

Capital Works Management Framework

Document No. GN 1.7

**Standard Conditions of Engagement
for Consultancy Services (Technical)**

Guidance Note and Sample Schedules

About This Document

Background

A contract to engage a Consultant for work relating to a capital works project consists of:

- The Standard Conditions of Engagement, which are the same for all such contracts, and
- Two Schedules that record the details that are specific to the particular engagement.

The *Standard Conditions of Engagement for Consultancy Services (Technical)* (Doc. Ref. COE 1) should be downloaded from the Department's website (filename SCoE.pdf), printed out, and signed and dated by both the Client and the Consultant.

The Schedules are provided on the Department's website as a Microsoft Word Form; you download the file and use Microsoft Word to insert into the Schedules the specific details of your project, but you are prevented from changing the standard text in them. *Do not print out a blank form and fill it in by hand.*

When you have completed the Schedules, print them out and bind them together with the Standard Conditions of Engagement. Each page of the Schedules should be initialled and dated by both the Client and the Consultant.

This document gives instructions and guidance for completing the Schedules, and includes a sample of the two Schedules, completed with details of a fictional engagement.

Continued on next page

About This Document, Continued

Downloading and Using the Schedules File

Copy the file **SCoE Schedules.doc** from the Department's website to a suitable location on your hard disc.

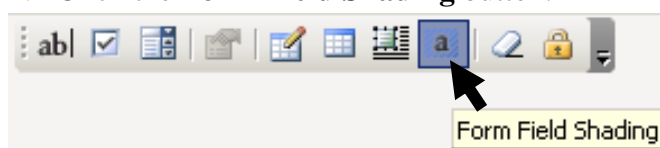
Open **SCoE Schedules.doc** in Microsoft Word.

Reading

You can read through the document on screen – use the scroll bar to move through the document.

If Form Field Shading is enabled in Word, you can more easily see the parts of the document that require your input. To turn on Form Field Shading:

1. Choose **View | Toolbars | Forms** to display the Forms toolbar.
2. Click the **Form Field Shading** button.



With Form Field Shading turned on, all the editable fields are displayed in grey. This is for display purposes only – the shading does not appear when the document is printed out.

Editing

When you click the mouse on any part of the document, the cursor is automatically positioned at the next point at which editing is permitted.

You can move between editable fields by pressing the TAB key.

Editable fields are of two kinds:

- **Text fields**, into which you may insert the appropriate text or number. If the field has a default value, this is shown, but it may be altered to suit the particular circumstances of the project;
- **Drop-down fields**, in which you must choose from a range of alternatives. Again, a default value may be shown.

Note that you cannot change the formatting of a form field.

Some text fields contain explanatory or instructional text. This text is intended for the person filling in the Schedule, and should be deleted before the document is finalised.

Completing Schedule A

- 1.1 Fill in the name and contact details of the Client, the Client’s Representative, the Consultant, and the Consultant’s Representative. In each case, use the full legal name of the entity, including the word ‘Limited’ or ‘plc’, if applicable.
 - 1.2 Specify the project in brief, but in sufficient detail that it can be readily identified and distinguished from other projects.
 - 1.7 List any other documents that are included in the Contract, either in whole or in part.
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- 2.12 Specify the limits on the Consultant’s authority to issue Change Orders under the contract. You can specify a limit on the value of any individual Change Order, and a limit on the cumulative value of Change Orders in any three-month period.
You can also insert any other restrictions you wish to place on the Consultant’s authority to issue Change Orders.
 - 2.18 For each type of insurance, specify the minimum cover required for each and every claim, and the permitted deductible (or *excess*) for each and every occurrence.
For professional indemnity, the excess should be expressed both as an absolute amount and as a percentage of turnover; the number of years for which cover is required after completion of the work can be changed from the default value of 6; and, for work which is not construction-related, the words ‘certified substantial completion of the Project works’ can be changed to, for example, ‘completion of the Services’.
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- 4.6 Specify the Total Performance Period, in days. This should be calculated by adding the performance period for each stage and any periods you choose to include for times between stages and any extra margins. Note that the period is expressed in *calendar* days, rather than working days.
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- 7.5 Specify any facilities that you are required to make available to the Consultant under the contract.
 - 7.6 List the resident staff for project construction that you are required to make available to the Consultant under the contract.
 - 7.11 If the Consultant is to act as team leader, choose *is* from the drop-down list, to replace *is not*.
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Completing Schedule A, Continued

10. Payments 10.4 Specify the rate of interest that is payable in the event that you wrongfully deduct monies properly due to the Consultant.

