



Fermanagh & Omagh
District Council
Comhairle Ceantair
Fhear Manach agus na hÓmaí

INVITATION TO TENDER

TENDER FOR CONTRACTOR GRASS CUTTING SERVICES

TENDER REFERENCE 1718 TNR EP 004

COMPANY CONTACT INFORMATION

Tender for Contractor Grass Cutting Service
--

Name: _____

Address: _____

Postcode: _____

Telephone: _____

Mobile: _____

*Email: _____

*Please note that this email address may be used for correspondence with regard to this Request for Quotation.

Contact Name (Print in Caps): _____

Position in organisation: _____

Signature: _____ Date: _____

Closing date for submission of Tender: no later than 12.00 Noon on

Friday 12 May 2017

Late Tenders will not be accepted

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SECTION 1: INTRODUCTION & BACKGROUND

INTRODUCTION

Fermanagh and Omagh District Council invite tenders for Contractor District Grass Cutting Services

Contract Duration: The contract period will be 1 year from award with the option to extend for a further 2 additional 12 month periods at the sole discretion of the Council.

SECTION 2: INSTRUCTIONS TENDER RETURNS

2.1 The tender(s) shall be made on the prescribed form. The Specification, together with these Instructions, Schedule of Works, all relevant tender documentation and completed Tender Form shall be forwarded by registered post or delivered by hand and a receipt obtained, in an envelope clearly marked as follows, to arrive **not later than 12 Noon Friday 12 May 2017**

Please mark the top left hand side of envelope as following:

**TENDER FOR: CONTRACTOR GRASS CUTTING SERVICES
1718 TNR EP 004**

All tender returns should be made to:

Mr Brendan Hegarty
Chief Executive
Fermanagh and Omagh District Council
The Townhall
Townhall Street
Enniskillen
County Fermanagh
BT74 7BD

The Council's representative for this purchase shall Be Ian Rowley; E-mail: tenders@fermanaghomagh.com

Two Hard copies of the tender submission must be submitted by the deadline along with a CD containing a full electronic copy of your submission.

Emailed or faxed tenders will not be accepted.

The Council is not bound to accept the lowest or any tender received.

The contract will be awarded on the basis of the most economically advantageous.

By issuing this tender, the Council is in no way committed to selecting any tender or to make any award of contract.

2.2 QUERIES, CLARIFICATIONS & ORAL COMMUNICATIONS

2.2.1 QUERIES

All queries should be emailed to tenders@fermanaghomagh.com no later than **12 noon 09 May 2017**. Suppliers should note that responses to all queries will be emailed to all those downloading tender documents, without identifying the source of the query. Queries should be clearly labelled – **TENDER FOR CONTRACTOR GRASS CUTTING SERVICES** in the email subject field. Suppliers are advised to clarify any points of doubt or difficulty relating to the documentation before submitting their tender.

Fax, telephone or oral enquires will **NOT** be accepted. Nor will an email to any other address than the above.

The Tenderer shall be deemed to have satisfied itself before submitting its tender as to the accuracy and sufficiency of the rates and prices stated in its tender which shall (except in so far as is otherwise provided in the Contract) cover all the Contractor's obligations under the Contract and the contractor shall be deemed to have obtained for itself all necessary information as to risks and any other circumstances which might reasonably influence or affect the Contractor's tender.

Where a tenderer believes that a clarification is confidential in nature, the request for clarification should clearly identify that the tenderer wishes the response to be kept confidential and not circulated to all tenderers. In all circumstances, Fermanagh and Omagh District Council reserves the right to issue clarification responses to all tenderers at any stage when it believes, at its sole discretions, the clarification should be issued to all tenderers.

Fermanagh and Omagh District Council will not enter into detailed discussions on the requirements of this procurement process with individual respondents. Queries may be answered in batches rather than one at a time, with updates appearing at 2 or 3 working day intervals. Responses to queries raised will be e-mailed, using the email address provided when the document is downloaded from the Council's website or email address that is provided at the time of requesting the documents, to all who have requested the documents. Tenderers shall seek to clarify any points of doubt or difficulty relating to the documentation before submitting a tender.

2.2.2 CLARIFICATION

Before submitting a tender, clarification should be sought on any points of doubt. The deadline for receipt of points for clarification is **12 noon on 09 May 2017**. During the tender period requests for clarification cannot be made by telephone or in person, requests for clarification must be made via e-mail to tenders@fermanaghomagh.com.

In all circumstances, Fermanagh and Omagh District Council reserves the right to issue clarification responses to all tenderers at any stage when it believes, at its sole discretions, the clarification should be issued to all tenderers. All clarification notices will be e-mailed, using the email address provided when the document is downloaded from the Council's website or email address that is provided at the time of requesting the documents, to all who have requested the documents.

Clarification Notices shall be come part of the tender and must be treated as such by all tenderers.

- 2.2.3 ORAL COMMUNICATION:** Oral discussions will not be considered binding. Tenderers shall not make assumptions on any matter nor shall they rely on any statements or representatives made to them by persons acting on behalf of Fermanagh and Omagh District Council unless they are confirmed in writing as an amendment to the tender

2.3 INSTRUCTIONS

- 2.3.1 Fermanagh and Omagh District Council will not enter into discussions on the requirements of this procurement process with individual respondents.
- 2.3.2 Queries may be answered in batches rather than one at a time. Queries received after the deadline may not be acknowledged or addressed.
- 2.3.3 In all circumstances, Fermanagh and Omagh District Council reserves the right to issue clarification responses to all enquirers at any stage when it believes, at its sole discretion, such clarifications are required.
- 2.3.4 The email address used in an enquiry may be used by Fermanagh and Omagh District Council as the circulation address for all clarifications/additional information. It is the supplier's responsibility to monitor such email traffic.
- 2.3.5 Clarification Notes shall become part of the tender document and must be treated as such by tenderers.
- 2.3.6 Any Supplier wishing to receive feedback on an unsuccessful tender submission should apply in writing to:
Nuala Conlan, Procurement Manager, Fermanagh and Omagh District Council,
The Grange, Mountjoy Road, Lisnamallard, Omagh, Co.Tyrone, BT79 7BL
Email: tenders@fermanaghomagh.com
- 2.3.7 Tenders received after the closing date and time cannot be considered. Fermanagh and Omagh District Councils cannot accept any responsibility for postal or delivery delays.
- 2.3.8 Tenders submitted by fax or electronic mail will not be considered.
- 2.3.9 Should any additions to the Specification as issued to Tenderers be deemed necessary prior to the date for submission of Tenders, these will be issued to Tenderers in the form of Supplementary Schedules and will form part of the contract document.
- 2.3.10 Fermanagh and Omagh District Councils do not bind themselves to accept the lowest or any tender.
- 2.3.11 The attached Form of Tender must be completed and signed: failure to do this will render the tender invalid.
- 2.3.12 The Council reserves the right to undertake company checks on any proposed supplier.

2.3.13 Except insofar as may be directed in writing by the Council, neither the Council nor any agent or servant in its employ has any authority to make any representation or explanation to persons or corporations tendering or desirous of tendering, as to the meaning of the Instructions for Tendering, Specification, or other documents, or as to anything to be done or not to be done by the accepted Tenderer, or as to these Instructions, or as to any other matter or thing, so as to bind the Council or bind or fetter the judgment or discretion of the Project Manager under the contract in the exercise by him of his powers and duties under the Contract.

2.3.14 TENDER CHECKLIST

Please ensure you have completed and returned the tender checklist (Appendix I) and enclosed all requested information. Omission of any required information may render the tender invalid

2.3.15 **NON AWARDS:** Initiation of a tendering procedure imposes no obligation on Fermanagh and Omagh District Council to award a Contract. The Council is not liable for any compensation with respect to Quoting parties whose tenders have not been accepted. Nor shall it be so liable if it decides not to award the Contract.

2.3.16 The Council reserves the right to value engineer or omit work items contained in these tender documents, prior to contract award, if the project budget has been exceeded

2.3.17 TENDER FORM

No unauthorised alteration or addition should be made to the Tender Form(s), or to any other of the contract documents. If any such alteration is made, or if these instructions are not fully complied with, the tender(s) may be rejected. The Tender Form must be completed and signed; failure to do this will render the tender invalid.

All prices entered on the tender documentation should be exclusive of VAT and in pounds sterling.

2.3.18 ARITHMETICAL ERRORS

Where examination of tenders reveals errors or discrepancies which would affect the tender figure(s) in an otherwise successful tender, the tenderer will be given details of such errors and discrepancies and afforded an opportunity of confirming or withdrawing his/her offer. There will be no opportunity for any tenderer to change their tendered rates. If the tenderer withdraws, the next tenderer in competitive order is to be examined and dealt with in the same way.

2.3.18 PERIOD TENDERS ARE TO REMAIN OPEN

Tenders must remain valid for acceptance for a period of 90 days from the closing date for submission of tenders.

2.2.19 EXPENSES AND LOSS

The Council will not be liable for any bids, expenses, work or effort incurred by any tenderer in proceeding or participating in this procurement, including the procurement process being terminated.

2.3.20 FALSE INFORMATION

Tenderers must ensure that all information provided within their tender submission is accurate. The inclusion of information which is found to be false or misleading will result in the tender being rejected. Furthermore, in the event that false or misleading information comes to light after the award of the contract, this may result in termination of the contract.

2.3.21 CANVASSING

The tenderer who directly or indirectly canvasses any official of the contracting authority concerning any award in respect of this competition, or who directly or indirectly obtains or attempts to obtain information from such officials concerning the proposed or any other competition will be disqualified.

2.3.22 CLARIFICATIONS PRIOR TO AWARD

Clarification may be sought during assessment. The Council may require the Tenderer to provide further written clarification of any constituent elements of their Tender submission or any other information which the Council considers relevant, or the Tenderer may be required to attend a clarification meeting. Any failure to provide such information when requested, may exclude the tender from further consideration.

2.3.23 SUFFICIENCY OF INFORMATION

The Successful Tenderer shall be deemed to have satisfied itself before submitting its tender as to the accuracy and sufficiency of the prices stated by the Contractor in its tender which shall (except in so far as is otherwise provided in the Contract) cover all the Contractor's obligations under the Contract and shall be deemed to have obtained for itself all necessary information as to risks, contingencies and any other circumstances which might reasonably influence or affect the Contractor's tender.

2.3.24 PRICING

The Contract Price shall remain fixed during contract period.

Pricing provided must include all associated costs including travel, no additional charges to those listed on the Form of Quotation will be considered All prices entered on the tender documentation should be exclusive of VAT and in pounds sterling.

SECTION 3: TENDER SCOPE OF REQUIREMENT

This contract will be for the provision of grass cutting services for Fermanagh and Omagh District Council in the Fermanagh and Omagh Council area. Rates shall include for all costs associated with undertaking grass cutting and shall include travel, equipment, consumables and arrangements for safe systems of working eg carriageway and Chapter 8 compliance.

The Tenderer shall note that the areas and frequency of cuts shall be determined from the available budget and the season.

Please note that carriage way working is indicated with a 'road speed limit' otherwise 'N/A' indicates that the area does not require roadside signage and working.

