

MEMORANDUM OF AGREEMENT

1. Having read carefully Coillte's General Conditions of Contract entitled "Coillte Teoranta General Terms and Conditions of Contract", I/We agree to carry out the work as defined at paragraph 3 below, in accordance with such conditions, at the price set out in the Work Schedule and Bidding Schedule and to enter into a formal agreement with you to implement the Contract.

Dated theday of..... 2008.....

Signed by or on behalf
of the Contractorwho is duly authorised.

Company Name Address _____

MEMORANDUM OF AGREEMENT made the.....day of.....2005.. BETWEEN Coillte Teoranta, Newtownmountkennedy, County Wicklow, (hereinafter called "the company" of the one part ANDof.....in the County of..... (hereinafter called "the contractor") of the other part.

WHEREAS the contractor has agreed with the company to carry out the work, commencing on the day of 200 ("The commencement date ") and terminating on the 31st December 200

NOW THIS AGREEMENT WITNESSETH as follows:

1. This agreement shall not be binding on the company until it is has been duly signed at (5) below.
2. In this agreement words and expressions shall have the same meanings as are respectively assigned to them in Coillte's general terms and conditions of contract hereinafter referred to.
3. The following documents indicated below shall be deemed to form and be read and construed as part of this agreement:(Tick and initial as appropriate)

- | | | | | | |
|--|--------------------------|--------------------------|--|-------------------------------|--------------------------|
| a) The Conditions of Contract | <input type="checkbox"/> | <input type="checkbox"/> | | b) The Contract Document | <input type="checkbox"/> |
| c) The Site Development Plan | <input type="checkbox"/> | <input type="checkbox"/> | | d) The Work Schedule | <input type="checkbox"/> |
| e) The Harvesting Site Plan(s) | <input type="checkbox"/> | <input type="checkbox"/> | | f) The form of Tender | <input type="checkbox"/> |
| g) Insurance Questionnaire form | <input type="checkbox"/> | <input type="checkbox"/> | | h) AIG deduction at source | <input type="checkbox"/> |
| i) Additional Security Requirements | <input type="checkbox"/> | <input type="checkbox"/> | | j) The Work Specifications | <input type="checkbox"/> |
| k) Environmental Impact Appraisal Form | <input type="checkbox"/> | <input type="checkbox"/> | | l) Daily Site Monitoring Form | <input type="checkbox"/> |
| m) Coillte Teo Maximum Speed Regulations | <input type="checkbox"/> | <input type="checkbox"/> | | n) Bidding Schedule | <input type="checkbox"/> |
| o) | <input type="checkbox"/> | <input type="checkbox"/> | | p) | <input type="checkbox"/> |

4. In consideration of the payment to be made by the company to the contractor, the contractor hereby covenants to carry out the work in conformity in all respects with the provisions of the contract.

IN WITNESS WHEREOF the parties hereto have executed this agreement this day and year first herein WRITTEN

_____Day of_____Two Thousand and Eight

Recommended for and on behalf of the company by.....who is duly authorised.

Signed by or on behalf of the contractor.....who is duly authorised.

5. Signed for and on behalf of the company by.....who is duly authorised.

| | |
|-------------------------|--|
| For Internal Use | |
| K (Contract No) | <input style="width: 100%;" type="text"/> |
| KK (Contractor No) | <input style="width: 100%;" type="text"/> |
| Specific Contract | Yes <input type="checkbox"/> No <input type="checkbox"/> |
| Analysis Code | <input style="width: 100%;" type="text"/> |

COILLTE TEORANTA

GENERAL TERMS

AND

CONDITIONS OF CONTRACT

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WHEREAS: -

- A. The contractor is engaged in the business of providing the services required by the company.
- B. The company wishes to engage the contractor upon the terms and conditions set out below.
- C. The company will agree a programme of works ("the work") with the contractor to perform certain services ("the services"), as defined in clause 2.3.

