

**Request for Tenders
for the Provision of
External expertise to develop an Urban Parks
Sustainable Management Action Plan for project
partners of the INTERREG IVB co funded project 'PARKS
ATLANTIC'**

October 2011

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Part 1: Introduction

- 1.1 The Mid West Regional Authority invites responses (“Tenders”) to this Request for Tenders (“RFT”) from economic operators (“Tenderers”) for the provision of the services as described in Appendix 1 to this RFT, “Requirements and Specifications”, (“the Services”). The Mid West Regional Authority is the contracting authority for this public procurement competition (“the Contracting Authority”).
- 1.2 The title of this RFT is Request for Tenders for the Provision of External expertise to develop an Urban Parks Sustainable Management Action Plan for project partners of the INTERREG IVB co funded project 'PARKS ATLANTIC' (“RFT Title”).
- 1.3 This public procurement competition relates to external expertise in developing an action plan that will assist practitioners and policy makers in urban parks planning, management and development.
- 1.4 Any contract that may result from this public procurement competition will be issued for a term of three months (“the Term”).
- 1.5 **This Clause 1.5 applies only to certain RFTs; it does NOT apply to this RFT.** The Contracting Authority reserves the right to extend the Term for a period or periods of up to [insert relevant period] with a maximum of [insert relevant number] such extension or extensions on the same terms and conditions, subject to the Contracting Authority’s obligations at law.
- 1.6 Tenders must be received not later than 17:00 on 5th December 2011. Tenders that are received late WILL NOT be considered in this public procurement competition.

Part 2: Instructions to Tenderers

2.1 Introduction to this RFT

- 2.1.1 While every effort has been made to provide comprehensive and accurate background information and requirements and specifications, Tenderers must form their own conclusions about the solution needed to meet the requirements set out in this RFT. Tenderers and recipients of this RFT may wish to consult their own legal advisers in relation to this RFT or the subject matter thereof.
- 2.1.2 All information supplied by Tenderers may be treated as contractually binding on the Tenderers if accepted by the Contracting Authority.
- 2.1.3 No commitment of any kind, contractual or otherwise shall exist unless and until a formal written contract has been executed by or on behalf of the Contracting Authority. Any notification of preferred bidder status by the Contracting Authority shall not give rise to any enforceable rights by the Tenderer. The Contracting Authority may cancel this public procurement competition at any time prior to a formal written contract being executed by or on behalf of the Contracting Authority. The Contracting Authority does not bind itself to accept the lowest priced or any Tender.
- 2.1.4 This RFT supersedes and replaces all previous documentation, communications and correspondence between the Contracting Authority and Tenderers, and Tenderers should place no reliance on such previous documentation and correspondence. Tenderers to this RFT should study the contents of this RFT carefully, including the information and documents contained in the Appendices. The Tenderers attention is drawn to the Tenderers' aide-memoire at Appendix 4.

2.2 Compliant Tenders

- 2.2.1 Failure to comply with the requirements of this paragraph 2.2.1 may render the Tender non-compliant and the Tender may be rejected. Tenderers must:
- a. Include all documentation specified in this RFT;
 - b. Follow the format of this RFT and respond to each element in the order as set out in this RFT;
 - c. Comply with all requirements as set out within this RFT.

- 2.2.2 If the RFT is altered or edited in any way, the subsequent Tender may be deemed non-compliant and may be rejected.
- 2.2.3 Failure to comply with the requirements of this paragraph 2.2.3 will render the Tender non-compliant and it will be rejected. Tenders must:
- a. Be received by the Contracting Authority in accordance with paragraphs 2.6.1 and 2.6.2 below;
 - b. **This Clause 2.2.3(b) applies only to certain RFTs; it does NOT apply to this RFT.** Include a statement, confirming whether any of the excluding circumstances listed in Article 45 of EU Council Directive 2004/18/EC as implemented into Irish law by Regulation 53 of the European Communities (Award of Public Authorities' Contracts) Regulations 2006 (Statutory Instrument 329 of 2006), apply to the Tenderer. Tenderers from Ireland and the United Kingdom must include with the Tender the declaration at Appendix 5 to this RFT ("Declaration"). Where submitting by eTenders, a scanned signed copy of the Declaration may be submitted electronically via the eTenders postbox. The Contracting Authority must be able to read the scanned signature of the Tenderer. If possible, please sign documents using blue ink. If the Contracting Authority cannot read the scanned signature, Tenderers may be requested to re-submit. For all Tenderers outside Ireland and the United Kingdom the statement must be evidenced, as otherwise required;
 - c. Include the statement required under paragraph 2.4 below; and
 - d. Be submitted in the Irish or the English languages only
- 2.2.4 The Contracting Authority shall consider all compliant Tenders against the Qualification and Award Criteria in Part 3 of this RFT.

2.3 Services Contract

- 2.3.1 The Contracting Authority will, subject to the right of cancellation of this public procurement competition (as set out at paragraph 2.1.3 above and at paragraph 3.3 below), select the successful Tenderer(s) to provide the Services sought under this RFT.
- 2.3.2 The successful Tenderer(s) shall provide the Services in accordance with and on the terms and conditions of the contract as set out at Appendix 6 to this RFT ("the Services Contract"). The successful Tenderer(s) shall be required to enter into the Services Contract with the Contracting Authority. Tenderers should take account of

the provisions of the Services Contract in the preparation of their Tenders. Tenderers are required to confirm their acceptance of the Services Contract in the Tenderers' Statement at Appendix 3. Tenderers may not amend the Services Contract.

- 2.3.3 Tenderers should be aware that any or all of the Special Conditions as set out at Schedule D to the Services Contract will apply (in addition to the Terms and Conditions in Schedule A to the Services Contract) to the provision of the Services if they have been marked as “applies” by the Contracting Authority.

2.4 Acceptance of RFT Requirements

Each Tenderer is required to accept the provisions of this RFT. ALL TENDERERS MUST RETURN, with their Tender, the signed Tenderer's Statement, as set out in Appendix 3, printed on the Tenderer's letterhead. Where submitting by eTenders (www.etenders.gov.ie), a scanned signed copy of the Tenderer's Statement may be submitted electronically via the eTenders postbox. The Contracting Authority must be able to read the scanned signature of the Tenderer. If possible, please sign documents using blue ink. If the Contracting Authority cannot read the scanned signature, Tenderers may be requested to re-submit. Tenderers may not amend the Tenderer's Statement at Appendix 3.

2.5 Consortia and Prime / Subcontractors

Where a group of undertakings submit a Tender in response to this RFT the Contracting Authority will deal with all matters relating to this public procurement competition through the entity who will carry overall responsibility for the performance of the Services Contract only (“Prime Contractor”), irrespective of whether or not tasks are to be performed by a subcontractor and/or consortium members. The Tenderer must clearly set out:

- a. The full legal name of the Prime Contractor together with its registered business address (where applicable), registered business name (where applicable), company registration number (where applicable), telephone and e-mail contact details;
- b. The names of all subcontractors and/or consortium members who will be involved in the provision of the Services;
- c. A description of the role to be fulfilled by each subcontractor and/or consortium member; and
- d. The name, title, telephone number, postal address, facsimile number and e-mail address of the nominated contact personnel authorised to represent the Prime Contractor, within the organisation of the Prime Contractor, to whom all communications shall be directed and accepted until this public procurement competition has been completed or terminated. Correspondence from any other

person (including from any subcontractor and/or consortium member) will NOT be accepted, acknowledged or responded to.

2.6 Tender Submission Requirements

2.6.1 Tenders must be delivered by hand or by post and must be delivered in sealed package(s). The package must be marked with the RFT Title and the word “Confidential”. Tenderers must clearly set out a return address on the Tender package. Tenders submitted by fax will NOT be accepted. The nominated address is:

Linda Newport

Mid West Regional Authority

Friar Court

Abbey Street

Nenagh

Co Tipperary

Ireland

2.6.2 Tenders must be received not later than 17:00 on 5th December 2011. Tenders that are received late WILL NOT be considered in this public procurement competition.

2.6.3

Each Tenderer is limited to submitting one Tender in his own capacity and one Tender as part of a consortium/group of undertakings under this RFT.

2.6.4 In responding to this RFT all Tenders must follow the format of the RFT and respond to each element of the RFT in the order as set out in this RFT. Where submitting Tenders to a specified postal address, Tenderers must submit at least two (2) in hard copy.

2.6.4a **This Clause 2.6.4a applies only to certain RFTs; it applies to this RFT.**
All Tenders submitted in soft copy must be compiled such that they can be read immediately using either PDF or Microsoft Office (Word, Excel, etc.) readers. It is the Tenderer’s responsibility to ensure that the information provided on the soft copy is identical to the information provided in the hard copy Tender. In the event that there is a discrepancy or conflict between the

contents of the hard and soft copies of the Tender, hard copy shall be given precedence over the soft copy.

- 2.6.5 The Contracting Authority is not responsible for corruption in electronic documents. Tenderers must ensure electronic documents are not corrupt.

2.7 Queries and Clarifications

- 2.7.1 All queries or requests for clarification relating to any aspect of this public procurement competition or of this RFT must be directed to Linda Newport, Mid West Regional Authority, Friar Court, Abbey Street, Nenagh, Co. Tipperary. Queries or requests for clarifications will be accepted no later than 17:00 on +42 unless otherwise published by the Contracting Authority.
- 2.7.2 All clarifications and responses to queries/requests for clarification will be published on Mid West Regional Authority website. Where appropriate, questions may be amalgamated. Tenderers should note that the Contracting Authority will not make responses or clarifications to individual Tenderers privately.
- 2.7.3 The Contracting Authority reserves the right to issue or seek written clarifications.
- 2.7.4 The Contracting Authority reserves the right to update or alter the information contained in this document at any time up to 10 days before the final date for receipt of Tenders. Participating Tenderers will be so informed through the eTenders website. In the event of such updates or alterations the Contracting Authority reserves the right to postpone the deadline for the receipt of Tenders so as to allow Tenderers sufficient time to respond.

2.8 Tendering Costs

All costs and expenses incurred by Tenderers relating to their participation in this public procurement competition including, but not being limited to, site visits, field trials, demonstrations and/or presentations shall be borne by and are a matter for discharge by the Tenderers exclusively.

