# Tender and Schedule

for

|  |  |
| --- | --- |
| *The Project* |       |

using the

**Public Works Contract for CIVIL ENGINEERING WORKS Designed by the EMPLOYER**

Office of Government Procurement

Tender and Schedule for Public Works Contract for Civil Engineering Works Designed by the Employer

Document Reference FTS3 v.2.2

09 January 2017

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Published by: Office of Government Procurement

Department of Public Expenditure and Reform
Government Buildings
Upper Merrion Street
Dublin 2

# Tender[[1]](#footnote-1)

|  |  |  |
| --- | --- | --- |
| **To** | *The Employer* |       |
|  | *Address of Employer* |       |
|  | *For the attention of* | Name of contact person identified in tender documents |
| **Date:** |  |  |

|  |  |  |
| --- | --- | --- |
| **Regarding:** | *The Project* |       |

A Dhaoine Uaisle

We have examined and understand the **Public Works Contract for Civil Engineering Works Designed by the Employer**, the Works Requirements, the Pricing Document,  all as amended by any supplemental information, for the above contract.

Terms used in this Tender that are defined in those documents have the same meaning in this Tender.

We submit with this Tender the completed Pricing Document and Schedule which form part of this Tender. We adopt the Novated Design Documents as our Works Proposals.

We offer to complete the Works on the terms of and in conformity with the documents referred to in the preceding paragraph for the lump sum of

|  |
| --- |
| euro [[2]](#footnote-2), |

as adjusted in accordance with the contract.

In preparing this Tender we have taken account of the obligations relating to employment protection and working conditions that are in force in the place where the works are to be carried out, including the contract requirements.

In consideration of your providing us with the contract documents, we agree not to withdraw this offer until the later of:

 (a)       days[[3]](#footnote-3) after the end of the last day for submission of this Tender

(b) expiry of at least 21 days written notice to terminate this Tender given by us, which may not issue

 prior to the expiry of the period at (a)

Your acceptance of this Tender within that time will result in the Contract being formed between us.

We agree that you are not bound to accept the lowest or any tender you may receive.

We agree that if any contract formed by acceptance of this Tender is determined to be void, voidable, unenforceable, or ineffective, any damages for which you may be liable will not exceed the amount that would have been payable under clause 12.6 of the Conditions of the contract on termination under clause 12.5 of the Conditions of the contract.

We also agree that should a dispute arise under any contract formed by acceptance of this Tender that is referred to arbitration, to the extent permitted by law, under the Arbitration Act 2010 and a sealed offer has not been made, or where a sealed offer has been made and the Contractor’s award is greater than the sealed offer[[4]](#footnote-4), then each party will bear their own costs in relation to the arbitration proceedings.

Is sinne, le meas

|  |
| --- |
| **Signed on behalf of** |

|  |  |
| --- | --- |
| *Name of Tenderer* |  |
| *Signature of authorised person* |  |
|  |  |
| *Business Name* |  |
| *Business Address* |  |
|  | Tax Ref. Number (Required) | Company Registration Office No. or equivalent (where applicable) | Business Registration No. (where applicable) |

|  |
| --- |
| **In the presence of** |
| *Signature of witness* |  |
| *Name of witness* |  |
| *Witness’s occupation* |  |
| *Witness’s address* |  |

OR (If the Tenderer is an individual)

|  |
| --- |
| **Signed by** |

|  |  |
| --- | --- |
| *Signature of Tenderer* |  |
| *Name of Tenderer* |  |
|  |  |
| *Business Name* |  |
| *Business Address* |  |
|  | Tax Ref. Number (Required) | Company Registration Office No. or equivalent (where applicable) | Business Registration No. (where applicable) |

|  |
| --- |
| **In the presence of** |
| *Signature of witness* |  |
| *Name of witness* |  |
| *Witness’s occupation* |  |
| *Witness’s address* |  |

If the Tenderer is a joint venture, execution must be by each member, using the blocks below.

|  |
| --- |
| **Signed on behalf of** |
| *Name ofJoint Venture Member 1* |  |
| *Signature of authorised person* |  |

|  |  |
| --- | --- |
| *Business Name* |  |
| *Business Address* |  |
|  | Tax Ref. Number (Required) | Company Registration Office No. or equivalent (where applicable) | Business Registration No. (where applicable) |
|  |  |
| **In the presence of** |  |
| *Signature of witness* |  |
| *Name of witness* |  |
| *Witness’s occupation* |  |
| *Witness’s address* |  |

|  |
| --- |
| **Signed on behalf of** |
| *Name ofJoint Venture Member 2* |  |
| *Signature of authorised person* |  |
| *Business Name* |  |
| *Business Address* |  |
|  | Tax Ref. Number (Required) | Company Registration Office No. or equivalent (where applicable) | Business Registration No. (where applicable) |
|  |  |
| **In the presence of** |  |
| *Signature of witness* |  |
| *Name of witness* |  |
| *Witness’s occupation* |  |
| *Witness’s address* |  |

|  |
| --- |
| **Signed on behalf of** |
| *Name ofJoint Venture Member 3* |  |
| *Signature of authorised person* |  |
| *Business Name* |  |
| *Business Address* |  |
|  | Tax Ref. Number (Required) | Company Registration Office No. or equivalent (where applicable) | Business Registration No. (where applicable) |
|  |  |
| **In the presence of** |  |
| *Signature of witness* |  |
| *Name of witness* |  |
| *Witness’s occupation* |  |
| *Witness’s address* |  |