1 DEFINITIONS AND INTERPRETATIONS

In these General Terms and Conditions of Contract, unless the context otherwise requires:-

"Contract" means the contract entered into by Coillte Teoranta or its duly authorised representative and the Contractor, which includes these Conditions (but which may require specific adaptation in the context of the specific Contract) as well as Supplementary Documents including all documentation listed and indicated at 3(a) to 3(h) in the memorandum of agreement.

In the event that no separate written contract is entered into, the "Contract" will automatically consist of these Conditions and any Supplementary Document. These Conditions will apply to all purchases of contract harvesting, establishment and other services except where otherwise specified;

- 1.1 In construing this contract for services, the following words and expressions shall have the meanings assigned to them, save where the context otherwise requires: -

- (a) **"The company"** means "Coillte Teoranta";
- (b) **"The contractor"** means the person or persons, firm or company whose tender has been accepted by the company and includes the contractor's executors, administrators, successors and permitted assigns;
- (c) **"The work"** means the works set out in the work specification(s) and the work schedule(s) attached hereto;
- (d) **"The manager"** means the manager of the property (and shall include any other agent duly authorised by the company);
- (e) **"The commencement date"** means the date agreed between the parties hereto for the commencement date of the work;
- (f) **"the site "** means that part of the company's lands or premises in which the work is to be performed.
- (g) **"the completion date"** means the date agreed between the parties for the completion of the work.
- (h) **"supplementary document"** means any Order, Tender, Specification or any other similar document in relation to the supply of the Product or Service;
- (i) **"Tender"** means the Form of Tender as signed by the person tendering,
- (j) **"these Conditions"** means these general terms and conditions of contract

1.2 **Application of Terms**

These Conditions are the only conditions upon which Coillte is prepared to deal with the Contractor and they shall govern the Contract to the entire exclusion of all other terms and conditions.

These Conditions shall prevail over any inconsistent terms or conditions contained in or referred to in any documentation provided or relied upon by the Contractor and all or any conditions or stipulations contrary hereto are hereby excluded and extinguished and the Contractor expressly confirms the acceptance of this condition and of these General Terms and Conditions of Contract in full by delivery of the Product or Service to Coillte.

No terms or conditions endorsed upon, delivered with or contained in the contractor's tender or any Supplementary Document will form part of the Contract and the contractor waives any right it otherwise might have to rely on such terms and conditions.

- 1.3 In this contract, a reference to:
- 1.3.1 a statutory provision includes a reference to the statutory provision as amended, modified or re-enacted or both from time to time and any subordinate legislation made under the statutory provision;
 - 1.3.2 clauses, sub-clauses, paragraphs, sub-paragraphs and schedules mean clauses, sub-clauses, paragraphs, sub-paragraphs and schedules to this contract, unless the context otherwise suggests;
 - 1.3.3 a person includes a reference to a body corporate, association or partnership;
 - 1.3.4 a person includes a reference to that person's legal personal representatives, successors and lawful assigns;
 - 1.3.5 a document refers to that document as from time to time supplemented or varied;
 - 1.3.6 words imparting the singular only also include the plural and vice versa and words imparting the masculine gender impart the female and neuter genders where the context requires;
 - 1.3.7 headings to clauses are for convenience only and do not affect the interpretation of this contract.

2 Service to be Provided

- 2.1 The company agrees to appoint the contractor to perform the services set out in the work specification(s) and work schedule(s) on the terms and conditions contained in this contract, and the contractor accepts such appointment.
- 2.2 The contractor shall commence providing the services on the commencement date.
- 2.3 The contractor shall:
- 2.3.1 prior to commencement, agree the work with the company;
 - 2.3.2 during the performance of the work, discuss and agree with the company any amendments to the work which may be necessary or desirable, having regard to the conditions on the site and the progress of the work;
 - 2.3.3 carry out all duties and responsibilities to ensure the timely and satisfactory completion of the work in accordance with the Work Specification(s) and Work Schedule(s);
 - 2.3.4 carry out the work in a good and workmanlike manner, to the satisfaction of the company, within the period set out in the work schedule annexed hereto, taking all reasonable precautions to avoid damage to the company's property and/or to neighbouring properties and/or to buildings, walls, gates, fences, hedges, trees, drains, roads or tracks. The contractor shall be liable for any damage caused thereto and shall make good any such damage without delay.
 - 2.3.5 comply with all applicable laws including, without limitation, any regulations issued from time to time under the Safety, Health & Welfare at Work Act, 1989 and any amending legislation;
 - 2.3.6 provide all personnel, equipment, materials, services and other resources necessary or appropriate for the safe, full and proper performance of the work;
 - 2.3.7 adhere totally to the work specifications unless otherwise directed by the manager;
 - 2.3.8 suspend work as directed by the manager if he (the manager) considers that conditions are unsuitable;
 - 2.3.9 remove all machinery and equipment from the company's property upon completion or termination of the Contract;

