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**DUBLIN CITY COUNCIL**

**INVITATION TO BID  
FOR THE  
PROVISION OF OUTDOOR  
ADVERTISING AND PUBLIC AMENITIES**

**26<sup>th</sup> September 2005**

## TABLE OF CONTENTS

		PAGE
Section 1	Introduction	
1.1	Invitation to Bid	3
1.2	Project Summary	3
Section 2	Instructions	5
2.1	Communications Protocol	5
2.2	Contract	6
2.3	Specification	6
2.4	Bid Validity Period	6
2.5	Bid Costs	7
2.6	Currency	7
2.7	Tax Clearance Certificate	7
2.8	Status of submissions	7
2.9	Language	7
2.10	Presentations	7
2.11	Disclaimers	7
2.12	Governing Law	8
2.13	Freedom of Information	8
2.14	Publicity	8
2.15	Bidder's Obligation of Confidentiality	9
2.16	Notices	9
2.17	Anti-Competitive Conduct	9
2.18	Interference or Attempts to Influence	9
2.19	Conflicts of Interest / Registrable Interests	9
2.20	Ownership of ITB documents	10
2.21	Deadline for submission of Bids	10
Section 3	Format of Bids	11
3.1	Information to be included in Bids	11
Section 4	Evaluation of Bids	14
4.1	Compliance	14
4.2	Evaluation	14
APPENDICES		
Appendix I	Bid Form	16
Appendix II	Specification	18
Appendix III	Declaration	25
Appendix IV	Contract	27

## **1. Introduction**

### **1.1 Invitation to Bid**

This Invitation to Bid ("ITB") provides information to Bidders participating in the competition being run by Dublin City Council ("the Council") as advertised in the contract notice published in the Official Journal of the European Communities on **12<sup>th</sup> July 2005** ("the Contract Notice").

The ITB consists of the following documents:

#### **(a) Instructions to Bidders**

The Instructions to Bidders (Sections 1, 2, 3 and 4) set out the rules of this competition and the required format and content of Bids. Bidders are required to comply with the Instructions to Bidders when preparing their Bid and participating in this procedure. Bidders' particular attention is drawn to the fact that non compliance with these Instructions may invalidate their Bid.

The Instructions to Bidders do not form part of the Contract.

#### **(b) The Specification**

The Specification sets out the Council's requirements in relation to the provision of outdoor advertising facilities. A copy of the Specification is set out at **Appendix II**.

#### **(c) The Contract**

The Contract sets out the terms and conditions, which will govern the successful Bidder(s) relationship with the Council. A copy of the Contract is set out at **Appendix IV**. Note that Bidders must satisfy themselves as to the Contract terms and are not entitled to rely in any way on the Instructions to Bidders in interpreting the Contract.

### **1.2 Project Summary**

Dublin City Council is proposing to enter into a contract with a successful Bidder under which the successful Bidder will be permitted to utilise property consisting of lands and/or buildings owned by the Council ('the sites') for the purposes of providing outdoor advertising facilities. This should provide an opportunity to identify possible new forms of advertising in new locations. The project may also involve the provision by the concessionaire of certain types of street furniture and other services designed to enhance the public realm.

It is an objective of the Council to ensure high-quality and appropriate advertising structures that do not unduly affect visual amenity and that do not affect roadway safety or amenity. In particular, the Council hopes to promote and achieve the preservation of views, prospects and visual amenities of places and features of architectural, historical, artistic and cultural interest in Dublin City Council's area.

During the contract period, the concessionaire will be permitted to erect and to retain outdoor advertising structures at the sites. It will also be afforded such rights of access as are necessary to operate advertising facilities at the sites.

The concessionaire will not acquire any property rights in the sites or any of them. All rights accorded to the concessionaire will be by way of contractual licence only. Ownership and control of the sites will be retained by the Council at all times, subject only to the terms of the contract.

Bidders will be required to identify a suitable quantum of sites, owned by Dublin City Council, to be utilised by the concessionaire in the manner outlined above. It is envisaged that the concessionaire shall carry out certain works and services at those sites, including the construction and maintenance of outdoor advertising structures and street architecture.

It is also envisaged that the concessionaire will be required to apply for planning permission for the 100 -300 sites it selects (subject to Council approval) for the advertising structures. Bidders should note it is envisaged that sole responsibility for obtaining planning permission will at all times remain with the concessionaire. The planning application will be made to the Council's planning department in the first instance, and to An Bord Pleanála on appeal, if required.

The Council estimates that up to approximately 200 sites may be designated for the purposes of this project. However, this is an estimate only and the Council makes no commitment or guarantee that any of the sites proposed by the Bidders will receive planning permission from the planning authority.

Bidders are invited to propose, as part of their bids, the duration of the concession but the concession shall not, in any event, exceed 10 years.

It should be noted that, insofar as there is a disposal of interest in land pursuant to the contract, the consent of the Council under Section 183(1) of the Local Government Act, 2001 will be required.

## **2 Instructions**

### **2.1 Communications Protocol**

#### **(a) Feedback**

In addition to requesting specific comments on the Contract (**see Instruction 2.2 below**), the Council wishes to receive more general feedback on the scope and nature of the project. Comments on the project are welcome and should be submitted in writing to the Council as soon as possible and, preferably by the date indicated in **Instruction 2.1(b)** below. Amendments suggested which are acceptable to the Council may be incorporated into a revised Invitation to Bid.

#### **(b) Enquiries**

Bidders should raise any queries arising from the ITB with the Council by **07/10/2005**. The Council does not guarantee to respond to any enquiries received after this date.

In particular, Bidders shall immediately notify the Council should they become aware of any ambiguity, discrepancy, error or omission in or between the tender documents.

#### **(c) Correspondence**

All communications by the Bidders must be in writing. Telephone queries and their replies shall only become valid communications if both the query and the reply are confirmed in writing. (Facsimile and email communications shall be deemed to be written communications for the purpose of this ITB, save where expressly provided otherwise.)

Prior to the receipt of Bids, the response to any request for information which may have a relevance to the other Bidders will be communicated in writing to all Bidders by the Council. The identity of the Bidder seeking the information shall not be identified by the Council to the other Bidders.

Any queries or comments with regard to this document should be directed to:

Niamh Lambert  
Administrative Officer  
Dublin City Council  
Civic Offices  
Wood Quay  
Dublin 8  
Tel.: 00 353 (0) 1 222 3315  
Fax: 00 353 (0) 1 222 2830  
E-mail: [niamh.lambert@dublincity.ie](mailto:niamh.lambert@dublincity.ie)

Any communication shall state clearly that it relates to the *"Provision of Outdoor Advertising Facilities"*.

Staff of Dublin City Council and its advisers have been instructed to refer all requests for information to Niamh Lambert and to inform the Council of any approaches received directly from Bidders. Failure to adhere to the process for

communication with the Council may result in the Bidder being excluded from the competition.

**(d) Confidentiality of Communications**

Where a Bidder submits a query/request for further information to the Council, the following procedure will apply:

- if a Bidder believes that a query/request and/or its response relates to a confidential or commercially sensitive aspect of its bid, then it must mark the query/request as "confidential" or "commercially sensitive";
- if the Council, at its discretion, is satisfied that the query/request and/or its response could, and shall, be properly regarded as confidential or commercially sensitive, the nature of the query/request and its response shall be kept confidential (subject to the Awarding Authorities obligations under the Freedom of Information Acts 1997-2003);
- if the Council decides that it would be inappropriate to answer the query/request on a confidential basis, it will notify the Bidder and the Bidder will have the opportunity to withdraw the query/request;
- if the Bidder does not withdraw the query/request within five working days of such notification, the query/request and its response will, where appropriate, be released anonymously to all of the Bidders.

On receipt of the ITB, Bidders shall submit to the Council in writing the name, title and facsimile and e-mail address of the nominated person within their own organisation through whom all communications with the Council is to be directed during the tender period.

**(e) Clarification Meetings**

The Council intends to hold clarification meetings with Bidders during the week commencing **17/10/05**.

**2.2 Contract**

The Contract sets out the terms and conditions which will govern the successful Bidder(s) relationship with the Council. A copy of the Contract is set out at **Appendix IV**.

Bidders are asked to review the Contract and to revert with comments/proposed amendments as soon as possible and, in any event, **not later than 7<sup>th</sup> October 2005**. If the Council decides to take on board these comments, the Council may issue a revised version of the Contract in sufficient time before the deadline for receipt of Bids.

**2.3 Specification**

The Council's requirements for the project are set out in the Specification appended in **Appendix II** hereto, which is intended to be scheduled to the Contract.

**2.4 Bid Validity Period**

All Bids shall be deemed to remain open for a period of 6 months from the deadline for the receipt of Bids.

## **2.5 Bid Costs**

The Council will not be liable for any costs incurred by Bidders in the preparation of Bids, or any associated work effort. It is the responsibility of Bidders to ensure that they are fully aware and understand the requirements as laid out in this document.

## **2.6 Currency**

All prices given in the Bids shall be in euro (€).

## **2.7 Tax Clearance Certificate**

In the case of a Bidder (and any proposed sub-contractors) resident in the Republic of Ireland it shall be a precondition of an award of contract that the Bidder shall within a stated period produce a current Tax Clearance Certificate. Application forms for such Tax Clearance Certificates may be obtained from their local authority or from [www.revenue.ie](http://www.revenue.ie). Completed forms should be forwarded to the Revenue, Sarsfield House, Francis Street, Limerick.

Non-resident Bidders, and any proposed non-resident sub-contractors, will require a statement from the Revenue of the Republic of Ireland that they are satisfied as to the suitability for tax purposes of the Bidder to be awarded a contract. They should apply to the Revenue, Nenagh, Co. Tipperary for this statement, which should then be forwarded to the Council.

