# STANDARD CONDITIONS OF ENGAGEMENT
# FOR CONSULTANCY SERVICES (TECHNICAL)
# SCHEDULES

# SCHEDULE A: CONTRACT PARTICULARS

## INTERPRETATION

The Agreement is organised in elements, by individual numbers and line breaks, and titled groups, within each clause. One purpose is to identify clearly which contents go together as part of the same element, especially which qualifications, modifications and exceptions apply to what, and the relationships between elements.

Element numbers provide precise references, They are preceded by clause numbers in larger font except where the reference is in and to the same clause [e.g.'1, 5,6,7' in clause 2.4, but '7' alone in 2.10].

Instead of including 'and' or 'or' where either would cause ambiguity, commas are used between contents of an element, and semi-colons between elements in a sentence (with indenting where convenient for listing them), to show that they apply individually and together as relevant to the subject.

Square brackets are included where useful to identify as such clarifications, explanations, reminders of purposeful implications or of general law, and cross-references, to show that significance is not to be given to their absence elsewhere, or in the case of general law that it is not being changed.

In the Agreement, Schedules, except where the context indicates, words in the singular include the plural and the reverse.

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## 1. APPOINTMENT

### 1 Client, Consultant, Contact Details

| | **Client** |
|---|---|
| Name | As Letter of Acceptance |
| Telephone | |
| Mobile | |
| Fax | |
| Email | |

| | **Client's Representative** |
|---|---|
| Name | As Letter of Acceptance |
| Telephone | |
| Mobile | |
| Fax | |
| Email | |

| | **Consultant** |
|---|---|
| Name | As signed Form of Tender |
| Telephone | |
| Mobile | |
| Fax | |
| Email | |

| | Consultant's Representative |
|---|---|
| Name | As signed Form of Tender |
| Telephone | |
| Mobile | |
| Fax | |
| Email | |

**2 Project**

As stated in the letter of Invitation

**7 Whole, parts, of other documents included in the Contract**

1. Letter of Acceptance
to be issued by the Contracting Authority and any post tender clarifications listed in it, plus
(appended to this document)
i) The completed and signed Form of Tender (and Tender Proposal Form)
ii) The DoE Schedule of Stage Services for Construction Consultants
iii) The Project Brief/Project Specific Information referred to in the Invitation to Tender documents
iv) Scope of services as per Letter of Invitation

2. Pricing Schedule

3. Service Requirements

## 2. PERFORMANCE

**12 Consultant has no authority –**

| | | |
|---|---|---|
| to make any Change Order with an extra value above: | € 2,000 | exclusive of VAT |
| to make Change Orders in any three month period with a cumulative extra value above: | 0.25% | exclusive of VAT |

to make any Change Order causing or contributing to a reduction in safety, quality, usefulness, of the Project.

to waive any of the Client's rights or the Contractor's obligations under a Project construction contract without limitation to notice periods such as those set out in sub-clause 10.3 of the Public Works Contract (PW-CF1 – PW-CF5).

(Insert amounts and any other restrictions)

**17 Limit of Liability**

| | | |
|---|---|---|
| The Liability Cap is: | € / | (euro)[1] |

The Liability Cap shall not apply to any claim, loss, damage, cost, expense or liability relating to

a) death, personal injury or illness;

b) fraud or fraudulent misrepresentation;

c) willful default;

[1] If no sum is stated, the applicable amount is €1,500,000 (one million, five hundred thousand euro)

d) gross negligence;

e) third party property;

f) sub-clause 13.26 of this Agreement; or

g) any liability which the Consultant cannot lawfully exclude or limit.

### 19 Insurance types, terms

| COVER | Minimum cover | Permitted deductible each and every occurrence | Period |
|---|---|---|---|
| Annually renewable Professional Indemnity policy, against liability for losses due to professional negligence.<br><br>The conditions provide for claims for breach of professional duty or civil liability as well as negligence.<br><br>The jurisdiction in which claims can be lodged and settled includes IRELAND | Each and every claim or series of claims arising out of the same originating clause[2]<br><br>€as per schedule in DoE-QC1 Suitability Assessment Declaration and in Letter of Intent<br><br>*OR*<br><br>Per claim and limited in the Annual Aggregate[3]<br><br>€ as per schedule in DoE-QC1 Suitability Assessment Declaration and in Letter of Intent | 2.0% of gross fee turnover, or €5000 whichever is greater | From start to completion of the Services; and six years from certified substantial completion of the Project works subject to reasonable adjustment of cover for any exceptional increases in insurance market rates. |
| Public Liability for death, personal injury [except EL, next type]; loss of, damage to, property; with indemnity to the Client as principal | € Default €6.5m or as stated in DoE-QC1 Suitability Assessment Declaration and in Letter of Intent | € Maximum 1.5% of turnover | From start to completion of the Services. |

[2] The Each and Every Insurance for the purpose of the Tender

[3] The Annual Aggregate Insurance for the purpose of the Tender

| | | | |
|---|---|---|---|
| Employers' Liability for death, injury, to employees | € Default €13m or as stated in DoE-QC1 Suitability Assessment Declaration and in Letter of Intent | None | From start to completion of the Services. |
| Insurance of plans, documents | € N/A | None | From start to completion of the Services. |

**25 Key Team Members**

Key Team Members are the members of the Consultant's team that are names in the Conultants tender submission for the Services and/or names in the Consult's suitability assessment questionnaire response for the services, as applicable.

