

MANAGEMENT AND ADMINISTRATIVE SERVICES AGREEMENT

BETWEEN

THE INTERNATIONAL AMATEUR RADIO UNION

- and -

**THE INTERNATIONAL AMATEUR RADIO UNION
AS A SWISS REGISTERED ASSOCIATION**

DATED EFFECTIVE _____, 2017

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MANAGEMENT AND ADMINISTRATIVE SERVICES AGREEMENT

THIS AGREEMENT is made effective as of the _____ day of _____, 2017 (the “Effective Date”)

BETWEEN:

THE INTERNATIONAL AMATEUR RADIO UNION, an unincorporated association having an office in Newington, CT, USA (“**IARU**”)

- and -

THE INTERNATIONAL AMATEUR RADIO UNION, an association registered under the Swiss Law in the Canton of Zug, Switzerland (“**OP-CO**”)

WHEREAS IARU wishes to retain OP-CO to provide the Services (as defined below) and OP-CO is willing to render the Services to IARU on the terms and conditions hereinafter set forth;

NOW THEREFORE in consideration of the premises and the mutual covenants and agreements herein contained and for other good and valuable consideration (the receipt and sufficiency of which is hereby acknowledged by each of the Parties), the Parties hereto covenant and agree as follows:

ARTICLE 1 INTERPRETATION

1.01 Definitions

As used herein, including the recitals hereto, the following terms shall have the meanings set forth below:

- (a) “**AC**” means the Administrative Council of the IARU;
- (b) “**Administration Services**” has the meaning ascribed thereto in Schedule A;
- (c) “**Agreement**” means this Management and Administrative Services Agreement, as amended, restated or modified from time to time;
- (d) “**Applicable Laws**” means all applicable laws (statutory or common), rules, ordinances, regulations, grants, concessions, franchises, licences, orders, directives, judgments, decrees and other governmental restrictions, including permits and other similar requirements, whether federal, provincial, territorial, municipal or local, whether domestic or foreign, and whether legislative, administrative or judicial in nature, and “**Applicable Law**” means any of the foregoing;
- (e) “**Assembly**” means the assembly of OP-CO as required under Swiss Law;
- (f) “**Books and Records**” has the meaning ascribed thereto in Section 4.01;

- (g) **“Business Day”** means any day, other than a Saturday, Sunday or statutory holiday, when banks are generally open for business;
- (h) **“Confidential Information”** has the meaning ascribed thereto in Section 8.01;
- (i) **“Force Majeure”** means an event, condition or circumstance (and the effect thereof) which is not within the reasonable control of the Party claiming Force Majeure and which, notwithstanding the exercise of commercially reasonable efforts, the Party claiming the Force Majeure is unable to prevent its occurrence or mitigate its effects, and which thus causes a delay or disruption in the performance of any obligation (other than the obligation to pay money due) imposed on such Party hereunder. Subject to the foregoing, Force Majeure shall include, without limitation, strikes, lock-outs, work stoppages, storm, fire, flood, landslide, snow slide, earthquake, explosion, lightning, acts of war, actions of terrorists, civil disobedience, public demonstrations, vandalism, acts of God, laws, rules, regulations, policies, orders, directives or restraints issued or imposed by any Governmental Entity, or inability to obtain, maintain or renew or delay in obtaining, maintaining or renewing necessary permits or approvals from any Governmental Entity; provided, however, that a Party’s own lack of the funds or other financial difficulties shall not constitute “Force Majeure” in respect of such Party;
- (j) **“Governmental Entity”** means a federal, state, territorial, municipal or other government or government department, agency or authority having jurisdiction over the Parties, including a court of law;
- (k) **“IARU Indemnitees”** has the meaning ascribed thereto in Section 10.03;
- (l) **“Key Personnel”** means the President, Vice President and Secretary;
- (m) **“OP-CO Indemnitees”** has the meaning ascribed thereto in Section 10.02;
- (n) **“Management Services”** has the meaning ascribed thereto in Schedule A;
- (o) **“Officer”** has the meaning ascribed thereto in Section 2.05;
- (p) **“Parties”** means IARU and OP-CO, and **“Party”** means either of them;
- (q) **“Person”** means an individual, body corporate, partnership (limited or general), trust, trustee, executor or similar official, pension fund, labour union, Governmental Entity or other entity;
- (r) **“Reimbursable Cost”** means all out-of-pocket costs and expenses incurred by OP-CO in the performance of Services hereunder;
- (s) **“Regulatory Services”** has the meaning ascribed thereto in Schedule A;
- (t) **“Services”** means the Administration Services, the Management Services, the Regulatory Services, and such other services as may be agreed upon by the Parties from time to time;

- (u) **“Service Fees”** means the fees payable by IARU to OP-CO as consideration for the provision of Services hereunder as set forth and described in Schedule B;
- (v) **“Term”** has the meaning ascribed thereto in Section 11.01;
- (w) **“Termination Event”** means any of the events described in Section 12.01;
- (x) **“Third Party”** means a Person that is not a Party or a director, officer or employee of a Party; and
- (y) **“Volunteers”** means those individuals who are appointed by the President of IARU, and as approved by the AC, as technical experts or technical representatives from time to time.

