



## **SCHEDULE OF SERVICES – LOT C1a EMPLOYER’S AGENT**

Note: Employer’s Agent also means the terms Client Representative, Contract Administrator or Lead Consultant.

### **Specific Requirements**

The project specific services required, which are in addition to the overarching ICN Framework terms and general terms as stated, include: -

To perform all duties expected of an Employer’s Agent pertaining to a project procured using one of the JCT forms of contract with ICN suite of agreements (or subsequent versions as may be issued by the JCT during the framework period) and act as the Client’s lead Consultant for the project duration.

You will be required to perform all duties usually performed by the Employer’s Agent in relation to works of this nature to the Client’s reasonable satisfaction. In particular you shall use best endeavours to ensure progress of the works are maintained to the agreed critical path programme and report to the Client regularly in accordance with all required reporting templates.

The Employer’s Agent will co-ordinate the issue of the brief (i.e. the Client’s requirements) to the Principal Contractor and support the Client in checking to ensure full compliance with the Client’s Design Brief and Key Performance Indicators.

The Client has an expectation that the Employer’s Agent will actively contribute to the creation and completion of Contract Management Plans.

The appointed practice shall demonstrate reasonable skill and care as is expected of a person deemed competent to undertake the role.

ICN is committed to Equal Opportunities, and you will be expected to uphold the spirit of this commitment in all your dealings on behalf of each ICN member.

You will perform your role so as to comply with your duties under the Construction (Design & Management) Regulations 2015 and the Building Safety Act or any replacement legislation, including the requirements of any relevant planning, Building Regulations, NHBC

or other warranty provider consent, approval or authority as deemed necessary for the project.

The Employer's Agent will provide all of but not be limited to the following services:

**Pre-Contract Services**

	<b>Description of Services</b>
1.	Liaise with the Client and Consultant team to determine the Client's initial requirements and the subsequent development of the full project brief. Attend and organise all pre-contract and design team meetings as required by the Client. Record decisions and distribute meeting minutes and actions within 7 working days of all pre-contract meetings and design team meetings.
2.	Prepare and develop order of cost estimates and cost plans as required in accordance with the RICS New Rules of Measurement (NRM). All cost estimates and cost plans to clearly state the basis of preparation, clarifications and exclusions, and list of information used in preparing the estimate or cost plan.
3.	Prepare order of cost estimates relating to outline design proposals and for the analysis of alternative forms of design and construction if required by the Client.
4.	Prepare updated cost estimates and cost plans periodically as required by the Client as detailed design information is issued by the Consultant team or Principal Contractor. Monitor and report on the cost implications of changes made during the design development stage.
5.	In collaboration with the Consultant team prepare a master programme for the pre contract and post contract phases of the works. Programme to include key project milestones and reporting dates as agreed with the Client. Update the master programme periodically as required by the Client.
6.	Assist in the preparation of scheme cost documentation to support any submission by the client to funding agencies or stakeholders.
7.	Preparation and administration of a project risk register from project inception and review at each project meeting in a form agreed with the Client.
8.	Advise the Client on any potential risks associated with the Party Wall Act 1996 and potential requirement for the Client to appoint a Party Wall Surveyor.
9.	Advise the Client on tendering procedures and contract options to achieve the project objectives based on parameters provided by the Client.
10.	Advise on suitable tenderers for the Building Contract in line with the ICN framework procedures. Prepare recommendations for the Client's approval.
11.	Coordinate with Designers and the Client to develop and obtain tender drawings in accordance with ICN framework requirements. Collate, format and finalise all tender drawings and specifications in preparation for the procurement process.
12.	Issue tender documents to the relevant ICN framework lot, respond to all queries and clarifications throughout the tender period. Organise and attend pre and post tender interviews (where required). Attend and record tender openings where required.
13.	Check, analyse and appraise tenders submitted and negotiate on behalf of the Client with the preferred Building Contractor/s as necessary. Negotiate and