## 7 COORDINATION

**5 Facilities from the Client**

As Design Team Procedures 2012 (or as subsequently amended)and any associated DTP Practice Notes

**6 Client's resident staff**

N/A

**11 Team Leader**

The Consultant is team leader.

## 9. PAYMENTS

**13 Inflation Adjustment**

**First Adjustment Date** means for any element of the Fee that is:

a) a Lump Sum [by Schedule B only, not by conversion under 9.11.12], the date that is the Base Date;

b) based on Tendered Time Charges, the date that is the Base Date;

c) A Lump Sum {by conversion under 9.11.12 only] the date that is the later of:

   (i) The Base Date; or

   (ii) The Percentage Fee Conversion Date;

d) A percentage applied under 9.7.8 the date that is the later of:

   (i) The Base Date; or

   (ii) The Percentage Fee Conversion Date;

**Base Date** means the date that is the first day of the 25th month falling after the date that is 10 days before the last date of receipt of the Consultants tender for the Services, or, if there was none, 10 days before the Client received the Consultants tender for the Services

**COE Fee Adjustment Factor** is the figure for a Relevant Quarter in an indexation Year published on the constructionprocurement.gov.ie [or any successor] website.

**Indexation Year** means a period of a year with the first indexation Year being the period starting on the First Adjustment Date and ending on the day before the anniversary of the First Adjustment date; for each subsequent Indexation Year it shall be the period if a year from the last anniversary of the First Adjustment date and ending on the day before the next anniversary.

**Percentage Fee Application Date** means the date upon which the Client applies a Scheduled Percentage Total Fee to a Lump Sum fee under 9.7,8

**Percentage Fee Conversion Date** means the date upon which the Client coverts a Scheduled Percentage Total Fee to a Lump Sum Fee under 9.11,12.

**Quarter** means a period of 3 months ending on the 31 March, 30 June, 30 September or 31 December in any calendar year

**Relevant Quarter** means the Quarter in which the First Adjustment Date occurs.

**Tendered Time Charges** means Time Charges tendered by the Consultant in accordance with Section 5 (Pricing) of the instructions to Tenderers for Consultancy Services using tendered hourly rates and carrying a document reference of DOE ITT-S1b or DOE ITT-S2b, as applicable. Tendered Time Charges shall only apply where DOES ITT-S1b or DOES ITT-S2b was used in the tender for the Contract.

## 10. DEBTS TO CLIENT

### 4 Interest

The rate of interest payable on Client's wrongful deduction is 5% p.a[4].

## 12. BUDGETARY CONTROL

### 2 Excess Percentage

'Excess Percentage' means the percentage [if any] in excess of 10 % of the tendered amount accepted by the Client for the Project construction by which that amount is above or below the last estimate approved by the Client before giving permission to start Stage (iii).

## 13. INTELLECTUAL PROPERTY, DOCUMENTS

### 11 Transfer

There is not transfer to the Client instead of licence.

### 14 Licence

Client may use Consultant's design etc. for –

| | |
|---|---|
| Individual projects: | N/A |
| Types of project: | Royalty free, perpetual, non-exclusive, assignable license to amend/reproduce and/or use documents without liability to the original Designer(s) |

### 15 Fees [if any]

The only fees payable by the Client for its rights under this clause are: included in Tender Sum

### 18 Publicity

Consent to publicity is required fromboth the Client and the Consultant.

## 14. TERMINATION

### 9 Scheduled termination events

The following are Scheduled termination events:

[4] If no rate of interest is specified, the European Central Bank main refinancing rate ('ECB') plus eight percentage points (ECB+8%) shall apply.