Areas are indicative only and will be accurately re-measured for the purposes of payment. Payment due will be the product of the accurate area re-measured by the rate submitted.

The contract will run for 1 year from award with the option to extend for a further 2 additional 12 month periods at the sole discretion of the Council.

MAP ITEM NO.	GROUP	SITE NAME	APPROX. AREAS M2	ROAD SPEED	ESTIMATED NO. OF CUTS
ENNISKILLEN AREA					
1	BOA ISLAND	Drumgrenaghan	625	60	8
2	BOA ISLAND	Stonefort	50	60	8
3	BOA ISLAND	Rossharbour	620	60	8
4	BELLEEK	Tawnynoran	1082	60	8
5	BELLEEK	Slawin (1)	184	60	8
6	BELLEEK	Slawin (2)	159	60	8
7	BELLEEK	Toura	136	60	8
10	GARRISON	Belleek Road	1237	30	16
12	GARRISON	Slipway Road	320	30	16
14	BELCOO	Coasan	166	60	8
65	BELLANALECK	Village - 2 maps	2374	30	16
17	FLORENCECOURT	Florencecourt	1300	30	16
18	FLORENCECOURT	Letterbreen X	1323	60	16
145-146	NEWTOWNBUTLER	Clones Road, Lurganboy	100	30	16
32	DONAGH	Killyfole	1207	60	8
33	DONAGH	River Amenity + Skip Area	2675	30	16
35	DONAGH	Moorlough	90	60	8
36	LISNASKEA	Cushwash	4342	30	16
36(a)	LISNASKEA	Newtownbutler Rd	420	30	16
38	LISNASKEA	Castlealfour	3288	30	16
40	LISNASKEA	Roundabout + Verges + Carrybridge Jn	4913	30	16
40(b)	LISNASKEA	Mountview	180	30	16
40(c)	LISNASKEA	Chair Area	340	30	16
58	LISNASKEA	Maguiresbridge Rd Verge	660	30	16

61	LISNASKEA	Kilmacrannell	160	30	16
62	LISNASKEA	Highgrove	120	30	16
43	BROOKEBOROUGH	Cornamucklagh	979	60	8
44	BROOKEBOROUGH	Tattenahenglish	1102	60	8
45	FIVEMILETOWN	Corralongford	1582	60	8
46	FIVEMILETOWN	Cavanaleck (1)	376	60	8
47	FIVEMILETOWN	Cavanaleck (2)	1608	60	8
48	CLABBY	Verges	1297	30	8
49	CLABBY	Ramelly Road	64	30	8
50	TEMPO	Fintona Junction	1588	30	8
52	TEMPO	Maguiresbridge Jn	2253	60	8
53	TEMPO	Pubble	816	60	8
71	ENNISKILLEN	Corngrade Road	1850	30	16
84	ENNISKILLEN	Crannog Way - 3 maps	15348	40	16
85	ENNISKILLEN	Dublin Road - 4 maps	14500	60	16
86	ENNISKILLEN	Irvinestown Road - 9 maps	18645	60	16
87	ENNISKILLEN	Loughshore Road - 3 maps	6000	60	16
88	ENNISKILLEN	Sligo Road - 3 maps	4600	60	16
89	ENNISKILLEN	Tempo Road - 3 maps	8000	60	16
153	ENNISKILLEN	BT Car Park	425	n/a	16
		Total Area	109104		
PLAY AREAS AND OPEN SPACES					
56	LACK	Play Area	70	n/a	16
8	BELLEEK	Community Centre	839	30	16
8a	BELLEEK	Blackrock Park	320	30	8
9	BELLEEK	Marina	4479	15	16
13	GARRISON	Gillaroo Court	960	30	16
69	FLORENCECOURT	Glencunny	3600	60	8
20	KINAWLEY	Derryallen	150	60	8
63	KINAWLEY	Town Areas	5100	30	16
21	DERRYLIN	Knockninney	6478	30	8
22	DERRYLIN	Tirraroe	500	n/a	4
23	DERRYLIN	Fortlea	600	30	4
24	UPPER LOUGH	Corradillar (2)	1198	n/a	8
25	UPPER LOUGH	Corradillar (1)	1096	n/a	8
26	UPPER LOUGH	Smith's Strand	7,516	n/a	8
27	UPPER LOUGH	Derryadd	50	n/a	8
28	NEWTOWNBUTLER	Lurganboy Park	2,940	30	16
29	MAGHERAVEELY	Pitch	7,340	n/a	16
34	DONAGH	Play Area	5,175	n/a	16
151	ROSSLEA	Picnic Area	750	n/a	16
37	LISNASKEA	Workhouse	1,569	30	16
40(a)	LISNASKEA	Sylvan Hill P/A	1,490	n/a	16
59	LISNASKEA	Bank Old Play Area (Sylvan Hill)	200	n/a	16
60	LISNASKEA	Drumhaw Play Area	1,950	n/a	16
41	MAGUIRESBRIDGE	Commons	14,949	30	16
42	BROOKEBOROUGH	Park	17,317	n/a	16
51	TEMPO	Play Area	2250	n/a	16
54	LISBELLAW	Play Area	1,419	n/a	16

54(a)	LISBELLAW	Rathview	728	n/a	16
57	CLONEE	Picnic	90	n/a	16
64	PETTIGOE	Riverside Park	125	n/a	8
81	ENNISKILLEN	Paupers Field	2,800	n/a	16
82	ENNISKILLEN	Hillview	3,340	30	16
124	ENNISKILLEN	Mill Lough Path	400	n/a	4
125	ENNISKILLEN	Corngrade Path	672	n/a	4
		Total Area	98460		
GRAVEYARDS					
108	NEWTOWNBUTLER	Drumcrin	6,313	n/a	5
109	NEWTOWNBUTLER	Drumully	2,469		5
111	MAGHERAVEELY	Magheraveely	2,307		5
112	DONAGH	Donagh	1,619		5
118	FIVEMILETOWN	Tullynageeran	3,452		5
122	TEMPO	Pubble	1,255		5
126	LISBELLAW	Fyagh	850		5
127	LISBELLAW	Derryvullen	2,428		5
128	ENNISKILLEN	Old Rossorry	2,104		5
130	LISNARICK	Lisnarick	930		5
131	KILLADEAS	Killadeas	931		5
132	BALLINAMALLARD	Magheracross	2,943		5
137	KESH	Caldragh	2,590		5
139	DERRYGONNELLY	Derrygonnelly	1,451		5
140	BELLEEK	Carrick	1,012		5
141	BELLEEK	Slawin	1,093		5
142	BELANALECK	Cleenish	1,042		5
143	DERRYLIN	Callowhill	1,611		5
144	BELLEEK	Keenaghan	1,578		5
150	NEWTOWNBUTLER	Galloon	1,400		5
		Total Area	39,378		
PITCHES(Including surrounding area)					
	ENNISKILLEN	Derrychara (4 No.)	25,000	n/a	26
	KESH	Community Centre	11,500		26
	LISNASKEA	Castle Park Centre	6,000		26
	IRVINESTOWN	Bawnacre	8,000		26
	ENNISKILLEN	Celtic Park	10,000		26
	ENNISKILLEN	Lakeland Forum	8,000		26
		Total Area	68,500		
Removal of grass cuttings			68,500		
MAP ITEM NO.	GROUP	SITE NAME	APPROX. AREAS M2	ROAD SPEED	ESTIMATED NO. OF CUTS
OMAGH AREA					
1a	DRUMQUIN	Village	1610.5	30	8
3b	KILSKEERY	Village	2415	30	8

10a	DROMORE	Village	14576.4	30	16
4a	OMAGH TOWN	Gortmore Drive, Edenvale Park, Gortrush Ind Estate	4223.16	30	4
5a	OMAGH TOWN	Watson Park	185.5	30	4
6a-b	OMAGH TOWN	Dublin Road Area	3683.8	30	8
7a	OMAGH TOWN	Irishtown Road Area	1295.2	30	4
8a + 8b	OMAGH TOWN	Hospital Road Area	5117.2	30	8
9a	OMAGH TOWN	Glendore Park/Wood and Knockmoe Heights	368.5	30	4
11a	OMAGH TOWN	Tamlaght/Brookmount	2605.7	30	4
12a	OMAGH TOWN	Coolnagard	4149.46	30	4
13a	OMAGH TOWN	Dromore Road Area	6270.96	30 & 40	16
14a	OMAGH TOWN	Ashbourne	918.9	30	4
15a	OMAGH TOWN	Foundry Lane, Church Hill, Kevlin Avenue	589.8	30	4
16a	OMAGH TOWN	Kevlin Glen and Cannon Hill	1114	30	4
17 a + 18a	OMAGH TOWN	Great Northern Road By-Pass	13730.1	40 & 50	16
19a	OMAGH TOWN	Cookstown Road	11571	40 & 50	16
		Total Area	74425.18		
PLAY AREAS AND OPEN SPACES					
	To be confirmed		30,000	n/a	16
		Total Area	30,000		
GRAVEYARDS					
73	DRUMQUIN	Langfield	2750	n/a	5
74	KILSKERRY	Kilskerry	1750		5
76	OMAGH	Drumragh	3875		5
77	CAPPAGH	Dunmullan	1625		5
78	BERAGH	Donaghanie	1500		5
79	FINTONA	Donacavey	1750		5
82	FINTONA	Castletown	3750		5
81	DROMORE	Church Brae	3750		5
		Total Area	20,750		
PITCHES(Including surrounding area)					
	FINTONA	Ecclesville Centre	5,000	n/a	26
	DRUMQUIN	Drunquin	5,000		26
	STRATHROY	Strathroy	15,000		26
	OMAGH	Cranny Bridge,off Riverview Rd	10,000		26
	OMAGH	Donnelly Holms, Retreat Close	10,000		26
		Total Area	45,000		
		Removal of Grass Cuttings	45,000		

Essential Elements

The successful Tenderer is to provide grass cutting at various locations throughout the District and will be effective for 1 year from award with the option to extend for a further 2 additional 12 month periods at the sole discretion of the Council.

Only those submissions that meet all of the essential elements below will pass the essential elements criteria in stage 1 of the assessment process.

****No Changes are permitted to the Specification column**

1. Essential Elements – detail each individually	Confirmation that the proposed Service meets the essential elements of the specification answer yes or no	Description of how the proposed Service meets the Essential requirement
The areas to cut may include Road Verges, Public grass areas, roundabouts, grass embankments, sports pitches etc. At the nominated agreed locations grass is to be cut to 25mm and should not exceed 50mm in height. Grass will not need to be collected, but roads and paths must be left tidy, and free from grass cuttings.		
The contractor must allow for cutting around all obstacles, including but not limited to, street bins, poles, bus shelters, flowerbeds, benches, path edges etc. This may involve trimmer or smaller mowing equipment to enable cutting. Trees and shrubs will require protecting.		
It is anticipated that there will be approximately 48 hectares in total to cut in small and large areas in various locations. (The Council may reduce or increase this figure in line with contractor rates provided to the budget available.) Maps will be provided at contractors request.		
All grass cutting MUST		

comply with Chapter 8 Safe Working and all other applicable Health & Safety legislation as required, any breach of Health and Safety will not be tolerated and may result in immediate termination of contract.		
The Contractor must ensure that they do not cut or give rise to the spread of invasive species, such as Japanese Knotweed for example, and will be required to notify the Council of the presence of invasive species in any areas being cut.		