1.02 Rules of Interpretation

Unless otherwise stated or the context otherwise requires, in this Agreement:

- (a) the phrases “this Agreement”, “herein”, “hereby”, “hereunder”, “hereof” and similar expressions refer to this Agreement as a whole (including amendments and supplements) and not to any particular Article, Section, Subsection, Paragraph or other provision hereof;
- (b) a reference to an Article, Section, Subsection or Paragraph is a reference to an Article, Section, Subsection or Paragraph of this Agreement;
- (c) a reference in a Section to a Subsection is a reference to a Subsection of that Section and a reference to a Paragraph is a reference to a Paragraph of that Subsection;
- (d) a reference to an agreement or instrument, including this Agreement, shall be a reference to the agreement or instrument as varied, amended, modified, or supplemented or replaced from time to time;
- (e) the terms “in writing” or “written” includes any form of written communication, including printing, typewriting or telecopy;
- (f) a reference to a statute is a reference to: (i) the statute as amended or reenacted from time to time and every statute substituted therefor; and (ii) the regulations, by-laws or other subsidiary legislation made pursuant to the statute;
- (g) words importing the singular number only shall include the plural and vice versa, and words importing the use of any gender shall include all genders;
- (h) “Swiss Franc” or “CHF” mean Swiss currency;
- (i) “including” and “includes” mean “including without limitation” and “includes without limitation”, respectively; and
- (j) the headings of Articles, Sections, and Subsections are for convenience of reference only and shall not affect the construction or interpretation of this Agreement.

ARTICLE 2
PROVISION OF SERVICES BY OP-CO

2.01 Retention of IARU

Subject to and in accordance with the provisions of this Agreement, IARU hereby engages OP-CO to provide the Services and OP-CO hereby accepts such engagement and agrees to provide the Services.

2.02 Covenants of OP-CO

OP-CO covenants and agrees that in the performance of the Services it shall:

- (a) comply with all lawful and reasonable instructions of IARU in relation thereto;
- (b) perform the Services in compliance with Applicable Laws; and
- (c) not comingle its own funds, or funds it holds for any Person other than IARU, with any funds held by it on behalf of IARU.

2.03 Authority to Bind IARU

- (a) Subject to Section 2.03(b), OP-CO shall have the full and absolute right, power and authority during the Term to provide, for and on behalf of IARU, all Services and, in connection with the provision of the Services, to take and do, all such actions and all such things which OP-CO deems appropriate, in its sole discretion, including the right, power and authority to execute and deliver all contracts, leases, licenses, and other documents, instruments and agreements, and to make all applications and filings with any Governmental Authority, in the name of and on behalf of IARU and, in such respects, is hereby appointed agent of IARU.
- (b) In the event the provision of Services by OP-CO requires IARU to undertake a financial commitment with a monetary value of more than CHF 500.00, any such financial commitment is subject to the prior written approval of IARU and any documents related thereto must be executed by a signing officer of IARU.

2.04 Exclusivity and Delegation

The Parties agree and acknowledge that:

- (a) OP-CO shall be the sole provider of the Services to IARU and IARU may not retain any Third Parties to provide similar services to those Services provided hereunder during the Term; and
- (b) OP-CO may delegate the performance of any of its obligations and duties hereunder to a Third Party, provided that in making such delegation OP-CO monitors the performance of such obligations and duties in accordance with the standard of care prescribed in Section 7.01.

2.05 Appointment of Officers of OP-CO

The Parties agree and acknowledge that:

- (a) The President, Vice President and Secretary (the “**Officers**”) of OP-CO shall be the same individuals who hold those positions in IARU as they may be elected from time to time pursuant to the IARU Constitution and Bylaws. In the event of a vacancy in the position of the Officers of OP-CO such vacancy will be filled by IARU in accordance with its Constitution and Bylaws so that at no time are the Officers of OP-CO and IARU different individuals;
- (b) OP-CO will not establish any additional Officer positions or appoint any other individuals to management or supervisory roles or add further individuals to the definition of Key Personnel without the approval of IARU.