- 2.3.10 the contractor shall not quarter animals used in connection with the contract on the company's property.
- 2.3.11 The contractor shall immediately report to Coillte, any breaches of, or threats to, the security of the Coillte estate observed by him.
- 2.3.12 not light fires within the company's forest(s) without the permission of the manager and he (the contractor) shall take all reasonable and proper precautions, under the direction of the manager, to prevent and deal with the risk of fire in the said area or adjoining areas. The contractor shall be responsible for any loss whatsoever through fire attributable to its/his negligence or that of its/ his employees, agents, officers, or sub-contractors and shall, at all times, indemnify the company against all such losses, claims, expenses, costs or proceedings so caused.
- 2.3.13 not deposit litter or waste material on the company's land or premises, save insofar as is unavoidable and necessary for the completion of the work and, in such case, the contractor hereby agrees to remove all such litter or waste material at or before the conclusion of the work.
- 2.4 the contractor represents and warrants to the company that it/he is experienced in providing services comparable in type, scope, complexity and purpose to the work and that it/he has exercised and will continue to exercise in the performance of the work, that standard of skill, care and diligence reasonably to be expected of a properly qualified contractor, so experienced.
- 2.5 the contractor shall exercise independent professional skill and judgement in the performance of the work.

3 Licence

- 3.1 In so far as is necessary to carry out the work, the company hereby grants a non-exclusive licence to the contractor, its/his servants and agents, to enter and remain on the site and to use such designated access roads as are in the ownership of the company, for the carrying out of the work, with or without vehicles or machinery, whether laden or unladen.
- 3.2 The contractor shall be liable for all costs arising in respect of the maintenance and repair of such roads and other means of access, if such maintenance or repair becomes necessary due to the negligence of the contractor or that of its/his employees, agents, officers, or subcontractors.

4 Price and Payment

4.1 Price

The Contract Price shall be as agreed between Coillte and the Contractor and detailed on the Form of Tender and/or Work Schedule.

4.2 Payment

- (a) Subject to (c) and (d) hereof, payment shall be made on receipt of an invoice based on returns prepared by the manager after consultation with the contractor;
- (b) Payment shall be by electronic money transfer to an account nominated by the contractor;
- (c) Payment terms shall be 60 days following the month in which the invoice is issued, or such alternative arrangement as may be agreed in writing;
- (d) The company may retain, at its sole discretion, up to 5% of sums due under this contract until such time as the company is satisfied that the contractor has carried out all of its/ his obligations under the terms of this contract.

4.3 Value Added Tax

If, subsequent to the date of the tender, the rates of Value Added Tax payable by the contractor on the payment received from the company under the contract are increased or decreased, the amount to which the contractor shall be entitled under the contract shall be increased or decreased, as the case may require, so that the amount, less Value Added Tax at the revised rates, equals the amount, less Value Added Tax, at the rates obtaining on the date of the tender.

4.4 Tax Compliance

The contractor shall at all times comply with the requirements of Section 1095, Taxes Consolidation Act 1997 [48.0.1] Tax Clearance Procedures Public Sector Contracts), issued by the Department of Finance and any subsequent amendments thereto.

4.5 Defective Work

The contractor shall make good at his own expense, to the satisfaction of the company, any work which the company finds to be defective. If the contractor fails to make good such defective work, the company shall be entitled to remedy defects in the work and to deduct the cost from any monies due to the contractor under this or any other contract between the parties hereto.