Specification

3.1 The frequency of all grass cutting operations for the whole district will be varied to suit the season and the available budget.

3.2 No growth regulators or herbicides of any form shall be applied to any area unless instructed by the Grounds and Horticulture Manager/Supervisor.

3.3 Should the Contractor cause damage to the surface or levels of the ground or surrounding structures, trees or shrubbery during grass cutting operations, the Contractor shall reinstate such damage to the satisfaction of the Authorised Officer.

3.4 Before every cut the Contractor shall inspect all areas to be mowed, and shall remove all litter debris and items and obstructions, e.g. stones, which might cause damage or injury, all such items being collected and removed to the Contractor's tip. This work to be co-ordinated with any grass cutting activity to ensure that not more than one hour elapses between the litter collection and the commencement of mowing. Under no circumstances will heights of cut be varied from the Specification to compensate for failure to undertake this task.

3.5 Mowing around obstructions and in the proximity of margins shall be undertaken at the same standard and frequency as that applied to the main area, using methods, tools and machines as appropriate.

3.6 Care shall be taken to avoid damage to trees and shrubs, monuments and headstones. Any damage caused shall be made good as directed by the Grounds and Horticulture Manager/Supervisor to his entire satisfaction at the expense of the contractor. Where trimmers are used, they shall be fitted with a guard to ensure that no damage is caused to the bark of trees.

3.7 Mowing shall be carried out as close as possible to fixed obstructions, moveable obstructions shall be removed to facilitate cutting, and replaced before the Contractor leaves the site.

3.8 The Contractor shall always during the period of the Contract, ensure that all machines engaged in grass cutting operations are sharp and properly set, to produce a true and even cut. At no time, shall mowers be adjusted so that 'scalping' takes place.

3.9 All mowing machines gang units etc. are to have grass cuttings removed before proceeding onto roads or paths, any grass spillage on to paths/roads must be cleaned.

3.10 The Contractor shall always ensure that machines are properly guarded in accordance with the manufacturer's stipulations and maintained to present no danger to the operator or any person near operations. The Contractor is reminded that the grass cutting will be undertaken in public areas and that the responsibility for safety to the public shall be a priority at all times.

3.11 It is essential that machinery of all kinds is used in such a manner as not to cause apprehension, damage to person's belongings or injury to persons. The Contractor is reminded that the public have the right of way.

3.12 In certain areas flowering bulbs have been planted or have become naturalised. In such areas mowing, shall cease prior to the emergence of bulbs and the Contractor shall not cut the grass until a minimum period of 8 weeks has elapsed after completion of flowering, this being agreed prior to cutting, with the Grounds and Horticulture Manager/Supervisor.

3.13 Where in the view of the Grounds and Horticulture Manager/Supervisor work has been carried out to an insufficient standard, the work shall be carried out again by the Contractor without creating a backlog to other maintenance schedules.

3.14 In normal weather conditions the Contractor will be required to keep to the programme. Variations to the grass cutting schedules etc. may arise in the following circumstances: Weather conditions or Road works being such as to create additional growth to the extent that additional cuts are required. In this case the Grounds and Horticulture Manager/Supervisor will issue instructions for extra work and the Contractor will need to vary his programme.

3.15 If inclement weather or road works prevents work being carried out the Contractor will be required to notify the Grounds and Horticulture Manager/Supervisor. The Contractor will be required to resume work as soon as possible in accordance with the programme. Replacement work will need to be found and agreed with the Authorised Officer.

3.16 Parks and Open Spaces operate a 'Standard Reporting Form' which must be completed in accordance with the instruction detailed after each maintenance cut for approval by the Grounds and Horticulture Manager/Supervisor, which will be issued at commencement of contact. Failure to complete will result in non-payment. The booklet will be issued by the Council .

3.17 On commencement of contract all staff training records (T1,T2 certification), method statements, risk assessment and traffic management plans must be submitted to the Grounds and Horticulture Manager/Supervisor for approval.

3.18 All vehicles, plant and equipment must comply with all relevant legislation and Health and safety requirements. Ad Hoc Health and Safety inspections may be carried out by Fermanagh and Omagh District Council.

3.19 From time to time there may be a requirement for the lifting and disposal of cut grass. This will be directed by the Grounds/Horticulture Manager or Supervisor and shall be paid at the rate submitted in the tender document.

SECTION 4: TENDER EVALUATION CRITERIA

Evaluation of the Tender submissions will follow a three stage process.

Stage 1: COMPLIANCE CRITERIA

This stage will consider compliance with the following:

- a. Mandatory Exclusion(s). **Pass / Fail** This will be assessed based on responses to Appendix A.
- b. Fair Employment & Treatment. **Pass / Fail** This will be assessed based on responses to Appendix B.
- c. Bone Fide Tendering. **Pass / Fail** This will be assessed based on responses to Appendix C.
- d. Equality Declaration. **Pass / Fail** This will be assessed based on responses to Appendix D.
- e. Freedom of Information. **Pass / Fail** This will be assessed based on responses to Appendix E.
- f. Safeguarding Declaration. **Pass / Fail** This will be assessed based on responses to Appendix F.
- g. Insurance **Pass / Fail** This will be assessed based on responses to Appendix G.

The successful Tenderer will be required to hold the following levels of insurance throughout the duration of the contract: Employer's (£10 million), Public (£5 million) Insurance, Motor Fleet Insurance

In the event that your organisation does not have adequate insurance cover at the time of application, please confirm in writing that you are willing to put in place the required cover if your submission is successful.

Stage 2: SELECTION CRITERIA

This stage will be assessed on a **Pass/ Fail** basis only those submissions that achieve a pass against each element of Stage 2 will progress to stage 3 Assessment.

Experience

Pass/Fail

Please provide evidence of relevant experience of three similar projects undertaken within the past five years. At least one of the examples must include evidence of working on carriageways and public areas with details of the safe systems of work in place e.g Staff training and Chapter 8 signage.

Please include:-

- i) Name and address of client organisation
- ii) Contract award date and duration
- iii) A brief description of the project (one A4 page per project)
- iv) Contact name and telephone number

Please complete **(Appendix K)**

Please note that contacts provided may be contacted during the assessment process.

Assessment will be based on the first 3 project examples listed only.

Health & Safety

Pass/ Fail

Please complete **Appendix J** and enclose a copy of your signed Health & Safety Policy statement and Index.

Stage 3: AWARD CRITERIA

Submissions will be assessed in line with the following criteria

Cost / Price 100%

The maximum mark will be awarded to the bidder submitting the lowest acceptable price. Other suppliers will then be awarded a pro rata percentage using the following formula:

$$\frac{\text{Available marks [100\%]} \times \text{Lowest acceptable price}}{\text{Bidder's price}}$$

Assessment will be based on the Grand Total Figure quoted on your Form of Tender, please ensure that your Grand Total includes the cost per cut x estimated number of cuts for all Locations listed on the Form of Tender along with the cost for Grass collection.

FORM OF TENDER

1718 TNR EP004 -Tender for Contract Grass Cutting Services.

For the purposes of Tender assessment the rates entered multiplied by the number of cuts will be used to identify the most economically advantageous tender.

TO BE RETURNED NOT LATER THAN 12 NOON FRIDAY 12 MAY 2017

TO: FERMANAGH & OMAGH DISTRICT COUNCIL

Mr Chairman and Members,

I/We are prepared to carry out the work as described in the Specification for the following price

MAP ITEM NO.	GROUP	SITE NAME	APPROX. AREAS M2	ROAD SPEED	RATE PER M2	COST PER CUT	ESTIMA TED NO. OF CUTS	TOTAL COST
ENNISKILLEN AREA								
1	BOA ISLAND	Drumgrenagha n	625	60			8	
2	BOA ISLAND	Stonefort	50	60			8	
3	BOA ISLAND	Rossharbour	620	60			8	
4	BELLEEK	Tawnynoran	1082	60			8	
5	BELLEEK	Slawin (1)	184	60			8	
6	BELLEEK	Slawin (2)	159	60			8	
7	BELLEEK	Toura	136	60			8	
10	GARRISON	Belleek Road	1237	30			16	
12	GARRISON	Slipway Road	320	30			16	
14	BELCOO	Coasan	166	60			8	
65	BELLANALECK	Village - 2 maps	2374	30			16	
17	FLORENCECOU	Florencecourt	1300	30			16	

	RT							
18	FLORENCECOU RT	Letterbreen X	1323	60			16	
145- 146	NEWTOWNBUT LER	Clones Road, Lurganboy	100	30			16	
32	DONAGH	Killyfole	1207	60			8	
33	DONAGH	River Amenity + Skip Area	2675	30			16	
35	DONAGH	Moorlough	90	60			8	
36	LISNASKEA	Cushwash	4342	30			16	
36(a)	LISNASKEA	Newtownbutler Rd	420	30			16	
38	LISNASKEA	Castlebalfour	3288	30			16	
40	LISNASKEA	Roundabout + Verges + Carrybridge Jn	4913	30			16	
40(b)	LISNASKEA	Mountview	180	30			16	
40(c)	LISNASKEA	Chair Area	340	30			16	
58	LISNASKEA	Maguiresbridge Rd Verge	660	30			16	
61	LISNASKEA	Kilmacrannell	160	30			16	
62	LISNASKEA	Highgrove	120	30			16	
43	BROOKEBOROU GH	Cornamucklagh	979	60			8	
44	BROOKEBOROU GH	Tattenahelish	1102	60			8	
45	FIVEMILETOWN	Corralongford	1582	60			8	
46	FIVEMILETOWN	Cavanaleck (1)	376	60			8	
47	FIVEMILETOWN	Cavanaleck (2)	1608	60			8	
48	CLABBY	Verges	1297	30			8	
49	CLABBY	Ramelly Road	64	30			8	
50	TEMPO	Fintona Junction	1588	30			8	
52	TEMPO	Maguiresbridge Jn	2253	60			8	
53	TEMPO	Pubble	816	60			8	
71	ENNISKILLEN	Corngrade Road	1850	30			16	
84	ENNISKILLEN	Crannog Way - 3 maps	15348	40			16	
85	ENNISKILLEN	Dublin Road - 4 maps	14500	60			16	
86	ENNISKILLEN	Irvinestown Road - 9 maps	18645	60			16	
87	ENNISKILLEN	Loughshore Road - 3 maps	6000	60			16	
88	ENNISKILLEN	Sligo Road - 3 maps	4600	60			16	
89	ENNISKILLEN	Tempo Road - 3 maps	8000	60			16	
153	ENNISKILLEN	BT Car Park	425	n/a			16	
		Total Area	109104				Total Cost	
	PLAY AREAS AND OPEN SPACES							
56	LACK	Play Area	70	n/a			16	
8	BELLEEK	Community Centre	839	30			16	