The successful Bidder(s) and all sub-contractors (domestic or otherwise) shall continue to hold, in good standing, current issues of all such certificates for the duration of the construction. All payments under the Contract will be conditional on the contractor(s) being in possession of valid tax certificates at all times.

## **2.8 Status of submissions**

Information supplied by Bidders in response to this invitation may be incorporated into the Contract by the Council. Note that the Council reserves the right to seek clarification or verification of any such information.

## **2.9 Language**

All Bids and correspondence or documentation in relation to this tender process or the Contract shall be in the English or Irish language.

## **2.10 Presentations**

The Council reserves the right to require the highest ranking Bidders to make presentations to the Council in respect of the Bidder's Bid.

## **2.11 Disclaimers**

- (i) The information set out in this ITB is made available on the condition that it is used in relation to preparing Bids for this project only and for no other purpose. Bidders must make their own investigations so as to form their own view as to the accuracy and completeness of the statements contained herein and to

satisfy themselves as to the commercial value of entering into a contract with the Council in relation to the project.

- (ii) Whilst the information in this ITB has been prepared in good faith, it does not purport to be a comprehensive review of all matters relevant to the Council's requirements and neither the Council nor its advisors will accept any liability or responsibility for its adequacy, accuracy or completeness, nor do they make any representation, warranty or undertaking, express or implied, with respect to the information contained in this ITB or future information supplied in connection with the project. No person has been authorised by the Council, its advisors or consultants, to give any information or to make any representation not contained in this ITB and, if given or made, any such information or representation shall not be relied upon as having been so authorised.
- (iii) This ITB does not constitute a contract with Dublin City Council. By participating in this procurement process, Bidders acknowledge that there does not exist any contractual or quasi-contractual relationship between the Council and Bidders prior to the execution of a formal agreement.
- (iv) The Council reserves the right, without notice, to terminate the process or change the basis and the procedures for the bidding process. In such circumstances, the Council and its advisers shall not be liable to any persons as a result thereof. Nothing in this ITB is, or should be relied upon, as a representation as to the Council's ultimate decision in relation to the project.
- (v) This ITB documentation expands upon the information contained in the Contract Notice. The Council also reserves the right to update or alter this ITB and the information and documents contained herein at any time by notice in writing to the Bidders.

## **2.12 Governing Law**

Irish law is applicable to this ITB. The Irish courts shall have exclusive jurisdiction in relation to any disputes arising from this ITB.

## **2.13 Freedom of Information**

Subject to **Instruction 2.15** below, the Council undertakes to treat as confidential any information supplied as part of a Bid, subject to its obligations under law. The Council is subject to the provisions of the Freedom of Information Acts 1997-2003. Bidders are asked to consider if any of the information supplied by them in response to this ITB should not be disclosed because of its sensitivity. If this is the case, Bidders should, when providing the information, identify same and specify the reasons for its sensitivity.

Please note, it is **not** sufficient to include a statement of confidentiality encompassing all the information provided in your Bid.

## **2.14 Publicity**

Bidders should note that the Council may make public the amount of all Bids and shall publish the name of the successful Bidder(s).



## **2.15 Bidder's Obligation of Confidentiality**

All documents issued and information given to Bidders must be treated as strictly confidential. Bidders shall not release details of the tender documents other than on an "In Confidence" basis to those who have a legitimate need to know or whom they need to consult for the purpose of preparing their bid.

Bidders shall not undertake (or permit to be undertaken) at any time, whether at this stage or after any contract award, any publicity activity with any section of the media in relation to this project other than with the prior written agreement of the Council. Such agreement shall extend to the proposed content of any publicity. For the purposes of this Instruction, the word "media" includes (but is not limited to) radio, television, newspapers, trade and specialist press, the Internet and e-mail accessible by the public at large and the representatives of such media.

## **2.16 Notices**

The Council may at any stage, by notice to all Bidders, delete, vary or extend any item in this ITB. Bidders shall immediately acknowledge the receipt of each such notice in writing to the Council.

## **2.17 Anti-Competitive Conduct**

Bidders' particular attention is drawn to the application of the Competition Act 2002. The Act makes it a criminal offence for Bidders to collude on prices or terms in a public tendering procedure. Should the Council become aware of direct or indirect communications through trade associations or otherwise between Bidders relating to the Bids or which might facilitate price collusion, it shall be the policy of the Council to disqualify such Bid(s) or Bidder(s) and to notify the matter to the Competition Authority with the recommendation that action be taken against such Bidders.

In this regard, Bidders are required to complete the declaration attached in **Appendix III** and include this as part of their Bid.

## **2.18 Interference or Attempts to Influence**

Bidders shall note that any efforts to interfere with the tender process or to improperly influence the Council, or any of its agents or advisers, shall result in the immediate elimination of their Bid.

In this regard, Bidders are required to complete the declaration attached in **Appendix III** and include this as part of their Bid.

## **2.19 Conflicts of Interest / Registrable Interests**

Any conflicts of interest involving a Bidder (or members of a bidding group) must be fully disclosed to the Council, particularly where there is a conflict of interest in relation to any recommendation or proposals put forward by the Bidder.

Any registrable interest involving the Bidder and the Council or their employees or relatives, must be fully disclosed in response to this ITB, or should be communicated to the Council immediately upon such information becoming known to the contractor, in the event of this information only coming to their notice after the submission of a bid and prior to the award of the contract. The

terms 'registrable interest' and 'relative' shall be interpreted as per Section 2 of the Ethics in Public Office Act, 1995.

## **2.20 Ownership of ITB documents**

The copyright in this ITB is vested in the Council and its advisers and may not be reproduced, copied or stored in any medium without the prior written consent of the Council. This ITB and any document issued on foot of it are and shall remain the property of the Council and must be returned upon demand.

## **2.21 Deadline for submission of Bids**

**3 hard copies of the Bid must be submitted not later than 16:00 (GMT) on 02/12/2005 to:**

**Ciaran McNamara  
Executive Manager  
Dublin City Council  
Wood Quay  
Dublin 8**

No Bids will be accepted after the date and time specified, or such later date and time as may be notified in writing by the Council.

All Bids should be delivered in hard copy and sent either by registered post, recorded delivery, courier or hand delivery. Bids by fax or by email will be excluded from consideration.

All Bids shall be submitted in a single plain sealed package marked "*Provision of Outdoor Advertising Facilities/Services*" enclosing a covering letter in the format set out in **Appendix 1** identifying the name of the bidding group and signed by all the principals who form the bidding group. Bids are to be sent in packaging that must not bear the name, address or any other marking which may identify the sender. Bidders should also ensure that the carrier used by the Bidder for the delivery of bid documents does not attach any item to the packaging that identifies the sender.

### 3 Format of Bids

All Bids submitted must be fully paginated with an index, annotated and cross referenced where appropriate. Bidders must provide **3 hard copies** of the Bid which should contain the information requested in this ITB structured as follows:

<b>Section one</b>	Executive Summary
<b>Section two</b>	Bidder's Details
<b>Section three</b>	Bid Form
<b>Section four</b>	Economic/Financial Proposal
<b>Section five</b>	Design Proposal
<b>Section six</b>	Management, Maintenance and Cleaning Programme
<b>Section seven</b>	Installation and Delivery Plan
<b>Section eight</b>	Proposal for Enhancement of Public Realm
<b>Section nine</b>	Bidder's Team
<b>Section ten</b>	Declaration in form set out in <b>Appendix III</b>

#### 3.1 Information to be included in Bids

The following shall be included in the Bids:

##### ***Section one      Executive Summary***

The Bidder is to submit an executive summary describing the Bid. The summary should be contained on no more than three A4 sheets of paper.

##### ***Section two      Bidder Details***

Bidders should use this section to describe their organisational details. Details of prime contractors and sub-contractors must also be supplied.

##### Contact person

Each Bidder should provide the name, telephone number and email address of a contact person dealing with the Bid.

##### Group Bidders

If consortia are making proposals, they must appoint a Prime Contractor who will assume overall responsibility for the delivery of the project and the signing of the Contract. The name, address, email address, telephone and fax numbers of Prime Contractor should be provided.

Bidders are required to identify each member of the bidding group, indicating the role to be carried out by each member. A description of the relevant companies must be given together with an overview of the structure of the group.

##### ***Section three      Bid Form***

The Bid must include a completed Bid Form as set out in **Appendix I**.

#### **Section four     *Economic/Financial Proposals***

Bids must indicate the value to the Council in Euros over the period of the contract. This shall include the following:

- a) Proposed percentage or percentages of annual Net Revenue (as defined in the Contract), together with the estimated Net Revenue in a tabular form for each year of the contract; and
- b) The Minimum Guaranteed Net Rental (as defined in the Contract); and
- c) The value of any public amenities or other services being offered at no cost to the Council (including for example, street furniture a way-finding system, an information and communications system, bicycle rental services, advertising space for the Council). The value of each such service should be separately set out.
- d) The concessionaire shall state how many faces of Advertising Structures/Displays it will make available to Dublin City Council for its own use, such faces to be made available at no cost to the Council subject to the council giving to the Concessionaire three months notice of its intention to use the Advertising Structures/Displays.

In addition to the above, the Bidder may also offer an alternative pricing structure (ie as an alternative to (a) and/or (b)).

#### **Section five     *Outdoor Advertising Design Proposal***

Bidders must submit:

- a) Details on the carrying capacity of the city, this information should establish the intensity of intervention on an area-by-area basis across Dublin city.
- b) Precise details regarding location and number of all proposed outdoor advertisement structures should be submitted.
- c) Locations of all proposed structures, mapped on an ordnance survey bases map at a minimum scale of 1:1000.
- d) Scaled drawings at 1:25 of the proposed advertisement structures(s), including plans, sections and elevations.
- e) Details of the proposed materials as well as types of technology and illumination.
- f) In the event of more than one type of structure being proposed, scaled drawings of the various typologies.

