



## REQUEST FOR QUOTE

---

<b>Request for Quote (RFQ):</b>	Huon Valley Council Cemetery Maintenance and Caretaker Duties
---------------------------------	---

<b>Deadline:</b>	5pm 27 June 2022
------------------	---------------------

<b>Address for Delivery:</b>	Quotes are to be lodged electronically by the deadline to  Manager Recreation Services Email <a href="mailto:hvc@huonvalley.tas.gov.au">hvc@huonvalley.tas.gov.au</a> Subject: Quote: HVC Cemetery Maintenance and Caretaker
------------------------------	--

<b>RFQ Number:</b>	001
--------------------	-----

# TABLE OF CONTENTS

---

<b>1</b>	<b>Conditions of QUOTE</b>	<b>3</b>
1.1	Definitions	3
1.2	Quote Documents	4
1.3	How to Prepare Your Quote	4
1.4	Contact Persons	5
1.5	Council Policy	5
1.6	Obtaining Information	5
1.7	Responsibilities when submitting a Quote	5
1.8	Lodgement of Quotes and Delivery Method	5
1.9	Rejection of Quotes	7
1.10	Acceptance of Quotes	7
1.11	Quote Validity Period	7
1.12	Precedence of Documents	8
1.13	Australian Business Number	8
1.14	Alterations	8
1.15	Evaluation Process	8
1.16	Selection Criteria	8
1.17	Contract Period	9
1.18	Price Basis	9
1.19	Ownership of Quotes	9
1.20	Commissions and Incentives	9
1.21	Costs of Quoting	9
1.22	Quote Opening	9
1.23	Execution of Formal Instrument of Agreement	9
1.24	Confidentiality	9
1.25	Right to Information	10
1.26	Information Privacy	10
<b>2</b>	<b>Specification</b>	<b>11</b>
<b>3</b>	<b>QUOTATION FORM</b>	<b>14</b>
3.1	Quote Form	14
3.2	Evaluation Criteria	15
3.3	Price Information	16
<b>4</b>	<b>SCHEDULES</b>	<b>18</b>
<b>5</b>	<b>Draft Contract Conditions</b>	<b>21</b>

# 1 CONDITIONS OF QUOTE

## 1.1 Definitions

Below is a summary of some of the important defined terms used in this Request:

<b>Attachments</b>	The documents you attach as part of your Quote.
<b>Conditions of Quote</b>	Means these Conditions of Quote
<b>Contract</b>	Means a legally binding or valid agreement between the Principal and the Contractor.
<b>Contractor</b>	Means the person or persons, corporation or corporations whose Quote is accepted by the Principal, including the executors or administrators, successors and assignments of such person or persons, corporation or corporations.
<b>Confidential Information</b>	Means any technical, commercial or other information, ideas, concepts, know-how, data drawings, specifications or designs of any kind: (a) owned by the Principal and supplied or made available by the Principal; or (b) material supplied or made available by the Principal for the purposes of submitting the Quote.
<b>Deadline</b>	Means 27 June 2022
<b>General Conditions of Contract</b>	Means the General Conditions of Contract provided or nominated in Part 6.
<b>Offer</b>	Your offer to supply the Requirements.
<b>Personal Information</b>	Has the meaning given in <i>Personal Information Protection Act 2004</i>
<b>Principal</b>	Means the Huon Valley Council.
<b>Request OR RFQ OR Request for Quote</b>	This document.
<b>Requirement</b>	The goods and/or services requested by the Principal, as detailed in the Specification.
<b>RTI Act</b>	Means the <i>Right to Information Act 2009</i>
<b>Selection Criteria</b>	The criteria used by the Principal in evaluating your Quote.

## Part 1 READ AND KEEP THIS PART

<b>Special Conditions of Contract</b>	Means the Special Conditions of Contract (if any) comprising Part 7 (if applicable) of the Request for Quote
<b>Specification</b>	The Statement of Requirements that the Principal requests you to provide if selected, as detailed in Part 2 including any amendment or addition to the Specification
<b>Quote OR Submission</b>	Completed Quote form, Response to the Selection Criteria and Attachments in response to the Request for Quote

### 1.2 Quote Documents

This Request for Quote is comprised of the following parts:

- Part 1 – Conditions of Quote (*read and keep this part*).
- Part 2 – Specification and/or plans/drawings (*read and keep this part*).
- Part 3 – Summary of General Conditions of Contract (*read and keep this part*]
- Part 4 – Quotation Offer (*complete and return this part*).
- Part 5 – Additional Information Required for RFQ (*complete and return this part*)
- Part 6 – Draft General Conditions of Contract(*read and keep this part*)

#### Separate Documents

- (a) Addenda and any other special correspondence issued by the Principal for this RFQ.
- (b) Any policy or document referred to but not attached to the Request.

All parts of the Request for Quote must be read and construed together so that all parts are as far as possible consistent. Where the documents are inconsistent, the documents should be read and construed in the order of priority from document (a) to (g) as follows:

- (a) Conditions of Quote;
- (b) Specification;
- (c) Special Conditions of Contract (if any);
- (d) General Conditions of Contract;
- (e) Quote Response;
- (f) Letter of Acceptance;
- (g) Correspondence passing between the Principal and Contractor clarifying any aspect of the Quote.

The Request for Quote is not an offer. The Request for Quote is an invitation for persons to submit an offer for the supply of the Goods and Services particularised in the Specification

### 1.3 How to Prepare Your Quote

- (a) Carefully read all parts of this document;
- (b) Ensure you understand the Requirements;
- (c) Complete and return the Quote Form (Part 4) in all respects and include all attachments;
- (d) Make sure you have signed the Quote Form and responded to all of the Selection Criteria; and
- (e) Lodge your Quote before the Deadline.

## **1.4 Contact Persons**

Information for the RFQ will only be relied upon as provided from the person listed below:

Name:	Rebecca Bell – Manager
Telephone:	(03) 6264 0300
Email:	<a href="mailto:rbell@huonvalley.tas.gov.au">rbell@huonvalley.tas.gov.au</a>

## **1.5 Council Policy**

This RFQ is called in accordance with the provisions of the *Local Government Act 1993* and the Huon Valley Council's *Code for Tenders and Contracts - Gov-Corp 013* (the Code) - <http://www.huonvalley.tas.gov.au/wp-content/uploads/2017/12/Code-for-Tenders-and-Contracts.pdf>

## **1.6 Obtaining Information**

The Principal will provide the Request for Quote through its website. No fee is payable for the supply of the Request for Quote.

Any additional information required must be obtained from the Council via email.

The Principal will not be bound by any advice or information furnished by a Councillor or officer (except the Contact Person) of the Principal with respect to the Request for Quote.

Information provided by or on behalf of the Principal via email:

- (a) Will not, unless expressly incorporated into the Contract, form part of the Contract; and
- (b) Is not warranted or represented by the Principal as accurate, correct or adequate.

## **1.7 Responsibilities when submitting a Quote**

Before lodging its Quote:

- (a) Carefully read and consider the Request for Quote and any other information made available by the Principal with respect to the Request for Quote and the process of tendering for the Contract; and
- (b) Read and consider all information relevant to the risks, contingencies and other circumstances relevant to the Request for Quote; and
- (c) Independently verify any information provided by or on behalf of the Principal, and satisfy itself that the information is adequate and accurate; and
- (d) Submit accurate and complete information in a Quote; and
- (e) Ensure compliance in all respects with the requirements of the Conditions of Quote.

In evaluating Quotes and determining with whom it will enter the Contract, the Principal will rely upon compliance with the requirements of this clause.

Failure to comply with any requirement in this clause will not relieve the responsibility to complete the Contract in accordance with its terms, and in particular, the price or rate in the Quote.

## **1.8 Lodgement of Quotes and Delivery Method**

The Quote must be lodged by the Deadline. The Deadline for this Request is 5pm 27 June 2022.

### **1.8.1 Form of Lodgement**

**ALL QUOTES** are required to be lodged electronically.

**Part 1 READ AND KEEP THIS PART**

**No late Quotes will be accepted. Quotes submitted by facsimile, , mail, hand delivered, telephone or by any other method other than email, WILL NOT be accepted for evaluation.**

A Tenderer must not alter or add to the Quote Response unless required by the Conditions of Quote.

**1.8.2 Addressing Submission**

All electronic Quote submissions are to address the quotation requirements of Part 3 and 4 of this document.

**1.8.3 Content of Submissions**

Tenderers must ensure that they meet the following requirements, when submitting their submission:

- (a) One (1) copy of their Quote submission in a format readable by Microsoft Office 2013 or Adobe PDF

The Quote must be presented in the format as detailed in Section 1.8.4, it must include an index and the pages must be numbered consecutively.