4.6 Recovery Of Sums Due

All sums of money recoverable from, or payable by, the contractor under the terms of this contract may be deducted from any sum then due, or which at any time thereafter may become due to the contractor, under this, or any other contract, which may exist between the parties hereto, without prejudice to the right of the company to recover same as a civil debt.

4.7 Damage to Coillte property

The contractor shall make good at his own expense, to the satisfaction of the company, any damage caused to Coillte property or any losses incurred by Coillte due to the actions of the contractor. If the contractor fails to make good such losses, the company shall be entitled to defray the cost of such repairs from any monies due to the contractor under this or any other contract between the parties hereto.

5 **Indemnity**

5.1 The contractor acknowledges that the company will be relying on the contractor's skill, expertise and previous experience in providing services of the nature to be provided in this contract.

- (a) Subject to sub-clause (c) the contractor shall be liable for and shall indemnify the company against: -
 - (i) any liability, loss, claim or proceedings in respect of any injury or damage whatsoever to any property real or personal, insofar as any such injury or damage arises out of, or in the course of, or by reason of, the execution of the work and provided that such injury or damage is due to any negligence, omission or default of the contractor, its/ his servants or agents, or of any sub-contractor, its/his servants or agents (whether or not also partly due to the negligence, omission or default of the company, or any person for whom the company is responsible);
 - (ii) any liability, loss, claim or proceedings whatsoever arising under any statute or at Common Law in respect of personal injury to, or disease contracted by, or the death of any person, arising out of, or in the course of, or caused by, the execution of the work, unless solely due to an act or neglect of the company, or of any person for whom the company is responsible;
- (b) Subject to and in accordance with Clause 6, the contractor shall, before commencing the work, take out and maintain Employers' Liability insurance and Public Liability Insurance covering any liability, loss, claim or proceedings in respect of the matters referred to in sub-clause (a).
- (c) Without prejudice to the contractor's liability, at Common Law or under statute, sub-clause (a) shall not apply to any liability, loss, claim or proceedings which arises otherwise than in connection with an accident, or falls within an exclusion permitted by Clause 6(d) paragraph (i) or (ii) (as relevant) and which is not covered by the contractor's Employers' Liability or Public Liability Insurance policy.

5.2 In the event that the work for which the contractor has successfully tendered requires the supply of tractors or machinery by the company, the contractor agrees at all times to be liable for and to indemnify the company, its servants and agents against:

- (a) any liability, loss, claim, expenses, costs or proceedings, whatsoever, arising under statute or at common law, in negligence, breach of duty, breach of statutory duty, breach of contract, nuisance or any other ground whatsoever, in respect of personal injury to, or disease contracted by, or the death of, any person, including third parties, as well as any person in the employment of the contractor and the company (other than injury or damage resulting solely from the act or omission of the company's servants or agents) arising out of, or in the course of, or by reason of, whether directly or indirectly, the use by the contractor or the company, their respective servants agents or sub-contractors of such tractors or machinery;
- (b) all loss sustained as a result of damage, howsoever occurring, to the said tractors and/or machinery whilst same are being used as aforesaid.

6 Insurance

- (a) The Insurance policies referred to at Clause 5 shall be effected with insurers approved by the company, which approval shall not be unreasonably withheld;
- (b) The contractor's Employer's Liability and Public Liability policies under Clause 5.1(b) shall include provisions by which, in the event of any claim, in respect of which the contractor would be entitled to receive indemnity under the policy, being brought or made against the company, the Insurer will indemnify the company against such claims and any costs, charges and expenses in respect thereof;
- (c) The contractor shall comply with all conditions in any and all relevant policy or policies of insurance.
- (d) The Insurance policies referred to at Clause 5 may contain only the exclusions from cover summarised below: -
 - (i) Employers' Liability "Limited war risk"
 - (ii) Public Liability "Liability in excess of the sum stated in the company's insurance questionnaire form at Clause 6(e) thereof for any one accident"
 - "War risks"
 - "Radioactive contamination/nuclear explosion"
 - "Sonic boom"
 - "Persons under a contract of service or apprenticeship with the Insured"
 - "Property belonging to the insured or in the Insured's custody and control, with exceptions"
 - "Defective workmanship and materials but not damage resulting therefrom"
 - "Mechanically propelled vehicles to which the Road Traffic Acts apply."
 - "Loss or damage due to design"
- (e) The contractor shall, prior to commencement of the work, produce satisfactory evidence of insurance cover by means of a completed Coillte Teoranta Insurance Questionnaire.