	evaluate the Contract Sum with the preferred Building Contractor including detailed analysis of the Contractor's Proposals having regard to the award criteria in the ICN Framework Agreement.
14.	Analyse the Contractor's Proposals and make recommendations to the Client with respect to the detail provided and specifically any qualifications or variances from the Employer's Requirements requiring prior Client agreement. Prepare and complete the Contractor's Proposals Checklist.
15.	Provide a Value for Money / Tender Report as appropriate. Reports must include relevant cost benchmarking of the tender sum against both ICN and other non-ICN relevant and comparable schemes to demonstrate value for money. Reference to BCIS tender price inflation data is required. The Value for Money / Tender Report must, as a minimum, provide all information required for internal and external reporting as set out in the template included at Appendix 1 herein.
16.	Prepare and issue the Building Contract, including agreeing with the Principal Contractor any amendments necessary to the Employer's Requirements and the Contractor's Proposals and ensuring these changes are fully documented and agreed by the Client. Ensure all Building Contract documentation is checked for compliance prior to issue of final contracts for engrossment and dating.
17.	Complete the ICN Scheme Cost Analysis form to clarify the elemental breakdown of costs (appendix 2 but note submission is via the ICN portal).
18.	Provide general advice as necessary to assist the Client and project team in developing solutions that meet the project objectives.
19.	Coordinate, Chair and minute a formal pre-start meeting including representatives from the whole project team.

### **Post Contract Services**

	<b>Description of Services</b>
1.	Confirm possession of the site has passed to the Principal Contractor on the due date. Check and obtain evidence that all requirements of the Building Contract such as project and contractor insurances, collateral warranties, performance bonds, parent company guarantees, building guarantees, and Contractor insolvency cover are in place together with all statutory approvals. Advise the Client regarding any withholding of payments under the terms of the Building Contract due to non-provision by the Principal Contractor of information required under the contract.
2.	Co-operate with the appointed Principal Designer to ensure all Health & Safety Executive and ICN requirements under current CDM requirements are met.
3.	To convene and chair all site progress meetings [required monthly as a minimum or as otherwise agreed with the Client] and other meetings as required by scheme demands. Record decisions at meetings and distribute meeting minutes and actions within 7 working days. Obtain and distribute copies of all information and schedules / reports submitted by the Principal Contractor within their Contractor's Report.
4.	Carry out regular inspection of the works to see that progress generally is being maintained [note: supervisory inspection (Clerk of Works) duties are excluded]. Fortnightly attendance on site is required as a minimum and one of these visits

	must not be the monthly site meeting or for the periodic valuation of the works.
5.	Agree and co-ordinate with the Contractor and Client a system for issue and approval of all required construction drawings and documentation (Contractor's Design Submission Procedure). Ensure all project information and Contractor request for information (RFI's) are issued promptly and allow appropriate timescales for approval by the Client in accordance with the Building Contract. Provide a Monthly Progress Report to the Client on an agreed date which includes all required information for internal and external Client reporting. The Monthly Progress Report must as a minimum provide the information as set out in the template included at Appendix 3 herein.
6.	Coordinate the preparation of Information Required Schedules identifying dates for issue of design information requiring Client input and approval. Review all products and negotiate on the Client's behalf as required to achieve the Employer's Requirements.
7.	To undertake periodic valuations of the works as required by the Building Contract and agree with the Contractor the amount due for payment to the Contractor under the Contract and retentions to be withheld and certify and issue all required Payment Notices. Advise the Client in respect of any withholding of sums applicable under the contract, including liquidated and ascertained damages, and the issue of any appropriate Pay Less Notices with required timescales and Contract Procedures.
8.	Consult with the Client prior to certifying and instructing contract variations providing information relating to the financial and programme implications of the change. Issue all Employer's Instructions as necessary and within the required timescales of the contract.
9.	To provide with the Monthly Progress Report, for single tenure schemes, an original and revised monthly nett cashflow forecast for the project based on the agreed contract sum and contract programme. The cashflow forecast is to be provided in a format as set out in Appendix 3 and must include build costs split between works and fees (contractor on-costs).
10.	To provide with the Monthly Progress Report, for multi tenure schemes [upon request], an original and revised monthly nett cashflow forecast for the project based on the agreed contract sum and contract programme. The cashflow forecast is <u>to be split by tenure based on a calculation of actual build costs for each tenure</u> and, for each tenure provided in a format as set out in Appendix 3 including costs split between works and fees (contractor on-costs).
11.	Consider all claims made by the Principal Contractor for extensions of time and/or loss and expense under the terms of the contract (and with reference to ICN Framework contract amendments). Advise the Client in respect of the contractual position and prepare an Extension of Time report including information as set out in the template included at Appendix 4 herein as required by the Client.
12.	To agree with the Client / Clerk of Works the required timescales for snagging of works and standards for accepting completion of all properties and attend any relevant mock up inspections and benchmark snagging.
13.	Check the Contractor complies with all procedural and notice periods as stated in the Employer's Requirements and provides notification of handover dates to the