2.06 Appointment and Election of the Assembly

The Parties agree and acknowledge that:

- (a) The Assembly of OP-CO will be the permanent members of the AC as they may be elected or appointed from time to time. OP-CO agrees that no further appointments to the Assembly can be made without the consent of IARU.

ARTICLE 3
FEES AND PAYMENTS

3.01 Service Fees

In consideration for the provision of the Services, IARU agrees to pay to OP-CO the Service Fees set forth and described in Schedule B attached hereto, as may be amended or replaced from time to time in accordance with Section 11.02.

3.02 Reimbursable Costs

IARU shall reimburse OP-CO for all Reimbursable Costs.

3.03 Volunteer Expenses

OP-CO acknowledges that in the normal course IARU will continue to pay the travel and per diem expenses (“**Travel Expenses**”) for the Volunteers and that at no time, without the consent of IARU, will OP-CO reimburse or pay any of the Volunteers directly for any claimed expenses. In the event OP-CO receives a payment request or invoice from a Volunteer, OP-CO agrees to immediately provide the invoice or request to IARU for handling. The payment by IARU of such Travel Expenses are exempted from Articles 3, 4, 7, 8, 9 and 10 of this Agreement.

3.04 Billing

- (a) OP-CO shall invoice IARU for the Service Fees, the Reimbursable Costs incurred by OP-CO during the applicable period and any other amounts then payable by IARU to OP-CO hereunder upon such billing terms as may be set

forth from time to time in Schedule B attached hereto. Each invoice shall include and separately identify the applicable Service Fees, Reimbursable Costs and other amounts then payable by IARU to OP-CO and shall be accompanied by supporting records or documents as provided in Section 4.01.

- (b) Other applicable present or future taxes with respect to the Services provided by OP-CO hereunder (excluding income tax), whether characterized as a goods and service tax, a sales tax, a value-added tax or otherwise, shall be paid by IARU on any amount collectible by OP-CO under this Agreement.

3.05 Interest on Overdue Payments

Interest shall accrue, at the Prime Rate plus two percent (2%), on any amount payable hereunder which are not paid when due in accordance with Schedule B from the date such payment was due until the date it is paid.

3.06 Disputed Payments

If IARU, acting reasonably and in good faith, disputes any amount included in an invoice submitted by OP-CO, IARU shall pay all amounts in such invoice which are not in dispute and the Parties shall use good faith efforts to resolve the dispute with respect to all other amounts. No Party shall be entitled to set off any disputed amount against any other amount, without the written consent of the other Party, and the acceptance of payment of an undisputed amount shall not constitute a waiver or forfeiture by OP-CO of any disputed and unpaid amount. For greater certainty, a failure to pay any bona fide disputed amount as contemplated by this Section 3.06 shall not be construed to be a breach of this Agreement.

3.07 Question after Payment

- (a) IARU may protest or question the correctness of an invoice submitted pursuant to Section 3.04, after the payment of such invoice, if such protest or question is made in writing to OP-CO within 30 days following the date of receipt of such invoice. If no protest or question is made, the invoice shall be deemed conclusively to be correct for all purposes as between the Parties.
- (b) If OP-CO discovers that an invoice submitted pursuant to Section 3.04 contains an error (including the omission of an item or an error as to the amount of an item), OP-CO shall promptly correct the error in the next invoice submitted to IARU hereunder, provided that an invoice shall be deemed to be correct 60 days following the date such invoice was received by IARU, except with respect to unresolved claims of errors therein raised in writing by a Party by written notice to the other Party within the period provided in Section 3.07(a).

ARTICLE 4 **RECORDS**

4.01 Books and Records

OP-CO shall maintain accurate and complete books and records regarding its performance of the Services in accordance with generally accepted accounting principles (as applicable) and Applicable Laws, including in a manner that will permit the Parties to readily

identify the Reimbursable Costs incurred or expended by OP-CO in performing the Services pursuant to this Agreement (the “**Books and Records**”). All such Books and Records shall be maintained, or made available for examination, at OP-CO’s head office.

4.02 Examination of Records

- (a) Upon reasonable prior notice by IARU to OP-CO, OP-CO shall make available to the AC and IARU’s authorized representatives, for examination during normal business hours on a Business Day, all Books and Records. In addition, OP-CO shall make available to the AC or IARU’s authorized representatives such financial and operating data and other information in respect of the performance of the Services under this Agreement as may be in existence and as the AC or IARU’s authorized representatives shall from time to time reasonably request, including for the purposes of conducting any audit in respect of expenses of OP-CO or other matters necessary or advisable to be audited in order for the AC to conduct an audit of the financial affairs of OP-CO.
- (b) Any examination of records at OP-CO’s head office or at any other location shall be conducted in a manner which will not unduly interfere with the conduct of OP-CO’s business in the ordinary course.