7 DURATION, TERMINATION AND STATUS OF CONTRACT

- 7.1 The contract shall continue in force until the completion date, or until such amended completion date as may be agreed in writing, unless terminated pursuant to clause 7.2.
- 7.2 The company may terminate the contract if the contractor:
 - 7.2.1 contravenes the provisions of Clause 13;
 - 7.2.2 abandons the contract or otherwise commits a material or persistent breach thereof and fails to remedy the breach (if capable of remedy) within 21 days of receipt of written notice from the company giving details of the breach and requiring it to be remedied; or
 - 7.2.3 becomes bankrupt, or makes any composition or arrangement with, or conveyance or assignment for the benefit of his creditors, or any application is made under any bankruptcy act for the time being in force for a sequestration of his estate, or a trustee is granted by him on behalf of his creditors, or if the contractor, being a company, enters into voluntary or compulsory liquidation (except for the purpose of reconstruction or amalgamation), or if a receiver or examiner over any of its assets is appointed;
 - 7.2.4 the company may, without prejudice to any other right or remedy, terminate the contract by giving the contractor written notice thereof, to take effect in accordance with Clause 14 and upon such date as may be specified in the notice.

- 7.3 Termination of this contract shall be without prejudice to the rights and remedies of either party in relation to any negligence, omission or default of the other party prior to termination.
- 7.4 Notwithstanding termination of this contract, the provisions thereof shall continue to bind each party insofar as and for as long as may be necessary to give effect to their respective rights and obligations hereunder.
- 7.5 The company reserves the right to terminate the contract, without liability, in exceptional market conditions, for example, but not limited to, the cessation of production at the Smartply plant.
- 7.6 For the avoidance of doubt, the company and the contractor hereby agree and intend that the status of this contract is that of a contract for services.
- 7.7 The contractor hereby expressly agrees and acknowledges that it is the intention of the parties that no term of this contract, or the performance thereof, or any amendment thereto, shall give rise to any obligation whatsoever on the part of the company to enter into any further contractual relationship with the contractor, or to provide any further work of any description whatsoever to the contractor, save and except as set out in the Work Schedule(s) and Work Specification(s) annexed hereto.

8 Costs And Expenses

Except where this contract expressly provides otherwise, each party shall pay its own costs and expenses relating to the negotiation, preparation, execution and implementation by it of this contract and any document referred to herein.

9 Variations

A variation of this contract is valid only if in writing and signed by or on behalf of each party by an authorised signatory.

10 Waivers and Alternative Remedies

- 10.1 No delay, omission, or forbearance on the part of either party to this contract in exercising any right, power, privilege or remedy provided by law, or under this contract, shall operate to, or be construed or interpreted as, impairing such rights, power, privilege or remedy, or operating as a waiver thereof.
- 10.2 The single or partial exercise by the company or the contractor of any right, power, privilege or remedy provided by law or under this contract shall, whether or not exercised, not preclude any other or further exercise thereof.
- 10.3 The rights, powers, privileges and remedies of the company and the contractor provided in this contract are cumulative and not exclusive of any rights, powers, privileges and remedies it would otherwise be entitled to under common law or statute.

11 Contractor Status

- 11.1 Nothing in this contract and no action taken by the parties pursuant to this contract shall create, or be interpreted or construed as creating, a partnership, association, joint venture or, other co-operative arrangement between the parties. The contractor shall carry out the work as an independent contractor, and no part of this agreement shall be construed as conferring the status of an employee of the company on the contractor, his servants, agents, or sub-contractors.