2.9 Confidentiality

- 2.9.1 All documentation, data, statistics, drawings, information, patterns, samples or material disclosed or furnished by the Contracting Authority to Tenderers during the course of this public procurement competition:
- a. are furnished for the sole purpose of replying to this RFT only;
 - b. may not be used, communicated, reproduced or published for any other purpose without the prior written permission of the Contracting Authority;

- c. shall be treated as confidential by the Tenderer and by any third parties (including subcontractors) engaged or consulted by the Tenderer; and
- d. must be returned immediately to the Contracting Authority upon cancellation or completion of this public procurement competition if so requested by the Contracting Authority.

2.9.2 The successful Tenderer must return the original signed confidentiality agreement, as set out in Appendix 7 (“Confidentiality Agreement”), to the Contracting Authority in accordance with paragraph 3.6 below. The Confidentiality Agreement must be in the form as set out at Appendix 7 and Tenderers may not amend the Confidentiality Agreement.

2.10 Pricing

- 2.10.1 All prices quoted must be all-inclusive (i.e. including but not being limited to all costs/expenses/indexation), be expressed in Euro only and exclusive of VAT. The VAT rate(s) where applicable should be indicated separately.
- 2.10.2 Tenderers must confirm that all prices quoted in the Tender will remain valid for 30 days commencing from the closing date for the receipt of Tenders.
- 2.10.3 Any currency variations occurring over the term of the Services Contract shall be borne by the Tenderer.
- 2.10.4 Payments for Services provided pursuant to this RFT shall be subject to and be made in accordance with the Services Contract at Appendix 6 to this RFT.
- 2.10.5 **This Clause 2.10.5 applies only to certain RFTs; it applies to this RFT.**
All Tenderers must complete the Pricing Schedule at Appendix 2 to this RFT.

2.11 Employment Law

- 2.11.1 **This Clause 2.11.1 applies only to certain RFTs; it applies to this RFT.**
Under Article 27 of Directive 2004/18/EC as implemented into Irish law by Regulation 27 of European Communities (Award of Public Contracts) Regulations 2006 (S.I. No. 329 of 2006), Tenderers must provide a statement confirming that they have taken account of their legal obligations relating to employment protection and working conditions relating to the provision of the Services sought under this RFT. Failure to make the statement at paragraph 7 of the Tenderer’s Statement of Appendix 3 will render the Tender non-compliant.
Tenderers may obtain information regarding their obligations concerning:
 - Taxation from the Irish Revenue Commissioners (www.revenue.ie);
 - Environmental protection from the Environmental Protection Agency (www.epa.ie);

- Employment protection and working conditions from the Department of Enterprise, Trade and Innovation (www.deti.ie).
- 2.11.2 The successful Tenderer shall be solely responsible in law for the employment, remuneration, taxes, immigration and work permits of all personnel retained for the purposes of providing the Services.
- 2.11.3 Tenderers must comply with any applicable statutory terms relating to minimum pay and to any legally binding sectoral agreements and must take these into account when preparing Tenders.
- 2.11.4 Tenderers shall be required to include an undertaking to comply fully with the provisions of Council Directive 2001/23/EC of 12 March 2001 on the approximation of the laws of the Member States relating to the safeguarding of employees' rights in the event of transfers of undertakings, business or parts of undertakings or business and as implemented in Irish law by Statutory Instrument S.I. No. 131 of 2003 European Communities (Protection of Employees on Transfer of Undertakings) Regulations 2003 and to indemnify the Contracting Authority for any claim arising or loss or costs incurred as a result of its failure or incapacity to fulfil its obligations under the said Directive and Statutory Instrument.

2.12 Publicity

No publicity regarding this public procurement competition, the award of a contract or the execution of the Services Contract is permitted unless and until the Contracting Authority has given its prior written consent to the relevant communication.

2.13 Registrable Interest

Any Registrable Interest involving the Tenderer/subcontractor and the Contracting Authority, members of the Government, members of the Oireachtas, or employees and officers of the Contracting Authority and their relatives must be fully disclosed in the Tender or, in the event of this information only coming to their notice after the submission of a Tender and prior to the award of the contract, it should be communicated to the Contracting Authority immediately upon such information becoming known to the Tenderer/subcontractor. The terms 'Registrable Interest' and 'Relative' shall be interpreted as per Section 2 of the Ethics in Public Office Act 1995, a copy of which is available to download at www.finance.gov.ie. The Contracting Authority will, at its absolute discretion, decide on the appropriate course of action, which may in appropriate circumstances include eliminating a Tenderer from the competition or terminating any contract entered into by a Tenderer.

2.14 Anti-Competitive Conduct

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

2.15 Industry Terms Used in this RFT

Where reference is made to a particular item, source, process, trademark, or type in this RFT then all such references are to be given the meaning generally understood in the relevant industry and operational environment.

2.16 Freedom of Information

This Clause 2.16 applies only to certain RFTs; it applies to this RFT.

- 2.16.1 Tenderers should be aware that, under the Freedom of Information Acts 1997 and 2003, information provided by them during this public procurement competition may be liable to be disclosed.
- 2.16.2 Tenderers are asked to consider if any of the information supplied by them in their Tender should not be disclosed because of its commercial sensitivity. If Tenderers consider that certain information is not to be disclosed because of its commercial sensitivity, Tenderers should, when providing such information, clearly identify same and specify the reasons for its commercial sensitivity. If Tenderers do not identify it as commercially sensitive, it is liable to be released in response to a Freedom of Information request without further consultation with you. The Contracting Authority will, where possible, consult with Tenderers about commercially sensitive information so identified before making a decision on a request received under the Freedom of Information Acts.

2.17 Tax Clearance

- 2.17.1 It will be a condition of the award of any contract under this RFT that the successful Tenderer shall for the term of any such contract, comply with all EU and domestic taxation law and requirements, including but not being limited to Circular 43/2006 issued by the Department of Finance. This Circular and further information is available at www.finance.gov.ie and www.revenue.ie.
- 2.17.2 Prior to the award of any contract arising out of this public procurement competition the successful Tenderer shall be required to produce a Tax Clearance Certificate from the Irish Revenue Commissioners. Alternatively, the Tenderer may supply the certificate and registration numbers, as they appear on the Tax Clearance Certificate, to facilitate online verification of their tax status by the Contracting Authority.

2.18 Conflicts of Interest

Any conflict of interest or potential conflict of interest on the part of a Tenderer, individual employees, agents, or subcontractors of a Tenderer must be fully disclosed to the Contracting Authority as soon as the conflict or potential conflict is or becomes apparent. In the event of any conflict or potential conflict of interest, the Contracting Authority may invite Tenderers to propose means by which the conflict might be removed. The Contracting Authority will, at its absolute discretion, decide on the appropriate course of action, which may in appropriate circumstances include eliminating a Tenderer from the competition or terminating any contract entered into by a Tenderer.

2.19 Withdrawal from this Public Procurement Competition

Tenderers are required to e-mail lnewport@mwra.ie immediately if at any stage they decide to withdraw from this public procurement competition.

2.20 Site Visit

2.20.1 This Clause 2.20.1 applies only to certain RFTs; it does NOT apply to this RFT. Should it be deemed necessary for the purposes of tendering, the Contracting Authority will facilitate Tenderers by permitting an inspection of the Contracting Authority's premises. A site visit to view the Contracting Authority's premises or facilities at shall be organised on between the hours of . Tenderers wishing to make an appointment to avail of this opportunity must confirm their attendance by contacting at by . Attendance at the Contracting Authority's premises will be subject to compliance with local security arrangements.

2.20.2 Not used.

2.21 Insurance

This Clause 2.21 applies only to certain RFTs; it does NOT apply to this RFT.

2.21.1 The successful Tenderer shall be required to hold for the term of the Services Contract the following insurances:

Type of Insurance	Indemnity Limit
Employer's Liability	
Public Liability	
Professional Indemnity	
Product Liability	

2.21.2 By signing the Tenderer's Statement at Appendix 3, Tenderers confirm, that if awarded a contract under this public procurement competition, they will, from the Effective Date of the Services Contract (as defined in the Services Contract), obtain and hold the types and levels of insurance as specified at paragraph 2.21.1. A formal

confirmation from the Tenderer's insurance company or broker to this effect will be requested from the successful Tenderer(s) prior to the award of (and shall be a condition of) any contract.

2.21.3 The successful Tenderer will, during the term of the Services Contract, be required to:

- a. immediately advise the Contracting Authority of any material change to its insured status;
- b. produce proof of current premiums paid upon request;
- c. produce valid certificates of insurance upon request.

Part 3: Qualification and Award Criteria

3.1 Compliant Tenders

Only those Tenderers who have submitted compliant Tenders pursuant to paragraph 2.2 above and have not been excluded under Article 45 of EU Council Directive 2004/18/EC as implemented into Irish law by Regulation 53 of the European Communities (Award of Public Authorities' Contracts) Regulations 2006 (Statutory Instrument 329 of 2006) will be evaluated in accordance with the Qualification and Award Criteria in this Part 3.

3.2 Qualification Criteria

3.2.A This Clause 3.2.A applies only to certain RFTs; it applies to this RFT.

Economic and Financial Standing

All Tenderers must demonstrate that they can meet the following financial and economic standing requirement(s) and must be able to furnish the following documentation. Tenderers will either pass OR fail this qualification criterion.

Criteria	Rule/Minimum level
Bankers Reference	Must be provided
Evidence of overall turnover – 3 years	Must demonstrate turnover of €100,000 p.a. (exclusive of V.A.T.)
Evidence of Insurances	Must provide evidence of insurances in place

Tenderers must provide the specified documentation when requested by the Contracting Authority. However, where the Tenderer is unable, for a valid reason, to provide the specified documentation, the Tenderer must inform the Contracting Authority of that valid reason as to why the documentation cannot be supplied and provide such other suitable alternative documentation to prove, to the satisfaction of the Contracting Authority, their economic and financial capacity.

Tenderers should note that economic operators relying on the capacity of other entities must, when requested by the Contracting Authority, submit an undertaking, duly evidenced, from those entities that they will place the necessary resources at the disposal of the Tenderer.

The documentation required under this paragraph 3.2.A will be requested by the Contracting Authority prior to (and shall be a condition of) the award of any contract.

3.2.B This Clause 3.2.B applies only to certain RFTs; it applies to this RFT.