Any brochures or pamphlets are to be included in the electronic copy of the Quote submission.

The Quote Response must be fully completed, and include all supporting documents and materials required by both the Conditions of Quote and the Quote Response.

The Quote Response must contain the following items:

- (a) Full name; and
- (b) Australian Business Number, and
- (c) Address and facsimile number for the service of notices.

For a firm, the Quote Response must contain:

- (a) The full names and addresses of each member of the firm;
- (b) The business name under which the firm trades; and
- (c) The firm's address and facsimile number for the service of notice; and
- (d) The firm's Australian Business Number.

For a corporation, the Quote Response must contain details of the corporation's:

- (a) Name; and
- (b) Business name (if applicable); and
- (c) Australian Business Number; and
- (d) Registered office; and
- (e) Address and facsimile number for the service of notices; and
- (f) The name, telephone number and address (if different from the address for service of notices) of a natural person who is authorised by the corporation to represent it in relation to the Quote.

If the Quote is a consortium or a joint venture, the Quote Response must contain details of:

- (a) The name of each member; and
- (b) The structure of the consortium or joint venture, including the proposed managerial structure; and
- (c) The role to be played by each member in complying with the terms and conditions of the Contract; and
- (d) In the case of a consortium, the member who is to be the principal contractor on behalf of the consortium.

## Part 1 READ AND KEEP THIS PART

The Contract Price in the Quote Response must be:

- (a) In Australian dollars; and
- (b) Comply with clause 1.22 in respect of GST.

### 1.8.4 Quote Checklist

Tenderers are to compile their Quote in the order as detailed below. Quotes that do not comply with the following order may be excluded for evaluation.

1	Cover Page
2	Index
3	Introduction/Cover Letter
4	Form of Quote (signed by authorised signatory)
5	Compliance Criteria
6	Qualitative Criteria
7	Completion of Schedules
8	Supplementary documentation (information not requested in Part 4 of this Request)

### 1.9 Rejection of Quotes

A Quote will be rejected without consideration of its merits in the event that:

- (a) It is not submitted before the Deadline; or
- (b) It is not submitted at the place specified in the Request; or
- (c) It may be rejected if it fails to comply with any other requirements of the Request.

### 1.10 Acceptance of Quotes

Unless otherwise stated in this Request, Quotes may be for all or part of the requirements and may be accepted by the Principal either wholly or in part. The Principal is not bound to accept the lowest Quote and may reject any or all Quotes submitted.

The Principal may accept a Quote by giving written notice in the form of a Letter of Acceptance.

The Contract will not come into existence until the Principal has given written notice in the form of a Letter of Acceptance.

### 1.11 Quote Validity Period

All Quotes will remain valid and open for acceptance for a minimum period of ninety (90) days from the Deadline or forty-five (45) days from the Principal's resolution for determining the Quote, whichever is the later unless extended on mutual agreement between the Principal and the Tenderer in writing.

Each Quote constitutes an offer to the Principal to supply the Goods and Services required under, and otherwise to satisfy the requirements of, the Specification on the terms and conditions of the Contract.

## **1.12 Precedence of Documents**

In the event of there being any conflict or inconsistency between the terms and conditions in this Request and those in the General Conditions of Contract, the terms and conditions appearing in this Request will have precedence.

## **1.13 Australian Business Number**

Only suppliers with an ABN will be considered eligible to Quote for this contract. The supplier's ABN is to be included on all invoices.

## **1.14 Alterations**

The Principal will issue an addendum to all registered Tenderers where matters of significance make it necessary to amend or supplement the issued Request documents before the Deadline.

## **1.15 Evaluation Process**

This is a Request for Quote.

Your Quote will be evaluated using information provided in your Quote.

The following evaluation methodology will be used in respect of this Request:

- (a) Quotes are checked for completeness and compliance. Quotes that do not contain all information requested (eg completed Quote form and Attachments) may be excluded from evaluation.
- (b) Quotes are assessed against the Selection Criteria. Contract costs are evaluated (eg Quoted prices) and other relevant whole of life costs are considered.

A Contract may then be awarded for a Quote considered the most advantageous in accordance with the selection criteria of the Principal.

## **1.16 Selection Criteria**

The Quoted prices will be assessed together with qualitative and compliance criteria to determine the most advantageous outcome to the Principal.

The Principal has adopted a best value for money approach to this Request. This means that, although price is considered, the Quote containing the lowest price will not necessarily be accepted, nor will the Quote ranked the highest on the qualitative criteria.

A scoring system will be used as part of the assessment of the qualitative criteria. Unless otherwise stated, a Quote that provides all the information requested will be assessed as satisfactory. The extent to which a Quote demonstrates greater satisfaction of each of these criteria will result in a greater score. The aggregate score of each Quote will be used as one of the factors in the final assessment of the qualitative criteria and in the overall assessment of value for money.

### **1.16.1 Compliance Criteria**

These criteria are detailed within Part 4.2 of this document and will not be point scored. Each Quote will be assessed on a Yes/No basis as to whether the criterion is satisfactorily met. An assessment of "No" against any criterion may eliminate the Quote from consideration.

### **1.16.2 Qualitative Criteria**

In determining the most advantageous Quote, the Evaluation Panel will score each Quote against the qualitative criteria as detailed within Part 4 of this document. Each criterion will be weighted to indicate the relative degree of importance that the Principal places on the technical aspects of the goods or services being purchased.



Failure to provide the specified information may result in elimination from the quote evaluation process or a low score.

### **1.17 Contract Period**

The Contract shall be for the period of 12-months with an option to extend.

### **1.18 Price Basis**

All prices for goods/services offered under this Request are to be fixed for the term of the Contract. Quoted prices must exclude Goods and Services Tax (GST).

Unless otherwise indicated prices Quoted must include delivery, unloading, packing, marking, removal of packing boxes and all applicable levies, duties, taxes and charges. Any charge not stated in the Quote, as being additional will not be allowed as a charge for any transaction under any resultant Contract.

Any price schedule that has been requested by the Principal must be completed in full and in the required format. Unless otherwise stated, the content in the price schedule/s must not be altered in any way and each field within the schedule/s must be completed.

### **1.19 Ownership of Quotes**

All documents, materials, articles and information submitted as part of or in support of the Quote will become upon submission the property of the Principal and will not be returned at the conclusion of the Quote process PROVIDED that the Contractor be entitled to retain copyright and other intellectual property rights therein, unless otherwise provided by the Contract.

### **1.20 Commissions and Incentives**

A Quote will not be considered if anybody offers or gives anything to a Councillor of the Principal, or any officer or agent of the Principal, as an inducement for the purpose of seeking to influence the manner in which the Quote is evaluated or the Contract awarded.

### **1.21 Costs of Quoting**

The Principal will not be liable for payment for any costs, losses or expenses incurred in preparing their Offer, regardless of the outcome of the Quote.

### **1.22 Quote Opening**

When opening Quotes the General Manager will ensure that Quotes are:

- (a) opened in the presence of a minimum of two Council Officers; and
- (b) clearly identified and recorded.

The General Manager will ensure that receipt of Quotes are acknowledged in writing prior to evaluation however such acknowledgement does not constitute acceptance of the Quote or that the Quote is complete or in compliance with the request for Quote.

### **1.23 Execution of Formal Instrument of Agreement**

After acceptance of a Quote, the successful Contractor shall execute within seven (7) days of receiving it from the Principal, a Formal Instrument of Agreement.

### **1.24 Confidentiality**

The any person submitted a Quote:

- (a) acknowledges that the Confidential Information is sensitive and valuable, and will remain at all times the property of the Principal; and

## Part 1 READ AND KEEP THIS PART

- (b) must not use the Confidential Information for any purpose other than preparing its Quote; and
- (c) must not copy any material comprising or containing Confidential Information, other than where (and then only to the extent that) copying is necessary to enable it to prepare its Quote; and
- (d) must allow access to the Confidential Information by Relevant Persons only to the extent necessary to enable the Quote to be prepared; and
- (e) must obtain the Principal's written consent before disclosing Confidential Information to a person other than a Relevant Person.

The consent of the Principal to disclosure of the Confidential Information may be given or withheld on such terms and conditions as the Principal considers appropriate.

The obligation under this clause continues after closure of Quotes and award of the Contract.

Failure or delay by the Principal in enforcing strict compliance with this clause or pursuing a remedy under this clause will not constitute a waiver or implied variation of the entitlement or remedy.