#### **Section six     *Public Realm Enhancement Proposal***

Bidders should include in their proposals the following information:

- (a) The locations, number, type, materials, dimensions and detailed design of the proposed ranges of streets furniture;
- (b) Details of the management, maintenance and cleaning programme for the proposed range of street furniture, including details of the method and frequency of cleaning operations, previous experience of providing such a service elsewhere and the technical means to do so;

- (c) Details of any other services offered to enhance the public realm, such as way-finding systems, information and communications systems and bicycle rental services;
- (d) Details of the installation plan for the selected range of street furniture and for the provision of any other services offered, indicating time scale and completion date, following the award of the contract by the Council and satisfactory completion of the appropriate planning process(es).

#### ***Section seven Duration of Concession***

Bidders shall set out the minimum number of years they would propose for the concession contract, which shall, in any event, be no greater than 10 years.

#### ***Section eight Management, Maintenance and Cleaning Programme***

Bidders must provide details on their proposed programme for Management, Maintenance and Cleaning of the advertising structures and street furniture.

#### ***Section nine Installation, Delivery Plan***

Bidders must provide details of the time scale for delivery and the final completion date following the award of the contract by the Council and satisfactory completion of the appropriate planning process(es).

#### ***Section ten Bidder's Team***

Bidders must provide details of the relevant professional and educational qualifications and expertise of all of their team, responsible for the design, maintenance and management of the proposed structures and advertising services and the proposed staff. In particular, the Bidder should set out details of the proposed team's experience in the design management, co-ordination and construction of projects of a similar nature, complexity and size.

#### ***Section eleven Declaration***

Bidders are required to complete and submit the Declaration appended at **Appendix III**.

## **4. Evaluation of Bids**

### **4.1 Compliance**

The Council will firstly determine whether each Bid submitted complies with the terms and conditions of this ITB. The Council may eliminate any Bid it determines to be non-compliant with the requirements of this ITB.

### **4.2 Evaluation**

The Contract, if awarded, shall be awarded to the Bidder that has submitted a Bid:

- a) in compliance with this ITB; and
- b) that is determined by the Council to be the most economically advantageous, having regard to the application of the award criteria.

The Bid(s) adjudged to be the most economically advantageous to the Council will be the Bid(s) with the highest marks following the application of the following **award criteria**:

#### **1. Economic Criteria (30 points)**

This concerns the value of the proposal to the Council over the course of the contract, having regard to the information requested in paragraph 3.1, section 4 above (and not the greatest amount of advertising space that can be provided in the city.)

#### **2. Outdoor advertising design (30 points)**

This will involve a qualitative and quantitative assessment of proposed locations and intensity (city's carrying capacity) together with design, quality, aesthetic and functional assessment of the advertisement structures and their compatibility with the Dublin streetscape. Positive consideration will be given to the use of well designed/high quality bespoke ranges specific to Dublin city.

#### **3. Public Realm Enhancement (20 points)**

This concerns the strengths of the proposal in terms of street furniture and other services/other proposals for the enhancement of the public realm. It will involve a qualitative/quantitative assessment of selected locations and ranges of street furniture together with design, quality, aesthetic, functional assessment and their compatibility with the Dublin streetscape. Positive consideration will be given to use of well designed/high quality bespoke ranges specific to Dublin City. It should be noted that the Council has a particular interest in the development, provision and maintenance of a rental bicycle scheme and city information panel scheme.

#### **4. Duration of Concession (10 points)**

The shorter the concession period, the more favourably the Council will look on the proposal.

#### **5. Management, Maintenance and cleaning programme for the advertisement structures and street furniture (5 points)**

## 6. Delivery Programme (5 points)

All submissions will be assessed against the six above criteria and must, in respect of each criterion, attain at least 50% of the marks available for that criterion.

The Council does not bind itself to accept the lowest or any Bid and will not pay any compensation whatsoever in connection therewith. It reserves the right to accept or reject in whole or in part any or all Bids received.

## Appendix I

### BID FORM

To: Dublin City Council  
Civic Offices  
Wood Quay  
Dublin 8  
(the "Council")

**Re: Provision of Outdoor Advertising Services and Public Amenities  
("the Project").**

1. We confirm that our Bid is submitted fully in accordance with the requirements of the Invitation to Bid in relation to the above Project ("ITB") and we understand and accept the terms and conditions set out in the ITB, including (without limitation) the conditions as to confidentiality, canvassing and collusion, and conflict of interest. We also confirm that we have had an adequate opportunity to make our own enquiries during the preparation of this Bid and we understand and accept the terms of the disclaimers contained in the ITB.
2. Having examined the Specification and the Contract, we hereby offer to carry out the Services (as defined in the Contract) on the terms set out in the enclosed Bid.
3. We confirm our understanding that the Council is not obliged to accept the lowest or any Bid and, further, that the Council may at its discretion terminate the competition without accepting any Bid at all.
5. In consideration of the Council supplying us with the ITB, we agree to abide by this bid for the period of 6 months days from the deadline for the receipt of Bids and it shall remain binding on us and may be accepted at any time before the expiration of that period.
6. We confirm that the information set out in our Bid is complete and accurate to the best of our knowledge and belief.

Signed on behalf of the Bidder by;

Signed:

Signed:

Name & position:

Name & position:

For and on behalf of:

For and on behalf of:

Dated

Dated



Signed:

Signed:

Name & position:

Name & position:

For and on behalf of:

For and on behalf of:

Dated

Dated

**Note: where the Bidder is a consortium, this form must be signed by a duly authorised representative of each member of the consortium.**

## **Appendix II**

### **Specification**

Dublin City Council is proposing to develop a modern, efficient and well-designed system of outdoor advertising located within the public realm, tapping into the significant but latent commercial value of public land. It is intended to use this 'commercial value' to facilitate not only the integrated delivery of a scheme of high quality outdoor advertising, but also well designed and preferably bespoke ranges of street furniture to facilitate the enhancement of the public realm.

Submissions shall provide for creative, intelligent and co-ordinated interventions that are informed by a clear understanding of the city's distinctive city identity. Furthermore, they should recognise and reflect the City Council's wider goal to develop a strong and coherent urban identity in both the inner and outer city. This goal is presented in a number of strategic documents in particular the Dublin City Development Plan 2005-2011 and 'Legible Dublin' which focuses on the inner city.

### **Planning and Policy Context**

#### **Legible Dublin**

Dublin City has a special sense of place shaped by its historic urban qualities: the river, streets, squares and spaces and a special architectural character. Following a period of intense activity, however, the city is now in the process of developing a new identity, marrying the urban legacy of the past with the new wave of economic and cultural activities that have colonised different parts of the city.

A recent study carried out by the City Council – 'Legible Dublin' seeks to build on this intense level of activity and develop a distinctive city identity. It presents a strong vision to create a world class walking city, placing the pedestrian at the heart of the design process. It is underpinned by three themes:

The walkable city - creating a pedestrian friendly extended core.

The reclaimed city - creating a public domain of international standing

The connected city - creating a way finding and information system

In support of these themes, Legible Dublin identifies a strategic spatial framework made up of several key elements; the River Liffey and Quays, Civic Spine, significant public spaces and major pedestrians routes. By focusing on the development of a high quality, legible and well-connected public realm, the Study creates the opportunity to draw together the city's various economic and cultural activities, magnets and destinations and address the challenge of spatial unity.

#### **Dublin City Development Plan 2005 - 2011**

The Dublin City Development Plan also recognises the necessity to bring a new energy to the suburbs and address the lack of urban identity. While significant attention is placed on the implementation of Framework Plans for Ballymun, North Fringe, Pelletstown and Park West, the Development Plan also seeks to make sense of the more established suburbs, integrating economic, cultural and social dimensions with the physical and spatial within the context of a coherent urban structure.

The Dublin City Development Plan also addresses the specific issue of outdoor advertising and street furniture. It acknowledges that well-designed advertising signs in selected locations and on an appropriate scale can contribute to the character and vitality of commercial areas of the city, particularly at night. However, it also notes that insensitively located advertisements can have an adverse effect on the character and attractiveness of Dublin, damaging the character of individual buildings, streets and historic and conservation areas of the city. Dublin City Council will continue to seek the removal of such advertisements and permit only advertising structures which are used sensitively and sympathetically and which enhance the appearance and vitality of an area. Prompt enforcement action is taken against all unauthorised development.

The Plan has policies on a range of outdoor advertising structures including advertising hoardings, illuminated signs, free standing advertisement displays as well as on street furniture and the use of outdoor advertising in sensitive locations such as conservation areas (see relevant extracts attached).

### **Outdoor Advertising/Street Furniture**

#### **Outdoor Advertising**

Dublin City Council defines outdoor advertising as all advertising communication experienced outside the home and as stated has developed a range of policies to control and manage it in terms of size, format, location and extent. However the medium and technology associated with outdoor advertising has developed dramatically in the last few years, and current policies do not always address the sophistication and quality of this advertising, particularly in the public realm.

#### **Street Furniture**

Street furniture can be defined as bins, signs, bollards, way finding systems, information and communication systems etc. located in the city's streets and spaces. Since, these elements are often provided by different agencies, or different parts of the City Council, their siting, liveries and design are frequently uncoordinated, unattractive and cluttered resulting in a poor and inefficient urban realm.

#### **The Role of Outdoor Advertising**

##### **Commercial Issues**

##### **Commercial Advertising and Revenue Generation**

Dublin City Council is seeking to build on Dublin's physical assets and to generate an urban realm of the highest possible quality and individuality. It recognises that significant under-utilised value exists in the public realm which if carefully harnessed can provide the means by which the City Council can create a high quality public realm that enhances the city's distinctive character of the city. Dublin City Council wants to capitalise on this asset, and in line with many other European cities is now seeking to co-ordinate the management and enhancement of the public realm with the provision of outdoor advertising. This is to be achieved through the development of co-ordinated delivery systems of outdoor advertising, attractive and well-designed ranges of street furniture and ongoing environmental enhancement programmes.