Technical and Professional Ability

All Tenderers must demonstrate that they have the following technical and professional ability and must furnish the following documentation with their Tenders. Tenderers will either pass OR fail this qualification criterion:

Details of organisation including manpower levels, skills base, etc.	The tenderer(s) must provide details of organisation structure, etc. The tenderer(s) should include a description of the profile of the relevant staff that will be assigned, their professional qualifications, their professional experience to date, etc. The tenderer(s) should indicate the % of time that the staff will be allocated to the tasks assigned. The technical team must be available for the calendar of work as outlined in Appendix 2.
Portfolio of previous experience - Details of 3 Projects	Must provide evidence of significant experience in urban development projects and/or in strategic territorial analysis; A qualification relevant to the action plan area of study- geography, urban planning-is desirable. Must provide satisfactory experience of at least three recent projects/contracts of a similar scale and complexity; Must be fluent in English. A working knowledge of French and/or Spanish is desirable.
Health & Safety	Current Health & Safety statement

Tenderers should note that economic operators relying on the capacity of other entities must submit with their Tender an undertaking, duly evidenced, from those entities that they will place the necessary resources at the disposal of the Tenderer.

3.3 Award Criteria

3.3.1 Only those Tenderers who have qualified in accordance with paragraph 3.2 of this RFT will proceed to be evaluated under this paragraph 3.3.

No commitment of any kind, contractual or otherwise shall exist unless and until a formal written contract has been executed by or on behalf of the Contracting Authority. Any award of notification of preferred bidder status by the Contracting Authority shall not give rise to any enforceable rights by the Tenderer. The Contracting Authority may cancel this public procurement competition at any time

prior to a formal written contract being executed by or on behalf of the Contracting Authority. The Contracting Authority does not bind itself to accept the lowest priced or any Tender.

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

The Contracting Authority will apply the following award criteria: (scored from 100 marks, weighted as indicated):

- Experience and relevant projects undertaken by the candidate during the past three years – 40 marks
- Proposed methodology, including the timetable demonstrating the capacity to complete the project within the review timeframe and quality of detailed submission – 20 marks
- Qualifications, expertise and skills of personnel assigned to the project – 20 marks
- Fee proposal – 20 marks

3.3.3 The award of contract (if any) to the highest ranked Tenderer (as determined by paragraph 3.3), will be conditional upon:

- (a) the Tenderer submitting the documentation if required under paragraph 3.2.A within 15 days of notification by the Contracting Authority; and
- (b) if required, the documentation submitted demonstrating that such Tenderer has the economic and financial capacity required under paragraph 3.2.A

3.4 Presentation of Proposals

Tenderers may be required to make a presentation of the proposal contained in their Tender. The Contracting Authority will not be responsible for the cost of such presentations (in accordance with paragraph 2.8). Performance at presentations will NOT be evaluated.

3.5 Standstill Period

3.5.1 No contract can or will be executed or take effect until at least sixteen (16) calendar days after the day on which the unsuccessful Tenderers have been sent the appropriate notice informing them of the result of this public procurement competition (“Standstill Period”). The preferred bidder will be notified of the decision of the Contracting Authority and of the expiry date of the Standstill Period.

3.5.2 Tenderers should note that the Contracting Authority may, when notifying unsuccessful Tenderers of the results of this public procurement competition, include the scores obtained by the Tenderer concerned and the scores obtained by the preferred bidder in respect of each award criterion assessed by the Contracting Authority.

3.6 Return of Signed Contracts

- 3.6.1 The successful Tenderer must sign and return the Services Contract and the Confidentiality Agreement, both in duplicate, to the Contracting Authority no later than 30 calendar days from the date of expiry of the Standstill Period unless notified otherwise in writing. Please note the Contracting Authority cannot and will not enter into a contract until the Standstill Period has expired. A signed Services Contract returned by the successful Tenderer is not binding on the Contracting Authority until the Contracting Authority has signed the Services Contract in accordance with paragraph 2.1.3 above.
- 3.6.2 Where the signed Services Contract and the Confidentiality Agreement have not been received by the Contracting Authority within the period as specified at clause 3.6.1 then the Contracting Authority may proceed to award the contract to the next highest-ranked Tenderer

Appendix 1: Requirements and Specifications

APPENDIX 1: REQUIREMENTS AND SPECIFICATIONS

1.1 Required elements

The required elements for the completion of this external service are set out below.

Background

The Mid West Regional Authority is partner to an EU funded project titled “Parkatlantic”, which is funded by the European Regional Development Fund through an INTERREG IVB Atlantic Area Programme. This project runs from January 2009-September 2012. Associated Irish partner in this project is Limerick City Council. Other partners in this project include the City of Santiago de Compostela, Spain, the City of Angers, the Communauté d’Agglomération Pau- Pyrénées, France, the Regional Development Agency for the Ave Valley, Portugal and associated Portuguese partner the Municipality of Vila Nova de Famalicao.

The overall objective of the Parkatlantic project is to enhance the inherent value of urban parks and green areas¹ in the Atlantic Area and to encourage their contribution for sustainable urban development. A virtual urban laboratory was set up under the project which acts as technical expertise to the projects objectives. The different work packages of the project include:

- An Urban Parks and Green Areas Study;
- An Urban Parks and Green Areas Action Plan;
- A Parks and Green Areas Training Scheme for technical staff.

Urban Parks and Green Areas Study

An urban parks and green areas study was completed from June to September 2011 and involved three phases:

- i) A comparative analysis of public and environmental policies regarding management of parks and green areas in the five project partner areas;
- ii) An inventory of natural spaces & their connections (greenways) by means of photo interpretation;
- iii) Analysis, proposals, recommendations & conclusions with regard to improving the status of natural spaces and their relationship with cities.

¹ By ‘green areas’ the project partners understand to include i)Parks, gardens, squares etc., ii) Collective gardens: family gardens, shared gardens, educational gardens, public allotments, iii) Natural green areas including forests, wooded areas, lakes, waterways etc..The term ‘parks and green areas’ is the general term used throughout this document to refer to this.

The objective of the Urban Parks Study was to identify existing policy and practice on urban parks and green areas and its contribution to sustainable development. The results and conclusions arising from this urban parks study provide the basis for development of an Action Plan for project partners to utilise in planning and management of urban parks and green areas. Interim results have been presented to project partners at a project meeting held on 21st July 2011 and the final results of this study will be submitted by 15th October 2011.

Action Plan

The overall objective of the Urban Action Plan is to improve the quality of life in towns and cities via the implementation of policies geared towards sustainable development. It is directly linked to urban parks study and will act as a reference point for public management of urban parks and green areas. The Action Plan should be action orientated and clearly outline to different project partners short, medium and long term actions that they can undertake to achieve the above objective while taking into account economic, social and environmental aspects of urban development and use of resources. As such the Sustainable Management Action Plan should:

- Improve the quality of life in urban areas;
- Improve the quality of the urban landscape and environment;
- Promote the use of green resources;
- Support educative and environment actions;
- Encourage increased usage of parks, green areas & public spaces;
- Harmonise integration of human activity in parks and green areas and reduce their impact on same.

While this call for tender relates specifically to development of a Sustainable Management Action Plan the tenderer(s) should take into consideration other ongoing work packages, and in particular the work package relating to the Urban Parks Study.

As per the partnership agreement signed by project partners, the Mid West Regional Authority is project lead in developing a common action plan and has been tasked by project partners to issue the call for tender. The Mid West Regional Authority will be responsible for contracting on behalf of all Parkatlantic project partners and shall be the main point of contact for the consultant(s).

Action Plan Work Packages:

The key output of the external services will be a Sustainable Management Action Plan of three (proposed) parts. The resulting action plan should target both policy makers and practitioners at regional and local level and should act as a reference point of 'best practices' for managing urban parks and green areas. As such it should be presented as a strategic reference document for best practices in parks management. It should also be easily transferable to any other EU Atlantic Area region.

In order to develop the action plan it is proposed that the consultant(s) use a participatory approach, through meeting each partner individually and presenting interim results for discussion at a project steering group meeting. For further information on the proposed methodology please refer to section 1.4 of Appendix 1 below.

Work Package 1: Part 1 of Sustainable Management Action Plan

Part 1 of the action plan should summarize the main points of the Urban Parks Study, a full copy of which will be transmitted to the consultant(s) upon signing of the contract. The main conclusions and recommendations from the Urban Parks Study should be clearly outlined. Using the Urban Parks Study as a basis, Part 1 should clearly identify a SWOT² analysis of each project partner's region. While this part of the Action Plan should clearly highlight the main points from the Urban Parks Study, it should also be action orientated and clearly indicate to each project partner specific action points to use in their respective regions.

Completion of this work package will mostly entail desk research though a number of meetings with the Mid West Regional Authority should also be envisaged. Contact should also be made at this stage with each individual partner in order to prepare the partner visits necessary in order to complete Work Package 2.

Work Package 2: Part 2 of Sustainable Management Action Plan

Part 2 of the action plan should include specific action orientated proposals and recommendations according to the defined thematic areas outlined below. The consultant(s) should propose a template for the action plan to the project partners for discussion and approval during the interim report meeting (date to be confirmed). It should include short, medium and long term actions with associated costs and financing (including, if any, financing opportunities). The consultant(s) should also include some research into potential use of the Action Plan as a mechanism for identifying future funding, including EU funding in the future for the realisation of certain actions.

Furthermore, under each thematic heading, the consultant(s) should consult with project partners to identify an action that gives an example of best practice in their region, following the proposed outline below:

- Description of Action
- Context, Goals
- Target Group
- Place of the Action
- Result of the Action
- Financial aspects
- Transferability of the Action
- Contact point within Project Partner for further information

The proposed action sheets are outlined below and fall under the following main features:

- i) Urban composition features;
- ii) Social features;
- iii) Economic features.

² Strengths, weaknesses, opportunities, threats.
Services RFT/2010/00632/JIVCV1/2011

The consultant(s) and/or project partners may add or remove one/more than one of the Action sheets following consultation and approval by the Contracting authority.