ARTICLE 5 **REPRESENTATIONS AND WARRANTIES**

5.01 Representations of OP-CO

As of the Effective Date, OP-CO represents and warrants to IARU as follow:

- (a) OP-CO has been duly incorporated and organized and is validly existing under the laws of the jurisdiction of its incorporation and has all requisite authority and power to carry on its business, as now conducted and as presently proposed to be conducted by it;
- (b) OP-CO has full right, power and authority to enter into this Agreement and to perform its obligations set out herein, and this Agreement has been duly authorized, executed and delivered by OP-CO and is a legal, valid and binding obligation of OP-CO, enforceable against OP-CO in accordance with its terms subject to the general qualifications that:
 - (i) enforceability may be limited by bankruptcy, insolvency or other laws affecting creditors’ rights generally;
 - (ii) equitable remedies, including the remedies of specific performance and injunctive relief, are available only at the discretion of the applicable court; and
 - (iii) rights to indemnity and contribution may be limited by Applicable Laws; and
- (c) the execution and delivery, and the performance of and compliance with the terms, of this Agreement by OP-CO does not and will not result in any breach of,

or constitute a default under, and does not and will not create a state of facts which, after notice or lapse of time or both, would result in a breach of or constitute a default under, any term or provision of the articles, by-laws or resolutions of OP-CO, any indenture, mortgage, note, contract, agreement (written or oral), instrument, lease or other document to which OP-CO is a party or by which it is bound, or any judgment, decree, order, statute, rule or regulation applicable to OP-CO.

5.02 Representations of IARU

As of the Effective Date, IARU represents and warrants to OP-CO as follow:

- (a) IARU has been duly organized and is validly existing under the laws of the jurisdiction of its organization and has all requisite authority and power to carry on its business, as now conducted and as presently proposed to be conducted by it;
- (b) IARU has full right, power and authority to enter into this Agreement and to perform its obligations set out herein, and this Agreement has been duly authorized, executed and delivered by IARU and is a legal, valid and binding obligation of IARU, enforceable against IARU in accordance with its terms subject to the general qualifications that:
 - (i) enforceability may be limited by bankruptcy, insolvency or other laws affecting creditors' rights generally;
 - (ii) equitable remedies, including the remedies of specific performance and injunctive relief, are available only at the discretion of the applicable court; and
 - (iii) rights to indemnity and contribution may be limited by Applicable Laws; and
- (c) the execution and delivery, and the performance of and compliance with the terms, of this Agreement by IARU does not and will not result in any breach of, or constitute a default under, and does not and will not create a state of facts which, after notice or lapse of time or both, would result in a breach of or constitute a default under, any term or provision of the articles, by-laws or resolutions of IARU or any indenture, mortgage, note, contract, agreement (written or oral), instrument, lease or other document to which IARU is a party or by which it is bound, or any judgment, decree, order, statute, rule or regulation applicable to IARU.

ARTICLE 6 **OTHER OBLIGATIONS AND COVENANTS**

6.01 Access and Notification

Each of IARU and OP-CO shall:

- (a) grant to the other, or cause to be granted to the other, access to all documentation and information necessary in order for the other to perform its obligations, covenants and responsibilities hereunder; and
- (b) promptly notify the other of any material facts or information of which it is aware, which is in relation to and which may affect the performance of the obligations, covenants or responsibilities of the other Party pursuant to this Agreement.

6.02 Cooperation and Compliance with Applicable Laws

Each of OP-CO and IARU shall take all actions required or reasonably necessary to permit the other to comply with all Applicable Laws in relation to the Services provided hereunder.

ARTICLE 7 **STANDARD OF CARE AND CONFLICT OF INTEREST**

7.01 Standard of Care

OP-CO, and any Third Party subcontractor of OP-CO which OP-CO engages to provide the Services on its behalf, shall provide the Services hereunder honestly and in good faith and in connection therewith shall exercise that degree of care, diligence and skill that a reasonably prudent Person would be expected to exercise in providing such Services in respect of its own business.

7.02 No Additional Duty

OP-CO shall only have the duties and obligations expressly provided for in this Agreement and no other obligation or duty (fiduciary or otherwise) shall be implied. No other standard of care, other than set forth above, shall apply or be implied in relation to the performance of the Services by OP-CO hereunder.