This Clause will not apply to an item of Confidential Information where it can be established that:

- (a) the item has been transferred to the public domain through no fault of the person submitting a Quote; or
- (b) the item was already in the person's possession when it was supplied or made available by the Principal, and not acquired directly or indirectly from the Principal; or
- (c) it has received from the Principal written notification that the Principal no longer requires the person to keep the item confidential.

### 1.25 Right to Information

The *Right to Information Act 2009* provides members of the public with a legally enforceable right to access documents held by Tasmanian Government agencies (including Local Governments).

The Act requires that documents be disclosed upon request, unless the documents are exempt, or on balance, disclosure is contrary to the public interest.

Information provided is potentially subject to disclosure to third parties pursuant to the Act.

If disclosure under the Act, or general disclosure of information provided, would be of substantial concern, because it would disclose trade secrets, information of commercial value, the purpose or results of research, or other information of a confidential nature, including Personal Information, this should be indicated in the Quote. The Principal cannot guarantee that any information provided by will be protected from disclosure under the Act.

### 1.26 Information Privacy

The Principal is bound by the provisions of the *Personal Information Protection Act 2004*.

By submitting a Quote, it is warranted that consent is provided of each individual whose personal information is included in the Quote for:

- (a) the inclusion of their personal information in the Quote; and
- (b) the use of the personal information by the Principal for the purpose of evaluating and awarding the Quote; and
- (c) the disclosure of the personal information to other parties (including professional advisors) as may be involved in assisting the Principal with the evaluation of the Quote.

A Person must immediately notify the Principal upon becoming aware of any breach of this clause.

## 2 SPECIFICATION

# Schedule of Works 'A'

## Huon Lawn Cemetery Contractor

Duties	1 Nov – 30 Apr	1 May – 31 Oct
◦ Mowing of Lawns	Weekly	Weekly
◦ Gardening, Weeding Pruning, Fertilising Garden Beds	Weekly	Fortnightly
◦ Pruning trees	As required	As required
◦ Pruning and spraying roses	Dead head as required	Full prune carried out 1 <sup>st</sup> week in July
◦ Brush cutting plaque areas (weed spray not permitted)	Fortnightly	Fortnightly
◦ Sweeping kerb, gutters and paths	As required	As required
◦ Empty Rubbish bins	Weekly	Weekly
◦ Aerating and fertilising grounds	Annually	Annually
◦ Spraying weeds along fence line	6-weekly	6-weekly
◦ Ground irrigation	As required	
◦ Check toilets are clean and tidy	Prior to funerals	Prior to funerals

## Dover Lawn Cemetery Contractor

Duties	1 Nov – 30 Apr	1 May – 31 Oct
◦ Mowing of Lawns	Fortnightly	Fortnightly
◦ Gardening, Weeding Pruning, Spraying.	6-weekly	6-weekly

### NOTE:

- Lawns surrounding burial plaques are to be hand mown using a catcher.
- Open lawns can be mown without the use of a catcher however care must be taken to avoid accumulation of lawn clippings.
- In the event of an interment taking place the Contractor must show courtesy the families and avoid any disturbances.

## Huon Valley Council

# Schedule of Works 'B'

## Huon & Dover Lawn Cemeteries

Duties	Frequency
Burials	As required on specific burial days
Backfilling of Graves	As required on specific burial days
Graves Development	As required.
Plaque installation	As directed (approximately 1-2 per week).
Placement of ashes	As directed.
Record Keeping	Immediately after any burial, placement or reservation (monthly returns to Council)

## Procedures

### Burials

1. Liaise with Funeral Directors and Grave Digger
2. Mark and set out grave for grave digging
3. Place grave surrounds and flower rack at burial site

### Backfilling of graves

*(To commence no later than 1 hours after completion of Funeral Service)*

1. Fill grave with pre-used dirt and then topdress with a bucket of new loam. Shape and level mound.
2. Remove flowers from rack and place on grave in a neat and tidy fashion.
3. Remove flower rack and chairs from the area and place in the large shed.
4. For first double internments and single internments place concrete plinth at headstone and write name on the plinth
5. Put equipment away and lock sheds.

### Grave Development

1. Remove and dispose of flowers into rubbish bin when appropriate.
2. Pat down mound with tractor bucket and tread in sides.
3. Level, roll and seed grave.
4. Top up grave as required.

### Plaque Installation

1. Collect plaques from Council Offices as directed for placement the following day.
2. Use string lines to align jig with surrounding plaques. Place jig in ground and mark area. Remove jig and dig out turf to a depth of 40-50mm. Place jig back in ground mark and dig vase hole. Once completed set plinth in place. Glue plaque and hold in place with jig until set.
3. Place vase into plinth.
4. Make sure that surrounding area is neat and tidy, all dirt is removed and equipment is stored and secured in sheds.

## **Part 2 READ AND KEEP THIS PART**

### Placement of Ashes

1. Place ashes in designated niche and attach plaque using holding bracket.
2. Meet families for reservations and placements as required.

### Records

1. Record grave details in burial register.
2. Record placement of ashes details in burial register
3. Record reservation details in burial register
4. Provide monthly list of burials to Council for further record keeping.

### 3 QUOTATION FORM

#### 3.1 Quote Form

<b>Contract Title</b>	Huon Valley Council Cemetery Maintenance and Caretaker Duties
<b>Returnable by</b>	5pm 27 June 2022
<b>Addressed To</b>	The General Manager – Mr Jason Browne
<b>Name</b>	
<b>Address</b>	
<b>Contact Person</b>	
<b>Position</b>	
<b>Telephone Number</b>	
<b>Email address</b>	
<b>ABN Number</b>	
<b>Are you registered for GST</b>	<input type="checkbox"/> Yes <input type="checkbox"/> No
<p>In signing this form you agree to the Conditions of Quote, warrant that the information provided in the Quote is accurate and correct, and that the person signing the form is duly authorised to do so.</p> <p>Quote Price – The undersigned do hereby Quote to supply the Huon Valley Council with the products and/or services listed in the Quote schedule for the prices described in and in accordance with the terms and conditions of the Quote Documents, as defined in the Conditions of Quote.</p>	
<b>Signature</b>	
<b>Position of authorised signatory</b>	
<b>Dated</b>	

**Part 3 COMPLETE AND RETURN THIS PART**

### 3.2 Evaluation Criteria

In evaluating quotations, the Principal may take into consideration factors including, but not limited to: price; experience; previous performance; capability; safety performance; and conformity with the requirements of this RFQ and any other applicable Council policies.

#### 3.2.1 Specific Assessment Criteria

Before responding to the following specific assessment criteria, note the following:

- (a) All information relevant to your answers to each criterion are to be contained within your Quote;
- (b) Assume that the Evaluation Panel has no previous knowledge of your organisation, its activities or experience;
- (c) Provide full details for any claims, statements or examples used to address the specific assessment criteria; and
- (d) Address each issue outlined within these criterion.

<b>A. Price</b> Tenderers must complete Part 4 Schedule 1: Price Schedule	Weighting <b>50%</b>	Tick if attached <input type="checkbox"/>
<i>i. Pricing Schedule(s) completed in accordance with the format as requested by the Principal.</i>		
<i>ii. All fields within the Pricing Schedule(s) acknowledged and completed.</i>		

<b>B. Contractor's Experience and Demonstrated Ability</b> Tenderers must complete Part 5 Schedule 2: Statement of Tenderer's Experience and Demonstrated Ability.	Weighting <b>30%</b>	Tick if attached <input type="checkbox"/>
<i>i. Capability and experience</i>		
<i>ii. Provide details of current contracts</i>		
<i>iii. Demonstrated ability to work with minimal supervision as a part of a team, as well as the ability to use own initiative to solve problems within the Schedule of Works</i>		

<b>C. WH&amp;S – Risk Management</b> Tenderers must address the following information under the heading " <b>WH&amp;S – Risk Management</b> ".	Weighting <b>20%</b>	Tick if attached <input type="checkbox"/>
---	-------------------------	--

**Part 3 COMPLETE AND RETURN THIS PART**

*The Contractor must provide details of its Workplace Health and Safety (WHS) Management System in compliance with all duties of an employer specified in the Work Health and Safety Act 2012. If a certification such as A/NZS 4801.2001 has been obtained please provide.*

*The Contractor must submit a complete copy of their WHS Management System documentation which must also include as a minimum requirement:*

1. High Risk Licences
2. WHS Management System:
  - i. Company WHS Policy Statement
  - ii. Persons with WHS responsibilities
  - iii. General WHS Roles and Responsibilities
  - iv. Any legislation or codes of practice they work under.
  - v. How the Tenderer's WHS Management system is reviewed
3. How Risks are managed by:
  - i. Risk Assessment process
  - ii. Hierarchy of Controls
  - iii. Incident reporting and forms used
  - iv. Identified Hazards and forms used
  - v. Workplace Inspections
4. Policies relating to:
  - i. Policies on Induction and Training
  - ii. Policies on Consultation and Communication
  - iii. Emergency/Incident Response/First Aid policies
  - iv. Personal Protective Equipment policy
5. How they manage specific risks which may include (where applicable):
  - i. Personal Protective Equipment policy
  - ii. Manual Handling
  - iii. Slips Trips Falls
  - iv. Electrical Safety
  - v. Chemical Safety
  - vi. Plant (Licenced and Competency based)
  - vii. Tool safety
  - viii. Working at Heights
  - ix. Confined Spaces
  - x. Excavation Work
  - xi. Working near above and below ground services
  - xii. Outdoor or Sun Policy
  - xiii. Any other specific industry Risks that Tenderer would deal with.
6. Safe Work Method Statement (SWMS) and/or Job Safety Analysis (JSA) for the work that they will conduct for council.