# SCHEDULE

## PART 1 (Completed by the Employer before Tender)

***A Employer’s Representative and Communications*** (Sub-clauses 4.3 and 4.14)

Details for sending notices under clauses 12 and 13 to the Employer are:

|  |  |
| --- | --- |
| *For the attention of:* |        |
| *Address:*  |       |

Details for sending other notices and communications to the Employer are:

|  |  |
| --- | --- |
| *For the attention of:* |        |
| *Address:*  |       |
| *Fax:* |       |
| *eMail:* |       |

|  |  |
| --- | --- |
| *The Employer’s Representative is:* |        |

Details for sending notices and other communications to the Employer’s Representative are:

|  |  |
| --- | --- |
| *For the attention of:* |        |
| *Address:*  |       |
| *Fax:* |       |
| *eMail:* |       |

**The number of Project Board members for the Contract shall be** (Sub-clauses 4.15)**:**

|  |
| --- |
|  |

*[Please choose from the options in the drop-down menu on the left]*

**Note:** The names and details of the Employer’s & Contractor’s members of the Project Board must be entered by the Employer in Schedule Part 3A prior to issue of the Letter of Acceptance.

***Limitations on the Employer’s Representative’s authority to perform its functions and powers under the Contract***

Maximum adjustment to the Contract Sum for a single Change Order: €     , unless approved by the Employer

Maximum cumulative value of adjustments to the Contract Sum for Change Orders in any 3-month period: €     , unless approved by the Employer

* The Employer’s Representative shall not make a Change Order causing or contributing to a reduction in safety, scope, quality or usefulness of the Works without the Employer’s approval
* The Employer will decide whether to accept or reject a value engineering proposal
* The Employer must agree to reduce retention if the Defects Period is extended
* The Employer’s Representative is to consult with the Employer in relation to any adjustment to the Contract Sum before determining the adjustment
* Where the Employer has appointed a quantity surveyor, the Employer’s Representative is to consult with the quantity surveyor in relation to any adjustments to the Contract Sum before determining the adjustment

The Employer’s Representative must not waive any of the Employer’s rights or the Contractor’s obligations under the Contract including without limitation sub-clause 10.3.

***B Documents***

The **Works Requirements** are:

|  |
| --- |
| *As scheduled and included in Volume A* |

The **Pricing Document** is:

|  |
| --- |
| *[CA Note: Please choose from the options in the drop down menus below]**A Bill of Quantities measured in accordance with the: as included in Volume C.* *[Where Civil Engineering Standard Method of Measurement 3 is selected from the drop down menu above it shall be the 3rd Edition as amended in accordance with Section 5.2 of Guidance Note GN 1.5.3 of the Capital Works Management Framework. Where the Requirements for Measuring and Pricing (RMP) is selected from the drop down menu above, it shall be the latest edition as published by Transport Infrastructure Ireland]**[CA Note: Please choose from the options in the drop down menu below for Mechanical & Electrical Works]*Mechanical & Electrical Works measured in accordance with: *[Where Civil Engineering Standard Method of Measurement 3 is selected from the drop down menu above it shall be the 3rd Edition as amended in accordance with Section 5.2 of Guidance Note GN 1.5.3 of the Capital Works Management Framework]* |

The **Works Proposals** are:

|  |
| --- |
| *As included in Volume D and attachments* |

***C Project Supervisor*** (Sub-clause 2.4)

The Contractor, or an individual or body corporate named in the Work Proposals, to be appointed project supervisor for the construction stage for the Works and any other work on the Site between the Starting Date and the date of Substantial Completion of the Works contemplated in the Works Requirements.

***D Insurance*** (Clause 3)

Insurance of the Works: minimum amount insured for professional fees 12½%[[5]](#footnote-5) of the Contract Sum.

Minimum indemnity limit for Public liability insurance: €6,500,000[[6]](#footnote-6) for any one event, but this limit may be on an annual aggregate basis for products liability, collapse, vibration, subsidence, removal and weakening of supports and sudden and accidental pollution.

Minimum indemnity limit for Employers’ liability insurance: €13,000,000[[7]](#footnote-7) for any one event.

Maximum excess for Insurance of Works and other Risk Items: €10,000[[8]](#footnote-8).

Maximum excess for Public liability and Employer’s liability: €6,500~~[[9]](#footnote-9)~~

*Permitted exclusions from all Insurances*

War, invasion, act of foreign enemies, hostilities [whether war is declared or not], civil war, rebellion, revolution, insurrection or military or usurped power

Pressure waves caused by aircraft or other airborne objects travelling at sonic or supersonic speeds

Contamination by radioactivity or radioactive, toxic, explosive or other hazardous properties of any explosive nuclear assembly or its components, in each case not caused by the Contractor or the Contractor’s Personnel

*Permitted exclusions from insurance of the Works and other Risk Items*

Use or occupation of the Works by the Employer except in connection with the Works

Unless otherwise specified in the Works Requirements, cost of making good defects in the Works but not damage caused by such defects to other sound parts of the Works

Wear, tear, normal upkeep or normal repair or gradual deterioration

Inventory losses

Loss of use or any consequential loss of any nature including penalties for delay, non-completion or non-compliance