8a	BELLEEK	Blackrock Park	320	30			8	
9	BELLEEK	Marina	4479	15			16	
13	GARRISON	Gillaroo Court	960	30			16	
69	FLORENCECOURT	Glencunney	3600	60			8	
20	KINAWLEY	Derryallen	150	60			8	
63	KINAWLEY	Town Areas	5100	30			16	
21	DERRYLIN	Knockninney	6478	30			8	
22	DERRYLIN	Tirraroe	500	n/a			4	
23	DERRYLIN	Fortlea	600	30			4	
24	UPPER LOUGH	Corradillar (2)	1198	n/a			8	
25	UPPER LOUGH	Corradillar (1)	1096	n/a			8	
26	UPPER LOUGH	Smith's Strand	7,516	n/a			8	
27	UPPER LOUGH	Derryadd	50	n/a			8	
28	NEWTOWNBUTLER	Lurganboy Park	2,940	30			16	
29	MAGHERAVEELLY	Pitch	7,340	n/a			16	
34	DONAGH	Play Area	5,175	n/a			16	
151	ROSSLEA	Picnic Area	750	n/a			16	
37	LISNASKEA	Workhouse	1,569	30			16	
40(a)	LISNASKEA	Sylvan Hill P/A	1,490	n/a			16	
59	LISNASKEA	Bank Old Play Area (Sylvan Hill)	200	n/a			16	
60	LISNASKEA	Drumhaw Play Area	1,950	n/a			16	
41	MAGUIRESBRIDGE	Commons	14,949	30			16	
42	BROOKEBORUGH	Park	17,317	n/a			16	
51	TEMPO	Play Area	2250	n/a			16	
54	LISBELLAW	Play Area	1,419	n/a			16	
54(a)	LISBELLAW	Rathview	728	n/a			16	
57	CLONEE	Picnic	90	n/a			16	
64	PETTIGOE	Riverside Park	125	n/a			8	
81	ENNISKILLEN	Paupers Field	2,800	n/a			16	
82	ENNISKILLEN	Hillview	3,340	30			16	
124	ENNISKILLEN	Mill Lough Path	400	n/a			4	
125	ENNISKILLEN	Corngrade Path	672	n/a			4	
		Total Area	98460				Total Cost	
	GRAVEYARDS							
108	NEWTOWNBUTLER	Drumcrin	6,313	n/a			5	
109	NEWTOWNBUTLER	Drumully	2,469				5	
111	MAGHERAVEELLY	Magheraveely	2,307				5	
112	DONAGH	Donagh	1,619				5	
118	FIVEMILETOWN	Tullynageeran	3,452				5	
122	TEMPO	Pubble	1,255				5	
126	LISBELLAW	Fyagh	850				5	

127	LISBELLAW	Derryvullen	2,428				5	
128	ENNISKILLEN	Old Rossorry	2,104				5	
130	LISNARICK	Lisnarick	930				5	
131	KILLADEAS	Killadeas	931				5	
132	BALLINAMALLA RD	Magheracross	2,943				5	
137	KESH	Caldragh	2,590				5	
139	DERRYGONNELL Y	Derrygonnelly	1,451				5	
140	BELLEEK	Carrick	1,012				5	
141	BELLEEK	Slawin	1,093				5	
142	BELANALECK	Cleenish	1,042				5	
143	DERRYLIN	Callowhill	1,611				5	
144	BELLEEK	Keenaghan	1,578				5	
150	NEWTOWNBUTLER	Galloon	1,400				5	
		Total Area	39,378				Total Cost	
	PITCHES(Including surrounding area)							
	ENNISKILLEN	Derrychara (4 No.)	25,000	n/a			26	
	KESH	Community Centre	11,500				26	
	LISNASKEA	Castle Park Centre	6,000				26	
	IRVINESTOWN	Bawnacre	8,000				26	
	ENNISKILLEN	Celtic Park	10,000				26	
	ENNISKILLEN	Lakeland Forum	8,000				26	
		Total Area	68,500				Total Cost	
Cost of Removal of Grass Cuttings approx. 68,500m2								
MAP ITEM NO.	GROUP	SITE NAME	APPROX. AREAS M2	ROAD SPEED	ESTIMATED NO. OF CUTS		COST PER CUT	TOTAL COST
	OMAGH AREA							
1a	DRUMQUIN	Village	1610.5	30			8	
3b	KILSKEERY	Village	2415	30			8	
10a	DROMORE	Village	14576.4	30			16	
4a	OMAGH TOWN	Gortmore Drive, Edenvale Park, Gortrush Ind Estate	4223.16	30			4	
5a	OMAGH TOWN	Watson Park	185.5	30			4	
6a-b	OMAGH TOWN	Dublin Road Area	3683.8	30			8	
7a	OMAGH TOWN	Irishtown Road Area	1295.2	30			4	
8a + 8b	OMAGH TOWN	Hospital Road Area	5117.2	30			8	

9a	OMAGH TOWN	Glendore Park/Wood and Knockmoe Heights	368.5	30			4	
11a	OMAGH TOWN	Tamlaght/Brookmount	2605.7	30			4	
12a	OMAGH TOWN	Coolnagard	4149.46	30			4	
13a	OMAGH TOWN	Dromore Road Area	6270.96	30 & 40			16	
14a	OMAGH TOWN	Ashbourne	918.9	30			4	
15a	OMAGH TOWN	Foundry Lane, Church Hill, Kevlin Avenue	589.8	30			4	
16a	OMAGH TOWN	Kevlin Glen and Cannon Hill	1114	30			4	
17 a + 18a	OMAGH TOWN	Great Northern Road By-Pass	13730.1	40 & 50			16	
19a	OMAGH TOWN	Cookstown Road	11571	40 & 50			16	
		Total Area	74425.18				Total Cost	

PLAY AREAS AND OPEN SPACES

		To be confirmed	30,000	n/a			16	
		Total Area	30,000				Total Cost	

GRAVEYARDS

73	DRUMQUIN	Langfield	2750	n/a			5	
74	KILSKERRY	Kilskerry	1750				5	
76	OMAGH	Drumragh	3875				5	
77	CAPPAGH	Dunmullan	1625				5	
78	BERAGH	Donaghanie	1500				5	
79	FINTONA	Donacavey	1750				5	
82	FINTONA	Castletown	3750				5	
81	DROMORE	Church Brae	3750				5	
		Total Area	20,750				Total Cost	

PITCHES(Including surrounding area)

	FINTONA	Ecclesville Centre	5,000	n/a			26	
	DRUMQUIN	Drunquin	5,000				26	
	STRATHROY	Strathroy	15,000				26	
	OMAGH	Cranny Bridge, off Riverview Rd	10,000				26	
	OMAGH	Donnelly Holms, Retreat Close	10,000				26	
		Total Area	45,000				Total Cost	

Cost of Removal of Grass Cuttings approx. 45,000m2			
		Grand Total	

(Exclusive of VAT)

I/We understand that the Council is not bound to accept the lowest or any tender.

I/We agree that this is a FIXED PRICE ADMEASUREMENT CONTRACT.

Company Name			
Contact Name		Mobile No.	
Email Address			
Any Other Information			
Signed		Date	

NOTES

All prices quoted shall be in pounds Sterling (GBP) and be exclusive of VAT
Please outline your Price (to include all expenses). Please note that this is a fixed rate contract and no price increases will be accepted

Fermanagh and Omagh District Council Mandatory Exclusions

Regulation 23 of the Public Contracts Regulations 2006

The public sector and procurement Directives, as implemented by the Public Contracts Regulation 2006, include a mandatory requirement for contracting authorities to exclude economic operators (Suppliers, Contractors, Consultants and Service providers) from public contracts where they have been convicted of certain offences.

A contracting authority may apply to the relevant competent authority to obtain further information regarding the economic operator and in particular details of convictions of the offences listed if it considers it needs such information to decide on any exclusion referred to.

Please indicate below whether your firm or any of its directors, partners or any other person who has powers of representation, decision or control, have been convicted of any of the following offences (including those which are spent within the meaning of the Rehabilitation of Offenders Act 1974):

1. Conspiracy within the meaning of section 1 or 1a of the Criminal Law Act 1977 or article 9 or 9a of the Criminal Attempts and Conspiracy (Northern Ireland) order 1983 where that conspiracy relates to participation in a criminal organisation as defined in Article 2(1) of Council Framework Decision 2008/841/JHA
2. Corruption within the meaning of section 1 of the Public Bodies Corrupt Practices Act 1889 or section 1 of the Prevention of Corruption Act 1906
- 3a. The offence of bribery, where the offence relates to active corruption;
- 3b. Bribery within the meaning of section 1 or 6 of the Bribery Act 2010
4. Fraud, where the offence relates to fraud affecting the financial interests of the European Communities as defined by Article 1 of the Convention relating to the protection of the financial interests of the European Union, within the meaning of:-
 - the offence of cheating the Revenue;
 - the offence of conspiracy to defraud;
 - fraud or theft within the meaning of the Theft Act 1968 and the Theft Act 1978 or the Theft (Northern Ireland) order 1978
 - fraudulent trading within the meaning of section 458 of the Companies Act 1985, article 451 of the Companies (Northern Ireland) Order 1986 or section 993 of the Companies Act 2006
 - defrauding the Customs within the meaning of the Customs and Excise Management Act 1979 and the Value Added Tax Act 1994;
 - an offence in connection with taxation in the European Community within the meaning of section 71 of the Criminal Justice Act 1993; or

- destroying, defacing or concealing of documents or procuring the extension of a valuable security within the meaning of section 20 of the Theft Act 1968, or Section 19 of the Theft Act (Northern Ireland) 1969
- Fraud within the meaning of Section 2, or 3 or 4 of the Fraud Act 2006
- Making, adapting, supplying or offering to supply articles for use in frauds within the meaning of section 7 of Fraud Act 2006

5. Money laundering within the meaning of Money Laundering Regulations 2003

- 6a. Any other offence within the meaning of Article 45(1) of the Public Sector Directive as defined by the national law of any relevant State
- 6b. an offence in connection with the proceeds of criminal conduct within the meaning of section 93A, 93B or 93C of the Criminal Justice Act 1988 or article 45, 46 or 47 of the Proceeds of Crime (Northern Ireland) Order 1996
- 6c. An offence in connection with the proceeds of drug trafficking within the meaning of section 49, 50 or 51 of the Drug Trafficking Act 1994; or
- 6d. any other offence within the meaning of Article 45(1) of the Public Sector Directive as defined by the national law of any relevant State.

Any convictions to be declared: *(Please circle as appropriate)*

YES

NO

Signed: _____

Dated: _____

**Fermanagh and Omagh District Council
Fair Employment and Treatment (Northern Ireland)
Act 1998**

Article 64 of the Fair Employment and Treatment (NI) Order 1998 ("The Order") provides inter alia that a public authority shall not accept an offer to execute any work or supply any goods or services where the offer is made by an unqualified person in response to an invitation by the public authority to submit offers. Article 64 also provides that the public authority shall take all such steps as are reasonable to secure that no work is executed or goods or services supplied for the purposes of such contracts as are mentioned above by an unqualified person.