By adopting this new approach, the City Council expects to exercise a much greater degree of control over the future of Outdoor Advertising, develop a significant revenue generator for the city and secure an enhanced public realm.

### **Planning a New Approach to Outdoor Advertising**

The development of a modern outdoor advertising scheme must be based upon a rigorous analysis of what makes Dublin special, but also critically, the city's carrying capacity. This does not preclude the possibility of introducing new advertising mediums into the built fabric of the City. In this regard, a coherent geographical assessment of planning and urban design issues has been carried out to provide a robust and sustainable framework for the provision of any form of outdoor advertising.

This is developed in a zonal policy that is carefully tailored to fit the urban form and characteristics of the city (Map 1 – this will be attached). It is based on a geographical sensitivity analysis of the city that allowed for:

A heritage and residential area sensitivity analysis of the city  
A review of the geographical opportunities for advertisement structures and  
The development of a hierarchical framework of sensitivity

The geographical sensitivity analysis is based on a sieving system, identifying for example – areas of sensitivity such as conservation areas, protected structures, residential and amenity areas. It is also related to the nature of movement within and through the city, identifying vehicular routes - orbital and radial - and principal areas of pedestrian movement, important interchanges and lines of existing and planned public transportation corridors such as QBCs and the LUAS throughout the city. It also identifies opportunity areas – related to a combination of commercial and public transport activities - to provide guidance on the potential value of advertising in the street scene.

This information has been 'layered' on a composite map to establish a hierarchy of zones covering the city, based upon their relative merit in architectural, historic and townscape terms, as well as prevailing or proposed land uses such as commercial or residential activities. These zones range from most sensitive to least sensitive, establishing in turn, constraints and opportunities for the location of advertisement structures on a sliding scale of intervention.

### **The Zones**

Six zones have been identified based on this strategy and are identified on the attached map.

Zone 1 - the Georgian city - outdoor advertising prohibited.

Zone 2 - areas of significant urban quality - with retail /commercial uses - outdoor advertisement may be permitted subject to special controls.

Zone 3 - the radial routes - significant opportunity for outdoor advertisement - normal controls will apply.

Zone 4 - the River Liffey Corridor - an area of high quality urban form - limited opportunities for advertising.

Zone 5 - urban renewal areas - advertising may form part of newly created streetscapes.

Zone 6 - residential areas - limited commercial viability - outdoor advertisement may be visually inappropriate.

## **Dublin City Development Plan 2005-2011**

### **Extracts from Chapter 15 General Site Development Standards**

#### **15.10.4 Development in Conservation Areas**

All new buildings should complement and enhance the character and setting of conservation areas. In considering proposals for development in conservation areas, it is policy to have particular regard to:

- The effect of the proposed development on buildings and the surrounding environment, both natural and man-made
- The impact of development on the immediate streetscape in terms of compatibility of design, scale, height, plot width, roof treatment, materials, landscaping, mix and intensity of use proposed

Development within conservation areas should be so designed so as not to constitute a visually obtrusive or dominant form of development. New alterations and extensions should complement existing buildings/structures in terms of design, external finishes, colour, texture, windows/doors/roof/chimney/design and other details.

The Planning Authority discourages the use of uPVC or aluminium in windows, fascias and doors in historic buildings that are not protected. Proposals for the application of cement render to the external brick fabric of older buildings will not be encouraged in conservation areas. In assessing development proposals, the Planning Authority will seek the retention of mature trees (those in good condition) which contribute to the character of conservation areas where appropriate.

In conservation areas, no advertising material other than brass or stone name-plate type signs will be permitted. On commercial properties leading into such areas, advertising will be severely restricted, and shall only relate to the service provided in the premises. In dealing with all advertising in conservation areas, the overriding consideration will be the enhancement and protection of the essential visual qualities of the area. Where applications for security cameras are proposed, every effort should be made to conceal the device and to employ best available technology, including the smallest scale of device available, to ensure that the device would not be obtrusive and would not detract from the integrity of the conservation area.

In conservation areas, the development of housing between the main house and the mews building, particularly on corner sites, has had a detrimental effect on the visual and residential amenities of these areas. Hence, backland development will not be permitted in conservation areas where the development proposed would introduce a third line of buildings between the main building and its associated mews.

#### **15.27.0 Street Furniture**

Certain uses in the public realm including elements of street furniture can lead to problems of visual clutter and to obstruction of public footpaths for

pedestrians, in particular people with disabilities. These elements include newspaper stands, telephone kiosks, traffic and bus signs, tables and chairs, taxi and bus shelters as well as unauthorised A-frames and spinner stands erected by retailers. It is an objective of Dublin City Council to control the location and quality of these structures in the interests of creating a high quality public domain.

All outdoor furniture provided by private operators including retailers, publicans and restaurateurs etc., and utility companies should be to the highest quality, preferably in good contemporary design avoiding poor historic imitation and respect the overall character of the area and quality of the public realm and be so located to prevent any obstruction of all footpaths and paved areas including landings.

In this regard, street furniture will require either a licence under Section 254 of the Planning and Development Acts, 2000 to 2002 or planning permission (including street furniture erected on private landings).

In both instances, the applicant will be required to submit details of the location, design, specification and quality of the proposed elements of street furniture. Details of maintenance and cleansing schedules together with a certificate of structural stability may also be required.

### **15.32.0 Outdoor Advertising**

Pending the completion and adoption of an outdoor advertisement strategy, these development standards will be applied to all proposals for advertisement structures. They may be superseded by the completion of the Outdoor Advertising Strategy.

Well-designed advertising signs in selected locations and on an appropriate scale can contribute to the character and vitality of commercial areas of the city, particularly at night. However, the character and attractiveness of Dublin is adversely affected by many insensitive advertisements. They have damaged the character of individual buildings and streets, and have had a detrimental effect upon the historic and conservation areas of the city.

Dublin City Council will seek the removal of such advertisements and permit only advertisements which are used sensitively and sympathetically and which enhance the appearance and vitality of an area and prompt enforcement action will be taken against all unauthorised advertisements.

In order to enhance, protect and secure their architectural integrity and to prevent unwelcome litter pollution, the granting of permission for advertising hoardings or signage on all Luas bridges will be deemed incompatible with the objectives of the City Development Plan.

#### **15.32.1 Advertising Hoardings**

Advertising hoardings, (including tri-vision and three-dimensional signs), in addition to meshes, scaffolding and banners which are inappropriately located can constitute one of the most obtrusive elements of all forms of outdoor

advertisements. They rely for their impact on size, scale and location, and, thus, are usually detrimental to the character of the area in which they are situated. However, they can help to screen building sites and sites awaiting redevelopment.

There is scope for the temporary screening of derelict sites and building sites through the use of outdoor advertising, landscaping, suitable boundary treatment (such as railings), and the provision of public seating in liaison with the outdoor media industry.

The industry will be expected to co-operate with the guidelines which are set out below and as may be amended from time to time.

- As a general principle, outdoor advertising will only be permitted within commercial zones. It will not be permitted within residential zones, historic or conservation areas, or amenity areas.
- Outdoor advertising will not be permitted either on protected structures or within the vicinity of such protected structures in such a way as to detract from the visual quality of their setting.
- Meshes or banners mounted on, or hung from, buildings or scaffolding will not be permitted. In exceptional circumstances, meshes or banners may be permitted for a temporary period to promote a cultural event, subject to the space devoted to the name/logo promoting the event or the advertising material relating to this company not exceeding one tenth of the overall display area.
- The scale of display panels must be related to the scale of the buildings and streets in which they are located. Ninety-six sheet and forty-eight sheet panels will not be permitted. As a general principle, the Planning Authority has a clear preference for smaller-sized panels, such as the Europanel (3m x 4m). Vertical proportions are preferred.
- Where illuminated hoardings are proposed, the effect on the streetscape, including during the hours of darkness and on the amenities of the area, will be considered.
- Display panels may form part of the visual screening around building sites or sites awaiting redevelopment. In such cases, temporary permissions will be considered, where appropriately sized panels form an integral part of an overall boundary treatment and do not comprise more than half of the total surface area of such treatment.
- As a general rule, permissions for outdoor advertising will be limited to a maximum of three years in the first instance to enable the position to be reviewed by Dublin City Council in the light of changing circumstances at the end of that period.
- The number and scale of hoardings in the vicinity of the site will be taken into consideration when assessing proposals.

### **15.32.2 Illuminated Signs**

Illuminated signs in appropriate locations can provide both information and colour in the townscape after dark.

The following guidelines will apply:

- The type of illuminated signs, internally or externally illuminated, individual letters, and neon tubes should be determined by consideration of the design of the building and its location.
- The design of an illuminated sign should be sympathetic to the building on which it is to be displayed. It should not obscure architectural features such as cornices or window openings in the area. On new buildings they should be part of the integral design.
- The daytime appearance when unlit will be considered.
- Sky signs, i.e. signs that project in any part above the level of a building parapet or obtrude on the skyline, are regarded as objectionable in principle and will not be permitted.
- Internally illuminated scrolling signs, or signs with exposed neon tubing are generally not acceptable.
- The number of illuminated signs in the vicinity of the site will be taken into consideration when assessing proposals.

### **15.32.3 Free Standing Advertising Displays**

Dublin City Council will consider appropriately designed and located freestanding advertising panels on city centre and district centre streets. In all such cases, the panels must be of a high quality design and materials and must not obstruct pedestrians.



## Appendix III

### Declaration in relation to Collusion and Canvassing

To: Dublin City Council  
Civic Offices  
Wood Quay  
Dublin 8  
(the "Council")

**Re: Outdoor Advertising and Public Amenities ("the Project").**

Dear Sirs

I refer to the Invitation to Bid issued by the Council on **26<sup>th</sup> September 2005** in respect of the Project.