Urban Composition Features	
Action Sheet	Elements for inclusion
Parks and Green Area Planning	This should include recommendations to policy makers and practitioners to advise on future planning for where parks and green areas are to be developed taking into account specific requirements like population, location of existing parks and green spaces etc. It should include recommendations on the collection of data, mapping systems, different green belt typology, green areas, urban parks and models. It should reference relevant EU & National regulations relating to development, protection and management of natural heritage.
Parks and Green Areas Management	This should include recommendations for project partner's organisations on how best to allocate human resources and other resources to parks and green areas.
Physical and Environment Functions of Parks and Green Areas	Should include actions to further improve air quality, reduce energy consumption, promote rain water management, sound management and improve soil quality. It should outline actions for renewable energy including geothermal energy. It should include actions that support and develop biodiversity within parks and green areas. It should promote integration of sustainable development in parks and green areas management, promote integration of green belts and outline specific actions for pest control.
Rehabilitation and/or Redevelopment of Parks and Green Areas	This should include actions that will allow partner regions mechanisms to develop future and/or alternative uses for parks and green areas. The results of the sociological survey carried out as part of the Urban Parks Study could be used to develop this thematic chapter.
Safety	This should include actions that will promote safe usage and a safe experience for all users of parks and green areas. Furthermore, it should identify actions that will help deal with antisocial behaviour and security issues in parks and green areas.
Quality of Life	This should include actions that aim to improve physical and mental health for city dwellers and promote their overall well being. This could include actions to promote interaction between park users, nature and the natural environment of parks and green areas. It could also include actions that promote positive human relations and interactions, like for example promotion of the use of parks by all ages and abilities.

Social features	
Action Sheet	Elements for inclusion
Parks and Green Areas Parks as a Social Resource	This should include actions to promote the variety of uses for different park and green area users. The action plan could identify promotional activities that add value to the parks and green areas. It should include actions that promote social links by promoting community actions like allotments that help build community ownership and responsibility.
Parks and Green Areas as a Cultural Resource	This should include actions to promote the cultural potential of parks and green areas, like for example art classes, sculptures, concerts etc.
Recreation	This should provide guidance to project partners on developing recreation amenities for all ages and abilities. It could identify possible improvements that may be made to parks and green areas. It should help identify where there is a demand for passive recreation and/or active recreation facilities and amenities in parks and green areas.
Parks and Green Areas as an Educational Resource	This should provide actions that will promote the parks through education in a wide variety of areas that help promote ownership of parks and green areas. It should include educational activities such as awareness raising campaigns that will add value to parks and green areas. It could also include actions to promote transfer of knowledge.

Economic Features	
Action Sheet	Elements for inclusion
Parks and Green Areas as an Economic Resource	This should include actions that will encourage visitors and locals to parks and green areas and their surrounding areas, either through promotion of activities and amenities inside or outside of these areas. It should help to promote parks and green areas as a resource that will encourage people to live, work, visit, shop and play in the city.
Parks and Green Areas as a Tourism Resource	This should include actions that will allow partner regions to promote their parks and green areas as an attractor to their region. Should include actions that will raise visitor awareness of parks and green areas etc. through publications, smartphone applications, interpretative boards, etc. that provide information on flora, fauna, history, etc.

In order to complete this work package the consultant(s) is required to travel to each project partner region to meet with each partner region and discuss Part 2 of the Action Plan in detail. The resulting Sustainable Management Action Plan should clearly reflect each partner region's proposals for Part 2.

Work Package 3: Part 3 of Sustainable Management Action Plan

Upon completion of Work Package 2 and following from individual meetings with each project partner, the consultant(s) should be in a position to propose monitoring indicators to project partners for discussion during the interim results meeting (date to be confirmed).

Work Package 3 entails development of Part 3 of the sustainable management action plan which should outline tools and mechanisms for project partners to carry out monitoring and evaluation of the Action Plan. It should include where relevant both qualitative and quantitative indicators for each proposed short, medium and long term objective. It should also allow Atlantic Area project partners to set standards within their respective regions for implementation.

Work Package 4: Presentation of Interim Results of Sustainable Management Action Plan

The precise date and location for the meeting at which the consultant(s) will present interim results of the Sustainable Management Action Plan to partners for discussion and feedback has yet to be determined. A final date will be agreed upon by project partners and the consultant(s) and will take into consideration the proposed methodology and expected timeframe for completion of the external expertise. The consultant(s) should include all relevant costs for attending and participating in this meeting in their tender submission.

Work Package 5: Submission of Final Report of Sustainable Management Action Plan

The final work package will entail integrating comments and feedback from project partners during and immediately after the interim results project meeting on the sustainable management action plan. Following this, the consultant(s) will have some time to finalise and submit the final report to the Contacting Authority for final approval.

1.2 Operational arrangements

The main point of contact shall be the EU project officer from the Mid West Regional Authority. All draft and formal documentation will be exchanged with the Mid West Regional Authority. The Consultant(s) should liaise with a group comprising of representatives from each project partner. More specifically the tenderer(s) will be required to travel to each project partner's region to discuss development of the Action Plan and receive each project partner's inputs to developing the Action Plan.

The project partners are located in the following regions of Europe:

Mid West Regional Authority-Nenagh, Co Tipperary, Ireland
City of Angers- Angers, Pays de la Loire, France
Communauté d'Agglomération Pau-Pyrénées-Pau, Aquitaine, France
City of Santiago de Compostela-Santiago de Compostela, Galicia, Spain
ADRAVE-Vila Nova da Famalicao, Ave Valley, Portugal.

The interim report of the Action Plan should be presented at an interim project partner at a time and location to be confirmed.

The consultants will be required to liaise with all relevant bodies participating in this Action Plan.

The consultants shall maintain detailed records of all meetings and consultations for future reference.

All the drafts/documents prepared by the appointed consultants shall be submitted to the Mid West Regional Authority in both digital form and hard copy.

All documents prepared by the consultant on foot of this appointment and submitted to the Contracting Authority will be considered the property of the Contracting Authority and may be used by the Contracting Authority at any time, including for other projects, without prior approval of the Consultant appointed. The consultant(s) must ensure that all documents adhere to the rules on communication which are available for review on Atlantic Area Programme website.

If the tenderer proposes a team of more than one consultant, the tenderer shall nominate a person within their team who will take full charge of the delivery of the service. The nominee shall be from the lead consultancy (where an applicant comprises more than one legal entity) and shall be either the Principal of the firm or a Director. That person shall, should the applicant be awarded the contract, take responsibility and be available for all communications with the Mid West Regional Authority in respect of this brief.

Tenders must address all the requirements set down in the format of tender and **must be in the format requested in subsection 1.3 below**. It is the responsibility of the applicant to ensure that all matters are responded to, addressed fully, comprehensively and without ambiguity and contradiction.

The Mid West Regional Authority reserves the right to reject any tenders that do not meet the required format.

1.3 Information to be supplied

- A. Name, address, telephone number, e-mail address and fax number of tenderer.
- B. Name, address, telephone number and e-mail address of any third parties, sub-consultants involved in tender.
- C. Confirmation of acceptance by the tenderer and any third parties of the conditions of tender described in Parts 1, 2 & 3 of the invitation to tender.
- D. Team structure (if more than one person) – names, qualifications and professional experience of team members, management and technical support.
- E. The staff who will be assigned to this project shown by level of seniority and details of the expected hours that each will contribute to the project. Please include educational and professional qualifications of the persons involved and details of their particular experience relevant to the brief.
- F. Portfolio of previous work, describing in a clear and concise way previous experience which would render the candidate suitable for the project – 3 recent projects to be provided of a similar scale and complexity.

- G. Demonstration of capacity to undertake and complete the project during the required timeframe, with specific references to similar projects together with names of referees that can testify.
- H. Details of availability to commence the project.
- I. A method statement for the preparation of the Action Plan. This should include clearly defined milestones within the timeframe outlined in this brief and dates for the completion of the key outputs outlined in this brief (refer to subsection 3.2 below).
- J. A brief well written tender that clearly illustrates an understanding of the project from conception through to the work programme and deliverables
- K. A total price (excl. VAT), inclusive of all the costs incurred in the successful delivery of the project. Price to include consultants calculation of amount for expenses which shall be indicated. Contract is a fixed price contract and no payments can issue over and above the price tendered. Tenderers shall therefore satisfy themselves of the adequacy and correctness of their tender.
- L. A breakdown of the total price under suitable headings (e.g. staff, travel, meetings etc).
- M. Statement of overall turnover in respect of the most recent three years for which financial data is available. Should such data be based on years other than 2005, 2006 and 2007 the applicant must explain adequately and in full. The statement of overall turnover above shall be supported by extracts from the applicant's accounts, which must be supported by an auditors report. The minimum requirement is an annual turnover of at least **€ 100,000** (exclusive of V.A.T.) in respect Consultancy services in the preceding three years.
- N. Original and current (issued within three months of publication of Contract Notice for this competition) reference letter from applicant's bankers.
- O. Evidence of relevant insurances including Employers and Professional Indemnity Insurance and compliance with tax clearing procedures.
- P. Evidence of current Health & Safety statement.
- Q. Completion (including signing) of Request for Tender Form (Appendix 3) and Declaration as to personal circumstances of Tenderer (Appendix 5)

1.4 Proposed methodology

The proposed methodology shall include a textual response on a point by point basis outlining how the requirements specified in Appendix 1 will be met.

As part of the proposed methodology, the candidates shall submit a timetable outlining the various project stages including desk research and partner visits.

1.5 Study Completion Period

The proposed calendar for completion of the different work packages is proposed as follows:

Work Package	Work Area	Suggested completion date
Work Package 1: Completion of Part 1 of Sustainable Management Action Plan	Desk research & contacts with each partner.	Weeks 1-4
Work Package 2: Completion of Part 2 of Sustainable Management Action Plan	Visit to project partners regions	Weeks 5-13
Work Package 3: Completion of Part 3 of Sustainable Management Action Plan	Compilation of draft action plan	Weeks 14-16
Work Package 4: Presentation of draft Action Plan to project partners	Presentation of Interim results to project partners	To be confirmed, expected weeks 17-18
Work Package 5: Submission of Final Report	Integration of comments/feedback from project partners, finalisation of action plan & submission of final report.	Weeks 19-26

It is a matter for the tenderer(s) to propose their own methodology and timeframe for implementation of the tender. However, regard should be had for the proposal to follow the proposed calendar outlined above.

The total amount of contracted external expertise should not exceed 26 weeks from date of signature.