2. An unqualified person is either an employer who, having been in default in the circumstances specified in Article 62 (1) of the Order, has been served with a notice by the Equality Commission stating that he is not qualified for the purposes of Articles 64 to 66 of the Order, or an employer who, by reasons of connection with an employer on whom has been served a notice to that effect, has also been served with such a notice.
3. Mindful of its obligations under the Order, Fermanagh and Omagh District Council has decided that it shall be a condition of inclusion or retention on its Approved List that a Contractor shall not be an unqualified person for the purposes of Articles 64 to 66 of the Order.
4. Contractors are therefore asked to complete and return this Declaration and Undertaking, to confirm that they are not unqualified persons and to undertake that no work shall be executed or goods or services supplied by an unqualified person for the purposes of any contract with Fermanagh and Omagh District Council to which Article 64 of the Order applies.

I/wehereby declare that I am/we are not unqualified for the purposes of Article 64 to 66 of the Fair Employment and Treatment (Northern Ireland) Act 1998. I/we undertake forthwith to inform Fermanagh and Omagh District Council should any notice stating that I am/we are unqualified be served upon me/us by the Equality Commission.

Signed: Dated:
For and on behalf of

.....



**Fermanagh and Omagh District Council
Certificate relating to Bona Fide Tender**

1. The essence of submitting tenders is that the client shall receive bona fide competitive tender from all firms bidding. In recognition of this principle, we certify that this is a bona fide tender intended to be competitive, and that we have not fixed or adjusted the amount of the tender by or under or in accordance with any agreement or arrangement with any other person.
2. We also certify that we have not:
 - (a) Communicated to a person other than the person calling for these tenders the amount or approximate amount of the proposed quote, except where the disclosure, in confidence, of the approximate amount of the quote was necessary to obtain insurance premium tenders required for the preparation of the tender ;
 - (b) Entered into any agreement or arrangement with any other person that he shall refrain from quoting or as to the amount of any tender to be submitted;
 - (c) Offered or paid or given or agreed to pay or give any sum of money or valuable consideration directly or indirectly or any person for doing or having done or causing or having caused to be done in relation to any other tender or proposed tender for the said work any act or thing of the sort described above.
3. We undertake that we will not do any of the acts mentioned in paragraphs 2a, 2b, 2c above at any time before acceptance or decline of this tender.
4. In this certificate the word "person" includes any person and any body or association, corporate or unincorporate and "any agreement or arrangement" includes any such transaction, formal or informal and whether legally binding or not.

I / We *have read and now understand the requirements of the tender system in relation to bona fide compliance as detailed in the attached 'Certificate Relating To Bona Fide tender '.

Signed: Dated:

For and on behalf of



Fermanagh and Omagh District Council Equality Declaration

Declaration of Commitment to Promoting Equality of Opportunity and Good Relations

1.

- 1.1 Under Section 75 of the Northern Ireland Act 1998 Fermanagh and Omagh District Council must have due regard to the need to promote equality of opportunity:
Between persons of different religious belief, political opinion, racial group, age, marital status or sexual orientation;
Between men and women generally;
Between persons with a disability and persons without;
Between persons with dependants and persons without.
- 1.2 In addition the Council must also have regard to the desirability of promoting good relations between persons of different religious belief, political opinion or racial group.
- 1.3 The Council is committed to fulfilling these obligations and is keen to not only to ensure that suppliers of goods and services, contractors undertaking work on behalf of the Council, and groups who receive support from the Council do not act in any way that would contravene the Council's statutory equality duties but also that they help promote equality of opportunity and good relations within their own area of work and organisation.
- 1.4 It is therefore a condition of any offer of grant aid / support or contract for goods or services that the Chief Executive, Managing Director or other authorised person signs, on behalf of their organisation, the declaration below. This declaration will confirm that the organisation is committed to promoting equality of opportunity and good relations and will not act in any way that will undermine the Council's commitment to fulfil its statutory obligations.
- 1.5 The Council will not enter into any contract or provide support / grant aid to any organisation which does not sign the Declaration of Commitment to the Promotion of Equality of Opportunity and Good Relations.

We (insert name of firm): _____

Recognise Fermanagh and Omagh District Council's duty to have due regard to the need to promote equality of opportunity:

Between persons of different religious belief, political opinion, racial group, age marital status or sexual orientation;

Between men and women generally;

Between persons with a disability and persons without

Between persons with dependants and persons without,

and to have regard to the desirability of promoting good relations between persons of different religious belief, political opinion or racial group.

We undertake not to act in any way that would contravene the Council's statutory obligations and are committed to promoting good relations and equality of opportunity in all our activities (including in the recruitment, promotion and training of all our staff).

Signed by: _____

Name in block letters _____

Position in Firm: _____

Date: _____

On behalf of: _____
(name of firm)

Address: _____



Fermanagh and Omagh District Council Freedom of Information Act

Bidders should be aware that the information provided in the completed tender and contractual documents could be disclosed in response to a request under the Freedom of Information Act. We will proceed on the basis of disclosure unless an appropriate exemption applies. No information provided by bidders will be accepted "in confidence" and Fermanagh and Omagh District Council accepts no liability for loss as a result of any information disclosed in response to a request under the Freedom of Information Act.

Fermanagh and Omagh District Council has no discretion whether or not to disclose information in response to a request under the Freedom of Information Act, unless an exemption applies. Disclosure decisions will be taken by appropriate individuals in Fermanagh and Omagh District Council having due regard to the exemptions available and the Public Interest. Bidders should be aware that despite the availability of some exemptions, information may still be disclosed if the Public Interest in its disclosure outweighs the Public Interest in maintaining the exemption. Bidders are required to highlight information that they include in the tender documents, which they consider to be commercially sensitive or confidential in nature, and should state the precise reasons, why that view is taken. In particular, issues concerning trade secrets and commercial sensitivity should be highlighted. Bidders are advised against recording unnecessary information.

In accordance with the Lord Chancellors Code of Practice on the discharge of public functions, Fermanagh and Omagh District Council will **not** accept any contractual term that purports to restrict the disclosure of information held by the Council in respect of the contract or tender exercise save as permitted by the Freedom of Information Act. The decision whether to disclose information rests solely with Fermanagh and Omagh District Council

Fermanagh and Omagh District Council will consult with bidders, where it is considered appropriate, in relation to the release of controversial information.

I/we have read and now understand the requirements in relation to freedom of information as detailed on the attached information sheet.

Signed:.....Dated:

For and on behalf of

.....

.....



Safeguarding Declaration

Everyone has a responsibility to ensure the safeguarding of children and adults at risk of harm.

Fermanagh and Omagh District Council requires all contractors / hirers to have a Child and Adult Safeguarding Policy in place. If the contractor / hirer does not have such policies in place, then they should revert to the Council's Policies and Codes of Practices.

The Council's Policies and Codes of Practices can be found online at www.fermanaghomagh.com or by contacting the Policy and Strategic Services Unit via telephone: 0300 303 1777, textphone: 18001 0300 303 1777 or via email: finbar.maguire@fermanaghomagh.com.

By checking this box, you are acknowledging the importance of Safeguarding, as well as your role with regards to the Safeguarding of Children and Adults at Risk of Harm, should you be successful in this procurement process.

☐

Signed: _____

On Behalf of: _____

Date: _____

Fermanagh and Omagh District Council

Insurance Information

Please confirm the level of Insurance cover currently in place.

Section One - Insurance	
A. Public/Products Liability Insurance Minimum £5 million	Yes/No*
Limit of cover: Public Liability	£
Product Liability	£
Insurance company name	
Broker name and address	
Expiry date	
B. Employer Liability Insurance Minimum £10 million	Yes/No*
Limit of cover	
Insurance company name	
Broker name and address	
Expiry date	
C. Motor Fleet Insurance	Yes/No*
Limit of cover	
Insurance company name	
Broker name and address	
Expiry date	

* Delete as appropriate- if No please provide further details

¹ To be completed as appropriate depending on the nature of the contract.

Signed: Date:

Duly authorised to sign for and on behalf of:

.....
.

In the event that your firm does not have the required level of insurance cover at the time of application, please confirm in writing that you are willing to put in place the required cover if your submission is successful. Please note evidence of Insurance cover will be required at Award Stage.

.....



Fermanagh & Omagh
District Council
Comhairle Ceantair
Fhear Manach agus na hÓmaí

Appendix H

**The Bribery Act 2010.
Fermanagh and Omagh District Council
Statement of Commitment.**

Fermanagh and Omagh District Council is committed to carrying out business fairly, honestly and openly and has a zero tolerance towards bribery.

Fermanagh and Omagh District Council expects full compliance with the requirements of the Bribery Act 2010 from Councillors, Employees, Agents, Partners, **Suppliers** and Groups or Individuals applying for, or in receipt, of grant aid.

FERMANAGH AND OMAGH DISTRICT COUNCIL
TENDER CHECKLIST

To facilitate the needs of the Council in the evaluation process, all proposals submitted must complete/submit the following information. Failure to supply all or any part of the requested information in the required format may result in a proposal being excluded from the evaluation process.

Tenderers must complete this check list:-

	Included? (Please Tick)
Completed and signed Tender document	
<u>Stage 1</u> <u>Appendices A –G</u>	
a) Mandatory Exclusion (s)	
b) Fair Employment and Treatment	
c) Bona Fide Declaration	
d) Equality Declaration	
e) Freedom of Information	
f) Safeguarding Declaration	
g) Insurances	
<u>Stage 2</u>	
a) Experience	
b) Health & Safety	
<u>Stage 3</u>	
Price Submission (Signed Form of Tender)	
Full copy of submission on CD	

It is your responsibility to submit the necessary documents to enable Fermanagh and Omagh District Council to evaluate your Tender. This checklist is for your guidance only.

Signed _____ Date_____

Please complete the following sections and supply relevant information as requested

Company Name and Address (including contact information)

Supply a copy of your company health and safety organisation chart.

Who in your organisation is ultimately responsible for health and safety?

Name	Position	Contact details

Who in your organisation is ultimately responsible for managing health and safety?

Name	Position	Contact Details	Qualifications

Supply a copy of your organisation's health and safety policy.

