



Schedule of Amendments published on 16 September 2024

The following amendments have been incorporated into Form of Tender and Schedule for Consultancy Services Technical (FTS-9) and Form of Tender and Schedule for Archaeology Services (FTS-10), with a publication date of 16-09-2024.

1. FTS-9 v1.10 16-09-2024

Topic	Clause Reference	Description
Fixed Price	Tender	The term “fixed price” is removed.
Rates for Tendered Time Charges	Tender	Table formatting amended to include Grades as named in Schedule B of the FTS. This can be amended to suit to particulars of the Contracting Authority.
Key Team Members	Schedule A 2.25	Definition of Key Team Members added.
	Footnote 6	This footnote is withdrawn. Subsequent footnotes are renumbered accordingly.
Total Performance Period	Schedule A 4.6	The entry for the Total Performance Period is removed.
Inflation	Schedule A 9.13	New sub-clause added that defines the following terms for the purposes of sub-clause 9.13-20 in the Conditions of Engagement: <ul style="list-style-type: none"> • First Adjustment Date • Base Date • Calculated Time Charges • COE Fee Adjustment Factor • Indexation Year • Percentage Fee Application Date • Percentage Fee Conversion Date • Quarter • Relevant Quarter • Tendered Time Charges. Refer to the Schedule for the definitions.
Intellectual Property	Schedule A 13.11	13.11 is amended by replacing the term “transfer” with the term “assignment” in accordance with the amendments in sub-clause 13.11 in the Conditions of Engagement.
		New entry inserted for Contracting Authority to list which items are subject to assignment, if applicable.
Termination Events	Schedule A 14.9	New sub-clause added defining Scheduled termination events., which include breaches of: <ul style="list-style-type: none"> • Regulations 57, 72 or 97 of SI 284/2016 • Russian Sanctions • Criminal Justice (Corruption Offences) Act 2018 (Corrupt Gifts)
Formatting	Schedule B	Tables in Schedule B amended with repeating row content control. Contracting Authorities can amend to suit their requirements.
Cross Referencing	Schedule B	Cross references to sub-clauses amended in the Conditions of Engagement have been amended. [Cl 4.18-19].

	Stage Services Tables	
Time Charges	Schedule B Time Charges	Amended as follows: “The following Tendered Time Charges apply to suspension [4.21], Client’s Changes [clause 11] (unless the Time Charges are Calculated Time Charges, in which case Calculated Time Charges apply)”
Conflicts of Interest	Footnote 7	This footnote is withdrawn and remaining footnotes renumbered.

2. FTS-10 v1.7 16-09-2024

Topic	Clause Reference	Description
Fixed Price	Tender	The term “fixed price” is removed.
Rates for Tendered Time Charges	Tender	Table formatting amended to include Grades as named in Schedule B of the FTS. This can be amended to suit to particulars of the Contracting Authority.
Key Team Members	Schedule A 2.27	Key Team Members are defined.
	Footnote 6	This footnote is withdrawn. Subsequent footnotes are renumbered accordingly.
Total Performance Period	Schedule A 5.6	The entry for the Total Performance Period is removed.
Inflation	Schedule A 11.13	New sub-clause defining the following terms for the purposes of sub-clause 11.13-20 in the Conditions of Engagement: <ul style="list-style-type: none"> • First Adjustment Date • Base Date • Calculated Time Charges • COE Fee Adjustment Factor • Indexation Year • Percentage Fee Application Date • Percentage Fee Conversion Date • Quarter • Relevant Quarter • Tendered Time Charges. Refer to the Schedule for the definitions.
Intellectual Property	Schedule A 14.11	14.11 is amended by replacing the term “transfer” with the term “assignment” in accordance with the amendments in sub-clause 14.11 in the Conditions of Engagement. New entry inserted for Contracting Authorities to list which items are subject to assignment, if applicable.
Termination Events	Schedule A 15.9	New definitions of Scheduled termination events which include breaches of: <ul style="list-style-type: none"> • Regulations 57, 72 or 97 of SI 284/2016 • Russian Sanctions • Criminal Justice (Corruption Offences) Act 2018 (Corrupt Gifts)
Cross Referencing	Schedule B Stage Services Tables	Cross references to sub- clauses amended in the Conditions of Engagement have been amended. [Cl 4.18-19]
Time Charges	Schedule B	Amended as follows:

“The Time Charges set out below apply to Stage Services [if Scheduled], suspension [5.21], Client’s Changes [13] and the calculation of the Stage (iii) fee [11.4] [unless the Time Charges are Calculated Time Charges, in which case Calculated Time Charges apply].”

3. Additional Information on amendments

While completing the necessary changes to give force to Indexation in the Conditions of Engagement, the Office of Government Procurement has also made changes to other Clauses, the effects of which are outlined in Tables 1 and 2 above.

Further explanation is given below.

These Forms of Tender and Schedule are to accompany the Conditions of Engagement with a publication date of 30 September 2024. FTS-9 and FTS-10 have been published in advance of the amended Conditions of Engagement to give Contracting Authorities with live or upcoming competitions time to amend their Tender documents, if so required.

Key Team Members:

The purpose of this amendment is to highlight the importance of maintaining the promised level of service quality from tender stage to project delivery. Tenderers cannot alter named key personnel without the consent of the Contracting Authority and must propose a replacement of equal standing.

Total Performance Period:

As a consequence of the introduction of Indexation of Consultancy fees in the Standard Conditions of Engagement, the contractual term Total Performance Period has been withdrawn. This is because its purpose in the Conditions was to facilitate the previous prolongation mechanism, which will no longer be in force.

With the removal of the Total Performance Period, Contracting Authorities must continue to carefully consider the realistic time periods necessary to delivery each Stage of the Project. Inter Stage periods and predictable Client led delays (awaiting internal approvals, planning consents and potential appeals, procurement processes for the Construction stage of the project, etc.) should be considered when entering Stage Periods. Estimated Inter-stage durations can be included in the Service Requirements.

The total of the Stage Performance Periods and inter-Stage periods provide Tenderers with an estimate of the total duration during which the Services will be required to be performed.

Indexation:

Fees are fixed for an initial minimum 2 year period, and are then subject to indexation. The risk sharing mechanism means that the Client will bear up to 2% increases in the COE-FAF. Where inflation, as measured by the specified statistical releases, are above 2% all movements in the composite factor formula are shared 70:30 per the Client: Consultant.

Contracting Authorities should consider the impact of this on their budgets.

Further information on Indexation will be published with the Conditions of Engagement 30 September 2024.

Intellectual Property Rights:

The Intellectual property clause has been amended to reflect current practice. This has little impact on the Conditions as a whole but Contracting Authorities should note that rights to intellectual property are now given through assignment rather than transfer. Further, intellectual property rights extend to documents, drawings and all outputs related to the completion of the Services (the Consultant's Documents).

Contracting Authorities must elect whether there is assignment, and if so, which documents are affected.

Termination Events:

Termination events for European Union Regulations and national legislation are defined in the Form of Tender and Schedule, Schedule A. Should the Contracting Authority discover that a Tenderer is in one of the situations described in the Schedule, the Contract must be terminated.

Further information on Termination events will be published by the OGP to coincide with upcoming changes to the Suitability Assessment Questionnaires for Consultancy Services (Declaration re Russian Sanctions in QC Part 2 Applicant Details and Declaration).

[END].