Tenderer(s) should note that it is expected that the external expertise will commence in January 2012 and conclude not later than June 2012. This includes relevant desk research, visits to each project partner, presentation of interim results to project partners at project steering group meeting (date and location to be confirmed) and final submission of Action plan and relevant documentation. The Consultant(s) must be prepared to submit a draft of the review document within three months from appointment.

Appendix 2: Pricing Schedule

The tenderer is required to quote a fixed price (exclude VAT) for the project in euro (€) which shall be fully inclusive of all costs such as human resources, travel costs, reproduction costs, overheads and all other costs incurred in successfully delivering the brief. All documentation should be submitted in English. Each individual project partner will be responsible for translation into any other language. An indicative breakdown of the tender sum under suitable costs headings (e.g. staff, travel, printing, outlays etc.) should be provided. All aspects of the tender sum calculation should be obvious, transparent and accounted for.

It is anticipated that the total fee, including VAT, will not exceed 68,000 Euro.

Appendix 3: Tenderers' Statement

[Tenderers shall complete and return the following form of Tenderers' Statement printed on the Tenderers' headed notepaper and signed by the Tenderer.]

TENDERERS' STATEMENT

TO: The Mid West Regional Authority

RE: Request for Tenders for the Provision of External expertise to develop an Urban Parks Sustainable Management Action Plan for project partners of the INTERREG IVB co funded project 'PARKS ATLANTIC'

Having examined your Request for Tenders (RFT) including the Instructions to Tenderers, Qualification and Award Criteria, Requirements and Specifications, Terms and Conditions of the Services Contract, we hereby agree and declare the following:

1. We understand the nature and extent of the Services required to be delivered as described in Requirements and Specifications at Appendix 1 to the RFT.
2. We accept all of the Terms and Conditions of the Services Contract and the Confidentiality Agreement and agree if awarded any contract to execute the Services Contract at Appendix 6 to the RFT.
3. We accept all the Qualification and Award Criteria as set out in Part 3 of the RFT.
4. We agree to provide the Contracting Authority with the Services in accordance with the RFT and our Tender.
5. We confirm that we have complied with all requirements as set out at Part 2 of the RFT.
6. We confirm that all prices quoted in our Tender will remain valid for the period of time commencing from the closing date for the receipt of Tenders as specified at paragraph 2.10.2 of the RFT.
7. **This Clause 7 is required only for certain Tenders; it is required for this Tender.**
Our compliance with all relevant legal employment requirements as set out in the RFT, in particular but not exclusively paragraph 2.11.1 of the RFT.
8. We acknowledge that the RFT does not constitute an offer to enter into a contract and neither this document nor any of the information set out therein should be regarded as a commitment or representation on the part of the Contracting Authority or any other person to enter into a contractual arrangement. No commitment of any kind,

contractual or otherwise, shall exist unless and until a formal written contract has been executed by or on behalf of the Contracting Authority. The Contracting Authority may, at its absolute discretion, cancel this public procurement competition at any time prior to a formal written contract being executed by and on behalf of the Contracting Authority.

9. We satisfy the Qualification Criteria as set out at paragraph 3.2.A of the RFT and, if requested by the Contracting Authority, shall immediately furnish such evidence as may demonstrate our economic and financial capacity in accordance with the said paragraph 3.2.A.
10. We shall, if awarded any contract under the RFT, have in place on the Effective Date of the Services Contract all insurances (if any) as required by paragraph 2.21.1 of the RFT.

SIGNED

Company

(Authorised Signatory)

Print name

Address

Date

Appendix 4: Tenderers' Aide-Memoire

1. Have you addressed all the requirements in Part 2?
2. Have you signed and completed all the relevant pages where so required?
3. If required, have you completed the Pricing Schedule at Appendix 2?
4. If submitting the Tender by hand or by post, have you correctly addressed the Tender return package (including marking it 'Confidential' and setting out the RFT Title as per paragraph 1.2 of the RFT)?
5. Have you returned all the documentation required?
6. Have you noted the closing time and date for return of the Tender?
7. If submitting the Tender electronically on eTenders, have you taken into account the extra time that may be required, to upload all documents? (See warning on large documents at paragraph 2.6.1 of the RFT).

Appendix 5: Declaration as to Personal Circumstances of Tenderer

Re: Request for Tenders for the Provision of External expertise to develop an Urban Parks Sustainable Management Action Plan for project partners of the INTERREG IVB co funded project 'PARKS ATLANTIC'

NAME OF TENDERER: _____

ADDRESS: _____

I, _____, having been duly authorised by the Tenderer, sincerely declare that:

1. The Tenderer is not bankrupt or being wound up, its affairs are not being administered by a court, it has not entered into an arrangement with its creditors, it has not suspended its business activities nor is it in any analogous situation arising from a similar procedure under national laws and regulations;
2. The Tenderer is not the subject of proceedings for a declaration of bankruptcy, for an order for compulsory winding up or administration by the court or for an arrangement with creditors or of any other similar proceedings under national laws and regulations;
3. Neither the Tenderer, nor any of its directors or partners, has been convicted of an offence concerning professional conduct by a judgment which has the force of res judicata or been guilty of grave professional misconduct (proven by any means which the Contracting Authority can demonstrate) in the course of its or their business;
4. The Tenderer has fulfilled its obligations relating to the payment of taxes or social security contributions in its country of establishment or any other state in which the Tenderer is located;
5. The Tenderer has not been guilty of serious misrepresentation or omission in providing information to a public buying agency, including the Contracting Authority;
6. The Tenderer (or any of its directors or partners) has not been convicted of fraud, money laundering, corruption, or of being a member of a criminal organisation; and

I understand and acknowledge that the provision of inaccurate or misleading information in this declaration may lead to my business/firm/company/partnership being excluded from participation in this or future tenders, and I make this solemn declaration conscientiously believing the same to be true and by virtue of the Statutory Declarations Act, 1938. This declaration is made for the benefit of the Contracting Authority.

Signature of Declarant

Name of Declarant in print or block capitals

Declared before me by _____ who is personally known to me
(or who is identified to me by _____ who is personally known to me)
at _____ this _____ day of _____ 20__

(signed)
Practising Solicitor/Commissioner for Oaths

Appendix 6: Services Contract

The Mid West Regional Authority

and

[Insert successful Tenderer's full legal name – to be completed on signing.]

AGREEMENT

Relating to the Provision of Services pursuant to

Request for Tenders for the Provision of External expertise to develop an Urban Parks Sustainable Management Action Plan for project partners of the INTERREG IVB co funded project 'PARKS ATLANTIC'

THIS AGREEMENT is made on the [date e.g. 2nd] day of [month] 20[year] BETWEEN:

The Mid West Regional Authority, of Friar Court, Abbey Street, Nenagh, Co. Tipperary, Ireland (“the Client”); and

[Contractor's full legal name: to be completed on signing], of [Contractor's address: to be completed on signing] (“the Contractor”)

(“the Parties”).

WHEREAS:

- A. By Request for Tender dated October 2011, the Client invited tenders for the provision of External expertise to develop an Urban Parks Sustainable Management Action Plan for project partners of the INTERREG IVB co funded project 'PARKS ATLANTIC' (“the RFT”) (which document is attached hereto in Schedule F), to be provided for its offices at specified locations throughout Ireland. References to the RFT shall include any clarifications issued by the Client and same are attached hereto in Schedule F.
- B. The Contractor submitted a response to the RFT dated the [Date of Tender: to be completed on signing.] which is attached hereto in Schedule G (“the Submission”). References to the Submission shall include any clarifications issued by the Contractor and same are attached hereto in Schedule G.

IT IS HEREBY AGREED AS FOLLOWS:

- 1. The Contractor agrees to provide the Services described in Schedule B (“the Services”) in accordance with this Agreement (“Agreement”). Schedule B details the nature, quality, time of delivery, key personnel and functional specifications of the Services in accordance with the RFT and the Submission (“the Specification”).
- 2. The Client agrees to pay the Charges to the Contractor as stipulated in Schedule C (“the Charges”). The Charges are exclusive of VAT which shall be due at the rate applicable on the date of the VAT invoice. For the purposes of this Agreement, the Client’s Contact is [name of contact person] of [address of contact person]; the Contractor’s Contact is [Contractor contact name: to be completed on signing.] of [Contractor contact address: to be completed on signing.]
- 3. This Agreement is governed by the terms and conditions as set out in Schedule A and consists of the following documents, and in the case of conflict of wording, in the following order of priority:
 - i. This Agreement and Schedules A to E attached hereto;

- ii. The RFT (Schedule F);
- iii. The Submission (Schedule G).

4. This Agreement shall take effect on the date of this Agreement (“the Effective Date”) and shall expire on [insert date], unless it is otherwise terminated in accordance with the provisions of this Agreement or otherwise lawfully terminated or otherwise lawfully extended as agreed between the Parties (“the Term”).

The Client reserves the right to extend the Term for a period or periods of up to [INSERT NUMBER] months with a maximum of [NUMBER] such extensions permitted subject to its obligations at law.

SIGNED for and on behalf of the Client	SIGNED for and on behalf of the Contractor
_____	_____
(being a duly authorised officer)	
Witness	Witness

Schedule A: Terms and Conditions

1. Contractor's Obligations

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

prime contractor. The Contractor as prime contractor under the Submission hereby assumes liability for its subcontractors and shall ensure that its subcontractors shall comply in all respects with the relevant terms of this Agreement to the extent that it or they are retained by the Contractor.

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

2. Delivery of the Services

- A. The Contractor shall provide the Services at the time(s), to the location(s) and on the date(s) specified in the Specification or otherwise agreed in writing between the Parties in accordance with clause 11.
- B. The Client acknowledges that the Contractor may from time to time be dependent on the Client to facilitate the Contractor in the carrying out of its duties under this Agreement. The Client agrees to use its reasonable endeavours to so facilitate the Contractor within the timescales and in the manner agreed by it in writing in accordance with clause 11.

3. Key Personnel

The Contractor undertakes and acknowledges that it is responsible for ensuring that all key personnel as specified in the Submission ("Key Personnel"), assigned by it to provide the

Services shall be available for the term of this Agreement. The Contractor acknowledges that the Key Personnel are essential to the proper provision of the Services to the Client. In the event that any of the Key Personnel assigned by the Contractor to provide the Services under this Agreement becomes unable to provide the Services for whatever reason then, the Contractor acknowledges and undertakes that it shall immediately notify the Client in writing of the inability of any Key Personnel and replace that person with a person of equivalent experience and expertise (“Replacement Personnel”). The Contractor shall provide to the Client such details as the Client may reasonably require in writing regarding any Replacement Personnel. The Client shall have absolute discretion as to the suitability of any proposed Replacement Personnel.