I am a Director / authorised officer *[delete as appropriate]* of the company named below ("the Bidder") and I am responsible for the preparation of a Bid in relation to the Project.

On behalf of myself and the Bidder, I hereby declare to the Council that I/we have not and will not attempt to unfairly influence the conduct or outcome of the procurement process of the Project. In particular, I/we declare that I/we have not and will not, directly or indirectly, at any time:

- (i) Fix, amend or adjust the amount or content of a Bid in accordance with any agreement or arrangement with any other person, other than in good faith where such other person is a proposed partner, subcontractor, advisor or provider of finance;
- (ii) Communicate to any person other than the Council, or seek or obtain from such other person, information about the amount or content of any Bid, other than in order to obtain quotations for materials, supplies, services or finance;
- (iii) Enter into any agreement or arrangement with any other person that will result in such a person refraining from submitting a Bid;
- (iv) Enter into any agreement or arrangement with any other person as to the form, content or amount of any Bid submitted by any other Bidder; and
- (v) Offer or pay a sum of money, incentive or valuable consideration to any person proposing to effect changes in or omissions from any other Bid;
- (vi) canvass any elected member, officer, employee, advisor or agent of the Council in relation to the procurement process of the Project or attempt to obtain information from any elected member, officer, employee, advisor or agent of the Council in relation to any other Bidder or Bid; and

- (vii) Without limitation to the foregoing, engage in any anti-competitive practices in relation to the procurement process of the Project.

I/We hereby acknowledge that, in the event that the Council determines that I/we are in breach of this declaration, the Bidder shall be disqualified from the procurement process relating to the Project.

Signature \_\_\_\_\_

For and Behalf of \_\_\_\_\_  
(Name of Company)

Date \_\_\_\_\_

## Appendix IV

### Draft Contract

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# Draft Concession Contract in relation to the provision of Outdoor Advertising and Public Amenity Services

This Agreement is made on the \_\_\_\_\_ day of \_\_\_\_\_

Between the Right Honourable the Lord Mayor Aldermen and Burgesses of the City of Dublin ("the Council"), which description shall include his officers, servants, agents and duly authorised representatives, of the one part, and

[Insert name], whose registered office is situated at [insert] ("the Concessionaire", which expression shall include successors and permitted assigns) of the other part.

Now it is hereby agreed as follows:

## 1. INTERPRETATION

1.1 In this Agreement, unless the context otherwise requires:

"Accounting Period" means each period of [Insert figure] months during the term of this Agreement commencing on the Commencement Date.

"Advertising Structures" means the advertisements and advertising structures including hoardings whether illuminated or otherwise to be erected on the Sites, as further described in the Specifications.

"Concessionaire's Designs" means the designs for the development and functionality of the Advertising Structures and/or Public Amenities which are proposed by the Concessionaire and approved by the Council.

"The Council" means Dublin City Council.

"Commencement Date" means [Date to be inserted].

"Maintenance Schedule" means the programme of maintaining, repairing and cleaning the Advertising Structures and Public Amenities as described in Schedule 4.

"The Minimum Guaranteed Net Rental" ("MGNR") means the sum set out in Schedule 2 hereto, which sum is subject to review annually in accordance with Clause 13.1.

"Net Revenue" means in respect of any Accounting Period the gross advertising revenue invoiced by the Concessionaire to advertisers in

respect of advertising on the Advertising Structures excluding value added tax or any similar tax eligible in relation thereto.

**"Notice of Remedy"** means a written notice from the Council to the Concessionaire pursuant to **Clause 12** hereof.

**"Public Amenities"** means the public amenities and related services proposed by the Concessionaire as part of its Tender, as further described in the Specifications.

**"Services"** means any work permitted or required to be done by the Concessionaire under or by virtue of the terms hereof, as further described in the Specifications. It includes the erection, maintenance, operation, exploitation, repair, dismantling, removal and re-erection of the Advertising Structures and the Public Amenities and the affixing and removing of advertisements.

**"The Sites"** mean land and premises identified in **Schedule 3**, or any other land or premises which may be agreed in writing by the parties, which is owned by the Council on which the Concessionaire is permitted to erect or maintain the Advertising Display/Structures subject to the terms and conditions of this Agreement.

**"Specifications"** means the requirements of the Council in relation to the Services, in particular the design, erection, operation and maintenance of the Advertising Structures and the Public Amenities as described in **Schedule 1** hereto.

**"Tender"** means the proposal submitted by the Concessionaire to the Council in response to the Tender Documents.

**"Tender Documents"** means the tender documents issued to the Concessionaire by the Council on **[Insert date]**.

- 1.2 Unless the context otherwise requires, a reference to any section, clause sub-clause, paragraph, recital or schedule is to a section, clause, sub-clause, paragraph, recital or schedule (as the case may be) of or to this Agreement.
- 1.3 The headings in this Agreement are for convenience only and shall not affect its interpretation.
- 1.4 The Schedules to this Agreement shall form part of this Agreement and the expression "this Agreement" as used in any of the Schedules shall mean this Agreement.

## **2. APPOINTMENT OF THE CONTRACTOR**

- 2.1 In consideration of the Concessionaire making the Payments and providing the Public Amenities, the Council hereby grants to the Concessionaire permission to erect and maintain, at its own expense, the Advertising Displays at the Sites for the term of this Agreement, subject to the provisions hereof.
- 2.2 The Concessionaire shall provide the Advertising Structures and Public Amenities in accordance with the Specifications and the Concessionaire's Designs, subject always to the exact number, design, size, nature and locations of the Advertising Displays and Public Amenities being approved in advance in writing by the Council.
- 2.3 Upon receipt of the approval referred to in **sub-clause 2.2** above, the Concessionaire shall:-
- 2.3.1 prepare all plans and drawings necessary so as to complete proper notification to the relevant planning authority for planning permission in respect of the proposed Advertising Structures and/or Public Amenities,
  - 2.3.2 make any changes requested by the Council to such notifications,
  - 2.3.3 apply to the planning authority for planning permission or licence for the Advertising Structures and/or Public Amenities, the cost of together fees due on the relevant planning applications being borne by the Concessionaire,
  - 2.3.4 reply to all queries emanating from the planning authority in respect of the planning applications,
  - 2.3.5 if necessary, submit planning applications to An Bord Pleanála for approval and reply to all queries emanating from An Bord Pleanála in respect of the applications
  - 2.3.6 commence the erection of the Advertising Structures or Public Amenities at the approved location(s) within four months of the receipt of the grant of permission from the planning authority and/or An Bord Pleanála; and
  - 2.3.7 carry out and complete the erection of each Advertising Structures or Public Amenities without delay.

### 3. DUTIES OF THE CONTRACTOR

- 3.1 The Concessionaire shall provide the Services with skill and expertise and in a first class professional, diligent and conscientious manner.
- 3.2 The Concessionaire shall provide the Services in accordance with any applicable planning permission or licence and in compliance with all reasonable instructions and requests of the Council in relation to the Services.
- 3.3 The Concessionaire shall make available to the Council on Sites chosen by the Council [*insert amount*] of faces of the Advertising Structures/Displays for its own use, such faces to be made available at no cost to the Council subject to the Council giving to the Concessionaire three months notice of its intention to use the Advertising Structures/Displays.
- 3.4 All materials used in the erection of an Advertising Structures and/or Public Amenities and all advertising material affixed or displayed by the Concessionaire on any shall Advertising Structures shall be the property of the Concessionaire or the Concessionaire shall be appropriately licensed to use it.
- 3.5 The Concessionaire shall, at its own expense:-
  - 3.5.1 take each and every Site in its existing condition and bring it into line with the Council specification and approval (such approval not to be unreasonably withheld or delayed);
  - 3.5.2 at all times maintain each Advertising Structure and/or Public Amenity in good order, repair and condition, in accordance with the Maintenance Schedule, not allowing any Advertising Structure or Public Amenity to fall into disrepair and carrying out all necessary repairs with the utmost expedition. Without prejudice to the generality of the foregoing, should any Advertising Structures and/or Public Amenities be damaged or any glass thereof be broken or if the lighting thereof go out of order with the result that such Advertising Structures and/or Public Amenities is in a dangerous condition, the Concessionaire shall effect a repair immediately and in any event within 24 hours of the occurrence;
  - 3.5.3 should any Advertising Structure or Public Amenity require replacement for whatever reason, the Concessionaire shall undertake such replacement to the satisfaction of the Council;



- 3.5.4 pay all rates and other taxes applicable from time to time in respect of Advertising Structures and/or Public Amenities including the advertising panel on any Advertising Structures together with all lighting, electricity and connection costs and all other costs relating to Advertising Structures and/or Public Amenities save where this Agreement provides otherwise;
- 3.5.5 comply with all lawful notices, directions or requirements relating to any Advertising Structures and/or Public Amenities which may be issued at any time by the Commissioner of the Garda Siochana or any road authority, sanitary authority or local authority or by any other competent authority or competent body;
- 3.5.6 ensure that all reasonable precautions are taken to prevent injury to persons or damage to property arising in any way out of the Services undertaken by the Concessionaire and, without prejudice to the generality of the foregoing, shall ensure that any soil, rubbish, Advertising Structures, Public Amenities, or other components or parts thereof, advertisements, tools, appliances or other materials whatsoever shall be carefully arranged and guarded so that the same shall not be a danger to persons or traffic passing by and shall ensure that any excavations are adequately fenced or guarded to the same effect, and shall also ensure that any of the foregoing shall be lit by adequate warning lights during hours of darkness so as not to constitute a danger;
- 3.5.7 ensure that all necessary precautions are taken to ensure that the carrying out of the Services shall not:-
- (i) obstruct free and uninterrupted passage by the public; and
  - (ii) cause any damage to any drains, sewers, water mains, water pipes, gas pipes, electric cables or other services.
- 3.5.8 not use or permit to be used the whole or any part of each and every Site or any Advertising Display for any purpose which shall, or may be, or grow to be, a public or private nuisance.
- 3.5.9 carry on the business of selling advertising space in respect of the Advertising Structures in an efficient and businesslike manner and so as to maximise the revenue therefrom, and in particular, in respect of any exclusive advertising rights, to use its best endeavours to sell and obtain the full market price for each and every Site;