13. Intellectual Property, Documents 13.11 If under the contract the Consultant’s ownership or copyright in the documents is to transfer to the Client (instead of a licence to use the documents), choose *is* from the drop-down list to replace *is not*.

13.14 Specify either or both of the following:

- Individual named projects for which the Consultant’s design may be used;
- Types of project for which the Consultant’s design may be used.

13.15 Specify the fees that are payable to the Consultant for Intellectual Property Rights.

13.18 Choose from the drop-down list the party or parties whose consent is required before causing or facilitating publicity in the press or other media:

- Both the Client and the Consultant;
- The Client only;
- The Consultant only; or
- Neither the Client nor the Consultant.

14. Termination 14.29 If the Client terminates the Services at will, the Consultant is entitled, under 14.26, to payment for work completed. If the Project is continuing, the Consultant is entitled to an additional amount calculated as a percentage of the fees that would be payable for the remainder of the Stage in which the termination occurred (if it occurred part-way through a stage), or of the subsequent Stage (if it occurred at the end of a Stage).

Specify the relevant percentage that applies in such circumstances.

16. Disputes 16.1 Specify any agreed methods of alternative dispute resolution, and the issues to which each is applicable.

16.4 Specify the person or persons who will nominate an arbitrator or conciliator to resolve a dispute, in the event that the parties fail to agree an arbitrator or conciliator among themselves.

16.9 Specify the Rules to be used in each resolution method other than arbitration. (In the case of arbitration, the applicable rules are the *Public Works and Services Arbitration Rules 2008*.)

Completing Schedule B

Consultant's Stage Services

In most employer-designed construction projects, the Stages are as follows:

- (i) Preliminary
- (ii) Design (This Stage is often broken down into Sub-Stages.)
- (iii) Tender Action, Evaluation, Award
- (iv) Construction
- (v) Handover of Works

The *Standard Conditions of Engagement* may, however, be used in other types of project, and for projects that involve fewer stages. The titles of the stages may be changed as appropriate (see below).

The Consultant may be appointed for all stages, or for a subset of them. If the appointment is for less than all stages (i) to (v), choose the appropriate subset from the drop-down list.

- Stage (i) only
- Stages (i) to (iii)
- Stages (ii) and (iii)
- Stages (ii) to (v)
- Stages (iii) to (v)
- Stages (iv) and (v)

In contractor-designed construction projects, the Client may retain a Consultant to supervise the design and delivery of the project, and one of the following options may be appropriate:

- Stages (i), (ii a) and (iii)
- Stages (i), (ii a), (ii b) and (iii)
- Stages (ii a) and (iii)
- Stages (ii a), (ii b) and (iii)
- Stages (ii a), (iii), (iv) and (v)
- Stages (ii a), (ii b), (iii), (iv) and (v)

PSDP Services

If the Consultant is to be appointed as project Supervisor for the Design Process, choose *is* from the drop-down list to replace *is not*.

Total Fee

The fee can be expressed as a percentage of the Project costs or as a Lump sum.

From the drop-down list, choose the appropriate method of expressing the fee, and insert the relevant percentage or fee in the text field.

Continued on next page

Completing Schedule B, Continued

Table of Stage Services

Complete the table of Stage Services for each stage for which the Consultant is appointed, as described below. Note that if Stage (ii) is divided into Sub-Stages, details should be provided *either* for the whole stage *or* for the sub-stages, but not both.

Stage Services: If the title shown for the stage is inappropriate for the work to be performed, choose an alternative from the drop-down list. If you choose the stage number without a title, you can insert a suitable stage title in the accompanying text field.

Performance Period: Specify the number of *calendar* days allowed for the Stage, from the date on which permission is given to start. (Note: this is not the same as *working* days, on which fees may be calculated.)

Milestones: Specify the events or deliverables that are used to trigger payments, and any penalties incurred as a result of failure to meet these milestones. If the schedule of payment is complex or long, put it in a separate document, include that document in Schedule A, 1.7, and cross-reference that document in this column.

Percentage of Total Fee for Stage: Specify the percentage of the total fee that is represented by the fees for each stage. (Note: the figures in this column must add up to 100.)