Failure of information technology

Mechanical or electrical breakdown but not resulting damage

Cessation of the Works for more than 3 months

*Permitted exclusions from public liability insurance:*

Persons under a contract of service or apprenticeship with the insured

Property of the insured or in the insured’s custody or control other than existing premises and their contents temporarily occupied for the purposes of the Works

Defective workmanship or materials but not resulting damage

Mechanically propelled vehicles within the meaning of the Road Traffic Acts

Loss or damage due to design for a fee or for which a fee would normally be charged design defective workmanship, materials or design, but including its consequences

Note: *Delete two of the form fields above. If none deleted, permitted exclusion is 'loss or damage due to design for a fee or for which a fee would normally be charged’*

Gradual pollution or contamination

Territorial limits

Unless otherwise specified in the Works Requirements, aircraft and waterborne craft

Fines, penalties, liquidated damages

*Permitted exclusions from employer’s liability insurance:*

Offshore work

Liability compulsorily insurable under the Road Traffic Acts

*Permitted exclusions from professional indemnity insurance*

Persons under a contract of service or apprenticeship with the insured.

Ownership, use, occupation or leasing of mobile or immobile property

Effecting or maintenance of insurance of or in connection with the provision of finance or advice on financial matters

Dishonest, malicious, criminal or deliberate illegal acts

Libel and slander

Insolvency

Fines, penalties, liquidated damages or any penal, punitive, exemplary, non-compensatory or aggravated damages

Failure of information technology

Contractual liability that would not apply in the absence of the contract

*Optional insurance provisions*

The Employer have the risk of loss of and damage to its existing facilities and parts of the Works it uses or occupies, in accordance with sub-clause 3.8.

Insurance of the Works and other Risk Items shall include the following property of the Employer, other than the Works and Works Items:

|  |
| --- |
|       |

and the minimum sum for which this property is to be insured shall be €     .

If Insurance of the Works and other Risk Items is to include terrorism cover, the minimum sum insured shall be €     .

The Contractor extend the insurance of the Works and other Risk Items for a Section that has reached Substantial Completion until the Employer’s Representative issues the certificate of Substantial Completion for the whole Works.

*Required extensions to Insurance*

|  |
| --- |
|       |

Professional indemnity insurance required. If required, the professional indemnity insurance is to be kept in place for       years after Substantial Completion of the Works is certified by the Employer’s Representative. If required, the minimum indemnity limit for professional indemnity insurance shall be €      for each and every claim or series of claims arising from the same originating cause annual aggregate limit.

Note: *Delete one of the two form fields above. If none deleted, read as 'annual aggregate limit'*.

The maximum excess shall be €50,000[[10]](#footnote-10).

***E Performance Bond*** (Sub-clause 1.5)

A performance bond required.

The amount of the performance bond shall be 10%[[11]](#footnote-11) of the initial Contract Sum up to certification of Substantial Completion of the Works, and 5%[[12]](#footnote-12) of the initial Contract Sum for the subsequent period stated in the form of bond in the Works Requirements. 450 days after that.

Note: *Delete one of the two form fields above. If none deleted, read as '450 days after that.*

***F (i) Collateral Warranties*** (Sub-clause 5.5)

Collateral warranties are required from the following categories of Specialists, by the following dates; and the amount withheld from payments under sub-clause 11.4.1 are as follows:

| **Category of Specialist** |  | **Date for warranty** |  | **Amount withheld** |  | **Minimum indemnity limit for professional indemnity insurance** |  | **Maximum excess for professional indemnity insurance** |
| --- | --- | --- | --- | --- | --- | --- | --- | --- |
|       |  |       |  |       |  |       |  |       |
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***F (ii) Ancillary Certificates*** (Sub-clause 5.8)

Ancillary Certificates are required from the following categories of Contractor’s Personnel. The list reflects the works elements known at the time of tender but does not limit the Contractor’s duties under sub-clause 2.3.1:

| **Category of Contractor’s Personnel** |  | **Category of Contractor’s Personnel** |
| --- | --- | --- |
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|       |  |       |

***F (iii) Named Specialists*** (Sub-clause 5.4)

| **Category of Specialist** | **Type1** | **Specialist Form of Contract** | **Specialist Contract Value2** | **Specialist Contract Works Requirements reference** | **Name and contact details of Specialist (where already known)** |
| --- | --- | --- | --- | --- | --- |
| *[Please choose from the options in the drop-down menu below]* |
|       |  |       |       |       |
|       |  |       |       |       |
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***Note 1:*** *Novated Specialists are those whose contract with the Employer is to be novated to the Contractor. Reserved Specialists are those who are to be appointed by the Contractor following a tender competition administered by the Employer.*

***Note 2:*** *The Specialist Contract Sum shall be entered here, where known, in the case of Novated Specialists. Where the sum is not known, in the case of Novated and Reserved Specialists, the Reserved Sum shall be entered.*

**Note:** In Schedule Part 3B, the Employer is to enter the Category of Specialist, the Name and contact details of Specialist and the Contractor’s tendered percentage addition prior to issue of the Letter of Acceptance. The details inserted here under Category of Specialist must match those inserted in Schedule Part 3B