	Client (i.e., 28-day notice of programmed NHBC/LABC certification dates).
14.	Provide and prepare signed schedules confirming the receipt of all reports, certificates and contract documentation required at Practical Completion (including key schedules, meter readings and references, Home User Guides). Check that all handover information has been submitted in the required format to the Client. Check that all information has been uploaded electronically by the Contractor to the Client's Information Management System (as required).
15.	Co-ordinate and attend completion meetings (including phased completions and agreement with the Contractor to take Partial Possession of the site or buildings). Issue the Practical Completion Statement or Partial Possession as required including compilation of any outstanding snagging defects at completion.
16.	Negotiate and agree the Final Statement submitted by the Contractor or prepare and issue the Employer's Final Statement as required under the terms of the contract and report to the Client accordingly.
17.	Monitor the making good of defects by the Principal Contractor in accordance with the Building Contract throughout the Rectification Period. Advise on the process for arranging direct rectification by the Client and withholding of retention monies under the contract if required due to the non-performance by the Contractor under the terms of the Contract. If direct rectification of defects is required by the Client, assess, and advise on the third-party Contractor costs to safeguard value for money.
18.	At the end of the Rectification Period, attend end of defects inspections with the Client, Clerk of Works, and Contractor (access to all properties to be arranged in advance by the Client). Assist the Client / Clerk of Works in carrying out inspections as required. Following the inspections, the Employer's Agent is to obtain the notes or list of items from the inspection from the Client / Clerk of Works. The Employer's Agent is to then format and type up the final schedule of defects and formally issue the schedule(s) to the Principal Contractor. The Employer's Agent must keep a record of all schedules of defects issued to the Contractor following final inspections for a minimum period of 12 months after the end of the Rectification Period together with confirmation from the Client of any properties where access was unable to be obtained by the Client to prepare a schedule of defects for the Principal Contractor.
19.	Issue the Notice of Completion of Making Good and certify the final valuation and release of retentions.
20.	Chair a post completion project workshop with the Client and Principal Contractor for the purpose of continuous learning and improvement in line with ICN's aims and objectives. Ensure relevant KPI data is provided as required.

This appointment is being executed as a deed. Documentation and guidance relating to matters arising from the Building Contract may be sought for the full term of the deed.



## **Appendix 1**

### **Value for Money (VFM) / Tender Report –Standard Template**

The Consultant's Tender / VFM Report should cover the following matters as required for issue to for the Client for approval (amended to suit the project):

#### **CONTENTS**

##### **1) Introduction**

- Project background
- Name of Contractor / Architect / Engineer / Principal Designer (full directory not required)
- Summary details of the scheme including mix and tenure
- Summary of selected procurement route (negotiated or tender)

##### **2) Key Contract Information**

- Form of Contract
- Contract period
- Date of possession
- Date for completion
- Liquidated and Ascertained Damages / week
- Insurance of Works
- Payment periods
- Rectification Period
- Performance Bond, Parent Company Guarantee Contractor Insolvency cover provision
- Building Warranty provider
- Retentions

##### **3) Tendering procedure**

To include commentary on

- Tender list
- Tender documentation issued / survey information
- Basis of tenders issued and procurement route (inc details of negotiated routes on/off framework)
- Submission date / tender valid until date

- PD appointment / principal contractor competency / F10 status

#### 4) Current Tendering Climate.

- Commentary on recent tenders, BCIS inflation forecast etc

#### 5) Evaluation of tender offer

Detailed analysis of tender costs including comments on:

- Contractor's tender sum analysis
- Process of negotiations where required
- Comparison with estimate / cost plan / budget
- Value for money including commentary and data on:
  - Costs per unit and £/m<sup>2</sup>
  - Distribution of costs by element %
  - Benchmarking analysis against ICN schemes and other relevant and comparable cost data available (i.e. BCIS index, other RP projects)
  - Provisional Sums
  - Preliminaries costs / OH&P / fees and charges
  - Summary / commentary on abnormal cost elements
- Comparison with budget cost plan / pre-tender estimate
- Tender qualifications / clarifications and client risks

Build Cost	£/m <sup>2</sup>
This scheme construction cost/m <sup>2</sup> (excluding site abnormals)	
This scheme abnormal costs /m <sup>2</sup>	
For non-Framework contractors: ICN average tender/m <sup>2</sup> for equivalent lot.	
For Framework contractors: This contractor's ICN tender/m <sup>2</sup> (excluding site abnormals)	

#### 6) Tender Offer

To include:

- Split of Construction/Contractor On-costs to comply with Homes England(HE) cost reporting requirements. A copy of the following table populated with the breakdown of Total Works Costs to be included with the Tender / VFM Report.