Stage Fee: If time charges are to apply (for example in Stage (i) Preliminary), insert the words 'Time Charges'. Otherwise, insert the Stage Fee(s) payable, either as a net percentage or a lump sum, as follows:

- If the Total Fee is expressed as a percentage of the Project Costs, the Stage Fee is expressed as a percentage of that percentage. (For example, if the Total Fee is 20% of the Project Costs, and the stage represents 25% of the total fee (as stated in the previous column), the Stage Fee is $20\% \times 25\% = 5\%$.)
- If the Total Fee is expressed as a Lump Sum, the Stage Fee is expressed as a percentage of that Lump Sum. (For example, if the Total Fee is a lump sum €20,000, and the stage represents 25% of the total fee (as stated in the previous column), the Stage Fee is $€20,000 \times 25\% = €5,000$.)

Percentage of Stage fee for suspension: If the Client suspends the Consultant's performance of the Services, the Consultant is entitled to a percentage of the Stage Fee for the first Stage in the notice of suspension. Specify the percentage of the Stage Fee that is payable in such circumstances.

Time Charges

For each grade of staff that will be engaged on the project, specify the hourly rate that will apply for Stage Services where the Stage Fee is specified as 'Time Charges', and for emergency or requested Services carried out during suspension under Clause 4.22, and for Client's Changes under Clauses 11.2 to 6.

The Schedule provides space for inserting a number of grades of personnel in addition to the standard grades listed.

Continued on next page

Completing Schedule B, Continued

Management Services

Management services are included in the Stage Services and in the Stage Fees. This part of Schedule B is used to detail any specific requirements that the Client may have in relation to reporting, communications, coordination, cooperation, payments, Client's changes, termination, alerts, and follow-up.

**Standard Conditions of Engagement
for Consultancy Services (Technical)**

SAMPLE SCHEDULES

SAMPLE ONLY

Client	Consultant
INITIALS	
Date:	

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.

1. APPOINTMENT

1 Client, Consultant, Contact Details

Client	
Name	St Brendan's School
Telephone	01 1234567
Mobile	087 1234567
Fax	01 888 8888
Email	joe_bloggs@eircom.net

Client's Representative	
Name	Joe Bloggs
Telephone	01 1234567
Mobile	087 2345678
Fax	01 8888888
Email	joe_bloggs@eircom.net

Consultant	
Name	Patrick Murphy
Telephone	01 9876543
Mobile	087 9876543
Fax	01 7776666
Email	patmurphy@domain.net

Client	Consultant
INITIALS	
Date:	

Consultant's Representative	
Name	Mary O'Byrne
Telephone	01 3456789
Mobile	087 246810
Fax	01 2345678
Email	mob@ireland.com

2 Project:

2000 square metre extension to existing school and ancillary external works

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

Invitation to Tender
Schedules of Accommodation
Brief Formulation Report
DoES Design Guidelines
DoES Technical Guidance Documents
DoES Design Team Procedures

2. PERFORMANCE

12 Consultant has no authority to make –

any Change Order with an extra value above:

€ 2,000.00 exclusive of VAT

Change Orders in any three month period with a cumulative extra value above:

€ 12,500.00 exclusive of VAT

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

18 Insurance types, terms

COVER	Minimum cover each and every claim	Permitted deductible each and every occurrence	Period
Annually renewable Professional Indemnity policy, against liability for losses due to professional negligence	€ 1 million	€ 1,000 or 1.5% of turnover, whichever is less.	From start to completion of the Services; and 6 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	€ 2,500,000	€ 0	From start to completion of the Services.

Client	Consultant
INITIALS	
Date:	

COVER	Minimum cover each and every claim	Permitted deductible each and every occurrence	Period
Employers' Liability for death, injury, to employees	€ 12,500,000	None	From start to completion of the Services.
Insurance of plans, documents	€ n/a	None	From start to completion of the Services.

4. PROGRESS, PERIODS

6 Total Performance Period

The Total Performance Period is 1,350 days starting on the day the Parties made the Contract.

7 COORDINATION

5 Facilities from the Client

Portacabin office with telecomms line

Drawing plotter

Photocopier

Filing facilities

Bench and desk will be provided as part of Civil Contractor's scope of supply

6 Client's resident staff

Council Archaeologist as designated supervisor on Archaeological Investigation Contracts

Resident Architect

Resident Engineer

Resident Building Services Engineer

Resident and one Clerk of Works to be appointed later as required by the Contractor works programme

11 Team Leader

The Consultant is not team leader.

10. PAYMENTS

4 Interest

The rate of interest payable on Client's wrongful deduction is Current ECB Rate plus 2% p.a.

13. INTELLECTUAL PROPERTY, DOCUMENTS

11 Transfer

There is not transfer to the Client instead of licence.