### **3.3 Price Information**

#### **3.3.1 Price Basis**

Are you prepared to offer a fixed price?	<input type="checkbox"/>	<input type="checkbox"/>
	YES	NO



**Part 3 COMPLETE AND RETURN THIS PART**

If No, please identify why you are not prepared to offer a fixed price. Supply details and label it " <b>Fixed Price</b> ".	<b>Tick if attached</b> <input type="checkbox"/>
---	---

**3.3.2 Price Schedule**

Complete the Price Schedules in full at Part 4 – Schedules. It is your responsibility to ensure each field within the Price Schedule has been completed/acknowledged prior to submitting a Quote. Before completing the Price Schedule, ensure you have read this entire Request.

## 4 SCHEDULES

### SCHEDULE 1: PRICE SCHEDULE

ITEM	TOTAL (ex GST)
<p><b>Preliminaries</b>  <i>To include all costs associated with</i>                      Huon Valley Council–Cemetery Maintenance and Caretaker Duties</p>	\$
<p><b>Insert other cost items according to the specifications</b></p> <ul style="list-style-type: none"> <li>• Equipment and Materials                      The Contractor is required to supply their own equipment needed to perform the duties detailed in “Schedule A”. The Council shall supply equipment needed to perform the duties detailed in “Schedule B” and all other consumable items. It shall be the Contractor’s responsibility to collect consumables from the Councils Depot, Sale Street, Huonville during normal working hours (7.30am – 4.00pm Monday to Friday).</li> <li>• An additional fee of \$50 will be payable for weekend and public holiday burials.</li> </ul>	\$
<b>Total Cost</b>	\$

**Part 4 COMPLETE AND RETURN THIS PART**

**SCHEDULE 2: STATEMENT OF EXPERIENCE AND DEMONSTRATED ABILITY**

Provide details of capability and experience in the successful completion of similar contracts:  
Capability and experience:

Provide details of current contracts:

Demonstrated ability to work with minimal supervision as a part of a team, as well as the ability to use own initiative to solve problems within the Schedule of Works:

Date:	
Organisation:	
Signature:	

**SCHEDULE 3: SUB-CONTRACTORS WILL NOT BE PERMITTED**

**SCHEDULE 4: DECLARATION OF QUALIFICATIONS**

*Tenderers to complete as part of their Quote submission.*

Provide details of any assumption or interpretation of the documentation which has not been clarified in the process of preparing the Quote which may affect the cost of the contract:

DRAFT

Date:	
Organisation:	
Signature:	

## 5 DRAFT CONTRACT CONDITIONS



**HUON VALLEY  
COUNCIL**

### **CONTRACT CONDITIONS FOR PROVISION OF SERVICES**

Between

**The Huon Valley Council**

And

***<insert name of successful tenderer>***

**ABN: *<insert successful tenderer's ABN Number>***

## Signing Page

IN WITNESS hereto the hands and seals of the parties this day

THE COMMON SEAL of the HUON )  
VALLEY COUNCIL has been )  
affixed this day of ) .....  
20 in the presence of ) GENERAL MANAGER

THE COMMON SEAL of ..... )  
..... )  
(ACN/ABN.....) has been ) .....  
affixed this day of ) DIRECTOR  
20... in the presence of )  
..... )  
DIRECTOR

OR (as applicable):

SIGNED for and on behalf of )  
..... )  
this day of 20.. ) .....  
in the presence of ) [insert contractor name]

.....  
WITNESS

## **CONTRACT CONDITIONS**

### **1. CONSTRUCTION OF CONTRACT**

1.1 A reference to a party to the Contract includes:

- (a) in the case of a natural person, that person and his/her personal representatives and assigns (transferee); and
- (b) in the case of a corporation, the corporation, its successors and assigns (transferees).

1.2 Where a party is composed of 2 or more persons, each item of the Contract by the party binds:

- (a) all of those persons collectively; and
- (b) each of them as an individual.

1.3 A reference to:

- (a) the singular includes the plural, and vice versa;
- (b) a gender includes each other gender;
- (c) a person includes a corporation, a firm and a voluntary association;
- (d) an Act includes an Act that amends, consolidates or replaces the Act;
- (e) a section or other provision of an Act includes a section or provision that amends, consolidates or replaces the section or provision;
- (f) money is a reference to Australian dollars and cents;
- (g) a time of day is a reference to Australian Eastern Standard Time or Australian Eastern Daylight Savings Time (when applicable);
- (h) a document includes, but is not limited to, any drawing, specification, material, record or other means by which information can be stored or reproduced.

1.4 Clause headings exist for convenience only and are to be disregarded when interpreting the contract.

1.5 All information supplied under the Contract must be written in English. Where any document is a translation into English, the translation must be accurate.

1.6 Measurements of physical quantity must be in Australia legal units of measurement within the meaning of the *National Measurement Act 1980*.

1.7 If a provision of the Contract is void, voidable, illegal or unenforceable, the provision will be deemed deleted from the Contract.

### **2. DEFINITIONS**

2.1 In the Contract, except where the context otherwise requires:

**'Act'** means an Act passed by the Commonwealth Parliament or the Tasmanian Parliament and includes subordinate legislation under an Act.

**'Authorised Officer'** means the person specified in Item 10 of Schedule 1.

**'Clause'** means a clause of the General Conditions of Contract.

**'Contract'** means the documents set out in Clause 3.

**'Contract Price'** means the amount specified in Item 6 of Schedule 1.

**'Contractor'** means the party nominated in Item 2 of Schedule 1 and includes the Contractor's staff.

**'Contractor's Staff'** means the Contractor's employees, agents, contractors and subcontractors (and employees, agents and contractors of those contractors and sub-contractors).

**'Council'** means the Huon Valley Council.

**'Defects Liability Period'** means the duration specified in Item 9 of Schedule 1.

**'Direction'** includes any direction, permission, decision, certification, demand, notice, approval, refusal, requirement or authorisation and "Direct" has a corresponding meaning.

**'Force Majeure'** means anything outside the control of a party, including but not limited to, acts of God, fire, storm, flood, earthquake, explosion, accident, acts of public enemy, war, rebellion, insurrection, sabotage, epidemic, quarantine restriction, and acts (including laws, regulations, disapprovals or failures to approve) of any statutory authority.

**'General Conditions of Contract'** and **'Contract Conditions'** means these Contract Conditions.

**'GST Act'** means *A New Tax System (Goods and Services Tax) Act 1999* (Cth) as amended.

**'GST'**, **'Supply, Taxable Supply'**, **'Registered'** and **'Tax Invoice'** have the same meaning as in the *GST Act*.

**'Intellectual Property Rights'** means all copyright, patents and all rights in relation to inventions, trademarks and designs or any rights to registration of such rights, whether created before, on or after the date of Contract.

**'Letter of Acceptance'** means a letter from the Principal to the Contractor advising the Contractor of the Principal's acceptance of the Offer.

**'Offer'** means the written offer submitted to the Principal by the Contractor to execute and complete the Work and, if applicable, as amended in writing by any post offer negotiations.

**'Personal Information'** has the meaning given in the *Personal Information Protection Act 2004*.

**'Principal'** means the party specified at Item 1 of Schedule 1 and includes the party's staff, employees, delegates and authorised officer.

**'Program of Works'** is any program, as amended from time to time, prepared by or on behalf of the Principal which sets out the times for the completion of the whole or any part of the Work.

**'Request for Quote'** means the Request for Quote given to prospective tenderers inviting offers to Quote for the execution and completion of the Work which these Contract Conditions form part.