*NB: If for a mixed tenure scheme contractors tender costs are split by tenure or HE grant is to be claimed in phases the consultant is to agree approach to split of costs for reporting with the Client.*

IMS Capital Cost Element	Houses (Rental)	House (Shared Ownership)	Apartments (Rental)	Apartments (Shared Ownership)	Total
	£	£	£	£	£
<b><u>Main works costs</u></b>					
Superstructure					
Substructure					
<b><u>Supplementary works costs</u></b>					
Facilitating works					
Finishes					
Fittings, furnishings and equipment					
Services					
Prefabricated Buildings and building units					
Works to existing building					
External works					
<b><u>Associated Works Costs</u></b>					
Main Contractor's Preliminaries					
Main Contractor's Overheads					
Main Contractor's Profit					
Risk (Client contingencies)					
<b><u>On Costs*</u></b>					
Contractors Project/Design Team Fees					
<b>Total Works Costs (A)</b>					
Other development / Project costs (excluding land acquisition) (B)	Client to include				
<b>Total Scheme Costs (TSC) (A+B)</b>					

*\*Contractor On-Costs: The HE definition of Contractor on cost items to be split from the works costs element are:*

- *Consultant design fees (where incurred by the contractor under the contract)*



- *Legal fees, disbursements, and expenses*
- *Fees for building control and planning permission*
- *Fees and charges associated with the Agency's requirements relating to the energy rating of dwellings*
- *In-house or external consultant fees, disbursement, and expenses (where incurred by the contractor under a D&B contract)*
- *Insurance premiums including building warranty and defects / liability insurance (except contract insurance included in the works costs)*
- *Contract performance bond premiums*

## **7) Tender Compliance**

To include commentary on:

- Contractors Proposals (detail of compliance with Employer's Requirements)
- Confirmation via architect/contractor the scheme complies with all client design standards a
- Homes England Capital Costs Business Rules Compliance

<b>HE Business Rule</b>	<b>Actual % &amp; comments on variation</b>
(2) Main works costs are expected to be at least 60% of the total works costs	
(3) The combined costs for infrastructure, abnormals & S.106 costs are not expected to be more than 30% of the total works costs	
(4) Associated works costs are not expected to be greater than 20% of the total works cost	

- Comments on any areas of non-compliance
- Contractor's Proposals Checklist

## **8) Summary and Recommendations**

To include:

- Recommendations for acceptance based on the agreed contract sum representing good value for money
- Accepted Contract Sum
- Identified client risks

### **Documents to be attached to report as appendices:**

- Contract Sum Analysis
- Contractor's Proposals Checklist

### ***Report to be Signed and Dated by Consultant***


**NB:**

*The above template is for guidance only and represents the minimum information required in a consultants' Tender Report / Value for Money Report (on negotiated acquisition). It is*

*not intended to be exhaustive and will be dependent on the complexity of individual projects and information requirements required by the Client.*

## Appendix 2

### Scheme Cost Analysis Form

					
<b>Comments</b>					
<b>Scheme Name</b>					
<b>Lot</b>					
<b>ICN Client</b>					
<b>Scheme Type</b>	eg Affordable housing; Extra care				
<b>Employers Agent</b>					
<b>Architect</b>					
<b>Engineer</b>					
<b>PD</b>					
<b>Contractor</b>					
<b>Newbuild/Refurb</b>					
<b>Form of construction</b>					
<b>Any specialist requirements</b>	eg Passivhaus, commercial unit				
<b>Tender Type</b>					
<b>Estimated Start on Site Date</b>					
<b>Contract period (no. of wks)</b>					
<b>House Type</b>					
		<b>Tenure</b>	<b>No. of Units</b>	<b>Mt2/unit</b>	<b>Total Mt2</b>
eg 1b 2p flats					0
1b 2p bungalows					0
2b 4p house					0
					0
					0
					0
					0
					0
					0
					0
<b>Totals</b>			<b>0</b>		<b>0</b>
<b>Cost Analysis</b>					
	<b>£</b>	<b>£Mt2</b>	<b>%</b>		
Preliminaries					
Substructure					
Superstructure					
Plot External Works					
Site External Works					
Drainage					
Provisional Sums					
S/O & Outright Sale spec					
Design Fees					
Others					
Abnormals Inc. site clearance					
Overheads & Profit					
	<b>£</b>	-	<b>£</b>	-	<b>0.00%</b>
<b>Completed by</b>					
<b>Date</b>					



## Appendix 3

### Monthly Progress Report and Cashflow Forecast – Standard Template

The following information / report are to be provided by the Employer's Agent and submitted with the updated Cashflow Forecast with each monthly Notice of Payment.