- 3.5.10 make all structural changes to the Advertising Structures and/or Public Amenities that may be required of the Council by any court, tribunal judgement or in any action taken by any body entitled to regulate the conduct of the Council hereunder from time to time at the cost of the Concessionaire;
  - 3.5.11 not to make any material alteration to any Advertising Structure or Public Amenity without the prior written approval of the Council and planning approval, as required; and
  - 3.5.12 not impede or obstruct in any way the officers servants or agents of the Council in the exercise by them of the Council's functions or the protection of the Council's interests and, in that connection, shall give all reasonable assistance and facilities to the officers servants or agents of the Council in or about their entry into the Sites.
- 3.6 The Concessionaire shall procure that its representatives or agents:-
- 3.6.1 make themselves available at all reasonable times and upon reasonable notice to the Council for the purposes of consultation and advice relating to this Agreement and the Services.
  - 3.6.2 at the expense of the Concessionaire attend such meetings with representatives of the Council as may be necessary for the performance of its duties under this Agreement.
- 3.7 Save as is expressly provided for in this Agreement, the Concessionaire shall be responsible for obtaining all licences, permits and approvals which are necessary or advisable for the purpose of the performance of its obligations under this Agreement.
- 3.8 The Concessionaire shall promptly inform the Council of:
- 3.8.1 any complaint concerning the Services or the advertisements which are carried on the Advertising Structures of which the Concessionaire is aware;
  - 3.8.2 any matter likely to be relevant in relation to the use of the Advertising Structures and/or Public Amenities.
- 3.9 The Concessionaire shall not:
- 3.9.1 pledge the credit of the Council in any way.

3.9.2 engage in any conduct other than as provided for under the Agreement which in the reasonable opinion of the Council is prejudicial to the Council's business.

3.9.3 hold itself out, or permit any person to hold it out, as being authorised to bind the Council in any way.

3.9.4 do any act which might reasonably create the impression that it is so authorised.

3.9.5 assign the benefit of this Agreement without the prior written approval of the Council.

3.10 If, at any time after the date of this Agreement,:-

3.10.1 any legislation is enacted; or

3.10.2 any decision of any public body or authority or court is made; or

3.10.3 any existing legislation is amended or repealed; or

3.10.4 any other party(s) is granted or exercises any right to grant or award contracts or concessions,

in respect of the erection or maintenance or relocation of Advertising Structures and/or Public Amenities, which interferes with the right of the Council to locate, erect, provide for the erection and/or maintenance of any Advertising Structures and/or Public Amenities, then the Council shall have no liability of any nature whatsoever to the Concessionaire for damages or loss of any nature to the Concessionaire, including but not limited to loss of business, profits, future revenue, goodwill, benefit of this Agreement, economic loss or any loss costs damages or expenses of any nature whatsoever arising therefrom.

#### **4. NO TENANCY CONFERRED**

4.1. This Agreement shall constitute a licence in respect of each Site and confers no tenancy on the Concessionaire and possession of each Site is retained by the Council subject however to the rights and obligations created by this Agreement.

#### **5. SPECIFICATION AND WARRANTIES**

5.1 The Concessionaire shall ensure that each Advertising Structures and/or Public Amenity erected by the Concessionaire complies with the Specifications and the Concessionaire's Designs.

5.2 The Concessionaire warrants that:

- 5.2.1 it has the appropriate qualifications, competence and authority to perform the Services; and
- 5.2.2 the Services, and materials used as part of the Services, are fit for the purpose for which they are intended, and shall be performed with the degree of skill and care that is required by good, competent, workmanlike procedures and standards prevailing at the time of the Services being performed.

**6. REMOVAL OF ADVERTISING STRUCTURES**

6.1 If at any time during this Agreement:

- 6.1.1 the Concessionaire is prevented or prohibited from exhibiting advertisements on any Advertising Structures by reason of any legislation, regulation or the order of any competent statutory authority; or
- 6.1.2 any Advertising Structures becomes lawfully obstructed or otherwise unfit for the display of advertisements, otherwise than by an act of the Council; or
- 6.1.3 any Advertising Structures and/or Public Amenities in the reasonable opinion of the Concessionaire is subject to constant or excessive vandalism;

the Concessionaire shall at its own expense subject to the agreement of the Council remove the Advertising Structures and/or Public Amenities after the Concessionaire has obtained all such consents, approvals and permissions as may be required by law, and re-instate the footpath, footway or the Council's property to a condition satisfactory to the Council. When the Concessionaire so removes the Advertising Structures and/or Public Amenities, the Concessionaire may, subject to the prior approval of the Council, re-erect the Advertising Structures and/or Public Amenities, in a new location.

- 6.2 If the Council shall be required or requested by an authority responsible for planning permission, electricity generation or transmission, roads, railways, light rail networks, generation sanitary matters, a local authority, the Commissioner of the Gardaí Síochána or by any other official body lawfully entitled to make and enforce such a requirement, to remove an Advertising Structures and/or Public Amenities, and the Council requests the Concessionaire to do so, the Concessionaire shall, at its own cost:-

6.2.1 remove the Advertising Structures and/or Public Amenities forthwith and re-instate the footpath or footway;

6.2.2 re-erect the Advertising Structures and/or Public Amenities at a new location in accordance with the provisions of this Agreement.

## **7. DUTIES OF THE COUNCIL**

7.1 The Council shall, for as long as this Agreement remains in force unless prevented or impeded by legislation, court order, regulation or statutory body:

7.1.1 inform the Concessionaire of any matter, which to the knowledge of the Council, is likely to be relevant in relation to the use or erection of the Advertising Structures and/or Public Amenities; and

7.1.2 without obligation hear any suggestion of the Concessionaire in relation to the erection and location of any Advertising Structures or and/or Public Amenities.

## **8. ADVERTISEMENTS**

8.1 Subject to the provisions hereof, the Council authorises the Concessionaire to affix and permit to be affixed, advertisements on each Advertising Structure under the terms of this Agreement for so long as this Agreement remains in force.

8.2 In selling advertising space in respect of any Advertising Structures the Concessionaire shall comply in full with the code(s) of practice adopted by the Advertising Standards Authority in Ireland from time to time.

8.3 The Concessionaire shall, at the request of the Council, and after consultation with the Concessionaire remove any advertising material from the Advertising Structures which, in the reasonable opinion of the Council, is likely to be prejudicial to the Council's business.

8.4 If, within 28 days of receipt of written notice from the Council requiring the Concessionaire to perform its obligations under this clause, the Concessionaire fails to so comply, the Council shall be entitled to make good such failure at the cost of the Concessionaire.

## **9. APPROVALS**

9.1 No approval on the Council's behalf of any plans, designs relating to the Advertising Structures or Public Amenities shall operate to relieve the

Concessionaire of any of its obligations under this Agreement (other than the specific obligation to obtain such approval).

## **10. INDEMNITY**

- 10.1 The Concessionaire shall **INDEMNIFY AND KEEP INDEMNIFIED** the Council, its servants, agents, sub-contractors and independent contractors from and against all proceedings, actions, costs, charges, claims, expenses, damages, liability or losses whatsoever, or howsoever or wherever caused, arising in connection with this Contract, including with out limitation, by reason of:-
- 10.1.1 the carrying out of any Services by the Concessionaire, its authorised agents or servants, or
  - 10.1.2 any failure on the part of the Concessionaire to comply with its obligations hereunder, or
  - 10.1.3 any negligence, default or breach of statutory or other duty on the part of the Concessionaire, its authorised agents or servants, or
  - 10.1.4 the state of repair or condition of the Advertising Structures and/or Public Amenities, or
  - 10.1.5 failure to repair any Advertising Structures and/or Public Amenities within the time limit specified herein, or
  - 10.1.6 any user of the Advertising Structures and/or Public Amenities, or
  - 10.1.7 anything hereafter appended to or projecting from any Advertising Structures and/or Public Amenities or any other cause arising from the Advertising Structures and/or Public Amenities or any of them, or
  - 10.1.8 the content matter of or shape of, or any implication from or innuendo deriving from or any meaning attributed to any advertisement displayed by the Concessionaire on an Advertising Structure, or
  - 10.1.9 the exercise or non exercise of the authorities and permissions hereby granted to the Concessionaire, or
  - 10.1.10 the Concessionaire acting outside the scope of the Agreement, or

10.1.11 the Concessionaire infringing the design, copyright, other intellectual property rights or related rights of any third party.

## **11. INSURANCE**

- 11.1 The Concessionaire shall procure adequate insurance (including, but not limited to professional indemnity, employers liability and public liability insurance), to the reasonable satisfaction of Council, with a reputable insurance company against all insurable liability under this Agreement in respect of the Services, including without limitation in respect of any loss or damage to the Services and all claims by third parties for death, injuries, loss or damage to property, and against all actions, suits, claims, demands, costs and expenses whatsoever, by reason of, or arising out of any claim by any of the Concessionaire's employees, workmen or servants, in respect of any accident, death, injury or damage sustained in connection with or arising out of this Agreement. The Council's interest shall be noted in the above policies.
- 11.2 If the proceeds of such insurance are insufficient to cover the cost of reinstatement, replacement or repair, the Concessionaire will make good any deficiency out of its own monies.
- 11.3 The said insurance policy or policies shall be furnished, duly completed, to Council prior to the commencement of the Services, maintained for the duration of the Services and up-to-date copies forwarded to the Council each year.
- 11.4 The Concessionaire shall not do or suffer to be done anything which may render the said policy or policies of insurance void or voidable.