ARTICLE 8 **CONFIDENTIALITY**

8.01 Confidentiality

OP-CO hereby agrees that, unless the written consent of IARU is obtained, OP-CO will not, at any time, use, disclose or make available, to any Person any information acquired in connection with the performance of the Services by OP-CO hereunder ("**Confidential Information**"), provided that notwithstanding the foregoing, OP-CO may make use of, reveal or disclose Confidential Information:

- (a) as may be expressly permitted by, or necessary for, the performance of this Agreement;
- (b) where it is already in the public domain when disclosed to OP-CO or becomes, after having been disclosed to OP-CO, generally available to the public through publication or otherwise unless the publication or other disclosure was made directly or indirectly by OP-CO in breach of this Agreement;

- (c) as required in order to comply with Applicable Laws, the orders or directions of any Governmental Entity or the requirements of any other regulatory authority having jurisdiction;
- (d) where it was made available to OP-CO on a non-confidential basis from a Third Party source, or where such information can be demonstrated by OP-CO to have come into its possession independently of anything done under or pursuant to this Agreement;
- (e) to OP-CO's affiliates, and to the officers, directors or employees of OP-CO and its affiliates, and, on a need to know basis, to the agents or other representatives (including consultants, financial institutions and other advisors) of OP-CO and its affiliates, provided such Persons have agreed to maintain such Confidential Information in confidence on terms substantially similar to those in this Section 8.01; or
- (f) as necessary in connection with any dispute resolution or any litigation commenced in respect of this Agreement.

ARTICLE 9
ASSIGNMENT AND ENUREMENT

9.01 Assignment

This Agreement may not be assigned by a Party without the prior written consent of the other Party, not to be unreasonably withheld. This Agreement shall be binding upon and shall enure to the benefit of the Parties and their respective administrators, trustees, receivers, successors and permitted assigns.

ARTICLE 10
LIABILITY AND INDEMNIFICATION

10.01 Liability

Notwithstanding anything contained herein, OP-CO shall not be liable to IARU or its directors, trustees, officers, employees, consultants or agents, for:

- (a) any loss or damage resulting from, incidental to or relating to the performance or non-performance of the Services hereunder, including any exercise of, or refusal to exercise, discretion, any mistake or error of judgment or any act or omission believed by OP-CO in good faith to be within the scope of authority conferred on OP-CO by this Agreement, unless such loss or damage resulted from the fraud, wilful misconduct or gross negligence of OP-CO in performing the Services hereunder;
- (b) any loss or damage resulting from, incidental to or relating to the performance or non-performance of Services hereunder, where such loss or damage results from any act or omission taken by OP-CO on the instructions or with the concurrence of IARU;

- (c) any loss or damage resulting from, incidental to, or relating to the acts or omissions of any Person to which OP-CO has delegated performance of any of its obligations and duties hereunder, provided that in making such delegation, OP-CO has acted in accordance with the standard of care prescribed in Section 7.01 and has monitored the performance of such obligations and duties by such Person in accordance with the standard of care prescribed in Section 7.01; or
- (d) any damage, injury or loss of an indirect or consequential nature, including loss of profits.

10.02 Indemnification of OP-CO

IARU shall indemnify and save harmless OP-CO and any Person who is serving or shall have served as a director, officer, employee, consultant or agent of OP-CO (collectively the “**OP-CO Indemnitees**”) from and against all losses, claims, damages, liabilities, obligations, costs and expenses (including judgments, fines, penalties, amounts paid in settlement (with the approval of IARU, acting reasonably), and legal fees on a solicitor-client basis, including reasonable disbursements) of whatsoever kind or nature incurred by, borne by or asserted against OP-CO Indemnitees which arises from the provision of the Services by OP-CO hereunder, except to the extent arising from (i) the fraud, willful misconduct or gross negligence on the part of any of OP-CO Indemnities, or (ii) the acts or omissions of any Person to which OP-CO has delegated performance of any of its obligations and duties hereunder where OP-CO has failed to act in accordance with the standard of care prescribed in Section 7.01 or where OP-CO has failed to monitor the performance of such obligations and duties by such Person in accordance with the standard of care prescribed in Section 7.01. The foregoing right of indemnification shall not be exclusive of any other rights to which OP-CO Indemnities may be entitled as a matter of law or equity or which may be lawfully granted to such Persons.