4. Payment

- A. Subject to the provisions of this clause 4 the Client shall pay and discharge the Charges (plus any applicable VAT), in the manner specified at Schedule C. Invoicing arrangements shall be on such terms as may be agreed between the Parties.
- B. Discharge of the Charges is subject to:
1. Compliance by the Contractor with the provisions of this Agreement including but not limited to any milestones, compliance schedules and/or operational protocols in place pursuant to clause 11A from time to time;
 2. The furnishing by the Contractor of a valid invoice and such supporting documentation as may be required by the Client from time to time. Any Contractor pre-printed terms and conditions are hereby disallowed;
 3. Invoices being submitted to the Client’s Contact (as set out in this Agreement or such other alternative contact as may be agreed between the Parties). All and any queries relating to the invoice and/or the Services for any billing period (including whether or not Services have been accepted, rejected, satisfactorily re-performed or as the case may be) must be raised by the Client’s Contact within 14 calendar days of receipt of invoice. In circumstances where no queries are raised within the said 10 day period the invoice shall be deemed accepted. Upon resolution of any queries on the invoice to the satisfaction of the Client or upon such deemed acceptance the invoice shall be payable by the Client. Payment is subject to any rights reserved by the Client under Special Condition 4; and
 4. The Client being in possession of the Contractor’s current Tax Clearance Certificate. The Contractor shall comply with all EU and domestic taxation law and requirements including but not limited to the terms of Circular 43/2006

issued by the Department of Finance, a copy of which is available at www.finance.gov.ie. The Contractor may supply the certificate and registration numbers, as they appear on the Tax Clearance Certificate, to facilitate on-line verification of their tax status by the Client.

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

5. Warranties, Representations and Undertakings

- A. The Contractor warrants, represents and undertakes that:
 - 1. it has the authority and right under law to enter into, and to carry out its obligations and responsibilities under this Agreement and to provide the Services hereunder;
 - 2. it is entering into this Agreement with a full understanding of its material terms and risks and is capable of assuming those risks;

3. it is entering into this Agreement with a full understanding of its obligations with regard to taxation, employment and environmental protection and is capable of assuming and fulfilling those obligations;
4. it has acquainted itself with and shall comply with all legal requirements or such other laws, recommendations, guidance or practices as may affect the provision of the Services as they apply to the Contractor;
5. it has taken all and any action necessary to ensure that it has the power to execute and enter into this Agreement;
6. where applicable, the status of the Supplier, declared in the “Declaration as to Personal Circumstances of Tenderer” in the Submission, which confirms that none of the excluding circumstances listed in Article 45 of EU Directive 2004/18/EC as implemented into Irish law by European Communities (Award of Public Authorities’ Contracts) Regulations 2006 (S.I. No. 329 of 2006) apply to the Supplier, remains unchanged;
7. it owns, has obtained or is able to obtain, valid licences for all Intellectual Property Rights (as defined in clause 7 below) that are necessary for the performance of its obligations under this Agreement and for the Client to obtain the benefit of the Services for its business purposes; and
8. it retains and shall maintain for the Term insurances for the nature and amount specified in the RFT. The Contractor undertakes to advise the Client forthwith of any material change to its insured status, to produce proof of current premiums paid upon written request and where required produce valid certificates of insurance for inspection. The Contractor shall carry out all directions of the Client with regard to compliance with this clause 5A.8.

B. The Contractor undertakes to notify the Client forthwith of any material change to the status of the Contractor with regard to the warranties, representations and undertakings as set out at clause 5A and to comply with all reasonable directions of the Client with regard thereto which may include termination of this Agreement.

6. Remedies

A. The Contractor shall be liable for and shall indemnify the Client for and in respect of all and any losses, claims, demands, damages or expenses which the Client may suffer due to and arising directly as a result of the negligence, act or omission, breach of contract, breach of duty, insolvency, recklessness, bad faith, wilful default or fraud of

the Contractor, its employees, subcontractors or agents or any of them or as a result of the Contractor's failure to exercise care as outlined in clause 1. The terms of this clause 6A shall survive termination of this Agreement for any reason.

- B. Save in respect of fraud (including fraudulent misrepresentation), personal injury or death, neither Party will be liable for any indirect losses (including loss of profit, loss of revenue, loss of goodwill, indirectly arising damages, costs and expenses) of any kind whatsoever and howsoever arising even if such Party has been advised of their possibility.
- C. Should the Client find itself obliged to order elsewhere in consequence of the failure of the Contractor to deliver Services, the Client shall be entitled to recover from the Contractor any excess prices which may be paid by the Client.
- D. Except as otherwise expressly provided by this Agreement, all remedies available to either Party for breach of this Agreement are cumulative and may be exercised concurrently or separately, and the exercise of any one remedy shall not be deemed an election of such remedy to the exclusion of other remedies.

7. Intellectual Property

- A. Intellectual Property Rights ("IPR") means all patents and patent rights, trademarks and trademark rights, trade names and trade name rights, service marks and service mark rights, service names and service name rights, brand names, copyrights and copyright rights, trade dress, business and product names, logos, slogans, trade secrets, industrial models, utility models, design models, designs, rights in confidential information, know-how, rights in the nature of unfair competition rights and rights to sue for passing off, and all pending applications for and registrations of patents, trademarks, service marks, and copyrights together with all connected and similar or analogous rights in any country or jurisdiction for the full term thereof.
- B. Pre-existing IPR means all IPR existing prior to the date of this Agreement and all IPR in any materials, acquired or developed by or for Contractor or Client independently of this Agreement, and any IPR in Contractor's standard hardware and software products or modifications or updates to such products.
- C. All IPR title and interest in all reports, data manuals and/or other materials (other than software) (including without limitation all and any audio or audio visual recordings, transcripts, books, papers, records, notes, illustrations, photographs, diagrams) produced for the purposes of this Agreement (collectively "the Materials") (or any part or parts thereof) shall vest in the Client and the Contractor so acknowledges and

confirms. For the avoidance of doubt the Contractor hereby assigns all Intellectual Property Rights, title and interest in the Materials (including by way of present assignment of future copyright) to the extent that any such Intellectual Property Rights title or interest may be deemed by law to reside in it in the Materials to the Client absolutely.

- D. The Client grants to the Contractor a royalty-free non-exclusive licence to use the Client's Pre-existing IPR for the Term to the extent necessary to enable the Contractor to fulfil its obligations under this Agreement. Save as expressly set out in this clause 7 all Pre-Existing IPR shall remain the sole property of the party who owned, acquired or developed such intellectual property.
- E. The Contractor shall waive or procure a waiver of any moral rights subsisting in copyright produced under or in performance of this Agreement.
- F. Nothing in this Agreement shall prohibit or be deemed to prohibit the Contractor from providing services similar to the Services to any party other than the Parties hereto. In no event shall the Contractor be precluded from independently developing for itself, or for others, materials which are competitive with, or similar to, the Services and to use its general knowledge, skills and experience, and any ideas, concepts, know-how, formats, templates, methodologies and techniques that are acquired or used in the course of providing the Services.
- G. The Contractor shall ensure that all and any necessary consents and/or licences for any software, instrument, modality or methodology are obtained and in place before use for the purposes of this Agreement (to include but not be limited to ensuring that the Client shall be vested with all necessary rights so as to enable the Client to enjoy the benefit of the Services for its business purposes). The Contractor hereby indemnifies the Client and shall keep and hold the Client harmless from and in respect of all and any liability loss damages claims costs or expenses which arise by reason of any breach of third party Intellectual Property Rights in so far as any such rights are used for the purposes of this Agreement.

At the option of the Client for and in respect of any such breach, the Contractor shall at its expense and option:

- (i) procure the necessary rights for the Client to continue use;
- (ii) replace the relevant deliverable with a non-infringing equivalent;
- (iii) replace the relevant deliverable to make it non-infringing while giving equivalent performance; or

- (iv) if the Contractor cannot obtain the remedies in (i), (ii) or (iii) above, it may direct the return of the deliverable and refund to the Client Charges paid for such deliverable less a reasonable amount for the Client's use of the deliverable up to the time of return, provided such reasonable amount is due to the owner of the said deliverable, TOGETHER with all direct losses thereby accruing to the Client as a result of the breach.

H. Upon the termination of this Agreement for whatever reason, the Contractor shall immediately deliver up to the Client all the Materials prepared up to the date of termination. As an exception to its obligations under this clause 7H the Contractor may retain one copy of the Materials, in paper form, in the Contractor's legal files for the purpose of and only to the extent necessary for ensuring compliance with its obligations under this Agreement. The provisions of this clause 7 will survive the expiration or termination of this Agreement for any reason.

8. Confidentiality

- A. Each of the Parties to this Agreement agrees to hold confidential all information, documentation and other material received, provided or obtained arising from their participation in this Agreement ("Confidential Information") and shall not disclose same to any third party except to:
1. its professional advisers subject to the provisions of this clause 8; or
 2. as may be required by law; or
 3. as may be necessary to give effect to the terms of this Agreement subject to the provisions of this clause 8; or
 4. in the case of the Client by request of any person or body or authority whose request the Client or persons associated with the Client (including but not limited to the Legislature and/or the Executive and/or the Civil Service) considers it necessary or appropriate to so comply.
- B. The Contractor undertakes to comply with all reasonable directions of the Client with regard to the use and application of all and any confidential information and shall comply with the Confidentiality Agreement as exhibited in Schedule E to this Agreement ("the Confidentiality Agreement"). The obligations in this clause 8 will not apply to any Confidential Information:
1. in the receiving Party's possession (with full right to disclose) before receiving it from the other Party; or

2. which is or becomes public knowledge other than by breach of this clause; or
 3. is independently developed by the disclosing Party without access to or use of the Confidential Information; or
 4. is lawfully received from a third party (with full right to disclose).
- C. The Contractor acknowledges that the security of the State and its information is of paramount importance to the Client. Accordingly the Contractor confirms that it will, from time to time, during the currency of this Agreement as may be requested by the Client submit full personal details (including those of subcontractors) who are assigned to provide the Services (or any part thereof) under this Agreement. The Contractor further acknowledges that checks may be carried out in relation to all such personnel by police authorities and the Contractor shall comply with all reasonable directions of the Client arising therefrom.
- D. In circumstances where the Client is subject to the provisions of the Freedom of Information Acts, 1997 and 2003, then in the event of the Client receiving a request for information related to this Agreement, the Client shall consult with the Contractor in respect of the request. The Contractor shall identify any information that is not to be disclosed on grounds of commercial sensitivity, and shall state the reasons for this sensitivity. The Client will consult the Contractor about this commercially sensitive information before making a decision on any Freedom of Information request received. The final decision on disclosure rests with the Office of the Information Commissioner and ultimately, the courts.
- E. The terms of this clause 8 shall survive expiry, completion or termination for whatever reason of this Agreement.