## **12. DURATION AND TERMINATION**

- 12.1 This Agreement shall come into force on the date of execution hereof and, subject as provided hereunder, shall terminate on expiry of a period of **[Figure to be Inserted]** years from the Commencement Date.
- 12.2 The Council shall be entitled to terminate this Agreement by 60 days written notice to the Concessionaire in the event that the Concessionaire has failed to erect the number of Advertising Structures and/or Public Amenities set out in **Clause 3.3** within the time frames set out therein save where such failure is caused by any alteration in any legislation or a decision of any competent body or Court where such legislation or decision has a direct impact on the ability of the Concessionaire to so erect Advertising Structures and/or Public Amenities.
- 12.3 If the Concessionaire:

12.3.1 has failed to maintain the Advertising Structures and/or Public Amenities as provided by **Clause 3**, or

12.3.2 has failed to pay any sums due under this Agreement on the due date for payment.

the Council may serve a notice requiring the Concessionaire to remedy the breach of the Agreement (hereafter a "**Notice of Remedy**"). If the Concessionaire fails to remedy the breach to the reasonable satisfaction of the Council within 28 days from receipt of the Notice of Remedy, the Council shall be entitled to terminate this Agreement by 14 days notice in writing to the Concessionaire.

12.4 The Council shall be entitled forthwith to terminate this Agreement by notice in writing to the Concessionaire if;

12.4.1 the Concessionaire commits any material breach of any of the provisions of this Agreement and, in the case of a material breach capable of remedy, fails to remedy the same to the reasonable satisfaction of the other party within 28 days from receipt of a Notice of Remedy requiring the breach to be remedied.

12.4.2 an encumbrancer takes possession or a receiver, administrator or examiner is appointed over any of the property or assets of the Concessionaire.

12.4.3 the Concessionaire makes any voluntary arrangement with its creditors or becomes subject to an administration order.

12.4.4 the Concessionaire goes into liquidation (except for the purposes of amalgamation or re-construction and in such a manner that the company resulting therefrom effectively agrees to be bound by or assumes the obligations imposed on that other party under this Agreement).

12.4.5 anything analogous to any of the foregoing under the law of any jurisdiction occurs in relation to the Concessionaire.

12.4.6 the Concessionaire ceases, or threatens to cease to carry on business.

12.4.7 control of the Concessionaire shall pass from the shareholder(s), owner(s) or controller(s) at the date hereof to another person(s).

12.4.8 the Concessionaire is struck off the register of companies;



- 12.4.9 the Council reasonably believes that any of the events mentioned above is about to occur in relation to the Concessionaire and notifies the Concessionaire accordingly;
- 12.4.10 any representation made by the Concessionaire in connection with this Agreement shall in the opinion of Council prove to be untrue or incorrect in a material respect as of the date when made; or
- 12.4.11 the Concessionaire has been found guilty of any fraudulent act or any criminal activity or is guilty of gross negligence in the performance of this Agreement.
- 12.5 For the purposes of **Clauses 12.4.1**, a breach shall be considered capable of remedy if the party in breach can comply with the provision in question in all respects other than as to the time of performance (provided that time of performance not be of the essence).
- 12.6 In the event that the Concessionaire shall fail to comply with any of its obligations hereunder within 28 days after receipt of Notice of Remedy, the Council shall be entitled to make good any such failure at the cost and expense of the Concessionaire and, in particular, notwithstanding anything to the contrary herein contained, if the Council is of opinion that any Advertising Structures and/or Public Amenities is in a dangerous or hazardous condition and requires or necessitates immediate repair, the Council may without giving any notice, carry out all works which the Council considers necessary or desirable at the cost and expense of the Concessionaire and shall as soon as is reasonably practicable thereafter give written notice to the Concessionaire detailing the Advertising Structures and/or Public Amenities concerned and the work undertaken by it and shall verify the costs and expenses incurred by it in undertaking such work. Any amount payable by the Concessionaire to the Council under this clause shall be computed by the Council's Head of Finance whose certificate shall be verified and he shall be entitled to include in such computation such amounts in respect of employer's risks liability, holidays, supervision and overheads as are customarily included by the Council from time to time. The Head of Finance's certificate shall (save in the case of manifest error) be conclusive evidence as to any amounts due by the Concessionaire hereunder.
- 12.7 Any waiver by either party of a breach of any provision of this Agreement shall not be considered as a waiver of any subsequent breach of the same or any other provision thereof.

- 12.8 The rights to terminate this Agreement given by this clause shall be without prejudice to any other right or remedy of either party in respect of the breach concerned (if any) or any other breach.
- 12.9 Upon the termination of this Agreement for any reason, the Concessionaire shall at its own expense:
- 12.9.1 promptly vacate the Sites, ensuring that they are in good order, repair and condition (fair wear and tear excepted); and
  - 12.9.2 subject to the agreement of the Council, remove the Advertising Structures and/or Public Amenities and all related works, and re-instate the Sites (including adjacent footpath, footway or other Council's property, if reasonably required) to a condition satisfactory to the Council, after the Concessionaire has obtained all such consents, approvals and permissions as may be required by law. In default of the Concessionaire completing such removal and reinstatement within 30 days of the termination of the Agreement, or such other longer period as the Council deems appropriate, the Council shall be entitled to effect such removal and reinstatement itself at the Concessionaire's expense, in which case the Council shall, without prejudice to any other rights it may possess under this Agreement, have a lien upon the Advertising Display and/or Public Amenity until all sums due from the Concessionaire to the Council under this Agreement have been paid; and
  - 12.9.3 provide all reasonable assistance to the Council in the orderly transfer of the Services, functions and operations provided pursuant to this Agreement to another party or to the Council itself.
- 12.10 The provisions of **Clauses 1 (Interpretation), 10 (Indemnity), 15 (Confidentiality), 25 (Governing Law) and 26 (Dispute Resolution)** shall survive the termination or expiry of this Agreement.
- 13. PAYMENT PROVISIONS**
- 13.1 In consideration of the rights herein granted to the Concessionaire, the Concessionaire shall for the period commencing on the erection of an Advertising Structure and ending on termination of this Agreement, pay to the Council:-
- 13.1.1 an amount equal to the percentage or percentages of the Net Revenue set out in **Schedule 2** hereto; or

13.1.2 the Minimum Guaranteed Net Rental which sum shall be increased annually by a percentage at least equal to the rate of increase in the Consumer Price Index,

whichever is the greater;

13.1.3 and/or provide the services/street furniture set out in Schedule 2

- 13.2 The amounts calculated pursuant to **Clause 13.1** hereof shall be paid by the Concessionaire in respect of each Accounting Period within 14 days immediately following each such Accounting Period and each payment shall be accompanied by a certificate showing a break-down of these figures signed by a director of the Concessionaire.
- 13.3. Any amount to be paid by the Concessionaire pursuant to this Agreement shall be paid on the due date for payment and any amount not so paid on the due date shall bear interest from such due date until actual payment at a rate per annum equal to 3% above Euribor, such interest to accrue from day to day.
- 13.4 The Concessionaire shall on an annual basis furnish to the Council a certificate from the Concessionaire's auditors verifying the correctness in accordance with the Agreement of the amounts payable and also confirming that the Concessionaire has raised invoices for all advertising for which orders have been placed with the Concessionaire for display in the Advertising Structures whether such invoices have been discharged by cash payment or otherwise. The cost of the auditor's certificates is to be borne by the Concessionaire.
- 13.5 Where the Advertising Structures are utilised by the Concessionaire as part of an advertising campaign which also utilises advertising structures owned by a third party(ies), the revenue to be paid to the Council in respect of any such campaign shall fairly reflect the value of revenue attributable to the Advertising Structures made available under this Agreement and shall be subject to the scrutiny and approval of adviser and auditors of the Council.
- 13.6 The Concessionaire shall keep separate records and accurate accounts of all orders placed with the Concessionaire for display on the Advertising Structures and shall for the duration of this Agreement keep such records in good order and in such form as to be capable of audit (including by electronic means) by the Council or the Council's representatives. The Concessionaire shall permit the duly appointed representatives of the Council to inspect all such records and accounts and take copies thereof at all reasonable times. At the expiry or termination of the Agreement, the Concessionaire shall, at its own cost, deliver up to the Council, in the

manner and at such location as the Authority shall reasonably specify, all such records and accounts which were in existence at the end of the Agreement or copies thereof.

#### **14. NOTICES**

- 14.1 Any notice or any other communication to be given hereunder shall either be delivered personally or sent by registered post. The address for service of the parties hereto shall be:-

14.1.1 the Council [*Contact person and address to be inserted*]

14.1.2 the Concessionaire [*Contact person and address to be inserted*]

or such other address as it may have previously notified to the other parties in accordance with the provisions hereof.

- 14.2 All notices shall be deemed to have been served as follows:

14.2.1 if personally delivered, at the time of delivery; or

14.2.2 if posted, 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 in proving the service of the same it shall be sufficient to prove in the case of a letter that such letter was properly delivered or stamped, addressed and placed in the post (as the case may be).