Supply details of relevant health and safety training provided to your employees in the past 12 months (Attach example certificates)

Course Title	Provider	Dates

Does your organisation use sub-contractors? YES/NO

If yes, please provide details of how you ensure competence of sub-contractors (use a continuation sheet if required)

Complete the following table with the number of accidents / incidents reported by your organisation over the past 3 years

Year	Fatalities	Major accidents	Dangerous occurrences	Over 3-day lost time injuries

Year	Prosecution / Notice	Details	Remedial Action

Appendix K – Relevant Experience

Project 1		
Title	[Enter text here]	
The Project Value	£ [Enter text here]	
Start date (mth/yr) & Contract duration	[Enter text here]	
Client	[Enter text here]	
Client Contact Name, Telephone and Email Details	[Enter text here]	
<p>Please use this text box to describe the project (max 1 A4 Arial font 12)</p>		

Appendix K – Relevant Experience

Project 2	
Title	[Enter text here]
The Project Value	£ [Enter text here]
Start date (mth/yr) & Contract duration	[Enter text here]
Client	[Enter text here]
Client Contact Name, Telephone and Email Details	[Enter text here]
<p>Please use this text box to describe the project (max 1 A4 Arial font 12)</p>	

Appendix K – Relevant Experience

Project 3		
Title	[Enter text here]	
The Project Value	£ [Enter text here]	
Start date (mth/yr) & Contract duration	[Enter text here]	
Client	[Enter text here]	
Client Contact Name, Telephone and Email Details	[Enter text here]	
<p>Please use this text box to describe the project (max 1 A4 Arial font 12)</p>		

1. DEFINITIONS AND INTERPRETATIONS

1.1 In this Contract, unless the context requires otherwise, the following words and phrases shall have the following meanings:-

- (a) "Award Date" means the date of the award of the Contract by the Council to the Contractor;
- (b) "Contract" means the documents listed in the Council's acceptance letter, including these Conditions and the Specification. In case of discrepancy between these Conditions and other documents forming part of the Contract, these Conditions shall prevail unless otherwise agreed in writing;
- (c) "Contract Price" means the price or prices payable to the Contractor by the Council under the Contract for the full and proper performance by the Contractor of his part of the Contract as determined under the provisions of the Contract;
- (d) "Contractor" means the person appointed by the Council for the performance of the Services (including any successors);
- (e) "Contractor's Representative" means a competent person appointed by the Contractor to be his representative in relation to the performance of the Contract who will receive and act on any directions given by the Contract Manager;
- (f) "Contract Manager" means the official of the Council, or other person appointed by the Council to act on its behalf for the purpose of managing the Contract;
- (g) "Council" means Fermanagh and Omagh District Council.
- (h) "Council's Property" means anything issued or otherwise provided in connection with the Contract by or on behalf of the Council;
- (i) "Key Personnel" means any person who, in the Council's opinion, is fundamental to the performance of the Contract;
- (j) "month" means calendar month, unless otherwise defined;
- (k) any reference to a "person" shall, as the context may require, be construed as a reference to any individual, firm, company, corporation, Government Department, Agency or any association or partnership (whether or not having a separate legal personality);
- (l) "Premises" means any premises occupied, owned or leased by the Council, or as described in the Contract;
- (m) "Programme" means any programme or timetable agreed by the parties to the Contract which regulates or specifies the period or periods for the performance of the Services or any part of them, together with any activities ancillary to the performance of the Services or the preparation and submission of reports;
- (n) "Service(s)" or "Work" means all Services detailed in the Specification which the Contractor is required to carry out under the Contract;
- (o) "Specification" means the description of Services to be performed under the Contract;
- (p) "Commercially sensitive information" means the information listed by the Contractor in the "Freedom of Information Statement";
 - (i) which is provided by the Contractor to the Client in confidence for the period set out in that schedule; and/or
 - (ii) that constitutes a trade secret;
- (q) "Confidential information" means all information disclosed by either party to the other in any form or manner, provided that each such item of information would appear to a reasonable person to be confidential or is specifically stated by the disclosing party to be confidential;
- (r) "FOIA" means the Freedom of Information Act 2000.

1.2 Unless the context requires otherwise, the singular shall include the plural and vice versa, and words expressed in any gender shall include any other gender.

1.3 The headings are inserted for convenience only and shall not affect the interpretation of the Contract.

1.4 Reference to any legislative requirement or similar instrument shall be deemed to include reference to any subsequent amendment to them.

2. LAW

The Contract shall be governed by and interpreted in accordance with Northern Ireland and shall be subject to the jurisdiction of the Courts of Northern Ireland.

1. DURATION OF THE CONTRACT

Subject to the Council's rights of termination under these conditions, the Contract shall be in force from the Award Date for a period of 1 year with an option at the sole discretion of the Council to extend the contract for 2 an additional 12 month periods at the sole discretion of the Council. Services shall be provided throughout the duration of the Contract and at the end of the contract should the Service provider change after a tendering exercise the Service provider shall provide such Service as is required until the new contract is in place as directed by the Council.

4. ALTERATION OF REQUIREMENT

The Council reserves the right to alter the requirements of the Contract, as detailed in the Specification, should this at any time become necessary. In the event of any alteration of the contractual requirement, payment under the Contract shall be subject to fair and reasonable adjustment to be agreed between the Council and the Contractor and recorded in writing.

5. DUTY OF CARE

The Contractor shall perform the Services with all reasonable skill, care and diligence and in accordance with all relevant legislative and statutory requirements.

6. CONTRACTOR'S PERFORMANCE

6.1 The Contractor shall properly manage and monitor performance of the Services and immediately inform the Contract Manager if any aspect of the Contract is not being or is unable to be performed.

6.2 The Contractor shall provide all the necessary facilities, materials and any other equipment, and personnel of appropriate qualifications and experience to undertake the Services. All personnel deployed on work relating to the Contract shall have appropriate qualifications and competence, be properly managed and supervised and in these and any other respects be acceptable to the Council. If the Council gives the Contractor notice that any person is to be removed from involvement in the Services, the Contractor shall take immediate steps to comply with such notice. The decision of the Council regarding the Contractor's personnel shall be final and conclusive.

6.3 The Contractor shall:-

- (a) give the Council, if so requested, full particulars of all persons who are or may be at any time employed on the Contract;
- (b) comply with any rules, regulations and any safety and security instructions from the Council, including completion of any additional clearance procedures required by the Council, and return of any passes as required.

6.4 The Contractor shall take all reasonable steps to avoid changes to any of the staff designated in the Contract as Key Personnel. The Contractor shall give at least one month's notice to the Contract Manager of any proposals to change Key Personnel and Condition 6.2 shall apply to the proposed replacement personnel.

6.5 Unless otherwise agreed by the Council, neither the Contractor nor any of his employees or agents shall carry out any business or trading activity within the confines of the Premises and no advertisement, sign or notice of any description shall be exhibited without prior approval, in writing, from the Council.

6.6 The Contractor shall exercise due care and propriety when dealing with third parties in connection with the Contract and ensure that no commitments are entered into (unless expressly required under the Contract), without the Council's prior written consent.

6.7 Nothing in the Contract shall be construed as creating a partnership, a contract of employment or a relationship of principal and agent between the Council and the Contractor.

7. MEETINGS AND REPORTS

7.1 The Contractor shall attend all meetings arranged by the Council for the discussion of matters connected with the performance of the Services.

7.2 Without prejudice to the submission of reports as specified under the Contract, the Contractor shall render any additional reports as to the performance of the Services at such time or times, and in such form as the Contract Manager may reasonably require.

8. INSPECTION

During the course of the Contract the Council shall have the power to inspect and examine any of the Services, Invoices and Accounts on the Premises at any reasonable time. Where the Services are being performed on any other premises, the Contract Manager or the Council shall on giving reasonable notice to the Contractor be entitled to inspect and examine such Services Invoices and Accounts. The Contractor shall provide free of charge all such facilities as the Council may reasonably require for such inspection and examination. In this Condition, Services includes planning or preliminary work for the Services.

9. INVOICES AND PAYMENT

9.1 . All invoices relating to this contract must be forwarded to The Finance Department, Fermanagh and Omagh District Council, The Grange, Mountjoy Road, Omagh, Co.Tyrone, BT79 7BL or by email to finance@fermanaghomagh.com

The Contractor shall submit an invoice within 1 Month of the completion of the Services. All invoices shall quote the purchase order number

9.2 The Contractor shall submit with the invoice such records as the Council may reasonably require including, but not limited to time sheets, expenses incurred, invoices paid or any other documents which would enable the Council to verify the information and the amounts referred to in that invoice.

9.3 The Contractor shall provide to the Council the name and address of his bank, the account name and number, the bank sort code and any other details, in whatever format the Council may require.

9.4 The Council shall pay the Contractor in respect of the satisfactory performance of the Services in accordance with the Contract.

9.5 Except where otherwise provided in the Contract, the amount payable to the Contractor for the performance of the Services shall be inclusive of all costs of staff, facilities, equipment, materials and all other expenses whatsoever incurred by the Contractor in discharging his obligations under the Contract.

9.6 The Council is committed to prompt payment in accordance with statutory legislation and shall pay the Contractor within 30 days of the receipt of a valid invoice, provided that the Council is satisfied that the Services for which the invoice relates have been performed fully in accordance with the Contract.

The Council requires the Contractor to make payment to any suppliers involved in the delivery of this contract within 30 days of the receipt of a valid invoice, provided that the contractor is satisfied that the Services for which the invoice relates have been performed fully in accordance with the Contract.

9.7 The Contract is on a fixed price basis and does not allow for variation of pricing except in respect of VAT.

10. VALUE ADDED TAX

The Council shall pay to the Contractor the amount of any VAT chargeable in respect of the performance of the Services in accordance with Contract.

11. CORRUPT GIFTS AND PAYMENTS OF COMMISSION

11.1 The Contractor shall not receive or agree to receive from any person, or offer or agree to give to any person, or procure for any person any gift or consideration of any kind as an inducement or reward for doing or not doing anything, or for showing favour or disfavour to any person in relation to the Contract or any other contract with the Crown.

11.2 The Contractor shall not conspire with any person to do any of the acts mentioned in Condition 11.1.

11.3 Any:-

(a) breach by the Contractor of this Condition; or

(b) commission of any offence by the Contractor under the Prevention of Corruption Acts 1889 to 1916 or Sections 46 to 47 of the Local Government Act (NI) 1972 in relation to this or any other contract with the Council;

shall entitle the Council to terminate the Contract and recover from the Contractor the amount of any loss resulting from such termination and recover from the Contractor the amount of value of any such gift, consideration or commission.

11.4 The decision of the Council in relation to this Condition shall be final and conclusive.

12. THE FAIR EMPLOYMENT AND TREATMENT (NI) ORDER 1998

12.1 The Contractor shall not be an unqualified person for the purposes of Section 64 to 66 of the fair Employment and Treatment (NI) Order 1998 and shall sign the Declaration and Undertaking annexed hereto.

12.2 The Contractor shall not sub-contract any Services or Work to an unqualified person for the purposes of Section 64 to 66 of the Fair Employment and Treatment (NI) Order 1998.

13. DISCLOSURE OF INFORMATION

13.1 The Council reserves the general right to disclose information about this Contract, unless otherwise agreed in writing.

13.2 The Contractor shall not disclose the Contract or any provision thereof or any information resulting from, in connection with, or during the course of, the Contract, to any person unless it is strictly necessary for the performance of the Contract,

and authorised in writing by the Council. The Contractor shall comply with any instructions regarding changes to authorisations and other instructions regarding disclosure or non-disclosure.

This Condition does not apply in relation to information (a) which is in or enters the public domain otherwise than by a breach of an obligation of confidentiality (b) which is or becomes known from other sources without breach of any restriction on disclosure or (c) which is required to be disclosed by law or any professional or regulatory obligation.

13.3 Subject to Condition 13.2, the Contractor shall ensure that information about the Contract, or arising from or connected with the Contract:-

- (a) is divulged only to the minimum number of persons;
- (b) is divulged only to the extent essential to each person's action in carrying out (or in connection with) the Contract and that such persons do not further divulge such information;
- (c) is properly safeguarded.

13.4 Subject to the retention of proper professional records, the Contractor shall, on written request from the Council, return all documents containing any part of the Work carried out by the Contractor, including but not limited to, documents stored electronically.

13.5 The Contractor shall ensure that any contract with:-

- (a) any employee of his, and
 - (b) any contractor of his engaged in any way in connection with the Contract,
- contains a condition requiring that person to keep all information in relation to the Contract and its performance confidential, and shall draw their attention to the requirements of this condition and condition 13.2.