***G Dates for Substantial Completion, Sections, Liquidated Damages, Retention***

|  |  | **Date for Substantial Completion**  |  | **Rate of liquidated damages** |  | **Reduction in retention on Substantial Completion of Section (%)** |
| --- | --- | --- | --- | --- | --- | --- |
| The Works |  | (Last day of period starting on the Contract Date or date) (unless to be completed by Contractor in part 2) |  | €      per       |  |  |
| Section: (Employer to complete names of sections) |  |       |  | €      per       |  |       |
| Section: (Employer to complete names of sections) |  |       |  | €      per       |  |       |
| Section: (Employer to complete names of sections) |  |       |  | €      per       |  |       |
| Section: (Employer to complete names of sections) |  |       |  | €      per       |  |       |

***H Early Completion*** (Sub-clause 9.6)

The Employer’s Representative required to issue the certificate of Substantial Completion if the Works or a Section reaches Substantial Completion before its Date for Substantial Completion.

***I Defects Period***

The initial Defects Period is one year[[13]](#footnote-13) from the date of Substantial Completion of the Works.

***J Random Checks for Employment Records***

Sub-clause 5.3.3A(2) part of the Contract.

***K Delay Events, Compensation Events, Programme Contingency, Delay Costs, Adjustments***(Sub-clauses 9.3, 9.4, 10.1, 10.6, 10.7)

Delay Events and Compensation Events are as follows:

| **Event** |  | **Delay Event** |  | **Compensation Event** |
| --- | --- | --- | --- | --- |
| 1 | The Employer’s Representative gives the Contractor a Change Order  |  | Yes |  | Yes |
| 2 | The Employer’s Representative directs the Contractor to search for Defects or their cause and no Defect is found, and the search was not required because of a failure of the Contractor to comply with the Contract |  | Yes |  | Yes |
| 3 | The Employer’s Representative directs the Contractor to suspend work under sub-clause 9.2 |  | Yes |  | Yes |
| 4 | The Contractor suspends work in accordance with sub-clause 12.3 |  | Yes |  | Yes |
| 5 | There is a factual error in information about the Site or setting out information in the Works Requirements. [This does not include an error of interpretation.] |  | Yes |  | Yes |
| 6 | The Employer takes over part of the Works before Substantial Completion of the Works and any relevant Section |  | Yes |  | Yes |
| 7 | The Employer’s Representative does not give the Contractor an instruction required under sub-clause 4.5.4 within the time required under sub-clause 4.11.2 when the Contractor has asked for the instruction in accordance with sub-clause 4.11.1 |  | Yes |  | Yes |
| 8 | The Employer does not allow the Contractor to occupy and use a part of the Site in accordance with sub-clause 7.1 |  | Yes |  | Yes |
| 9 | The Employer does not give the Contractor a Works Item or other thing as required by the Contract when the Contractor has asked for it in accordance with sub-clause 4.11.1 |  | Yes |  | Yes |
| 10 | Employer’s Personnel working on the Site under clause 7.6 interfere with the execution of the Works on the Site, and the interference is unforeseeable and not in accordance with the Contract |  | Yes |  | Yes |
| 11 | The Employer instructs the Contractor under sub-clause 3.2.3 to rectify loss of or damage to Risk Items for which the Contractor is not responsible |  | Yes |  | Yes |
| 12 | Loss of or damage to the Works that is at the Contractor’s risk in accordance with sub-clause 3.2 |  | Yes |  | No |
| 13 | A **weather event** as described below  |  | Yes |  | No |
| 14 | A strike or lockout affecting the construction industry generally or a significant part of it, and not confined to employees of the Contractor or any Contractor’s Personnel |  | Yes |  | No |
| 15 | Delay to the Works caused by the order or other act of a court or other public authority exercising authority under Law, that did not arise as a result of or in connection with an act, omission or breach of Legal Requirements of the Contractor or the Contractor’s Personnel or a breach of the Contract by the Contractor |  | Yes |  | No |
| 16 | A breach by the Employer of the Contract delaying the Works that is not listed elsewhere in this table. |  | Yes |  | Yes |
| 17 | A difference between the Contract value of the Works according to the quantities and descriptions in the Pricing Document and the Contract value of the Works described in the Works Requirements, because the Pricing Document, when compared with the Works Requirementsincludes an incorrect quantity orincludes an item that that is not included in the Works Requirements orexcludes an item that is included in the Works Requirements orgives an incorrect item descriptionand the difference for an item in, or that should have been in, the Pricing Document is more than €500. |  | No |  | Yes |
| 18 | An item of archaeological interest or human remains is found on the Site, and it was unforeseeable |  | Yes |  |  |
| 19 | The Contractor encounters on the Site unforeseeable ground conditions (not resulting from weather) or unforeseeable human-made obstructions in the ground, other than Utilities |  | Yes |  |  |
| 20 | The Contractor encounters unforeseeable Utilities in the ground on the Site |  | Yes |  |  |
| 21 | Owners of Utilities on the Site do not relocate or disconnect Utilities as stated in the Works Requirements, when the Contractor has complied with their procedures and the procedures in the Contract, and the failure is unforeseeable |  | Yes |  |  |

In the above table

**Utilities** means conducting media and apparatus for water, sewage, electricity, gas, oil, telecommunications, data, steam, air, or other services, and associated apparatus and structures.