9. Force Majeure

- A. A 'Force Majeure Event' means an event or circumstance or combination of events and/or circumstances not within the reasonable control of the Affected Party (as defined in clause 9B below) which has the effect of delaying or preventing that Party from complying with its obligations under this Agreement including but not limited to acts of God, war, out-break of disease, insurrection, riot, civil disturbance, rebellion, acts of terrorism, government regulations, embargoes, explosions, fires, floods, tempests, or failures of supply of electrical power, or public telecommunications equipment or lines, excluding industrial action of whatever nature or cause (strikes, lockouts and similar) occurring at the Contractor (or subcontractor or agent) places of business.

B. In the event of any failure, interruption or delay in the performance of either Party's obligations (or of any of them) resulting from any Force Majeure Event, that Party ("the Affected Party") shall promptly notify the other Party in writing specifying:

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

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

C. If the Force Majeure Event continues for [insert number] days either Party may terminate at 14 days' notice.

D. In circumstances where the Contractor is the Affected Party, the Client shall be relieved from any obligation to make payments under this Agreement save to the extent that payments are properly due and payable for obligations actually fulfilled by the Contractor in accordance with the terms and conditions of this Agreement.

10. Termination

A. Notwithstanding the provisions of clause 12 and subject to the provisions of sub-clause 10B, this Agreement may be terminated by either Party by serving [insert period of time] written notice to the other Party. For greater certainty, neither Party shall be entitled to any additional amounts or compensation in the event that the Agreement is terminated in accordance with this clause 10A.

B. Either Party shall have the right (in addition to any other rights which it has at law) to terminate this Agreement immediately and without liability for compensation or damages on the happening of any of the following:

1. if the other Party commits any serious breach or a series of breaches of any provision of this Agreement and fails to remedy such breach(es) (if the breach(es) are capable of remedy) within 30 days after receipt of a request in writing from the other Party;

and/or

2. if the other Party becomes insolvent, becomes bankrupt, is wound up, commences winding up, has a receiving order made against it, makes any arrangement with its creditors generally or takes or suffers any similar action as a result of debt, or an event having an equivalent effect.
- C. Where applicable, the Client shall have the right, in addition to any other rights which it has at law, to terminate this Agreement immediately and without liability for compensation or damages in circumstances where the Client becomes aware that any of the excluding circumstances listed in Article 45 of EU Directive 2004/18/EC as implemented into Irish law by European Communities (Award of Public Authorities' Contracts) Regulations 2006 (S.I. No. 329/2006) apply to the Contractor.
- D. Termination of this Agreement shall not affect any antecedent and accrued rights, obligations or liabilities of either Party, nor shall it affect any provision of this Agreement which is expressly or by implication intended to come into or continue in force on or after such termination.
- E. On completion or termination of this Agreement, howsoever arising, the Contractor shall immediately return all Confidential Information, records, papers, materials, media and other property of the Client which is in its possession. As an exception to its obligations under this clause 10E the Contractor may retain one copy of the Materials, in paper form, in the Contractor's legal files for the purpose of and only to the extent necessary for ensuring compliance with its obligations under this Agreement.
- F. If requested, the Contractor shall, upon the termination of this Agreement for any reason or prior to the expiration of the Term, promptly furnish such anonymised information relating to the terms and conditions of the employment of all persons providing the Services as may be required by the Client. The Contractor agrees to the Client releasing any such anonymised information to third party tenderers for the purposes of any procurement competition for the provision of the Services upon expiry of the Term or earlier termination of this Agreement for whatever cause.

11. Contract Management

- A. The Client's Contact and the Contractor's Contact shall liaise on a regular basis to address any issues arising which may impact on the performance of this Agreement and to agree milestones, compliance schedules and operational protocols as required by the Client from time to time. If requested in writing by the Client the Contractor shall meet formally with the Client to report on progress and shall comply with all written directions of the Client.

- B.** The Contractor agrees to:
1. liaise with and keep the Client's Contact fully informed of any matter which might affect the observance and performance of the Contractor's obligations, including the time scale of completion of the key components of the Services;
 2. comply with the reporting arrangements and protocols required by the Client from time to time; and
 3. comply with all reasonable directions of the Client.
- C.** The Client or its authorised representative may inspect the Contractor's premises, lands and facilities (or such part or parts thereof relating solely to this Agreement) with due access to relevant personnel and records upon reasonable notice in writing to ensure compliance with the terms of this Agreement. The Contractor shall comply with all reasonable directions of the Client thereby arising. The cost of inspection shall be borne by the Client.

12. Disputes

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

13. Governing Law, Choice of Jurisdiction and Execution

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

14. Notices

- A.** Any notice or other written communication to be given under this Agreement shall either be delivered personally or sent by registered post or email or facsimile transmission. The Parties will from time to time agree primary and alternative contact persons and details for the purposes of this clause 14.

- B. All notices shall be deemed to have been served as follows:
1. if personally delivered, at the time of delivery;
 2. if posted by registered post, at the expiration of 48 hours after the envelope containing the same was delivered into the custody of the postal authorities (and not returned undelivered); and
 3. if communicated by email or facsimile transmission, at the time of acknowledgement of transmission.

15. Assignment and Subcontract

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

16. Entire Agreement

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

17. Severability

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

18. Waiver

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

19. Non-exclusivity

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

20. Media

No media releases, public announcements or public disclosures relating to this Agreement or its subject matter, including but not limited to promotional or marketing material, shall be made by the Contractor without the prior written consent of the Client.

21. Conflicts, Registrable Interests and Corrupt Gifts

- A. The Contractor confirms that it has carried out a conflicts of interest check and is satisfied that it has no conflicts in relation to the Services and its obligations undertaken under this Agreement. The Contractor hereby undertakes to advise the Client forthwith should any conflict or potential conflict of interest come to its attention during the currency of this Agreement and to comply with the Client's directions in respect thereof.
- B. Any registrable interest involving the Contractor (and any subcontractor or agent as the case may be) and the Client, the Ceann Comhairle (Speaker), or any member of the Government, or any member of the Oireachtas, or their relatives must be fully disclosed to the Client immediately upon such information becoming known to the Contractor (subcontractor or agent as the case may be) and to comply with the Client's directions in respect thereof, to the satisfaction of the Client. The terms "registrable interest" and "relative" shall be interpreted as per section 2 of the Ethics in Public Office Act, 1995 (as amended) a copy of which is available on request.
- C. The Contractor shall not offer or agree to give any public servant or civil servant any gift or consideration or commission of any kind as an inducement or reward for doing or forbearing to do or for having done or forborne to do any action in relation to the obtaining or execution of this or any other public contract. Any breach of this clause 21B or the commission of any offence by the Contractor, any subcontractor, agent or employee under the Prevention of Corruption Acts, 1889 to 2005 shall entitle the Client to terminate this Agreement forthwith and to recover the amount of any loss resulting from such cancellation, including but not limited to recovery from the Contractor of the amount or value of any such gift, consideration or commission.

22. Inspection and Access to Premises

- A. Save as the Client may otherwise direct, the Contractor is deemed to have inspected the Client's premises, lands and facilities before submitting its Submission and to have made appropriate enquiries so as to be satisfied in relation to all matters connected with the performance of its obligations under this Agreement.
- B. Any of the Client's premises made available from time to time to the Contractor by the Client in connection with this Agreement, shall be made available to the Contractor on a non-exclusive licence basis and shall be used by the Contractor solely for the purpose of performing its obligations under this Agreement. The Contractor shall have use of such premises as licensee and shall vacate the same on completion, termination or abandonment of this Agreement.

- C. The Contractor shall upon reasonable notice by the Client allow the Client access to its premises (including the premises of any subcontractor or agent) where the Services are being performed for the Client under this Agreement.

Schedule B: Specification of Services

[Insert when completing contract]

Schedule C: Charges

[Insert when completing contract]

Schedule D: Special Conditions

A provision in this Schedule shall apply ONLY IF marked as ‘applies’.

Special Condition 1 – Time of the Essence

SC 1(A) Time of delivery shall be of the essence. This clause does not apply to this contract.

Time of delivery shall be of the essence and if the Contractor fails to deliver the Services within the time promised or specified in the Specification the Client may release itself from any obligation to accept and pay for the Services and/or terminate this Agreement without prejudice to any other rights and remedies of the Client.

SC 1(B) Right to Impose Liquidated Damages Claim where Delivery Dates not Complied with. This clause does not apply to this contract.

Without prejudice to any general right to damages under this Agreement where the Contractor does not provide the Services within delivery dates or lead times in accordance with this Agreement, the Client may, at his discretion, deduct [number] per cent per week, or part thereof, for each week of late delivery of the value of the entire relevant invoice or order as liquidated damages up to a maximum amount of [number] per cent of the Charges (or invoice or order price) for the relevant Services (“Liquidated Damages Threshold”).

Where the Liquidated Damages Threshold is met or exceeded (being that delivery continues not to be performed after the Liquidated Damages Threshold is met), the Client shall be entitled to:

1. claim any remedy available to it (whether under this Agreement or otherwise) for loss or damage incurred or suffered by it after the end of the Liquidated Damages Period; and
2. without prejudice to sub-clause (1), the Client shall be entitled to terminate the Agreement with immediate effect by giving notice in writing to the Contractor.

Special Condition 2 – Limitation of Liability

SC 2 Contractor’s Limitation on Liability. This clause does not apply to this contract.

Save in respect of fraud, personal injury or death (for which no limit applies), the limit of the Contractor’s aggregate liability to the Client under this Agreement whatsoever and howsoever arising shall not under any circumstances exceed [number] per cent of the Charges paid or projected to be paid (whichever is higher) under this Agreement regardless of the number of claims and in any event shall not be for a sum less than €[insert amount].