**'RTI Act'** means the *Right to Information Act 2009*.

**'Site'** the location of the Work being undertaken by the Contractor for the Principal under the Contract which is subject to variation throughout the duration of this Contract.

**'Special Conditions of Contract'** means the Special Conditions of Contract (if any) in Schedule 2.

**'Specification'** includes any specification included in the Request for Quote.

**'Taxes'** includes any and all sales, use, personal, property, real property, value added, consumption, stamp, documentary, business, occupation, excise, income, corporation, profits, gains, gross receipts, or other taxes, fees, withholdings, imposts, levies, duties or other charges of any nature whatsoever or whensoever, together with any penalties, fines or interest or similar additions, imposed, levied or assessed by any government, governmental, semi-

governmental or other relevant authority or otherwise payable on or in respect of the Work but excludes GST.

'Us' means both the Contractor and the Principal.

'Work' is defined in Item 5 of Schedule 1.

### **3. EVIDENCE OF CONTRACT**

**3.1** The Contract between the Principal and the Contractor is constituted by the following documents:

- (a) Request for Quote including Specification;
- (b) Letter of Acceptance;
- (c) General Conditions of Contract;
- (d) Special Conditions of Contract (if any);
- (e) Correspondence passing between the Principal and the Contractor clarifying any aspect of the Request for Quote; and
- (f) Response to the Request for Quote submitted by the Contractor forming the offer.

**3.2** Where there arises any inconsistency or ambiguity between provisions in the different documents which constitute the Contract, the order of precedence to resolve the inconsistency or ambiguity shall be from document (a) to (f) in Clause 3.1.

**3.3** After formation of the Contract, the Principal may deliver the General Conditions of Contract to the Contractor. Within 14 days after the date of delivery of the completed General Conditions of Contract to the Contractor, the Contractor must execute and return the completed Contract to the Principal for execution by the Principal. The Principal may extend the period for execution of the completed Contract by giving written notice to the Contractor.

### **4. CONTRACT PRICE**

**4.1** The Principal must pay the Contractor the Contract Price for execution and completion of the Work in accordance with the Contract and Directions given under the Contract or any purchase order.

**4.2** Where payment is to be made on a lump sum basis, the Principal must pay the Contractor the lump sum.

**4.3** Where payment is to be made on a bill of quantities or schedule of rates basis:

- (a) the quantities in the bill of quantities or schedule of rates, are fixed and not an estimated quantity only; and
- (b) if the quantities in the bill of quantities or schedule of rates, are fixed and not an estimated quantity only, items included in the bill of quantities or schedule of rates, must be priced by the Contractor and must, on addition, equal the Contract Price accepted by the Principal for the execution and completion of the whole of the Work; and

(c) if the quantities in the bill of quantities or schedule of rates, are estimated quantities only, the Principal must pay to the Contractor the sum ascertained by multiplying the measured quantity of each item specified in the bill of quantities or schedule of rates, which has been executed under the Contract, by the rate for the item specified in the bill of quantities or schedule of rates.

**4.4** Where payment is to be made on a lump sum and a bill of quantities or schedule of rates basis, the Principal must pay to the Contractor the aggregate of the sums referred to in Clauses 4.2 and 4.3.

**4.5** If the quantities in the bill of quantities or schedule of rates, are estimated quantities only, the Principal is not obliged to give a Direction to the Contractor by reason of a quantity specified in the bill or quantities or

schedule of rates, and the quantity of an item specified in the bill of quantities or schedule of rates, the execution of which is directed by the Principal, may be more or less than the quantity specified in the bill of quantities or schedule of rates.

**4.6** Despite Clauses 4.1 to 4.5 inclusive, the Principal may adjust an amount otherwise payable by the Principal to the Contractor by any addition or deduction which may be required to be made under the Contract.

**4.7** The Contractor must immediately notify the Principal of any change in the Contract Price. Where the Contractor notified the Principal of a change to the Contract Price, the Principal may cancel the Work without any cost, penalty and charge.

**4.8** The Principal may, on 30 days notice to the Contractor, change the specifications and/or standards applicable to the Work. Where such change increases or decreases the Contractor's costs in carrying out the Work, an equitable adjustment will be made to the Price to reflect such increase or decrease in the cost of the Work.

### **5. TERMS OF PAYMENT**

**5.1** If any Work carried out pursuant to or in connection with the Contract is a Taxable Supply the Principal will pay the GST in respect of that Supply to the Contractor, where the GST is calculated in accordance with the *GST Act*.

**5.2** The Contractor will issue the Principal a Tax Invoice for The Work carried out on the basis and in the form as required by the *GST Act*.

**5.3** The Principal will pay the Contractor within the period stated in any Purchase Order and, if no period is stated, within 30 days from invoice date.

**5.4** If any Tax Invoice or any part of any invoice is disputed, the Principal must pay that part of the invoice (if any) that is undisputed, and the parties must settle the disputed invoice or part in accordance with **clause 22**.

**5.5** Under the *Building and Construction Industry Security of Payment Act 2009*, the Contractor is entitled to a progress payment if the Contractor has undertaken to carry out building or construction work, or supply building or construction related goods and services.

**5.6** The value of the building and construction work and building or construction related goods and services, is to be determined in the Contract.

**5.7** The amount of any progress payment shall be calculated from the relevant reference date, in accordance with the payment schedule expressly determined in the Contract.

**5.8** If the Contractor is entitled to a progress payment, the Contractor must make a payment claim.

**5.9** A payment claim must be made in accordance with the requirements of the *Building and Construction Industry Security of Payment Act 2009*.

### **6. ASSIGNMENT AND SUBCONTRACTING**

**6.1** The Contractor must not assign or subcontract, or allow any subcontractor to subcontract, any of the rights or obligations of the Contractor under the Contract (either for the execution and completion of the Work or otherwise) without prior written consent of the Principal. Any consent given by the Principal:

- (a) may be conditional; and
- (b) will not relieve the Contractor from any of its liabilities or obligations under the Contract.



**6.2** The Contractor is liable to the Principal for the acts and omissions of subcontractors and employees and agents of subcontractors as if they were the acts or omissions of the Contractor.

#### **7. CARE OF WORK**

**7.1** From the date of commencement of the Work until the Date of completion, the Contractor will be responsible for the care of the Work.

**7.2** The Contractor must:

- (a) liaise and collaborate with all persons performing work on the Site; and
- (b) not damage any work on the site being undertaken by persons other than the Contractor.

**7.3** The Contractor must promptly give written notice to the Principal if the Contractor damages:

- (a) any of the Work; or
- (b) any property of the Contractor or any other person on the Site or any land adjoining the Site.

**7.4** If damage under Clause 7.3 occurs, the Contractor must, at the Contractor's expense, promptly repair and reinstate, as the case may be, the damaged Work or property.

**7.5** This Clause 7 does not apply to loss or damage caused by:

- (a) the negligence or other wrongful act or omission of the Principal or any officer, servant or agent of the Principal; or
- (b) Force Majeure.

#### **8. EXECUTION AND COMPLETION OF THE WORK**

**8.1** The Contractor must execute and complete the Work in accordance with the Contract and any Directions given by the Principal under the Contract.

**8.2** Unless otherwise stated in the Special Conditions of Contract, the Contractor must supply all things and items required to execute and complete the Work including, without limitation, things and items not expressly mentioned in the Contract.

**8.3** The Contractor must comply with all relevant laws and the requirements of any relevant statutory authority affecting the execution and completion of the Work including, without limitation, paying all fees and obtaining all necessary consents of or incidental to the execution and completion of the Work.

#### **9. COMPLIANCE WITH SPECIFICATIONS**

**9.1** The Contractor must comply with all requirements contained in the Specifications of the Quote.

**9.2** Failure to comply with the Specifications of the Quote will constitute a breach of the Contract and the Contractor will indemnify the Principal for any loss and/or damage including but not limited to economic loss, incurred by the Principal as a result of the breach of Contract.

**9.3** The provisions of the Specification shall be read in conjunction with these Contract Conditions and to the extent of any inconsistency, the Specification shall prevail.

#### **10. INDEMNITY BY CONTRACTOR**

**10.1** The Contractor must indemnify and keep indemnified the Principal against:

- (a) loss of or damage to the Work from any cause; and
- (b) loss of or damage to property of the Principal; and
- (c) claims by any person against the Principal in respect of personal injury, death or loss of or damage to property;

arising directly or indirectly from the execution and completion of the Work by the Contractor under the Contract.

**10.2** The Contractor agrees to extend the benefit of the indemnity in clause 10.1 to the Principal's officers, directors, employees, agents, consultants and representatives.