A condition, circumstance or occurrence is **unforeseeable** if an experienced contractor tendering for the Works could not have reasonably foreseen it on the Designated Date, having inspected the Site and its surroundings and having satisfied itself, insofar as practicable and taking into account any information in connection with the Site provided by the Employer, as to all matters concerning the Site, including its form and nature and its geotechnical, hydrological and climatic conditions.

**WE 1.0** is the document entitled Weather Events WE 1.0 published on [www.constructionprocurement.gov.ie](http://www.constructionprocurement.gov.ie) on the Designated Date.

A **weather measurement** for a month means each of the following:

* the number of days with rainfall exceeding 10 millimetres
* the number of days with minimum air temperature less than 0 degrees Celsius and
* the number of days with maximum mean 10 minute wind speed exceeding 15 metres per second

as recorded at       weather station.

If no weather station is named, the Met Eireann station nearest the Site is used. If the station named, or the nearest one, does not record the weather measurements, the station nearest the Site that records that weather measurement is used.

A **weather event** is when in a month between the Starting Date and the Date for Substantial Completion of the Works a weather measurement exceeds the number of days for the same item, the same weather station, and the corresponding month in WE 1.0.

If a weather event occurs in a month and there is to be an extension to a Date for Substantial Completion under sub-clause 9.3.2, the amount of the extension is the lesser of (a) the extension to be made under sub-clause 9.3.2 and (b) the difference between the weather measurement and the number of days for the corresponding item in WE1.0. No day is counted for more than one weather measurement.

In **sub-clause 9.4**:

* The first threshold is       Site Working Days of delay caused by Compensation Events.
* The second threshold is       Site Working Days of delay caused by Compensation Events.

The definition of craftspersons in part 2D (for **sub-clause 10.6.4(1)**) includes the following additional categories:

|  |
| --- |
|       |

In **sub-clause 10.6.4(3)**, the rates to be used to determine the cost of plant are the rates in

|  |
| --- |
|       |

modified as follows:

Rates will be treated as if in euro

and any rates in the Pricing Document.

In **sub-clause 10.7**, the amount to be added for delay cost is the daily rate tendered by the Contractor in the Schedule, part 2D (sub-clause 10.7.1(1)) / the expenses unavoidably incurred as a result of the delay (sub-clause 10.7.1(2)) (Delete as applicable. If neither deleted, 'expenses unavoidably incurred as a result of the delay' to be read as deleted.)

For purposes of sub-clause 10.7, the Contractor is to tender in part 2D a single daily rate for delay costs / separate daily rates for delay costs for each of the following periods or parts of the Works:

 (If the above are blank, and sub-clause 10.7.1(1) applies, Contractor is to tender a single daily rate.)

***L Payment Particulars*** (Clause 11)

Period for interim payment is monthly.

Minimum amount for interim payments, except release of retention, € 0.00 [[14]](#footnote-14)

Up to the percentage stated below of the Contract value of the following unfixed Works Items may be included in an interim payment in accordance with sub-clause 11.2.

|  |  |
| --- | --- |
| **On-Site Materials** | **% of Contract value** |
|       | 90 |

|  |  |
| --- | --- |
| **Off-Site Materials with Bond** | **% of Contract value** |
|       | 90 |

The retention percentage is 10%[[15]](#footnote-15).

***M Price Variation*** (Sub-clause 10.8)

Clause attached to this Schedule is part of the Contract.

The attached completed Appendices 7 and 8 to Clause PV2 form part of this Schedule.

***N Conciliation, Adjudication and Arbitration*** (Sub-clauses, 13.2 13.3 and 13.4)

For the purposes of resolution of a dispute by conciliation the parties to the contract shall agree on the appointment of:

*[Please choose from the options in the drop-down menu below]*

|  |
| --- |
|  |

**[For Contract Values in excess of €10m the appointment of a Standing Conciliator is mandatory]**

Where there is a Standing Conciliator, the Standing Conciliator shall be named in Schedule Part 3C and appointed prior to the Starting Date.

The amount allowed in the Pricing Document by the Employer [which may be adjusted prior to the issue of the Letter of Acceptance where the Standing Conciliator has been identified and their fee has been agreed] will be the entire amount recoupable by the Contractor for their share of the Standing Conciliator’s fee for performance of Standing Conciliator duties, other than conciliating a dispute referred under clause 13.2. The Standing Conciliator’s fees shall be shared equally between the Parties for the purposes of clauses 13.2

Appointment of a conciliator or Standing Conciliator for the purposes of conciliating a dispute referred under clause 13.2 of the Conditions of Contract should be executed using Model Form: *MF1.16 – Appointment of Conciliator*

Appointment of a Standing Conciliator for performance of Standing Conciliator duties, other than conciliating a dispute referred under clause 13.2 should be executed using Model Form: *MF1.18 Appointment of Standing Conciliator*

Failing agreement, the conciliator will be appointed by[[16]](#footnote-16)

|  |
| --- |
|       |

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).