12 Scope of Authority

Neither party shall have any right, power or authority to enter into any agreement, or act on behalf of, or to act as, or to be an agent or representative of, or to otherwise bind the other party, unless expressly provided otherwise in this contract.

13 Assignment

Neither party may assign any of its obligations arising under this contract without the prior written consent of the other party (which shall not be unreasonably withheld).

14 Notices and Service

- 14.1 Any notice required or authorised by this contract to be given by either party to the other shall be in writing and may be given by hand, or sent by pre-paid registered post, or fax transmission or email to the other party to the addresses set forth in the Memorandum of Agreement of this contract (or to such alternative address(es) as may be notified in writing pursuant to Clause 14.4 hereof).
- 14.2 Any notice or other information given by post under Clause 14.1, which is not returned to the sender as undelivered, shall be deemed to have been given on the fourth day after the envelope containing the same was so posted.
- 14.3 Any notice or other information sent by fax transmission or email shall be deemed to have been duly sent on the date of transmission, provided that such date is a working day and that the sender's facsimile machine issues confirmation that the relevant pages have been transmitted to the recipient's facsimile machine.
- 14.4 Either party may, by notice to the other (in compliance with this Clause 14), change the address or fax number to which such notice is to be sent or delivered.

15 Counterparts

- 15.1 This contract may be executed by the parties in any number of counterparts and on separate counterparts.
- 15.2 Each counterpart shall constitute an original of this contract, but all the counterparts shall together constitute but one and the same instrument.

16 Severance

Each of the provisions of this contract is severable and if any provision of this contract is held by any court, or other competent authority, to be illegal, void, or unenforceable, in whole or in part, the legality, validity and enforceability of the remaining provisions of this contract shall not be affected or impaired thereby.

17 Entire Agreement

- 17.1 This contract contains the entire agreement between the parties and contains all the terms the parties have agreed with respect to its subject matter and this contract supersedes all previous drafts, agreements, contracts and undertakings between the parties.
- 17.2 The contractor acknowledges that it/he has not been induced to enter into this contract by a statement or promise, which this contract does not contain.
- 17.3 Nothing in this Clause 17 shall have the effect of limiting or restricting any liability of a party arising as a result of any fraud.

18. Dispute Resolution

If any dispute arises out of or in connection with this agreement, or the breach, termination and invalidity thereof, the parties will attempt to settle it by negotiation.

If the parties are unable to settle any such dispute by negotiation within 21 days, they will attempt to settle it by mediation in accordance with the Centre for Dispute Resolution (CEDR) Model Mediation Procedure.

To initiate mediation a party must give notice in writing ("ADR Notice" – Alternative Dispute Resolution) to the other party to the dispute requesting mediation and nominating a mediator.

If there is any point on the conduct of the mediation (including the nomination of the mediator) upon which the parties cannot agree within 14 days from the date of the ADR Notice, CEDR will, at the request of any party, decide that point for the parties, having consulted with them.

The mediation will start not later than 21 days after the date of the ADR Notice.

Neither party may terminate the mediation until each party has made its opening presentation and the mediator has met each party separately for at least one hour.

If the parties have not settled any dispute by mediation within 30 days from the date of the ADR Notice, the dispute shall be referred to and finally resolved by arbitration in accordance with the UNCITRAL Arbitration Rules. The number of arbitrators shall be one. If the parties cannot agree on an arbitrator, s/he will be appointed by the President of the Law Society of Ireland.

19 Force Majeure

The parties' performance under this agreement is subject to acts of God, war, government regulation, threats or acts of terrorism, disaster, civil disorder, strikes, or any other cause beyond the parties' control, making it inadvisable, illegal, or impossible to perform their obligations under this agreement.

Either party may terminate the agreement, or temporarily suspend the agreement, for force majeure by serving notice on the other and such termination or suspension shall take effect without liability of either party for any loss or damage whatsoever.

20. Governing Law

This contract shall in all respects be governed by and construed in accordance with the laws of Ireland.

Signed on behalf of :

who is duly authorised

Signed on behalf of :
Coillte Teoranta

who is duly authorised