#### CONTENTS

##### 1) Contract Details

- Scheme Name
- Contractor
- Employer
- Form of Contract
- Contract Sum
- L&A Damages (£p/week)
- Contract Date of Possession
- Contract Completion Date
- Contact Period
- Extension of Time granted
- Revised Contract Completion Date
- Forecast Completion Date

##### 2) Contract Progress Report

- Works Progress versus Contract Programme
- Original vs current cashflow
- Extensions of Time granted / submitted
- Key Risks to Progress / Completion
- 28 day notices due / issued for handover
- Partial Possession of units / phased handover dates
- Other relevant matters from the Contractor's Report
- Information required

**Programme Status:** [GREEN = no change to contract PC date]  
[1 - 4 weeks delay to Forecast PC date]  
[5+ weeks delay to Forecast PC date]

[AMBER =  
[RED = 5+

### 3) Monthly Financial Statement

#### Valuations:

- Date of Latest Valuation
- Valuation Number
- Contract Sum:
  
- Gross value of work certified to date: £.....
- Anticipated Final Account: £.....
- Remaining balance due to certify: £.....

#### A. Financial Summary

Contract Sum			£.....
	Add	Omit	
Employer's Agent Instructions	£.....	£.....	
Anticipated Instructions	£.....	£.....	
Adjustment of Provisional Sums	£.....	£.....	
Other / loss and expense	£.....	£.....	

**Anticipated Final Account** £.....

*Anticipated Variance to Contract Sum (£)* £.....  
*Anticipated Variance to Contract Sum (%)* .....%

*Financial Status:*     **[GREEN = no variance to Contract Sum]**  
                              **[AMBER = <3% variance to Contract Sum]**  
                              **[RED = >3% variance to Contract Sum]**

#### B. Employer's Agent Instructions

Schedule of Employer's Agent Instructions / Costs – c/f to Summary

#### C. Anticipated Variations

Schedule of Anticipated Variations / Estimated Costs – c/f to Summary

#### D. Adjustment of Provisional Sums

Schedule of Adjustment to Provisional Sums – c/f to Summary

### **Appendices to the Monthly Progress Report**

A. Latest Notice of Payment

B. Monthly Nett Cashflow Forecast – [refer to template]

**Requirements each month for project reporting:**

- a. Updated nett monthly cashflow forecast split by Works and Contractor on-costs (and tenure if relevant)*
- b. Variance between original vs current nett monthly cashflow forecast*

We certify that no variations have been authorised to date without the knowledge and written approval of the Client.

Signed and Dated: .....



## Appendix 4

### Extension of Time Claim Report – Standard Template

1. **Scheme Name**
2. **Project Team**
3. **Scheme Background**
4. **Contract Data**
  - a. Contract Commencement Date
  - b. Contract Completion Date
  - c. Contract Period
  - d. Contract Liquidated and Ascertained Damages
  - e. Sectional Completion
5. **Extension of Time Claim**
  - a. Date Notified of Delay
  - b. Extension of Time Requested (weeks)
  - c. Forecast revised completion date
6. **Contractual Position (Relevant Events, Contract Clause 2.26)**
  - 2.26.1 - *Changes to the works*
  - 2.26.2 - *Employer's instructions*
  - 2.26.3 - *Deferment of possession*
  - 2.26.4 - *Antiquities*
  - 2.26.5 - *Suspension by the Contractor*
  - 2.26.6 - *Default by Employer*
  - 2.26.7 - *Statutory Undertaker's non-performance*
  - 2.26.8 - *Exceptionally adverse weather*
  - 2.26.9 - *Specified Perils*
  - 2.26.10 - *Terrorism*
  - 2.26.11 - *Strikes*
  - 2.26.12 - *Statutory powers after the Base Date*
  - 2.26.13 - *Delay in receipt of permission or approval of statutory body*
  - 2.26.14 - *Force majeure*

- 7. Substantiation of Extension of Time Claim**
- 8. Other Causes of Delay (Non-Relevant Events) i.e.**
  - a. Discharge of Planning Conditions
  - b. Shortage of Labour Resources / Building Materials
- 9. Effect of Delays / Mitigation**
- 10. Loss and Expense Entitlement**
  - a. Relevant Matters, Clause 4.21
- 11. Extension of Time Recommendation**
- 12. Liquidated and Ascertained Damages entitled to be Charged**