The person or body to appoint the arbitrator, if not agreed by the parties, is[[17]](#footnote-17)

|  |
| --- |
|       |

The person to appoint the adjudicator, if not agreed by the parties, is

|  |
| --- |
| Chairperson of the Panel of Adjudicators |

***O Rights in Contractor’s Documents*** (Sub-clause 6.4)

Copyright and all other rights in the following Contractor’s Documents and Works Proposals described in sub-clause 6.4.2 transfers to the Employer in accordance with sub-clause 6.4.

|  |
| --- |
|       |

##  PART 2 (Completed by the Contractor and included with Tender)

***A Communications*** (Sub-clause 4.14)

Details for sending notices under clauses 12 and 13 to the Contractor are:

|  |  |
| --- | --- |
| *For the attention of:* |  |
| *Address:*  |  |

Details for sending other notices to the Contractor are:

|  |  |
| --- | --- |
| *For the attention of:* |  |
| *Address:*  |  |
| *Fax:* |  |
| *eMail:* |  |

The Contractor’s agent[[18]](#footnote-18) in the Republic of Ireland for service of legal process is:

|  |  |
| --- | --- |
| *Name:* |  |
| *Address:*  |  |

***B Parent Company Guarantee*** (Sub-clause 1.6)

The Contractor shall provide a parent company guarantee in the form in the Works Requirements from:

|  |  |
| --- | --- |
| *Name of Parent Company[[19]](#footnote-19):* |  |
| *Postal Address:*  |  |
| *Registered Address:* |  |
| *Place where incorporated or organised:* |  |

***C Dates for Substantial Completion***

|  |  |  |
| --- | --- | --- |
|  |  | **Date for Substantial Completion** Number of days after the Contract Date(To be completed by Contractor in Tender **ONLY** if not completed by Employer in Part 1) |
| The Works |  |  |
| Section: (Employer to complete names of sections) |  |  |
| Section: (Employer to complete names of sections) |  |  |
| Section: (Employer to complete names of sections) |  |  |
| Section: (Employer to complete names of sections) |  |  |

***D Adjustments to the Contract Sum including Delay Costs*** (Sub-clauses 10.6 and 10.7)

The Contractor’s tendered hourly rates for labour and related costs [including PRSI, benefits, tool money, overtime, travelling time and country money]:

|  |  |  |
| --- | --- | --- |
| Craftspersons |  | € ………..per hour |
| General Operatives |  | €…………per hour |
| Apprentices |  | €…………per hour |
|  |  | *(If left blank, or stated as less than 75% of the relevant rate (in the case of Craftspersons this means 75% of the Craftsman’s rate, or in the case of General Operatives, 75% x 88% of the Craftsman’s rate, or in the case of Apprentices, 75% x 62% of the Craftsman’s rate) in the Construction Industry Wages and Conditions of Employment Registered Employment Agreement current on the Designated Date, read as 75% of the relevant rate (in the case of Craftspersons this means 75% of the Craftsman’s rate, or in the case of General Operatives, 75% x 88% of the Craftsman’s rate, in the case of Apprentices, 75% x 62% of the Craftsman’s rate) in the Construction Industry Wages and Conditions of Employment Registered Employment Agreement current on the Designated Date)* |

**Craftspersons** means those categories of work persons described as ‘craftsmen’ or ‘electricians’ in employment agreements registered under the Industrial Relations Acts 1946 to 2004, and, any additional categories listed in part 1K.

**General Operatives** means all direct labour other than craftspersons and apprentices.

**Apprentices** means categories of work persons under a contract of apprenticeship for trades whose practitioners fall within the above definition of craftspersons.

|  |  |  |
| --- | --- | --- |
| The Contractor’s tendered percentage addition for costs of materials*(If negative or blank, read as 0%)* |  | % |
| The Contractor’s tendered percentage addition/deduction for costs of plant*(A deduction of more than 100% will be read as a deduction of 100%. If the entry is blank it will be read as 0%)* |  | % |

The tendered hourly rates, the tendered percentage addition for costs of materials and the tendered percentage addition/deduction for costs of plant provided shall include on-costs, overheads and profit, and exclude VAT.

**Note:** The tendered hourly rates, the tendered percentage addition for costs of materials and the tendered percentage addition/deduction for costs of plant provided above does not apply to named Specialists’ Works. Where additional or substituted work, or part thereof, includes named Specialists’ Works, and a valuation is determined in accordance with Sub-clause 10.6.4 that valuation, or part thereof, shall be based on the tendered hourly rates, the tendered percentage addition for costs of materials and the tendered percentage addition/deduction for costs of plant as tendered by the respective named Specialist.

|  |  |  |
| --- | --- | --- |
| **Tendered rate of delay costs** |  |  |
| The Contractor’s tendered rate of delay costs is *(If left blank, or stated as a negative value, read as zero.)* | € | excluding VAT per Site Working Day. |

If part 1K states that separate rates are to be tendered for separate periods or parts of the Works, the Contractor’s tendered rates are as follows:

|  |  |  |
| --- | --- | --- |
| **Period or part of the Works (part 1K)** |  | **Tendered Rate** |
|  |  | €……………………….per Site Working Day |
|  |  | €……………………….per Site Working Day |
|  |  | €……………………….per Site Working Day |
|  |  | €……………………….per Site Working Day |

**Note:** The tendered rate of delay costs provided above do not apply to named Specialists’ Works. The amount that may be added to the Contract Sum for delay costs in accordance with sub-clause 10.7 (where sub-clause 10.7.1 (1) applies) shall take account of the tendered rate of delay costs for named Specialists’ Works to the extent that named Specialists’ Works are subject to an extension to the Date for Substantial Completion of the Works that is a result of a Compensation Event under the Contract between the Employer and Contractor.