1. Where the Contract is subject to Statutory Instrument 284 of 2016 European Union (Award of Public Authority Contracts) Regulations 2016 or Statutory Instrument 286 of 2016 European Union (Award of Contracts by Utility Undertakings) Regulations 2016 and:
   (i) the Consultant has, at the time of Contract award, been in one of the situations referred to in Article 57(1) of SI 284 of 2016 and, in the opinion of the Employer, should therefore have been excluded from the procurement procedure; or
   (ii) The Contract should not have been awarded to the Consultant in view of serious infringement of the obligations under the Treaties and Directives 2014/24?EU or Directive 2014/25/EU that has been declared by the Court of Justice of the European Union in a procedure pursuant to Article 258 of the Treaty on the Functioning of the European Union; or
   (iii) In the opinion of the Employer, the Contract has been subject to a substantial modification which would have required a new procurement procedure pursuant to Regulation 72 of Si 284 of 2016 or Regulation 97 of SI 286 of 2016; or
   (iv) The Consultant (or its sub consultants(s), if any) falls within the category of prohibited economic operators identified in Regulation (EU) No 833/2014 or 31 July 2014 (as amended by EU Regulation 2022/576 amending Regulation (EU) No 833/2014 concerning restrictive measures in view of Russia's actions destabilizing the situation in Ukraine or any subsequent amendments to same)

2. Any breach of clause 2.22,23 Corrupt Gifts or the commission of any offence by the Consultant, any subcontractor, agent or employee under the Criminal Justice (Corruption Offences) Act 2018. [Without affecting its other rights], the Client shall be entitled to recover from the Consultant the amount or value of any gift, consideration or commission.

In this Form of Tender and Schedule, the reference to ''Treaties'' means the Treaty on European Union, the Treaty on the Functioning of the European Union, the Treaty establishing the European Atomic Energy Community and the Charter of Fundamental Rights of the European Union.

**30 Payment where Client terminates at will**

Where the Client terminates Services at will although the Project is continuing, the Consultant is entitled to 10% of the difference between the Fees payable under clause 14.27 [without any apportionment under 14.28], and the total fee that would, as estimated at termination, have been payable on completion of the Services for the last Stage in or after which the termination occurred.

## 16. DISPUTES

**1 Initial resolution method**

N/A

**4 Nominator**

In default of agreement, an arbitrator, conciliator or other for 16.1, will be nominated at the request of either party by the following person[s]: President RIAI, SCSI, IEI as appropriate

**5 Rules**

The applicable Rules are the following published for use with these Standard Conditions of Engagement:

In the case of Arbitration, the arbitration rules are the Capital Works Management Framework (CWMF) *Arbitration Rules for use with Public Works and Construction Services Contracts* (AR1) published on http://constructionprocurement.gov.ie/arbitration-rules/ on the date 10 days before the latest date for submission of Tenders for this contract (disregarding any amendments posted on that date).

(Identify the Rules that apply in each other resolution method, or where none any Rules agreed by the parties.)

# SCHEDULE B: CONSULTANT'S SERVICES AND FEES

## CONSULTANT'S STAGE SERVICES

The Consultant's appointment is for Whole Stage as tabled below.

## PSDP SERVICES

Performance of all the duties of Project Supervisor for the Design Process is included in the Services as tabled below [and the Stage Fees].

## ASSIGNED CERTIFIER SERVICES

Performance of all the duties of Assigned Certifier under the Building Control (Amendment) Regulations 2014 is included in the Services [and the Stage Fees].

## DESIGN CERTIFICATE SERVICES

The Consultant is required to sign the Design Certificate in accordance with the Building Control (Amendment) Regulations 2014.

## TOTAL FEE [9]

Lump Sum: As completed form of Tender appended

## STAGE SERVICES

| **Stage (i) Preliminary** | Stage 1 | | | | |
|---|---|---|---|---|---|
| **STAGE SERVICES** | **Performance Period from permission to start [4.4] (days)** | **Milestones (if any)** | **Percentage of Total Fee for Stage** | **Stage fee** | **Percentage of Stage fee for suspension [4.18,19]** |
| As Design Team procedures | As ITTS/Letter of Acceptance | N/A | As signed tender proposal form attached | N/A | 10% |
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## STAGE SERVICES

| **Stage (ii) Design** | Stage 2 | | | | |
|---|---|---|---|---|---|
| **STAGE SERVICES** | **Performance Period from permission to start** [4.4] **(days)** | **Milestones (if any)** | **Percentage of Total Fee for Stage** | **Stage fee** | **Percentage of Stage fee for suspension** [4.18,19] |
| | | | % | | % |
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| **Sub-Stage (ii a) Developed Sketch Design** | | | | | |
| As Design Team Procedures (DTPs) | As ITTS/Letter of Acceptance | n/a | As signed tender proposal form attached | n/a | 10% |
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| **Sub-Stage (ii b) Detailed Design** | | | | | |
| As Design Team Procedures (DTPs) | As ITTS/Letter of Acceptance | n/a | As signed tender proposal form attached | n/a | 10% |
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| **Sub-Stage (ii c)** | | | | | |
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## STAGE SERVICES