10.03 Indemnification of IARU

Subject to Section 10.01, OP-CO shall indemnify and save harmless IARU and any Person who is serving or shall have served as a director, officer, employee, consultant or agent of IARU (collectively the “**IARU Indemnitees**”) from and against all losses, claims, damages, liabilities, obligations, costs and expenses (including judgments, fines, penalties, amounts paid in settlement (with the approval of IARU, acting reasonably), and legal fees on a solicitor-client basis, including reasonable disbursements) of whatsoever kind or nature incurred by, borne by or asserted against the IARU Indemnitees which arise from (i) the fraud, willful misconduct or gross negligence of OP-CO in the course of the provision of the Services by OP-CO hereunder, or (ii) the acts or omissions of any Person to which OP-CO has delegated performance of any of its obligations and duties hereunder where OP-CO has failed to act in accordance with the standard of care prescribed in Section 7.01 or where OP-CO has failed to monitor the performance of such obligations and duties by such Person in accordance with the standard of care prescribed in Section 7.01. The foregoing right of indemnification shall not be exclusive of any other rights to which the IARU Indemnitees may be entitled as a matter of law or equity or which may be lawfully granted to such Persons.

10.04 Survival

The obligation to indemnify under this Article 10 will continue in full force and effect notwithstanding the expiration or termination of this Agreement, with respect to any loss, claim,

liability, damage or other expense based on events, conditions or circumstances which occurred in or are attributable to the period prior to such expiration or termination.

ARTICLE 11 **TERM**

11.01 Term

Subject to Section 11.03 and the earlier termination pursuant to Article 12, this Agreement shall become effective as of the Effective Date and shall continue in full force and effect for a period of one year, unless otherwise extended by written agreement of the Parties prior to the expiration hereof (the “**Term**”).

11.02 Approval of Changes to Services and Service Fees

Both the scope of services comprising the Services and the Service Fees payable in respect thereof may be amended or replaced at any time upon the written agreement of the Parties.

11.03 Survival

Any obligation of the Parties pursuant to the terms hereof which accrued prior to the expiration or termination of the Agreement shall survive the expiration or termination of the Agreement, including, for greater certainty, all payment obligations of IARU in respect of amounts accrued to and in favour of OP-CO hereunder.

ARTICLE 12 **TERMINATION**

12.01 Events of Termination

A Party (the “**Defaulting Party**”) shall be in default under this Agreement upon the occurrence of any of the following events (each a “**Termination Event**”):

- (a) if the Defaulting Party breaches or fails to observe or perform any of its material obligations, covenants or responsibilities under this Agreement and fails to remedy such breach within 30 days of having received written notice from the other Party in respect of same;
- (b) if the Defaulting Party shall (i) institute proceedings to be adjudicated a voluntary bankrupt or consent to the filing of a bankruptcy proceeding against it; (ii) file a petition or answer or consent, or other proceeding, seeking reorganization, re-adjustment, arrangement, composition or similar relief under any Canadian federal or provincial law available for the protection of bankrupt or insolvent debtors; (iii) consent to the appointment of a receiver, liquidator, trustee or assignee in bankruptcy; (iv) be voluntarily liquidated or wound up; or (v) otherwise take any action that acknowledges its insolvency; or
- (c) if the Defaulting Party is subject to (i) proceedings for the appointment of a receiver, receiver/manager or trustee in respect of its assets; or (ii) proceedings for the dissolution, liquidation or winding-up of the Defaulting Party, and such

proceedings are not being contested in good faith by appropriate proceedings or if so contested remain outstanding, undismitted and unstayed for more than 30 days from the institution of such proceedings.

12.02 Key Personnel

- (a) If any of the Key Personnel should leave the Services of OP-CO, or for any cause beyond the reasonable control of OP-CO, is unable to perform the Services, alternate personnel will be promptly proposed by OP-CO. If upon IARU's review of the proposed alternate, including, at IARU's option, interviewing the proposed alternate, IARU approves of such proposed alternate, the proposed alternate will be deemed to be Key Personnel.
- (b) If, for any reason, OP-CO is unable to perform the Services through Key Personnel or is unable to provide alternate personnel acceptable to IARU, such occurrence shall be considered to be a Termination Event, and IARU may, at its option, terminate this Agreement in accordance with Section 12.03.

12.03 Termination Rights

Upon the occurrence of a Termination Event in respect of a Party, and without limiting any other rights or remedies which the other Party may have at law or otherwise, the other Party may immediately terminate this Agreement by written notice of such termination delivered to the other Party.

12.04 Acknowledgement

Each Party acknowledges and agrees that (a) termination of this Agreement by it without proper right or cause pursuant to this Agreement will cause irreparable harm to the other Party for which the other Party will not have an adequate remedy at law, either by way of damages or otherwise, and that (b) in the event of a wrongful termination, and in addition to any other remedy to which the other Party may be entitled at law or in equity, the other Party shall be entitled to injunctive relief to restrain such breach and to an order specifically enforcing this Agreement and the terms and provisions hereof.

12.05 Post-Termination Arrangements

In the event of a termination of this Agreement under Section 12.01 or Section 12.02(b), each Party shall deliver to the other all books, records, accounts and documents which the Party was required to maintain in connection with the performance of its obligations and duties pursuant to this Agreement.