# SCHEDULE

## PART 3 (Completed by the Employer after Tender and prior to issue of the Letter of Acceptance)

***A Project Board*** (Sub-clauses 4.15)

|  |
| --- |
| ***The Employer and Contractor shall only propose the number of Project Board members permitted in Part 1A of this Schedule*** |
| ***The Parties shall agree at a preliminary meeting of the Project Board the format and procedure by which all disputes referred to it shall be reviewed and agree the schedule of standing meeting dates. The preliminary meeting shall be held prior to the Starting Date. Each Party shall appoint a single point of contact as notified to the other Party from time to time. The Project Board shall meet at least every 60 days, unless otherwise agreed in accordance with Clause 13.1.2 of the Contract,***  |

***The names and details of the Employer’s members of the Project Board must be entered below prior to issue of the Letter of Acceptance.***

|  |  |
| --- | --- |
| *The Employer’s members of the Project Board:*  | Member 1:      Relationship to the Employer’s organisation:      |
|  | Member 2:      Relationship to the Employer’s organisation:      |
|  | Member 3:      Relationship to the Employer’s organisation:      |

**Note:** A minimum of 1 member and a maximum of 3 members, depending on project value and complexity, must be named by the Employer. At least 1 member must hold a construction related role within the Employer’s organisation or have construction related qualification or a construction related background which could be described as relative to the project description. For the purposes of membership of the Project Board external consultants to the Employer may be named for membership of the Project Board. All Project Board members must be have the capacity and authority to negotiate agreements that will be binding on the Party that they represent.

**Note:** Neitherthe Employer’s Representative nor any design team member, or their employees, may be a named as a member of the Project Board nor may they attend the meetings of the Project Board unless requested to do by the Project Board. No Employer’s member of the Project Board maybe subordinate within the reporting structure of the project to the Employer’s Representative.

***The names and details of the Contractor’s members of the Project Board must be entered below prior to issue of the Letter of Acceptance.***

|  |  |
| --- | --- |
| *The Contractor’s members of the Project Board:*  | Member 1:      Relationship to the Contractor’s organisation:      |
|  | Member 2:      Relationship to the Contractor’s organisation:      |
|  | Member 3:      Relationship to the Contractor’s organisation:      |

**Note:** At least 1 member must hold a construction related role within the Contractor’s organisation or have construction related qualification or a construction related background which could be described as relative to the project description. For the purposes of membership of the Project Board external consultants to the Contractor may be named for membership of the Project Board. All Project Board members must have the capacity and authority to negotiate agreements that will be binding on the Party that they represent.

**Note:** The Contractor’s Representative may not be a member of the Project Board nor may they attend the meetings of the Project Board unless requested to do so by the Project Board. No Contractor’s member of the Project Board maybe subordinate to the Contractor’s Representative within the reporting structure of the project.

***B Named Specialists*** (Sub-clause 5.4)

| **Category of Specialist1** | **Name and contact details of Specialist** | **Specialist Contract Sum2**  | **Contractor’s tendered percentage addition3** |
| --- | --- | --- | --- |
|       |       |       |      % |
|       |       |       |      % |
|       |       |       |      % |
|       |       |       |      % |
|       |       |       |      % |
|       |       |       |      % |
|       |       |       |      % |
|       |       |       |      % |

***Note 1:*** *The category of Specialist inserted above must match that inserted at Schedule Part 1F(iii)*

***Note 2:*** *The Specialist Contract Sum shall be entered here in all cases. No Reserved Sums may be entered as the Specialist Contract Sum must be known before issue of the Letter of Acceptance to the Contractor*

***Note 3:*** *The Contractor’s tendered percentage addition generates the Contractor’s profit on each of the named Specialist’s Sums rated as a percentage. It is inserted in the Pricing Document by the Contractor at Tender Stage. The Contractor’s tendered percentage addition is to be inserted above by the Contracting Authority. Where the tendered percentage addition is less than zero in the Pricing Document it shall be read as zero and inserted in the Schedule Part 3B as zero. When Contractor’s tendered percentage addition is to be taken into account for adjustments to the Contract Sum, in accordance with sub-clause 10.6 of the Conditions, the figures inserted in the Schedule Part 3B shall be used*

***C Conciliation, Adjudication and Arbitration*** (Sub-clauses 13.2, 13.3 and 13.4)

|  |
| --- |
| [Insert name and details of Standing Conciliator here once appointment has been agreed]Name:      Address:     Contact Details:      |

## *Price Variation*

If the Schedule Part 1 M states that ‘Clause PV1 attached to this Schedule is part of the Contract’, then Clause PV1, which is included with the contract Conditions, is attached to this Schedule.

If the Schedule Part 1 M states that ‘Clause PV2 attached to this Schedule is part of the Contract’, then Clause PV21, which is included with the contract Conditions, is attached to this Schedule, and Appendices 7 and 8 to Clause PV2 form part of this Schedule.