13.6 No information regarding the Services being provided under the Contract or facilities to photograph or film shall be given or permitted by the Contractor except with prior written permission of the Council, to whom any press or other enquiry or any such matter should be referred. This Condition does not apply in relation to information (a) which is in or enters the public domain otherwise than by a breach of an obligation of confidentiality (b) which is or becomes known from other sources without breach of any restriction on disclosure or (c) which is required to be disclosed by law or any professional or regulatory obligation.

13.7 The Contractor shall not, in connection with the Contract, communicate with representatives of the general or technical press, radio, television or other communications media including Social Media unless specifically granted permission to do so in writing by the Council.

13.8 Except with the consent in writing of the Council the Contractor shall not make use of the Contract or any information issued or furnished by or on behalf of the Council otherwise than for the purpose of the Contract.

13.9 The decision of the Council regarding anything in this Condition 13 shall be final and conclusive and may result in immediate Termination of the Contract.

14. DISCRIMINATION

The Contractor shall not unlawfully discriminate within the meaning and scope of the provisions of the Race Relations (NI) Order 1997, Sex Discrimination (NI) Order 1976 (as amended), Fair Employment and Treatment (NI) Order 1998 and the Disability Discrimination Act 1995 and shall take all reasonable steps to ensure that all servants, employees or agents of the Contractor and all sub-contractors employed in the execution of the Contract do not unlawfully discriminate. This condition shall not in any way relieve the Contractor of his general obligations to comply with any legislative requirements as provided in Condition 5.

15. MERGER, TAKE-OVER OR CHANGE OF CONTROL

The Contractor shall forthwith inform the Council in writing of any proposal or negotiations which may or will result in a merger, take-over, change of control, change of name or status, or the Contractor (being a company as defined in the Companies (NI) Order 1986-1990) shall inform the Council of any such change as defined in section 416 of the Income and Corporation Taxes Act 1988. The Contractor shall comply with any request by the Council for information arising from this Condition.

16. UNSATISFACTORY PERFORMANCE

16.1 Where in the opinion of the Council the Contractor has failed to perform the whole or any part of the Services, with the standard of skill, care and diligence which a competent and suitably qualified person performing the same Services could reasonably be expected to exercise, or in accordance with the Contract (including the Specification and Programme), the Council may give the Contractor a notice specifying the way in which his performance falls short of the requirements of the Contract, or is otherwise unsatisfactory.

16.2 Where the Contractor has been notified of a failure in accordance with Condition 16.1 the Council may:

- (a) request from the Contractor that, at his own expense and as specified by the Council, he re-schedules and performs the Services to the Council's satisfaction within such period as may be specified by the Council in the notice, including where necessary, the correction or re-execution of any Services already carried out; or
- (b) Withhold or reduce payments to the Contractor, in such amount as the Council deems appropriate in each particular case.

16.3 It shall be a condition of the contract that, should Fermanagh and Omagh District Council determine that the contract is not being satisfactorily performed, the Contractor will be informed in writing by the Manager detailing the areas requiring attention, if insufficient improvement has been effected within 30 days of the date of the correspondence, the contract may be terminated by the council without compensation to the tenderer

17. TERMINATION OF THE CONTRACT

Without prejudice to any other power of termination, the Council may terminate the Contract without notice, for any of the following reasons:-

- (a) the breach by the Contractor of any of Conditions 11 (Corrupt Gifts & Payments of Commission), 12 (Fair Employment and Treatment (NI) Order 1998), 13 (Disclosure of Information) of the Contract, or any other material breach of contract;
- (b) the failure by the Contractor to comply with a notice given under Condition 16 (Unsatisfactory Performance) within 14 days from the date of the notice;
- (c) the Contractor ceases or proposes to cease to carry on his business;
- (d) there is a change of control of the type referred to in Condition 15 (Merger, Take-over or Change of Control), and the Council has not agreed in advance in writing to the particular change of control, save that in this event the Council shall give one month's notice in writing to the Contractor.

18. BREAK

The Council shall in addition to its powers under any other of these Conditions have power to terminate the Contract at any time by giving to the Contractor one month's written notice. Upon the expiry of the notice the Contract shall be terminated without prejudice to the rights of the parties accrued to the date of termination.

19. CONSEQUENCES OF TERMINATION AND BREAK

19.1 Where the Contract is terminated under Condition 17 (Termination of the Contract), the following provisions shall apply:-

- (a) Any sum due or accruing from the Council to the Contractor may be withheld or reduced by such amount as the Council in either case considers reasonable and appropriate in the circumstances;
- (b) the Council may make all arrangements which are in its view necessary to procure the orderly completion of the Services including the letting of another contract or contracts;
- (c) where the total costs reasonably and properly incurred by the Council by reason of such arrangements exceed the amount that would have been payable to the Contractor for the completion of the Services, the excess shall, subject to any overall limitation of liability contained in condition 22, be recoverable from the Contractor and the Council reserves the right to recover such excess by set-off against any amount withheld by the Council under Condition 19.1 (a) or as otherwise provided for under Condition 25 (Recovery of Sums Due).

19.2 Without prejudice to Condition 19.1, where the Contract is terminated under Condition 17 (d) or Condition 18 (Break), the Contractor shall have the right to claim from the Council reimbursement of all reasonable costs necessarily and properly incurred by him in relation to the orderly cessation of the Services, including any commitments, liabilities or expenditure which are reasonably and properly incurred, and would otherwise represent an unavoidable loss by the Contractor by reason of the termination of the Contract. For the avoidance of doubt the Council will not indemnify the Contractor against loss of profit.

The Council shall not in any case be liable to pay under the provisions of this Condition any sum which, when taken together with any sums paid or due or becoming due to the Contractor under the Contract, shall exceed the total Contract price.

19.3 Where the Contract is terminated under Condition 17 (Termination of the Contract) or Condition 18 (Break), the Council may, during any notice period:-

- (a) direct the Contractor, where the Services have not been commenced, to refrain from commencing such Services or where the Services have been commenced, to cease work immediately;
- (b) direct the Contractor to complete in accordance with the Contract all or any of the Services, or any part or component thereof, which shall be paid at the agreed Contract Price or, where no agreement exists, a fair and reasonable price.

20. ASSIGNMENT, SUB-CONTRACTORS AND SUPPLIERS

20.1 The Contractor shall not sub-contract or transfer, assign, charge, or otherwise dispose of the Contract or any part of it without the prior written consent of the Council.

20.2 The Contractor shall ensure that any sub-contractor complies with the terms and conditions of the Contract, so far as they are applicable. Any sub-contract shall not relieve the Contractor of his obligations under the Contract.

20.3 Where the Contractor enters into a contract with a supplier or sub-contractor for the purpose of performing the Contract or any part of it, he shall cause a term to be included in such contract which requires payment to be made by the Contractor to the supplier or sub-contractor within a specified period not exceeding 30 days from receipt of a valid invoice as defined by the Contract requirements.

21. INSURANCE

21.1 The Contractor shall effect and maintain insurance necessary to cover his liabilities under the Contract and, where the Contractor sub-contracts part of the Contract, he shall ensure that any such sub-contractor effects and maintains insurance to cover its liabilities under the sub-contract.

21.2 Where in compliance with Condition 21.1 the Contractor effects, or is to ensure that a sub-contractor effects, professional indemnity insurance, the requisite insurance shall cover liabilities under the Contract, or sub-contract as the case may be, from the

commencement of the Services, or the services under the sub-contract as the case may be, until 6 years after:

(i) the completion of the Services; or

(ii) the termination of the Contract

whichever is the earlier.

21.3 The Contractor shall, whenever required by the Council, produce to the Council documentary evidence showing that the insurance required by Conditions 21.1 and 21.2 has been taken out and is being maintained.

21.4 If, for whatever reason, the Contractor fails to maintain, or fails to ensure that any sub-contractor maintains, the insurance required by this Condition 21, the Council may make alternative arrangements necessary to protect its interests and recover the costs thereof from the Contractor, provided always that any overall limitation of liability contained in Condition 22 shall not thereby be exceeded.

21.5 The terms of any insurance or the amount of cover shall not relieve the Contractor or his sub-contractors or consultants of any liabilities under the Contract, their sub-contracts or their terms of commission.

21.6 Without prejudice to any rights or remedies of the Council (including the Council's rights and remedies under the Contract) the Contractor shall indemnify the Council against all actions, suits, claims, demands, losses, charges, costs and expenses which the Council or any third party may suffer or incur as a result of or in connection with any damage to property or in respect of any injury (whether fatal or otherwise) to any person or in respect of any consequential loss which may result directly or indirectly from the provision of the service or the negligent or wrongful act or omission of the Contractor.

21.7 The Contractor shall effect with a reputable insurance company a policy or policies of insurance at the level stated in the Tender document covering the matters which are the subject of indemnities under these conditions and shall at the request of the Council produce the relevant policy or policies together with receipts or other evidence of payment of the latest premium due there under.

22. LOSS OR DAMAGE

22.1 Condition 22 applies to any loss or damage which arises out of or is in any way connected with the performance of the Contract and shall include, for the avoidance of doubt and without prejudice to the generality of the foregoing, breaches of Conditions 26.1, 28 and 34.

22.2 The Contractor shall, without delay and at his own expense, replace or make good to the satisfaction of the Council, or, if the Council requires, compensate the Council for, any loss or damage.

22.3 If any loss or damage:-

(a) was not caused or contributed to by the Contractor's neglect or default, whether by act, omission or otherwise (for the purposes of this condition 22.3, "Contractor" shall include his servants, agents or sub-contractors) , he shall be under no liability under this condition 22;

(b) was in part caused or contributed to by the Contractor's neglect or default, whether by act, omission or otherwise, and in part by:-

(i) the act, neglect or default of any other person; and/or

(ii) circumstances outside both the Contractor's control and his reasonable contemplation the Contractor's liability under this condition 22 shall, except in relation to any loss or damage arising out of the Contractor's fraud or breach of condition 11 or 12 (to which this condition 22.4(b) shall not apply), be limited to the proportion of the loss or damage which it is just and equitable for the Contractor to pay.

22.4 In this condition 22 loss or damage includes:-

(a) loss or damage to property;

(b) personal injury and death;

(c) loss of profit or loss of use;

(d) any other loss.

23. CONFIDENTIALITY

23.1 Each Party:-

(a) shall treat all Confidential Information belonging to the other Party as confidential and safeguard it accordingly; and

(b) shall not disclose any Confidential Information belonging to the other Party to any other person without the prior written consent of the other Party, except to such persons and to such extent as may be necessary for the performance of the Contract or except where disclosure is otherwise expressly permitted by the provisions of this Contract.

23.2 The Contractor shall take all necessary precautions to ensure that all Confidential Information obtained from the Council under or in connection with the Contract:-

(a) is given only to such of the Staff and professional advisors or consultants engaged to advise it in connection with the Contract as is strictly necessary for the performance of the Contract and only to the extent necessary for the performance of the Contract;

(b) is treated as confidential and not disclosed (without prior Council approval) or used by any Staff or such professional advisors or consultants otherwise than for the purposes of the Contract;

23.3 The Contractor shall ensure that Staff or its professional advisors or consultants are aware of the Contractor's Confidentiality obligations under this Contract.