12.06 Termination upon Agreement

This Agreement may be terminated at any time upon the written agreement of the Parties.

ARTICLE 13
FORCE MAJEURE

13.01 Consequences of Force Majeure

- (a) During the occurrence of any event of Force Majeure, the obligations of the Party affected by such event of Force Majeure, to the extent that such obligations cannot be reasonably performed as a result of such event of Force Majeure, shall be suspended, and such Party shall not be considered to be in breach or default hereunder, for the period of such occurrence, except that the occurrence of an event of Force Majeure affecting IARU but not affecting the performance of OP-CO's obligations hereunder, shall not relieve IARU of its obligations to pay Reimbursable Costs or Service Fees to OP-CO.
- (b) The suspension of performance of the obligations of the applicable Party shall be of no greater scope and of no longer duration than is required by the event of Force Majeure.

13.02 Notice

The Party seeking to invoke the benefit of Section 13.01 shall (a) give the other Party prompt written notice of the particulars of the event of Force Majeure and, if reasonably ascertainable, its expected duration and (b) use reasonable efforts to remedy its inability to perform.

13.03 Exceptions

A Force Majeure condition affecting a Party's performance under this Agreement will not relieve such Party of liability for failure to perform (a) to the extent that the negligence of such Party or its Affiliate was the proximate cause of the Force Majeure condition or (b) if the Party fails to remedy the Force Majeure condition and remove or overcome its effect on its obligations hereunder with due diligence and all reasonable dispatch, provided that a Party shall not be obligated to accede to any demands of employees or their unions or organizations to settle or end or reduce the effects of strikes, lock-outs or work stoppages.

ARTICLE 14
RESOLUTION OF DISPUTES

14.01 Disputes

For the purposes of this Agreement, "**Dispute**" shall mean any dispute or controversy amongst the Parties concerning any matter arising out of this Agreement, including those with respect to Article 3. A Dispute shall be resolved in the following manner:

- (a) each Party shall refer such Dispute to a senior management representative (collectively the "**Senior Management Representatives**"). If the Senior Management Representatives agree upon a resolution of a Dispute, such resolution shall be binding upon the Parties; and
- (b) if the Senior Management Representatives are unable to agree upon a resolution of a Dispute within 30 days after referral of such dispute to them, either Party

may terminate the discussions between Senior Management Representatives, and such Party shall thereafter have recourse to all rights and remedies available to it at law or in equity.

[Consider a dispute resolution provision that directs the Parties to arbitration]

14.02 Continued Performance

During the conduct of Dispute resolution procedures pursuant to this Article 14, the Parties shall continue to perform their respective obligations under this Agreement and neither Party shall exercise any other remedies to resolve such Dispute.

ARTICLE 15 **GENERAL MATTERS**

15.01 No Partnership, Joint Venture or Trust

The Parties are not and shall not be deemed to be partners or joint venturers with one another and nothing herein shall be construed so as to impose any liability as such on any of them. The Parties agree that OP-CO shall perform its duties and obligations under this Agreement as an independent contractor for and on behalf of IARU, and it is acknowledged and agreed that only where OP-CO undertakes execution of contracts or other instruments for and on behalf of IARU that OP-CO will be acting as an agent of IARU. In no circumstances shall OP-CO be, or be deemed to be, a fiduciary or trustee for any Person, whether or not a Party, in connection with the discharge by it of its duties and obligations hereunder.

15.02 Amendments

This Agreement may be amended at any time upon the written agreement of the Parties.

15.03 Severability

The provisions of this Agreement are severable. In the event of the unenforceability or invalidity of any one or more of the terms, covenants, conditions, or provisions of this Agreement under applicable law, such unenforceability or invalidity shall not render any of the other terms, covenants, conditions, or provisions hereof unenforceable or invalid; and the Parties agree that this Agreement shall be construed as if such unenforceable or invalid term, covenant or condition was never contained herein.

15.04 Notices

All notices required or permitted pursuant to the terms of this Agreement shall be in writing and shall be given by personal delivery, facsimile transmittal or electronic communication during normal business hours on any Business Day to the address of the Party, as applicable, as set forth below. Any such notice or other communication given hereunder shall, if personally delivered or sent by facsimile transmittal or electronic communication (with confirmation received), be conclusively deemed to have been given or made and received on the day of delivery or transmittal (as the case may be) if such delivery or transmittal occurs during normal business hours of the recipient on a Business Day and if not so delivered or transmitted during normal business hours on a Business Day, then on the next Business Day following the day of

delivery or transmittal. The Parties hereto may give from time to time written notice of change of address in the manner aforesaid.