#### **15. CONFIDENTIALITY**

- 15.1 Both parties agree to keep all business, financial and other confidential information provided to them by the other party ("Confidential Information"), arising or coming to their attention in connection with this Agreement secret and confidential and not at any time for any reason whatsoever to disclose them or permit them to be disclosed to any third party, except as necessary to enable both parties to carry out their duties and obligations under this Agreement. Both parties shall procure that their personnel, whether employed directly or sub-contractors, having access to such information shall, under their contracts of employment or service, be subject to the same obligations of confidentiality.
- 15.2 The obligations of confidence referred to in **Clause 15.1** shall not apply to any information which:

- 15.2.1 is in the possession of and is at the free disposal of either party or is published or is otherwise in the public domain prior to the receipt of such information by that party;
- 15.2.2 is or becomes publicly available on a non-confidential basis through no fault of Council or the Concessionaire; or
- 15.2.3 is received in good faith by Council or the Concessionaire from a third party who, on reasonable enquiry claims to have no obligations of confidence in respect of it and who imposes no obligations of confidence upon Council or the Concessionaire.
- 15.3 All information relating to the nature of the Services, the affairs of Council or any of its requirements shall be strictly confidential as between Council and the Concessionaire and the Concessionaire shall not during the term of this Agreement or at any time afterwards publish or otherwise disclose such information except in the performance of the Services.
- 15.4 The provisions of this **Clause 14** shall not prevent either party from disclosing Confidential Information where it is required to do so by law or by a binding court order save that, to the extent legally permissible, it shall notify the other party of such disclosure and allow that party a reasonable opportunity to object to such disclosure.
- 15.5 Upon any termination of the Services each Party shall cause all Confidential Information belonging to the other Party and applicable to the terminated agreement in whatever medium, to be returned, deleted or destroyed, according to the written instructions of the other party.

## **16. CONTRACT REVIEW / AUDIT**

- 16.1 The performance of the Concessionaire under this Agreement shall be subject to review on an on-going basis. The Concessionaire shall provide the Council with periodic reports to the reasonable satisfaction of the Council during the term of this Agreement.
- 16.2 The Concessionaire shall grant to Council access to the Concessionaire's premises, books, records, documents, equipment and other property it may reasonably require in order to check the Concessionaire's compliance with this Agreement. Such access includes, but is not limited to, access for the purpose of liaison, reporting and inspection and for verification of compliance by the Concessionaire with its obligations under this Agreement and its likely capacity to continue to comply with its obligations in the future. Without limiting the foregoing, such audits may include, but need not be limited to:
- - quality assurance practices;
  - relevant insurance policies;
  - annual audited accounts of the Concessionaire;

- accounts for payment;
- invoices and receipts; and
- such other investigations as are necessary to determine whether the Concessionaire has complied with this Agreement.

16.3 The Concessionaire shall implement such recommendations and comply with such audit findings to the extent necessary to ensure that the Services continue to be delivered and the Concessionaire continues to meet its related obligations in accordance with the requirements set out in this Agreement.

## **17. FORCE MAJEURE**

17.1 Notwithstanding anything else to the contrary herein contained no party to this Agreement shall be in breach of this Agreement if there shall be any total or partial failure of performance by it of its duties and obligations under this Agreement, other than payment, occasioned by any act of God, fire, Act of Government, state, war, civil commotion, insurrection, embargo, prevention from or hindrance in obtaining any raw materials, energy or other supplies, labour disputes of whatever nature and any other reason beyond the control of any party hereto. If any party hereto is unable to perform its duties and obligations under this Agreement as a direct result of the effect of any one or more of those reasons that party shall give written notice to the other or others of the inability, stating the reason therefore.

17.2 If any of the circumstances outlined in **Clause 17.1** occurs, the parties shall enter into bona fide discussions with a view to alleviating its effects, or to agreeing upon such alternative arrangements as may be fair and reasonable and the party so affected shall take all such other reasonable action necessary to alleviate its effects, and in the event that any event of force majeure prevails for a continuing period in excess of three months or such shorter period as the parties may agree in writing either party may serve notice of termination upon the other party upon which the parties shall have no further obligations to each other under the Agreement save for those claims which have accrued up to the date of termination.

## **18. NO PARTNERSHIP**

18.1 Nothing in this Agreement shall create or be deemed to create a partnership or the relationship of employer and employee between the parties.

## **19. TAX CLEARANCE CERTIFICATES**

- 19.1 The Concessionaire and all sub-contractors (domestic or otherwise) shall continue to hold, in good standing, current issues of all tax certificates and, in the case of non resident contractors, statements from the Revenue Commissioners as to suitability for tax purposes, for the duration of the Services and until final payment has been made.

## **20. COMPLIANCE WITH LAW**

- 20.1 The Concessionaire shall comply with all requirements and/or obligations of any statute, statutory instrument, rule, order, regulation, directive and/or byelaws or other legislative measures in providing the Services, including without limitation;

20.1.1. the Road Traffic Act, 1961 and any amendments or extensions thereto, or other Acts affecting roads or road traffic for the time being in force and all by-laws, orders, rules and regulations made pursuant to any such Act.

20.1.2 the Planning and Development Act 2000 and any amendments or extensions thereto, or other Acts affecting planning or development for the time being in force and all bye-laws, orders, rules and regulations made pursuant to any such Act.

20.1.3 the Local Government Act 2001, and any amendments or extensions thereto.

20.1.4 the Building Control Act 1990, and any amendments or extensions thereto.

## **21. TRANSFER AND SUB-CONTRACTING**

- 21.1 The Concessionaire shall not assign, transfer, sub-contract or purport to assign, transfer or sub-contract to any other person any of its rights or obligations under this Agreement, without the express prior written authorisation of the Council. The Council shall not be bound to give such an authorisation and may withhold same without giving any reason, or may grant such authorisation subject to such conditions as the Council may, in its absolute discretion, see fit to impose (for example, the requirement to comply with EU public procurement rules, where applicable).

21.2 The Council may assign, transfer or sub-contract this Agreement, or any part thereof. The Concessionaire shall, if requested by the Council, provide all reasonable assistance to the Council in relation to any such assignment, transfer or sub-contract and fully co-operate with any relevant third parties.

21.3 This Agreement shall be binding upon the successors and assigns of the parties and the name of a party appearing in this Agreement shall be deemed to include the names of its successors and assigns provided always that nothing shall permit any assignment by either party except as expressly provided.

## **22. WAIVER**

22.1 Failure or neglect by the Council to enforce at any time any of the provisions hereof shall not be construed nor deemed to be a waiver of the Council's rights hereunder, nor in any way affect the validity of the whole or any part of this Agreement, nor prejudice the Council's rights to take subsequent action.

## **23. SEVERANCE**

23.1 If any provision of this Agreement is held by any court or other competent authority to be void or unenforceable in whole or in part, this Agreement shall continue to be valid as to provisions thereof and the remainder of the affected provision **PROVIDED ALWAYS** that if any such deletion substantially affects or alters the commercial basis of this Agreement the parties shall negotiate in good faith to amend and modify such of the provisions of this Agreement as may be necessary or desirable in the circumstances.

## **24. ENTIRE CONTRACT**

24.1 This Agreement contains the entire contract between the parties with respect to the subject matter hereof, and supersede all previous contracts, agreements and understandings between the parties with respect thereto, and may not be modified except by an instrument in writing signed by the duly authorised representatives of the parties.

## **25. GOVERNING LAW**

25.1 This Agreement shall be deemed to have been made in Ireland and the construction, validity and performance of this Agreement shall be governed in all respects by the law of Ireland and, subject to **Clause 26 below**, the parties hereby submit to the exclusive jurisdiction of the Irish Courts.



## 26. DISPUTE RESOLUTION

26.1 Should there be any dispute arising out of this Agreement, including the interpretation or fulfilment of any of its provisions, the following mechanism shall apply:

26.1.1 In the first instance, the parties shall submit the dispute to the personnel nominated specifically to participate in the escalation process and identified as such in **Schedule 5** in the order set out therein;

26.1.2 If such disputes cannot be resolved pursuant to the mechanism set out at **Clause 26.1.1** above within a period of ten (10) days, either party may request that the matter is submitted to conciliation/mediation. If any such request is made, the matter will be submitted to conciliation/mediation by a conciliator/mediator to be appointed, in the absence of agreement between the parties, by the President for the time being of the Law Society of Ireland or, in the event of the President being unable or unwilling to make the appointment, by the next senior Officer of that Society who is so able and willing. The determination of the conciliator/mediator shall be final and binding on both parties unless, within fourteen (14) days following the date of the determination, either party notifies the other in writing that it rejects the determination of the conciliator/mediator. Each party shall bear its own costs in the conciliation/mediation and shall each pay half of the costs of the conciliator/mediator;

26.1.3 In the event that the conciliation/mediation procedure under **Clause 26.1.2** above fails to result in a satisfactory resolution of the dispute within thirty (30) days of the date of the notice to refer to conciliation/mediation (or such other longer period as is agreed between the parties), or if both parties agree to submit the matter directly to arbitration after the conclusion of the escalation process under **Clause 26.1.1**, either party may submit the matter to arbitration by a sole arbitrator to be appointed, in the absence of agreement between the parties, by the President for the time being of the Incorporated Law Society of Ireland (or, in the event of his being unwilling or unable to do so, by the next senior officer of the said institution who is willing and able to make the appointment provided always that these provisions shall apply also to the appointment (whether by agreement or otherwise) of any replacement arbitrator where the original arbitrator (or any replacement) has been removed by order of the High Court, or refuses to act, or is incapable of acting or dies) and in such an

event this article shall be deemed to be a submission to an arbitration within the meaning of the Arbitration Acts 1954 - 1998 and any amendment or any statutory modification or re-enactment thereof for the time being in force.

Schedule 1

## **Schedule 1**

### **SPECIFICATION**

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## **Schedule 2**

### **PAYMENTS**

*to be added*

### **Schedule 3**

#### **SITES**

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**Schedule 4**

**MAINTENANCE SCHEDULE**

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## Schedule 5

### ESCALATION PROCEDURE

In the event of a dispute in relation to the interpretation or fulfilment of any of the provisions of this Agreement, the parties shall, in accordance with **Clause 26.1.1**, submit the dispute to the following personnel in the order set out below:

1. Council's Project Manager                      Concessionaire's Project Manager

and

2. [                      ] Council                      Director of Concessionaire