**10.3** The Contractor's obligation to indemnify the Principal under Clause 10.1 does not apply to the extent that the loss, damage or claim is caused by the negligence or other wrongful act or omission of the Principal or any officer, servant or agent of the Principal.

#### **11. INSURANCE**

**11.1** The Contractor must, before commencing execution of the Work under the Contract, take out:

- (a) public liability insurance in the amount specified in Item 8 of Schedule 1; and
- (b) professional indemnity insurance in the amount specified in Item 8 of Schedule 1; and
- (c) any other insurance specified in the Request for Quote and/or Item 8 of Schedule 1.

**11.2** The Contractor must, upon receipt of a written request at any time from the Principal, produce evidence that the insurances required by clause 11.1 have been effected and maintained.

**11.3** If an insurance policy obtained by the Contractor provides for a deductible, the Contractor indemnifies the Principal against any cost attributable to the deductible.

**11.4** The Contractor must inform the Principal in writing of any claim or of the occurrence of any event that may give rise to a claim under any policy of insurance effected pursuant to this Clause 11 within 7 days thereof and must ensure that the Principal is kept fully informed of subsequent actions and developments concerning the event or claim.

**11.5** The Contractor must ensure that all subcontractors of the Contractor take out and maintain the insurance specified in Clause 11.1.

**11.6** The Contractor will ensure all insurance coverage required in Item 8 of Schedule 1 is obtained for the Contract.

#### **12. INSURANCE OF EMPLOYEES**

**12.1** The Contractor must, before commencing execution of the Work under the Contract, insure against statutory and common law liability for death of or injury to persons employed by the Contractor.

**12.2** The insurance must be maintained until the whole of the Work and all remedial work required to be executed and completed by the Contractor under the Contract has been completed to the satisfaction of the Principal.

**12.3** The Contractor must ensure that all subcontractors of the Contractor have similarly insured their employees.

#### **13. DIRECTIONS**

**13.1** The Principal or the Authorised Officer may give a Direction to the Contractor orally or in writing.

**13.2** If a Direction is given orally, the person giving the Direction must promptly confirm the Direction in writing.

**13.3** The Contractor and its employees must comply with any Direction, unless otherwise specified in the Contract.

**13.4** However, no Direction can alter or change the Contractor's fundamental rights under the Contract.

#### **14. TIME**

**14.1** The Contractor must execute the Work in a manner and according to a program or agreement between the

## Part 5 READ AND KEEP THIS PART

parties so that the Work reaches completion in accordance with any time frame agreed upon.

**14.2** Each party must promptly give to the other written notice of any delay of or incidental to the execution of the Work.

**14.3** The Contractor must take all reasonable steps to prevent and minimise delays.

### **15. MATERIALS AND WORKMANSHIP**

**15.1** In the execution and completion of the Work under the Contract, all materials used and the standard of workmanship must comply with the requirements of the Contract. In the absence of such provisions, in the execution and completion of the Work under the Contract, the material or standard of workmanship, as the case may be, must be of a kind which is suitable for its purpose and consistent with the nature and character of the Work.

**15.2** Unless stated otherwise in the Specification or the Special Conditions of Contract:

- (a) all materials used in the execution and completion of the Work must be new; and
- (b) all workmanship must be in accordance with the relevant manufacturer's recommendations or, if there are no relevant manufacturer's recommendations, the relevant Australian Standard where applicable.

### **16. DEFECTS LIABILITY PERIOD**

**16.1** The Defects Liability Period commences on the date on which the Works are completed and expires at the end of the period stated in Item 9 of Schedule 1.

**16.2** At any time during the Defects Liability Period, the Principal may give the Contractor a Direction requiring the Contractor to remedy any omission, defective workmanship or materials, damage, loss or injury of or incidental to the Work occasioned by faulty workmanship or materials.

**16.3** The Contractor must, at the Contractor's expense, comply with the requirements of any Direction given to the Contractor under Clause 16.2.

**16.4** If the Contractor does not comply with the requirements of a Direction given under Clause 16.2, the Principal may have the omission, defect, damage, loss or injury or that part of the omission, defect, damage, loss or injury as remains outstanding remedied by other persons and the costs so incurred shall be a debt due and payable by the Contractor to the Principal which may be deducted from payments otherwise owing by the Principal to the Contractor under the Contract.

**16.5** This clause 16 is to be read in conjunction with any similar term set out in the Specification and to the extent of any inconsistency, the Specification shall prevail.

### **17. CLEANING OF SITE**

**17.1** At all times during the execution of the Work the Contractor must clear away and remove from the Site all surplus material and rubbish arising from the execution of the Work.

**17.2** On completion of the Work, the Contractor must clear away and remove from the Site all constructional plant, surplus material, rubbish and temporary works of every kind and leave the whole of the Site and the Work in a clean and tidy condition.

### **18. INTELLECTUAL PROPERTY**

**18.1** The Principal warrants that, unless otherwise stated in the Special Conditions of Contract, use of materials, documents, methods of work and designs provided by the Principal under the Contract will not

infringe the Intellectual Property Rights of any third party.

**18.2** The Contractor warrants that use of materials, documents, methods of work and designs provided by the Contractor under the Contract of or incidental to the execution and completion of the Work will not infringe the Intellectual Property Rights of any third party.

### **19. BREACHES AND TERMINATION**

**19.1** If the Contractor commits a substantial breach of the Contract, the Principal may give a written notice to the Contractor requiring the Contractor to show cause.

**19.2** For the purpose of Clause 19.1, the Contractor commits a substantial breach of the Contract if the Contractor:

- (a) fails to substantially commence the execution of the Work at the Site within 14 days after the Work is due to commence; or
- (b) fails to proceed with the Work at a reasonable rate of progress; or
- (c) commits any other substantial breach of the Contract; or
- (d) indicates that it is unable or unwilling to complete the Work.

**19.3** A notice given under clause 19.1 must state:

- (a) that the notice is given under clause 19.1; and
- (b) the alleged substantial breach of the Contract; and
- (c) that the Contractor is required to show cause in writing why the Principal should not exercise a right referred to in clause 19.4; and
- (d) the date and time by which the Contractor must show cause (which must be a reasonable time after receipt of the notice by the Contractor); and
- (e) the place at which the Contractor must show cause.

**19.4** If the Contractor fails to show reasonable cause by the date and time stated in Clause 19.3(d), the Principal may, by giving written notice to the Contractor:

- (a) terminate the Contract; or
- (b) suspend payment and take the Work remaining to be completed wholly or partly out of the hands of the Contractor without prejudice to any rights of the Principal under the Contract or at Common Law.

**19.5** If the Contractor commits an event of default, the Principal may, without giving a notice to show cause under Clause 19.1, exercise a right under clause 19.4.

**19.6** For the purpose of clause 19.5, the Contractor commits an event of default if the Contractor:

- (a) suspends payment of its debts or is unable to pay its debts; or
- (b) has execution levied on any of the assets of the Contractor and the execution is not satisfied within 28 days; or
- (c) enters into an arrangement, reconstruction or compromise with its creditors or any of them; or
- (d) has a receiver appointed for all or any part of the assets of the Contractor; or
- (e) has an application made or order filed for the Contractor's administration, voluntary or compulsory liquidation, winding-up, dissolution or bankruptcy; or
- (f) ceases to carry on business.

**19.7** If the Principal takes the Work remaining to be completed wholly or partly out of the hands of the Contractor, the Principal may itself or by means of other persons:

- (a) complete wholly or partly the Work remaining to be completed; and
- (b) without payment of compensation, take possession of the constructional plant, equipment and other things on or in the vicinity of the Site as are the property of the Contractor.

**19.8** If the costs incurred by the Principal in completing the Work under Clause 19.7 exceed the amount which would have been paid to the Contractor if the Contractor had completed the Work under the Contract, the excess shall be a debt due and payable by the Contractor to the Principal, otherwise, any difference shall be a debt due and payable by the Principal to the Contractor.

**19.9** Clauses 9, 10, 12, 15 and this clause 19 survive termination or expiry of the Contract.

#### **20. FORCE MAJEURE**

**20.1** Neither of Us will be held liable for breach of contract or any losses, damage or injury incurred to the other wherever performance of the Contract is prevented by circumstances which are deemed to be outside Our control ('force majeure circumstances').

**20.2** In the event that either party is unable wholly or in part to perform its obligations under the Contract as a result of the occurrence of force majeure circumstances, such party will immediately give notice to the other of the details of such occurrence, and both parties will make arrangements and adjustments to the Contract as necessary. Unless otherwise agreed in writing, upon cessation of the event affecting performance of the Contract, both parties shall as far as practicable complete performance of their respective obligations under the Contract.