Client	Consultant
INITIALS	
Date:	

14 Licence

Client may use Consultant's design etc. for –

Individual projects:	The plans and specifications will be used for new Community schools in Cavan Dundalk North Dublin Inner City Fermoy Wicklow
Types of project:	N/A

15 Fees [if any]

The only fees payable by the Client for its rights under this clause are: €25,000

18 Publicity

Consent to publicity is required from the Client.

14. TERMINATION

29 Payment where Client terminates at will

Where the Client terminates Services at will although the Project is continuing, the Consultant is entitled to 5% of the difference between the Fees payable under clause 14.26 [without any apportionment under 14.27], 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

The procedure set out in Clause 13.1 of the Public Works Contract for Civil Engineering Works Designed by the Employer

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]: The President of the Royal Institute of Architects of Ireland

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 Public Works and Services Arbitration Rules 2008.

Client	Consultant
INITIALS	
Date:	

SCHEDULE B: CONSULTANT'S SERVICES AND FEES

CONSULTANT'S STAGE SERVICES

The Consultant's appointment is for Stages (i), (ii a), (ii b) and (iii) as tabled below.

PSDP SERVICES

Performance of all the duties of Project Supervisor for the Design Process as tabled below is not included in the Services as tabled below [and the Stage Fees].

TOTAL FEE

Lump Sum: €20,000

STAGE SERVICES	Performance Period from permission to start [4.1]	Milestones (if any)	Percentage of Total Fee for Stage	Stage fee	Percentage of Stage fee for suspension [4.20,21]
Stage (i) Preliminary					
As Design Team Procedures	90 days	Documentation 100% complete	10%	€2,000	10%
Stage (ii) Design					
Whole Stage	days		%		10%
Sub-Stage (ii a) As Design Team Procedures					
	60 days	As Design Team Procedures	25%	€5,000	%
Sub-Stage (ii b) As Design Team Procedures					
	150 days	As Design Team Procedures	25%	€5,000	%
Sub-Stage (ii c) n/a					
	days		%	n/a	%
Stage (iii) Tender Action, Evaluation, Award					
As Design Team Procedures	150 days	As Design Team Procedures	40%	€8,000	%
Stage (iv) Construction					
	days		%	n/a	%
Stage (v) Handover of Works					
	days		%	n/a	%

Client	Consultant
INITIALS	
Date:	

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 2006, notwithstanding any inconsistent Contract contents.	While required for these Services [subject to any later appointment, earlier clause 12 Termination, by the Client.	No additional payments

TIME CHARGES

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

Grade	€ per hour (exclusive of VAT)
Project Director	150
Employers Representative	140
Project Manager	140
[Each] Senior Architect/Engineer	140
Project Architect/Engineer	140
Clerk of Works / Resident Engineer [employed directly by Consultant]	130
Assistant Clerk of Works / Resident Engineer	110
Site Inspector	125
Senior Technician	100
Junior Technician	90
Administrator	50
Project Supervisor for the Design Process	140

Client	Consultant
INITIALS	
Date:	

MANAGEMENT SERVICES

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

REPORTING		
Timing	Contents	Method
Within one month of project start	Initial report as required by Design Team Procedures Details of Key team (minimum qualifications and experience), appointed members, alternatives, including commitments, change in commitments. Methods for changing a key team member Programme showing planned and actual progress, explaining differences. Methods for implementing other Services below.	To be delivered by e-mail to Client's Representative.
Weekly	Updates highlighting all changes from previous contents	To be delivered by e-mail to Client's Representative.
As required	Extra updates where necessary for informed consultation, cooperation, alerts and follow-up [below]. Reports on any special actions required during suspension [4.14]	To be delivered by e-mail to Client's Representative.
COMMUNICATIONS [clause 6]		
As Design Team Procedures		
COORDINATION [7]		
As Design Team Procedures		
COOPERATION [8]		
As Design Team Procedures		
PAYMENTS [9]		
As Design Team Procedures		
CLIENT'S CHANGES [11]		
As Design Team Procedures		
TERMINATION [14]		
As Design Team Procedures		

Client	Consultant
INITIALS	
Date:	

ALERTS, FOLLOW UP

As Design Team Procedures

Consultant will alert Client as soon as aware of likely:

- Circumstances likely to require change in agreed scope of construction works
- Construction variation required beyond the Consultant's authority [2.11]
- Insurance default [2.19]
- Information, access, assistance, urgently needed [7.1-6]

SAMPLE ONLY

Client	Consultant
INITIALS	
Date:	