Special Condition 3 – Remedies

SC 3 Retention for Cause. This clause does not apply to this contract.

If for any reason the Client is dissatisfied with the performance of the Contractor, an appropriate sum may be withheld from any payment otherwise due (“the Retention Amount”) which Retention Amount shall not at any given time exceed [number] per cent of the Charges. In such event the Client shall identify the particular Services with which it is dissatisfied together with the reasons for such dissatisfaction; payment of the Retention Amount will be made upon replacement and/or remedy of the said Services as identified by the Client or resolution of outstanding queries. The Client shall hold the Retention Amount on behalf of the Contractor but without any obligation to invest. The terms of this SC 3 shall be without prejudice to and not be in substitution for any remedy of the Client under this Agreement.

Special Condition 4 – Equipment

SC 4 Contractor to provide Equipment. This clause does not apply to this contract.

- SC4(A) The Contractor shall provide all equipment and materials (“Equipment”) necessary for the provision of the Services.
- SC4(B) All Equipment brought onto the Client’s premises shall be at the Contractor’s own risk and the Client shall have no liability for any loss of or damage to any Equipment. The Contractor shall provide for the haulage or carriage thereof to the Client’s premises and the removal of Equipment when no longer required at its sole cost. Unless otherwise agreed, Equipment brought onto the premises will remain the property of the Contractor.
- SC4(C) The Contractor shall maintain and store all items of Equipment within the Client’s premises in a safe, serviceable and clean condition.
- SC4(D) The Contractor shall, at the Client’s written request, at its own expense and as soon as reasonably practicable:
- i. remove from the Client’s premises any Equipment which in the reasonable opinion of the Client is either hazardous, noxious or not in accordance with this Agreement; and
 - ii. replace such item with a suitable substitute item of Equipment.
- SC4(E) On completion of the Services the Contractor shall remove the Equipment used by the Contractor to provide the Services and shall leave the Client’s premises in a clean, safe and tidy condition. The Contractor is solely responsible for making good any damage to the Client’s premises or any objects contained thereon, other than fair wear and tear, which is caused by the Contractor or any of its employees or subcontractors.

Special Condition 5 – Non Solicitation Clause

SC 5 Non-Solicitation. This clause does not apply to this contract.

For the Term and for a period of 12 months thereafter (and save in respect of publicly advertised posts) neither the Client nor the Contractor shall employ or offer employment to any of the other Party's Key Personnel without that other Party's prior written consent.

Special Condition 6 – Change Control Procedure

SC 6 Change Control. This clause does not apply to this contract.

Both Parties agree that any request for change to the scope of the Services will be processed in writing according to the following Change Control Procedure.

- SC6(A) At any time during the term of this Agreement, either Party may propose a change or changes to any part or parts of this Agreement.
- SC6(B) The change control procedures set out in this Schedule will apply to all changes irrespective of whether the Contractor or the Client proposes the change.
- SC6(C) A change control notice ("Change Control Notice") shall be prepared for all change requests. The Change Control Notice will provide an outline description of the change requested, the rationale for the change, the effect that the change will have on the Services (where known) and an estimate of the effort and cost required to prepare an impact assessment ("Impact Assessment").
- SC6(D) All Change Control Notices proposing changes to this Agreement must be submitted for review to the other Party's Contact.
- SC6(E) The Parties must indicate their acceptance or rejection of the change control request and/or Impact Assessment within a reasonable timeframe of its completion and Tender Submission for review, subject to a maximum of twenty (20) calendar days or such other period agreed between the Parties.
- SC6(F) On approval of an Impact Assessment, this Agreement and/or the Schedules should be updated and revised as appropriate and in writing.
- SC6(G) In the event that either Party rejects the Impact Assessment, the change(s) shall not take place and the Parties shall continue to perform their obligations under this Agreement.
- SC6(H) The Contractor and the Client will agree a reasonable charge in advance for investigating each proposed variation and preparing each estimate, whether or not the variation is implemented. If the Client's request for any variation is subsequently withdrawn but results in a delay in the performance of the Services then the Contractor will not be liable for such delay and will be entitled to an extension of time equal to not less than the period of the delay.

Special Condition 7 – Project Dependencies

SC7 **Additional Special Condition 7.** This clause does not apply to this contract.

Special Condition 8

SC8 **Additional Special Condition 8.** This clause does not apply to this contract.

Special Condition 9

SC9 **Additional Special Condition 9.** This clause does not apply to this contract.

Schedule E: Confidentiality Agreement

[Insert when completing contract]

Schedule F: Client's RFT Including Any Clarifications Issued by the Client

[Insert when completing contract]

Schedule G: Contractor's Submission Including Any Clarifications Issued by the Contractor

[Insert when completing contract]

Appendix 7: Confidentiality Agreement

THIS AGREEMENT is made on the [date] day of [month] 20[year] BETWEEN:

The Mid West Regional Authority, of [insert Address] (hereinafter “the Client”) of the one part;
and

[Contractor's legal name: to be completed on signing.], of [Contractor's address: to be completed on signing.] (hereinafter called “the Contractor”) of the other part.

WHEREAS

- A. The Contractor has been identified as the preferred bidder in a public procurement competition entitled Request for Tenders for the Provision of External expertise to develop an Urban Parks Sustainable Management Action Plan for project partners of the INTERREG IVB co funded project 'PARKS ATLANTIC' dated October 2011 (“the Competition”).
- B. For the purposes of the Competition and any subsequent contract awarded thereunder (if any) (“the Contract”) certain confidential information (the “Confidential Information”) as defined at clause 2 of this Agreement, will be furnished to the Contractor. The Confidential Information is confidential to the Client.

NOW IT IS HEREBY AGREED in consideration of the sum of €5 (the receipt of which is hereby acknowledged by the Contractor) as follows:

- 1. The Contractor acknowledges that Confidential Information may be provided to him by the Client and that each item of Confidential Information shall be governed by the terms of this Agreement.
- 2. For the purposes of this Agreement "Confidential Information" means:
 - 2.1 unless specified in writing to the contrary by the Client all and any information (whether in documentary form, oral, electronic, audio-visual, audio-recorded or otherwise including any copy or copies thereof and whether scientific, commercial, financial, technical, operational or otherwise) relating to the provision of services under the Contract and or relating to the Client and all and any information supplied or made available to the Contractor (to include agents, subcontractors, customers and suppliers) for the purposes of the Contract; and

2.2 any and all information which has been derived or obtained from information described in sub-paragraph 2.1.

3. Save as may be required by law (or any statutory regulation or order having the force of law) or for the purpose of any proceedings in court or any tribunal of fact or law; or by order, request, regulation of any person or body or authority with whose order or requests the Contractor is obliged to comply, the Contractor agrees in respect of the Confidential Information:

3.1 to treat such Confidential Information as confidential and to take all necessary steps to ensure that such confidentiality is maintained;

3.2 not, without the Client's prior written consent, to communicate or disclose any part of such Confidential Information to any person except

i to those employees, agents, subcontractors and other suppliers on a need to know basis; and/or

ii to the Contractor's auditors, professional advisers and any other persons or bodies having a legal right or duty to have access to or knowledge of the Confidential Information in connection with the business of the Contractor

PROVIDED ALWAYS that the Contractor shall ensure that all such persons and bodies are made aware, prior to disclosure, of the confidential nature of the Confidential Information and that they owe a duty of confidence to the Client; and shall use all reasonable endeavours to ensure that such persons and bodies comply with the provisions of this Agreement.

4. The obligations in this Agreement will not apply to any Confidential Information:

i in the Contractor's possession (with full right to disclose) before receiving it from the Client; or

ii which is or becomes public knowledge other than by breach of this clause; or

iii is independently developed by the Contractor without access to or use of the Confidential Information; or

iv is lawfully received from a third party (with full right to disclose).

5. The Contractor undertakes:

5.1 to comply with all directions of the Client with regard to the use and application of all and any Confidential Information or data (including personal data as defined in the Data Protection Acts, 1988 and 2003);

- 5.2 to comply with all directions as to local security arrangements deemed reasonably necessary by the Client including, if required, completion of documentation under the Official Secrets Act, 1963 and comply with any vetting requirements of the Client including by police authorities;
- 5.3 upon termination of the Competition (or Contract) for whatever reason to furnish to the Client, all Confidential Information or at the written direction of the Client to destroy in a secure manner all (or such part or parts thereof as may be identified by the Client) Confidential Information in its possession and shall erase any Confidential Information held by the Contractor in electronic form. The Contractor will upon request furnish a certificate to that effect should the Client so request in writing. As an exception to its obligations under this clause 5.3 the Contractor may retain one copy of the Confidential Information, in paper form, in the Contractor's legal files for the purpose of ensuring compliance with its obligations under this Agreement. For the avoidance of doubt "document" includes documents stored on a computer storage medium and data in digital form whether legible or not; and
- 5.4 to comply with the requirements of Data Protection law and such guidelines as may be issued by the Data Protection Commissioner from time to time, including but not being limited to:
- i Data Protection Acts, 1988 and 2003 and
 - ii All EU requirements arising (including, but not limited to, provisions relating to the processing of data, ensuring the security of data and restrictions on transfers of data abroad) and any legislation and regulations implementing same.
6. The Contractor shall not obtain any proprietary interest or any other interest whatsoever in the Confidential Information furnished to him by the Client and the Contractor so acknowledges and confirms.
7. The Contractor shall, in the performance of the Contract, access only such hardware, software, infrastructure, or any part of the Client's databases, data or ICT system(s) as may be necessary for the purposes of the Competition (and obligations thereunder or arising therefrom) and only as directed by the Client and in the manner agreed in writing between the Parties.
8. The Contractor agrees that this Agreement will continue in force notwithstanding any court order relating to the Competition or termination of the Contract (if awarded) for any reason.

9. The Contractor agrees that this Agreement shall in all aspects be governed by and construed in accordance with the laws of Ireland and the Contractor hereby further agrees that the courts of Ireland have exclusive jurisdiction to hear and determine any disputes arising out of or in connection with this Agreement.

SIGNED for and on behalf of the Client	SIGNED for and on behalf of the Contractor
(being a duly authorised officer)	
Witness	Witness