#### **21. CONFIDENTIALITY**

**21.1** The Contractor must, and must ensure that its employees, agents and approved subcontractors, keep confidential any information obtained in the course of performing the Contract.

**21.2** If required by the Special Conditions of Contract, the Contractor's employees, agents and approved subcontractors must deliver to the Principal a confidentiality undertaking in the form required by the Principal.

**21.3** In the event of a breach of confidentiality undertaking entered into pursuant to Clause 21.2, the Principal may terminate the Contract by giving written notice to the Contractor.

**21.4** However, the Contractor may disclose any information:

- (a) which it is legally required or entitled to disclose; or
- (b) to its legal and accounting advisers for the purposes of obtaining advice in relation to the Contract or any matter arising from the Contract.

#### **22. DISPUTE RESOLUTION**

**22.1** Any disputes will be settled by Us in good faith. Before resorting to external dispute resolution mechanisms, We must attempt to settle any dispute under the Contract by negotiation, using the procedure in **clause 22.2**.

**22.2** We must refer any dispute initially for resolution to a representative nominated by the Contractor, and a representative nominated by the Principal, who will endeavour to resolve the dispute within 14 days.

**22.3** If We cannot resolve the dispute under **clause 22.2**, then either of Us may, in our discretion,

commence mediation by giving notice to the other and referring the matter to a qualified mediator.

#### **23. RIGHT TO INFORMATION AND DISCLOSURE**

**23.1** The *Right to Information Act 2009* provides members of the public with a legally enforceable right to access documents held by Tasmanian Government agencies.

**23.2** The RTI Act requires that documents to be disclosed upon request, unless the documents are exempt, or on balance, disclosure is contrary to the public interest.

**23.3** Information provided by the Contractor is potentially subject to disclosure to third parties pursuant to the RTI Act.

**23.4** If disclosure under the RTI Act, or general disclosure of information provided by the Contractor, would be of substantial concern to the Contractor, because it would disclose trade secrets, information of commercial value, the purpose or results of research, or other information of a confidential nature, including Personal information, this should be indicated by the Contractor. The Principal cannot guarantee that any information provided by the Contractor will be protected from disclosure under the RTI Act.

#### **24. INFORMATION PRIVACY**

**24.1** The Principal may need to collect personal information about the Contractor to create a supplier account. The Principal can only process the Contractor's invoices once this account has been correctly set up. The Principal will not disclose personal information about The Contractor or the Contractor's Staff to any external parties unless the disclosure is:

- (a) required by law (eg the Australian Tax Office);
- (b) is authorised by law (eg to protect our interests or where the Principal has a duty to make such disclosure); or
- (c) The Contractor has consented for the Principal to disclose the information about the Contractor or its Staff.

**24.2** Where the Contractor or its subcontractors have access to or are responsible for holding Personal Information, the Contractor must:

- (a) comply with parts 1 and 3 of Chapter 2 of the *Personal Information Protection Act 2004* as if the Contractor were the Principal; and
- (b) ensure that the Personal Information is protected against loss, unauthorised access, use, modification or disclosure, and against other misuse; and
- (c) not use the Personal Information other than for the purpose of the Contract, unless required or authorised by law; and
- (d) not disclose the Personal Information without the written agreement of the Principal, unless required or authorised by law; and
- (e) not transfer the Personal Information outside Australia without the consent of the Principal; and
- (f) ensure that its personnel do not access, use or disclose the Personal Information other than in the performance of their duties; and
- (g) immediately notify the Principal, to enable the Principal to respond to applications for access to, or amendment of, a document containing an individual's Personal Information and to privacy complaints; and

## Part 5 READ AND KEEP THIS PART

- (h) comply with such other privacy and security requirements as the Principal reasonably advises the Contractor from time to time.

### 25. SITE AND ENVIRONMENT PROTECTION

25.1 The Contractor must at all times:

- (a) comply with the requirements imposed by the Principal relating to the storage of materials, the routing of construction traffic, the interruption of existing services and facilities and any other statutory requirements applicable to the Site; and
- (b) comply with all statutes, regulations and local laws relating to the protection of the environment; and
- (c) obtain the prior written consent of the Principal for the formation of any temporary roads, the erection of temporary structures or any Site clearing not specifically documented; and
- (d) ensure that no trees or shrubs are removed or destroyed without the prior written approval of the Principal; and
- (e) ensure that no fire is lit without the prior written approval of the Principal; and
- (f) store flammable or explosive products in accordance with the relevant statutes and to the approval of the Principal.

25.2 The Contractor must take all proper precautions to prevent soil erosion from any land used or occupied by the Contractor in the execution of the Work under the Contract.

25.3 The Contractor must prevent any nuisance occurring through the discharge of dust dirt, water, fumes and the like on persons or property.

25.4 All debris, spoil, rubbish and materials must be suitably contained and covered in vehicles during transportation to and from the Site to prevent spillage or contamination of adjoining and other areas or property.

25.5 Where, within the Site, there are existing improvements, roads, drainage and other services, the Contractor must protect and maintain the same throughout the execution of the Work under the Contract.

25.6 The Contractor must implement traffic control measures so as to maintain all roads on the Site in a safe trafficable condition.

25.7 The Contractor may erect on the Site, or permit to be erected on the Site, only those signs:

- a) required by law; or
- b) specified in the Contract.

25.8 The Contractor must not erect on the Site, or permit to be erected on the Site, any other sign, advertisement, promotion or other display without the prior written approval of the Principal.

### 26. SERVICE OF NOTICES

26.1 Unless otherwise specified in the Contract, any notice given under the **Contract** must be in writing and may be served by either of Us on the other by hand delivery or pre-paid post to the address of the other, or by facsimile to the other's nominated facsimile number, or by email to the other's nominated email address. Notices will be deemed served:

- (a) if by hand delivery, when it is delivered;
- (b) if by pre-paid post, on the third business day after posting (seven if posted to or from a place outside Australia); and
- (c) if by facsimile, on receipt by the sender of a transmission report by the machine from which the facsimile is sent, indicating that the facsimile was

sent in its entirety to the facsimile number of the recipient; and

- (d) if by email in accordance with *Electronic Transactions Act 1999*.

26.2 The Principal's address for service is stated at Item 12 of Schedule 1.

26.3 The Contractor's address for service is stated at Item 13 of Schedule 1.

### 27. GENERAL

27.1 No amendment to the Contract has any force unless it is in writing and agreed to by both of Us.

27.2 The covenants, conditions, provisions and warranties contained in the Contract do not merge or terminate upon completion of the transactions contemplated in the Contract but to the extent that they have not been fulfilled and satisfied or are capable of having effect, remain in full force and effect.

27.3 The Contract constitutes the entire agreement between Us as to its subject matter and supersedes and cancels all prior arrangements, understandings and negotiations in connection with it.

27.4 We must do all things and execute all further documents necessary to give full effect to the Contract and refrain from doing anything that might hinder the performance of the Contract.

27.5 Each Contract is governed by the laws of the State of Tasmania and both of Us parties irrevocably submit to the jurisdiction of the Courts of Tasmania.

27.6 Any part of the Contract that is held to be unlawful or unenforceable by a court of competent jurisdiction is severed from the Contract and the remaining provisions will continue to operate.

27.7 Neither of Us will be taken to waive any right under the Contract except if the waiver is given in writing and is signed.

27.8 The parties to the Contract are independent contractors and nothing in the Contract will appoint the Contractor as agent or employee of the Principal.

### 28. WORKPLACE HEALTH AND SAFETY AND RISK MANAGEMENT REQUIREMENTS

28.1 All works must comply with applicable Environmental, WH&S and other relevant statutory requirements. Specific workplace health and safety requirements are set out in Schedule 3.

28.2 The Contractor warrants that it shall obey all safety prescriptions and policies of the Principal and any applicable State and Federal laws, including the provisions of the *Work Health and Safety Act 2012* and any relevant regulations.

28.3 When the Contractor provides at its expense a person to operate the equipment pursuant to this Contract ("the Operator"), the Contractor warrants that:

- (a) The Operator is competent to operate the equipment in a safe and efficient manner; and
- (b) The Operator has been formally certified by a recognised appropriate authority (where such certification is available) as being a competent Operator to use the equipment.
- (c) All matters necessary for safe operation of the equipment have been explained to the Operator and the Operator has demonstrated an understanding of those matters in the Operator's use of the equipment.

28.4 For all equipment the Contractor warrants that the equipment has been formally certified by a recognised

appropriate authority (where such certification is available) as being safe and suitable to be operated as required under this Contract.