| Stage (iii) Tender Action, Evaluation, Award | Stage 3 | | | | |
|---|---|---|---|---|---|
| **STAGE SERVICES** | **Performance Period from permission to start** [4.4] **(days)** | **Milestones (if any)** | **Percentage of Total Fee for Stage** | **Stage fee** | **Percentage of Stage fee for suspension** [4.18,19] |
| As Design Team Procedures (DTPs) | As ITTS/Letter of Acceptance | n/a | As signed tender proposal form attached | n/a | 10% |
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## STAGE SERVICES

| **Stage (iv] Construction** | Stage 4 | | | | |
|---|---|---|---|---|---|
| **STAGE SERVICES** | **Performance Period from permission to start** [4.4] **(days)** | **Milestones (if any)** | **Percentage of Total Fee for Stage** | **Stage fee** | **Percentage of Stage fee for suspension** [4.18,19] |
| As Design Team Procedures (DTPs) | As ITTS/Letter of Acceptance | n/a | As signed tender proposal form attached | n/a | 10% |
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## STAGE SERVICES

| **Stage (v) Handover of Works** | Stage 5 | | | | |
|---|---|---|---|---|---|
| **STAGE SERVICES** | **Performance Period from permission to start** [4.4] **(days)** | **Milestones (if any)** | **Percentage of Total Fee for Stage** | **Stage fee** | **Percentage of Stage fee for suspension** [4.18,19] |
| As Design Team Procedures (DTPs) | As ITTS/Letter of Acceptance | n/a | As signed tender proposal form attached | n/a | 10% |
| | | | | | |
| | | | | | |

| **DETAILS OF STAGE SERVICES REFERRED TO ABOVE** |
|---|
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| **PROJECT SUPERVISOR FOR THE DESIGN PROCESS SERVICES** | **Performance period** | |
|---|---|---|
| All the duties of Project Supervisor for the Design Process according to the Safety, Health and Welfare (Construction) Regulations 2013, notwithstanding any inconsistent Contract contents. | While required for these Services [subject to any later appointment, earlier clause 14 Termination, by the Client]. | No additional payments |

## TIME CHARGES

The following Time Charges apply to suspension [4.22], Client's Changes [clause 11].

| **Grade** | **€ per hour** (exclusive of VAT) |
|---|---|
| As form of Tender appended | As form of Tender appended |
| | |
| | |

## MANAGEMENT SERVICES

**[Included in Stage Services as relevant, and in the Total Fee and Stage fees]**

| **REPORTING** | | |
|---|---|---|
| **Timing** | **Contents** | **Method** |
| | | Key Team Members[5] |
| as Design Team Procedures | as Design Team Procedures | as Design Team Procedures |
| | | |

| **TRANSFERS** [3] | | |
|---|---|---|
| **Timing** | **Contents** | **Method** |
| | | |

| **COMMUNICATIONS** [6] | | |
|---|---|---|
| **Timing** | **Contents** | **Method** |
| as Design Team Procedures | as Design Team Procedures | as Design Team Procedures |
| | | |
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| **COORDINATION** [7] | | |
|---|---|---|
| **Timing** | **Contents** | **Method** |
| as Design Team Procedures | as Design Team Procedures | as Design Team Procedures |
| | | |
| | | |

[5] Key Team Members are those identified by name and curriculum vitae by Applicant Consultant at Appendix 3.4(b) in response to criterion 3.4(b) of QC1 and QC2 having the qualifications and experience that meet the essential requirements laid down by the Contracting Authority.

The Consultant may not make changes to the key team members without the prior approval of the Client. Application to the Client for approval must be made no later than a month before the proposed change is to occur, unless the Client agrees to a shorter notice period. The Consultant must provide the name and curriculum vitae of the proposed substitute personnel together with any other details requested by the Client. The Client may refuse to accept any proposed substitute and in such a case, the Consultant shall submit to the Client further names and curricula vitae of other proposed substitute personnel within a period specified by the Client.

| **COOPERATION** [8] | | |
|---|---|---|
| **Timing** | **Contents** | **Method** |
| as Design Team Procedures | as Design Team Procedures | as Design Team Procedures |
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| **PAYMENTS** [9] | | |
|---|---|---|
| **Timing** | **Contents** | **Method** |
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| **CLIENT'S CHANGES** [11] | | |
|---|---|---|
| **Timing** | **Contents** | **Method** |
| as Design Team Procedures | as Design Team Procedures | as Design Team Procedures |
| | | |
| | | |

| **TERMINATION** [14] | | |
|---|---|---|
| **Timing** | **Contents** | **Method** |
| | | |

| ALERTS, FOLLOW UP | | |
|---|---|---|
| **Timing** | **Contents** | **Method** |
| Conflict of Interest [2/29] | Details of Conflict of Interest<br><br>Full details of the conflict of interest or potential conflict of interest together with any further information which the Client may require [including any steps proposed to manage the conflict or potential conflict] | [Client to iset details of how it wishes to be informed of the conflict] |
| as Design Team Procedures | as Design Team Procedures | as Design Team Procedures |
| | | |