23.4 The Contractor shall not use any Confidential Information it receives from the Council otherwise than for the purposes of the Contract.

23.5 The provisions of Clauses 23.1 to 23.4 shall not apply to any Confidential Information received by one Party from the other:-

(a) which is or becomes public knowledge (otherwise than by breach of this Condition);

(b) which was in the possession of the receiving Party, without restriction as to its disclosure, before receiving it from the disclosing Party;

(c) which is received from a third party who lawfully acquired it and who is under no obligation restricting its disclosure;

(d) which is independently developed without access to the Confidential Information; or

(e) which must be disclosed pursuant to a statutory, legal or parliamentary obligation placed upon the Party making the disclosure, including any requirements for disclosure under the FOIA, or the Environmental Information Regulations pursuant to Condition 24.3 (Freedom of Information).

23.6 Nothing in this Condition shall prevent the Council:-

(a) disclosing any Confidential Information for the purpose of:-

(i) the examination and certification of the Council's accounts; or

(ii) any examination pursuant to Section 6(1) of the National Audit Act 1983, or any other Statutory provision, of the economy, efficiency and effectiveness with which the Council has used its resources; or

(b) disclosing any Confidential Information obtained from the Contractor:-

(i) to any government department or any other Contracting Authority. All government departments or Contracting Authorities receiving such Confidential Information shall be entitled to further disclose the Confidential Information to other government departments or other Contracting Authorities on the basis that the information is confidential and is not to be disclosed to a third party which is not part of any government department or any Contracting Authority; or

(ii) to any person engaged in providing any services to the Council for any purpose relating to or ancillary to the Contract:

provided that, in disclosing information under sub-paragraph (b), the Council discloses only the information which is necessary for the purpose concerned and requires that the information is treated in confidence and that a confidentiality undertaking is given where appropriate.

23.7 Nothing in this Condition shall prevent either Party from using any techniques, ideas or know-how gained during the performance of the Contract in the course of its normal business, to the extent that this does not result in a disclosure of Confidential Information or an infringement of Intellectual Property Rights.

23.8 In the event that the Contractor fails to comply with this Condition 23, the Council reserves the right to terminate the Contract by notice in writing with immediate effect.

23.9 The contractors obligations in relation to confidentiality do not expire at the end of the contract period, all information relation to the contract must remain confidential after the expiry of the contract.

24. FREEDOM OF INFORMATION

24.1 The Contractor acknowledges that the Council is subject to the requirements of the FOIA and the Environmental Information Regulations and shall assist and co-operate with the Council (at the Contractor's expense) to enable the Council to comply with these Information disclosure requirements.

24.2 The Contractor shall and shall procure that its sub-contractors shall:

(a) transfer the Request for Information, as defined in the FOIA or the Environmental Information Regulations, to the Council as soon as practicable after receipt and in any event, within [two] Working Days of receiving a Request for Information;

(b) provide the Council with a copy of all Information in its possession or power in the form that the Council requires within [five] Working Days (or such other period as the Council may specify) of the Council requesting that Information; and

(c) provide all necessary assistance as reasonably requested by the Council to enable the Council

to respond to a Request for Information within the time for compliance set out in section 10 of the FOIA [or regulation 5 of the Environmental Information Regulations].

24.3 The Council shall be responsible for determining at its absolute discretion whether the Commercially Sensitive Information and/or any other information:-

(a) is exempt from disclosure in accordance with the provisions of the FOIA or the Environmental Information Regulations;

(b) is to be disclosed in response to a Request for Information, and in no event shall the Contractor respond directly to a Request for Information, unless expressly authorised to do so by the Council;

24.4 The Contractor acknowledges that the Council may be obliged under the FOIA, or the Environmental Information Regulations, or any regulations or guidelines made there under, to disclose Information:-

(a) without consulting with the Contractor, or

(b) following consultation with the Contractor and having taken its views into account.

24.5 The Contractor shall ensure that all information produced in the course of the Contract or relating to the Contract is retained for disclosure and shall permit the Council to inspect such records as requested from time to time.

24.6 The Contractor acknowledges that any lists or schedules provided by it outlining Confidential Information or Commercially Sensitive Information are of indicative value only and that the Council may nevertheless be obliged to disclose Confidential Information or Commercially Sensitive Information in accordance with Clause 24.4.

25. RECOVERY OF SUMS DUE

Whenever under the Contract any sums of money shall be recoverable from or payable by the Contractor to the Council, the same may be deducted from any sum then due, or which at any later time may become due, to the Contractor under the Contract or under any other contract with the Council.

26. DATA PROTECTION

26.1 The Contractor shall take such technical and organisational measures as are necessary to comply with the seven data protection principles set out in Part I, and amplified in Part II, of Schedule 1 to the Data Protection Act 1998.

27. INSOLVENCY OF THE CONTRACTOR

27.1 The Contractor shall inform the Council:-

(a) if being an individual, or where the Contractor is a firm, any partner in that firm, shall at any time become bankrupt, or shall have a receiving order or administration order made against him, or shall make any composition or arrangement with or for the benefit of his creditors, or shall make any conveyance or assignment for the benefit of his creditors, or shall purport to do so, or if in Scotland he shall become insolvent or notour bankrupt, or any application shall be made under any bankruptcy Act for the time being in force for sequestration of his estate, or a trust deed shall be granted by him for the benefit of his creditors; or

(b) if being a company, he passes a resolution, or the Court makes an order, that the company be wound up otherwise than for the purpose of reconstruction or amalgamation, or if a receiver or manager on behalf of a creditor shall be appointed, or if circumstances shall arise which entitle the Court, otherwise than for the purposes of amalgamation or reconstruction, to make a winding-up order.

27.2 If any of the events in the conditions 27.1 (a) or 27.1 (b) occur (whether or not the Contractor has informed the Council) the Council may at any time by notice in writing summarily terminate the Contract without compensation to the Contractor. Such termination shall not prejudice or affect any right of action or remedy which shall have accrued before that date or shall accrue thereafter to the Council.

28. ROYALTIES AND LICENCE FEES

The Contractor shall ensure that all royalties, licence fees or similar expenses in respect of all intellectual property used in connection with the Contract have been paid and are included within the Contract Price.

29. DRAWINGS, SPECIFICATIONS, SOFTWARE, DESIGNS AND OTHER DATA

Any drawings, specification, software, designs or other data (including working documents, maps and photographs) completed or provided in connection with the Contract shall become or, as the case may be, remain the property of the Council and be delivered up to the Council on completion or termination of the Contract, subject to the retention of proper professional records.

Where the Council has agreed to accept modern storage media, drawings and other documents shall be supplied by the Contractor in an agreed form.

30. RETENTION OF DOCUMENTATION

The Contractor shall retain, produce when required (and explain as necessary) such accounts, documents (including working documents) and records as the Council, or the

Contract Manager, may request, in connection with the Contract, at any time during the Contract and for a period of 2 years from the date of expiry or termination or such longer period as may be agreed between the Council and the Contractor in writing at or

before the commencement of the Contract; and afford such facilities as the Council may reasonably require for his representatives to visit the Contractor's premises and examine the records under this Condition.

31. SERVING OF NOTICES

Any notice required to be given or served under this Contract by the Council shall be in writing and shall be served by either:-

- (a) delivery to the Contractor's Representative, or
- (b) sending it by first-class post to the Contractor's last known place of business or registered office, when it shall be deemed to be served on the day when in the ordinary course of the post it would have been delivered. Any notice required to be given by the Contractor to the Council shall be sent to the Chief Executive of the Council.

32. ARBITRATION

All disputes, differences or questions between the parties to the Contract with respect to any matter or thing arising out of or relating to the Contract (other than a matter or thing as to which the decision of the Council is under the Contract to be final and conclusive, and except to the extent to which special provision for arbitration is made elsewhere in the Contract), shall be referred to either:-

- (a) the arbitration of 2 persons, one to be appointed by the Council and one by the Contractor, or
- (b) their Umpire

in accordance with the provisions of the Arbitration Acts 1950, 1996 or any statutory modification or re-enactment thereof for the time being in force.

33. TRANSFER OF RESPONSIBILITY

33.1 In the event that a different organisation is required to take over the Services at the expiry or termination of the Contract, the Contractor shall co-operate in the transfer, under arrangements to be notified to him by the Council.

33.2 The transfer shall be arranged between the Council and the Contractor so as to reduce to a minimum any interruption in the Services.

34. CONTRACTOR'S OBLIGATIONS IN CONNECTION WITH TUPE (Where relevant)

34.1 Where requested to do so the Contractor shall provide such information (including any changes to and interpretations thereof) in connection with The Transfer of Undertakings (Protection of Employment) Regulations 1981 (TUPE), as the Council may require, to the Council and/or to any other person authorised by the Council who is to be invited to submit a tender in relation to the provision of similar Services, within 10 days of the request.

34.2 During the 8 month period preceding the expiry of this Contract or within any period of notice of Termination or notice of Break, the Contractor shall not without the prior written agreement of the Council, which shall not be unreasonably withheld or delayed:-

- (a) materially amend the terms and conditions of employment of any employee whose work, wholly or mainly falls within the scope of this Contract; or
- (b) materially increase the number of employees whose work (or any part of it) is work undertaken for the purposes of this Contract.

34.3 The Contractor shall not knowingly do or omit to do anything which may adversely affect an orderly transfer of responsibility for provision of the Services.

35. USE OF COUNCIL FACILITIES

The Council shall make available to the Contractor all facilities under the Council's control and information and give such assistance as shall reasonably be required for the carrying out by the Contractor of the services under the contract.

36. SEVERABILITY

If any provision of the Contract is held invalid, illegal or unenforceable for any reason by any court of competent jurisdiction, such provision shall be severed and the remainder of the provisions of the Contract shall continue in full force and effect as if the Contract had been executed with the invalid, illegal or unenforceable provision eliminated. In the event of a holding of invalidity so fundamental as to prevent the accomplishment of the purpose of the Contract, the Council and the Contractor shall immediately commence negotiations in good faith to remedy the invalidity.

37. WAIVER

37.1 The failure of the Council or the Contractor to exercise any right or remedy shall not constitute a waiver of that right or remedy.

37.2 No waiver shall be effective unless it is communicated to either the Council or the Contractor in writing.

37.3 A waiver of any right or remedy arising from a breach of contract shall not constitute a waiver of any right or remedy arising from any other breach of the Contract.

38. RIGHTS OF THIRD PARTIES

Nothing in this Contract confers or purports to confer on any third party any right to enforce any term of this Contract.

39. HEALTH & SAFETY AT WORK (NORTHERN IRELAND) ORDER

The Contractor's attention is drawn to the provisions of the above Order and regulations made there under. The Contractor must undertake to comply with all relevant duties placed on him by this legislation. The Contractor must, upon request provide, relevant documentary evidence of arrangements in place to ensure compliance with current health and safety legislative requirements.

The Contractor, in undertaking activities to which this contract relates, must not endanger the health and safety of himself, his employees and persons not in his employment.

40. MEETINGS AND REPORTS

The Successful Tenderer shall attend all meetings arranged by the Council for the discussion of matters connected with the performance of the Services.