Notices shall be provided:

(a) To OP-CO:

Attention:
Telephone:
Fax:
Email:

(b) To IARU:

Attention:
Telephone:
Fax:
Email:

15.05 Governing Law and Attornment

The provisions of this Agreement shall be governed by and interpreted in accordance with the laws of Switzerland **[consider the State of Connecticut, United States]** applicable therein. Any legal actions or proceedings with respect to this Agreement shall be brought in the courts. Each Party hereby attorns to and accepts the jurisdiction of such courts.

15.06 Enurement

This Agreement shall enure to the benefit of and be binding upon the Parties hereto and their respective successors and permitted assigns.

15.07 Entire Agreement

This Agreement constitutes the entire agreement between the Parties hereto with respect to the subject matter hereof and cancels and supersedes any prior understanding and agreements between the Parties with respect thereto. There are no representations, warranties, terms, conditions, undertakings, or collateral agreements, express, implied or statutory with respect to the subject matter hereof between the Parties, other than as expressly set forth in this Agreement.

15.08 Waiver

No waiver of any breach or any term or provision of this Agreement shall be effective or binding unless made in writing and signed by the Party purporting to give the same and, unless otherwise provided, such waiver shall be limited to the specific breach waived.

15.09 Further Assurances

Each of the Parties shall from time to time execute and deliver all such further documents and instruments and do all acts and things as the other Party may reasonably require to effectively carry out or better evidence or perfect the full intent and meaning of this Agreement.

15.10 Time of the Essence

Time shall be of the essence in respect of this Agreement.

15.11 Counterparts

This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instruments.

15.12 Execution

Execution and delivery of this Agreement may be affected by any Party by electronic transmission of the execution page hereof to the other Parties. A Party delivering this Agreement by electronic transmission shall thereafter forthwith deliver to the other Party an original execution page hereof with its original execution located thereon; provided, however that any failure by a Party to so deliver such original signature page shall not affect the validity or enforceability hereof by or against that Party.

[Remainder of page intentionally left blank]

IN WITNESS WHEREOF the Parties have executed this Agreement by their proper officers duly authorized in that behalf as of the day and year first above written.

**THE INTERNATIONAL AMATEUR RADIO
ASSOCIATION AS A SWISS
REGISTERED ASSOCIATION**

**THE INTERNATIONAL AMATEUR RADIO
UNION**

Per: _____

Per: _____

SCHEDULE A SERVICES

Subject to the terms and conditions of this Agreement, OP-CO agrees to provide the following Services to IARU:

- (a) day-to-day operational support including answering phones, responding to email inquiries, document management/archiving, website and social media management, and member communications as directed by IARU (“**Administrative Services**”);
- (b) management services in respect of:
 - (i) registration of Volunteers as representatives of IARU at the International Telecommunications Union, Regional Telecommunications Organization or other meetings or events, as directed by IARU;
 - (ii) managing Volunteer requirements and preparing Volunteers;
 - (iii) managing meeting logistics, including venue, audio visual needs, name badge prep, and presentations;
 - (iv) providing on-site support, as appropriate;
 - (v) providing post meeting summaries to the IARU,(together, the “**Management Services**”).
- (c) Regulatory Services in respect of:
 - (i) dealing with the regulatory authorities in Switzerland as may be necessary to maintain the good standing of OP-CO in that jurisdiction;
 - (ii) if directed by IARU, to register and maintain OP-CO as a non-governmental organization in Switzerland or any other jurisdiction,(together, the “**Regulatory Services**”).

SCHEDULE B SERVICE FEES

1. Service Fees

The following Service Fees shall be payable by IARU pursuant to the terms and conditions of this Agreement:

- (a) A nominal fee of CHF 10 per calendar year.
- (b) Such expenses as are required by OP-CO to comply with the Administrative Services, Management Services and Regulatory Services as set out in "Schedule A".

2. Billing and Payment Terms

- (a) IARU shall be invoiced monthly by OP-CO for all Service Fees and Reimbursable Costs payable in respect of the subject month.
- (b) Subject to Subsection (c) below, invoices shall be payable to OP-CO by IARU within 30 days of the invoice date, by cheque or electronic funds transfer to an account designated in writing to IARU by OP-CO.
- (c) Any reimbursable expenses incurred by OP-CO staff in the provision of Services shall be reimbursed by IARU directly to the applicable OP-CO staff member within 30 days of receipt by IARU of reasonable supporting documentation in respect of such expense from the applicable OP-CO staff member. Any such reimbursement shall be made by cheque or electronic funds transfer to an account designated in writing to IARU by the applicable OP-CO staff member.