACTING AUTHORITY

SIGNED BY *[Signature]*
being an Officer so authorised by the
FRAMEWORK MEMBER

In the presence of

In the presence of

Witness

Witness

[Signature]
VIVIAN C. MATHEWS
Commissioner for Oaths

**SCHEDULE 1 TO THE FRAMEWORK AGREEMENT FRAMEWORK
MANAGEMENT PROVISIONS**

To be Agreed prior to commencement of the Framework Agreement