**28.5** The Contractor shall at its expense keep the Equipment in good running order suitable for the job required at all times and undertakes to effect repairs immediately upon breakdown or loss of efficiency due to condition of the machine.

**28.6** Prior to the commencement of the operation, the Contractor will be required to undertake a risk assessment with respect to the works in accordance with Schedule 3. Risk management requirements will be included within the contract documentation.

**28.7** If required by the Principal, as set out in Schedule 3, before entering the Site, the Contractor must prepare and submit a workplace health & safety plan to the Principal for approval which, as a minimum, must address the issues specified by the Principal to the Contractor (Workplace Health and Safety Plan).

**28.8** The Principal may, in its sole discretion accept in writing the submitted Workplace Health and Safety Plan or notify the Contractor of the reasons for not accepting it.

**28.9** You must notify the Principal as soon as possible after the occurrence on Site of any reportable event under the Safety Legislation including:

(a) any work related illness, work injury, dangerous event, or serious bodily injury as defined by the *Work Health and Safety Act 2012*; and

(b) any serious electrical incident or dangerous electrical event;

and, where requested by the Principal, conduct a formal investigation at the Contractor's expense in accordance with the Principal's incident report system procedures.

**28.10** The Contractor must provide the Principal with copies of all notices and correspondence of whatsoever nature concerning the Safety Legislation within 1 Business Day of the dispatch and/or receipt by the Contractor of any such notice or correspondence.

**28.11** The Contractor indemnifies the Principal and agree to keep the Principal always indemnified against:

(a) claims by any person against the Principal in respect of personal injury or death or loss of or damage to any property.

(b) loss of or damage of property of the Principal; and

(c) all costs, expenses, fines, losses or damages arising out of enforcement of the Safety Legislation.

### **29. INCIDENT NOTIFICATION**

**29.1** If the Contractor is required by the Workplace Health and Safety Regulations or by any other regulations or Act to give any notice of an accident occurring during the performance by the Contractor of Services under the Agreement, the Contractor must, at the same time, or as soon thereafter as possible in the circumstances, give a copy of the notice to the Principal.

**29.2** The Contractor must promptly notify the Principal of any accident, injury, property or environmental damage which occurs during the carrying out of the Services. All lost time incidents must be immediately notified to

Principal. The Contractor must, within 3 days of any such incident, provide a report giving complete details of the incident, including results of investigations into its cause and any recommendations or strategies for prevention in the future.

### **30. WHS NON-COMPLIANCE**

**30.1** If, during the performance of works under this Agreement, the Principal informs the Contractor that it is the opinion of Principal that the Contractor is:

(a) not conducting the Services in compliance with the Contractor's Workplace Health and Safety Plan, health and safety management procedures, relevant legislation or health and safety procedures provided by the Principal from time to time; or

(b) conducting the Services in such a way as to endanger the health and safety of Contractor's employees or the Principal's or its Contractors' and sub Contractors' employees, plant, equipment or materials the Contractor must promptly remedy that breach of workplace health and safety.

**30.2** The Principal may direct the Contractor to suspend the Services until such time as the Contractor satisfies the Principal that the Services will be resumed in conformity with applicable health and safety provisions.

**30.3** During periods of suspension referred to above, the Principal will not be required to make any payment whatsoever to the Contractor.

**30.4** If the Contractor fails to rectify any breach of health and safety for which the Services have been suspended, or if the Contractor's performance has involved recurring breaches of health and safety, the Principal may at its option terminate the Services forthwith, without further obligation to the Contractor.

**30.5** In this event, the Principal's liability will be limited to payment for the Services performed and costs incurred by the Contractor up to the time of termination or suspension of Services.

## Schedule 1 – Contract Items

Item Number	Details
1 The Principal	Huon Valley Council
2 The Contractor	
3 Commencement Date	
4 Duration of the Contract	12-Months with an option to extend
5 The Work	The Work required under the Contract is to be provided and completed in accordance with this Contract. The details and specifications of the Work are provided in the Quote Documents (forming part of this Contract).
6 The Contract Price	The Contract Price is the amount stated in the Contractor's Quote Application. The Contract Price excludes GST.
7 Time for Payment of Contract Price	Upon completion of the Work or in accordance with Clause 4.
8 Insurance	<p>(a) Public Liability insurance of at least <b>\$20,000,000.00</b>; and</p> <p>(b) Professional Indemnity insurance of <b>N/A</b></p> <p>(c) Workers Compensation Policy of insurance in accordance with the <i>Workers Rehabilitation and Compensation Act 1988</i></p> <p>(d) Comprehensive Motor Vehicle insurance for an amount of not less than \$5,000,000.00</p> <p>(e) Compulsory Third Party insurance for personal injury to a person directly from a motor vehicle accident.</p> <p>(f) Any other insurance sufficient to indemnify the Principal against:</p> <p>(i) loss of or damage to the Work from any cause; and</p> <p>(ii) loss of or damage to property of the Principal caused directly or indirectly as a result of the Work.</p>
9 Defects Liability Period	
10 Authorised Officer	
11 Contact Person for Contractor	
12 Principal's address for Service	<p>Attention: Director Community Services            PO Box 210            HUONVILLE TAS 7109            Or            40 Main Street            HUONVILLE TAS 7109</p>
13 Contractor's address for Service	

## **Schedule 2 – Special Conditions**

Leave Blank if no applicable Special Conditions

DRAFT

## **Schedule 3 – Specific Work Health and Safety and Risk Requirements**

### **1. Contractor WHS Management Systems**

The Contractor must provide details of its WHS Management System and submit a complete copy of their WHS Management System documentation which must also include as a minimum requirement:

- WHS policy and objectives
- Organisation structure & responsibilities
- Safe work practices and procedures
- WHS training and induction
- WHS auditing & inspection procedures
- WHS consultation procedures
- WHS performance monitoring

### **2. Risk Assessment Form**

The attached Risk Assessment Form must be completed by the Contractor in relation to the Services and submitted to the Principal for approval at least two (2) weeks prior to commencement of the Services. The primary objectives of the Risk Assessment are to:

- (a) identify hazards associated with Agreement tasks and activities;
- (b) determine the level of risk;
- (c) establish appropriate risk control measures.

Each major or significant task or activity associated with this Agreement will be assessed in terms of the associated hazards. When all hazards have been identified the most likely outcome as a result of an incident will be determined.

Risks must be classified according to the following schedule:

Class 1:	Potential to cause death or permanent injury to one or more persons
Class 2:	Potential to cause one or more lost time injuries
Class 3:	Potential to cause an injury treatable with first aid

A primary goal shall be to eliminate all risks associated with this Agreement and should be a major focus of the Risk Assessment. Contractors should detail risk control measures, which adequately address all identified Class 1, 2 and 3 risks.

Where safe work procedures or instructions are developed they must clearly spell out the work sequence, highlighting the procedures required to adequately control each Class 1 and Class 2 risk identified in the risk assessment. All employees involved in the activity must receive appropriate training in the safe work procedure.

The risk assessment must be completed on the Risk Assessment Form evaluating the full scope of Services associated with the Agreement. Additional risk assessments may be undertaken during the course of the Agreement as required (i.e. work undertaken by subcontractors).



The Risk Assessment Form requires the Contractor to complete the following:

- (a) **Specific Task/Activity**  
The Contractor should document each major task associated with the Agreement. This should consider the sequential aspects of the Services to be performed from Agreement commencement to finalisation of the Agreement.
- (b) **Potential Hazards**  
The Contractor should identify the particular hazards associated with each activity or task to be carried out.
- (c) **Class of Risk**  
Each hazard should be evaluated as a level of risk, described as Risk Class 1, 2 or 3 defined above. Classification in this way provides an indication of priority in terms of determining risk control measures.
- (d) **Control Measure**  
The Contractor should identify and document what actions are necessary to eliminate or minimise the hazards that could lead to accident, injury or occupational illness.

DRAFT

**Part 5 READ AND KEEP THIS PART**

**RISK ASSESSMENT FORM (To be submitted prior to project commencement)**

<b>Contractor:</b>	
<b>Agreement:</b>	
<b>Contractor's Representative:</b>	
<b>Telephone:</b>	<b>Fax:</b>
<b>Signature:</b>	<b>Date:</b>

<b>Agreement Manager:</b>	
<b>Agreement No:</b>	
<b>Telephone:</b>	<b>Fax:</b>
<b>Signature:</b>	<b>Date:</b>

Specific Task/Activity	Potential Hazards/Consequences	Class of Risk	Control Measures

## **Annexure – Quote Documentation**