## *Appendix 7 to Clause PV2*

## PROPORTIONS OF LABOUR, MATERIALS, FUEL,NON-REUSABLE TEMPORARY WORKS AND NON-ADJUSTABLE OVERHEADS

|  |  |  |  |
| --- | --- | --- | --- |
|  | **Works** | **Amount (Euro)** | **Percentage of Contract Sum** |
| (a) | Labour |       |      % |
| (b) | Materials |       |      % |
| (c) | Fuel |       |      % |
| (d) | Non-Reusable Temporary Works |       |      % |
| (e) | Plant |       |      % |
| (f) | Non-Adjustable Overheads |       |      % |
|  | **Totals** |  | **100%** |

*Note: Plant is not subject to price variation adjustment.*

## *Appendix 8 to Clause PV2*

## INDICES AND WEIGHTINGS FOR MATERIALS AND FUEL

## Part 1: Indices and weightings for Material Categories

In respect of the **Materials** identified below, the following proportions apply and the total of such proportions shall amount to a factor of one (1).

## Extract from Central Statistics Office Data – Table 3AWholesale Price Indices (excluding VAT) for Building and Construction Materials

|  |  |  |
| --- | --- | --- |
|  | **Weightings** | **Materials** |
| (1) |       | **Stone, sand and gravel***of which* |
| (1.1)  |       | Stone |
| (1.2)  |       | Sand and Gravel |
| (2) |       | **Cement** |
| (3) |       | **Ready Mixed Mortar and Concrete** |
| (4) |       | **Concrete Blocks and Bricks** |
| (5) |       | **Other Concrete Products***of which* |
| (5.1)  |       | Precast Concrete |
| (6) |       | **Structural Steel and Reinforcing Metal***of which* |
| (6.1)  |       | Structural Steel  |
| (6.2) |       | Fabricated Metal |
| (6.3) |       | Reinforcing Metal |
| (6.4) |       | Other Steel Products |
| (7) |       | **Rough Timber (including plain sawn)***of which* |
| (7.1)  |       | Hardwood |
| (7.2)  |       | Rough Timber |
| (8) |       | **Other Timber***of which* |
| (8.1)  |       | Windows and Doors |
| (9) |       | **Bituminous macadam, asphalt and bituminous emulsions***of which* |
| (9.1)  |       | Bituminous macadam and asphalt |
| (9.2)  |       | Bituminous emulsions |
| (10)  |       | **Electrical Fittings***of which* |
| (10.1)  |       | Lighting Equipment |
| (10.2)  |       | Protection and Communication Equipment  |
| *Sub-total* |       | *Carried forward* |

|  |  |  |
| --- | --- | --- |
|  | **Weightings** | **Materials** |
|  |       | *Brought forward* |
| (11) |       | **All other materials***of which* |
| (11.1)  |       | Plumbing Materials including Sanitary ware  |
| (11.2)  |       | HVAC (Heating and Ventilation Equipment) |
| (11.3)  |       | Insulating Materials |
| (11.4)  |       | Pipes and Fittings *of which* |
| (11.4.1) |       | PVC |
| (11.4.2) |       | Copper |
| (11.5)  |       | Plaster |
| (11.6) |       | Paints, oils and varnishes |
| (11.7)  |       | Glass |
| (11.8)  |       | All other metal fittings |
| (11.9) |       | All other products  |
| **Total** | **1.00** |  |

## Part 2: Indices and weightings for Fuel Categories

In respect of the **Fuel** identified below the following proportions apply and the total of such proportions shall amount to a factor of one (1).

## Extract from Central Statistics Office Data – Table 5Wholesale Price Indices (excluding VAT) for Energy Products (i.e. Fuels purchased by Manufacturing Industry)

|  |  |  |
| --- | --- | --- |
|  | **Weightings** | **Fuel** |
| (1) |       | Fuel Oil |
| (2) |       | Electricity |
| (3) |       | Gas |
| **Total** | **1.00** |  |

1. If the tenderer is not incorporated in Ireland, execution will be in accordance with the law of its jurisdiction of incorporation for execution in Ireland [↑](#footnote-ref-1)
2. Please refer to [www.revenue.ie](http://www.revenue.ie) for details of current rates of VAT [↑](#footnote-ref-2)
3. If not otherwise specified, read as 180 days [↑](#footnote-ref-3)
4. If an award is equal to or less than the sealed offer the Contractor is liable for the costs of both parties in relation to the arbitration proceedings. [↑](#footnote-ref-4)
5. If no percentage stated, 12 ½ % applies. [↑](#footnote-ref-5)
6. If no minimum specified, €6,500,000 applies. [↑](#footnote-ref-6)
7. If no minimum stated, €13,000,000 applies. [↑](#footnote-ref-7)
8. If no amount stated, €10,000 applies. [↑](#footnote-ref-8)
9. If no amount stated, €6,500 applies [↑](#footnote-ref-9)
10. If no amount specified, €50,000 applies. [↑](#footnote-ref-10)
11. If no percentage stated, 10% applies. [↑](#footnote-ref-11)
12. If no percentage stated, 5% applies. [↑](#footnote-ref-12)
13. If no period stated, one year applies. [↑](#footnote-ref-13)
14. If none stated, no minimum applies. [↑](#footnote-ref-14)
15. If no percentage stated, 10% applies. [↑](#footnote-ref-15)
16. If left blank the default is The President, Engineers Ireland [↑](#footnote-ref-16)
17. If left blank the default is The President, Engineers Ireland [↑](#footnote-ref-17)
18. An agent in the State must be named if the Contractor’s registered office or other principal place of business is outside the State. [↑](#footnote-ref-18)
19. Tenderers must name a guarantor if parent company has been identified for purposes of suitability assessment. If none named, no parent company guarantee required. [↑](#footnote-ref-19)