Lots 1 to 3 (P23)

Schedule 05A: A. Scheme Agreement & Project Letter of Instruction

This schedule 05A: A is used on Lots 1 to 3 (P23) as detailed in Schedule 05



## Introduction

* 1. The flow chart below illustrates the steps in formulating the P23 scheme and project contract documentation following a call-off under. The Template Scheme agreement (step 2) and project letter of instruction (PLOI) and PSCP acknowledgement of the PLOI (step 4) are included in this document.

1

Client through further competition or direct award identifies the PSCP in accordance with Framework Schedule 4A.

2

The PSCP Scheme appointment is confirmed by exchange and execution of Scheme Form of Agreement (FWK schedule 05A: A) by the PSCP and Client (may not apply if using direct award)

3

Optional - Client issues Project Letter Of Instruction (FWK schedule 05A: A) and PSCP signs and return. This permits work to commence prior to step 4 or Client can go straight to stage 4.

4

NEC4 Project Agreement Templates are prepared and executed by both parties for the initial project design stage. (Template 1 Section A). Urgent projects may not have seperate design stages.

## Scheme Agreement

**Guidance Note:**

1. Complete entries highlighted in grey shading/boxes.
2. To be completed on Client letterheaded paper.
3. Except in relation to direct award, this Scheme Agreement is to be completed and engrossed by the Parties prior to the Client issuing any Project Letter of Instruction or entering into any Project Agreement.

|  |  |
| --- | --- |
| **Scheme Name** |  |
| **Client** |  |

**Scheme Agreement - P23 Framework Agreement LOT XX**

**THIS AGREEMENT** is made on 20[]

**Between:**

1. XXXXXXXX (the *Client*, which expression shall include its successors in title and assignees); and
2. XXXXXXXX incorporated and registered in XXXXXXXX with company number XXXXXXXX whose registered office is at XXXXXXXX (the *Contractor*)

Whereas:

* the *Client* wishes to have provided within the Scheme such works as may be initiated by a Project Letter of Instruction or Project Agreement issued by the *Client* and accepted by the Contractor.
* the Parties enter into this overarching Scheme Agreement comprising management and delivery of the Design and Construction Services for the said Projects within the Scheme.

**NOW IT IS AGREED THAT:**

1. This Agreement applies to the period in each Project until such time as the Project Agreement is signed between the Parties.
2. The *Contractor* provides the Works in accordance with the Scheme Agreement entered into under the CWAS2/P23 Framework Alliance Contract (P23 FA).
3. For avoidance of doubt this Scheme Agreement comprises all or any of the Projects to be undertaken solely within the Scheme which are to be initiated by a Project Letter of Instruction or Project Agreement for work to be undertaken as detailed in the Call off Process Client Invitation To Tender Brief.
4. On receipt of a Project Letter of Instruction issued by the *Client* the *Contractor* consults and collaborates with the *Project Manager* establishing resources, scope, programme and other requirements complying with the relevant terms and processes within the P23 FA and the relevant form of NEC4 Project Agreement Template sufficient to deliver the required outcome for the Stage at which the Project development is to commence. The *Contractor*, having agreed with the *Project Manager* the resources necessary for commencement of a Project, submits to the *Client* the completed P23 Template Project Entry Form of Proposal for acceptance pending execution of the Project Agreement for the instructed Project.
5. Alternatively, projects can be initiated by execution of a Project Agreement where requirement in relation to resources, scope, programme and other requirements have been agreed as part of the call-off process.
6. All work undertaken by the *Contractor* in association with this Scheme is to be carried out in accordance with the relevant terms and conditions of the P23 FA (which incorporates the conditions and processes in the NEC4 Project Agreement Templates).
7. The documents forming this Scheme Agreement are:
   1. The *Client’s* Invitation to Tender Brief,
   2. The *Contractor’s* tender
   3. The relevant terms and conditions of the Project Agreement
   4. Other documents to be listed here below;

This Agreement is executed as a deed and delivered on the date stated at the beginning of this Agreement.

|  |  |
| --- | --- |
| Executed as a Deed for and on behalf of the *Client* as follows: | |
| Authorised Official (signature) | Full Name |
|  |  |
| Address: | |
|  | |
| Authorised Official (signature) | Full Name |
|  |  |
| Address: | |
|  | |
| Executed as a Deed for and on behalf of the *Contractor* as follows: | |
| Authorised Official (signature) | Full Name |
|  |  |
| Address: | |
|  | |
| Authorised Official (signature) | Full Name |
|  |  |
| Address: | |
|  | |

## Project Letter of Instruction

|  |
| --- |
| **Guidance Note**   1. Optional Pro forma Project Letter of Instruction (PLOI) to be issued to a PSCP by the Client to initiate a project. Clients may proceed directly to entering into the NEC 4 Project Agreement without using a PLOI. 2. Issue on Client letterheaded paper. 3. Complete entries or choose between options highlighted in grey shading/boxes. 4. The letter may need amending to reflect the call-off process used. |
| Insert *Client* Name and Address (the "**Client**") |
| Insert *Contractor* Name and Address |
| Date: Insert date |
| Reference: Insert reference |

Dear (Insert Name)

|  |  |
| --- | --- |
| **Name of Scheme** |  |
| **Name of Project** |  |
| **Form of Contract** | **NEC4 Engineering and Construction Contract [Option A Priced Contract with Activity Schedule] OR [Option C Target Contract with Activity Schedule] OR [Short Form of Contract** |
| **P23 Framework Lot** |  |

Further to your acceptance of appointment to the above Scheme and our meeting on [insert date] at [insert place] please accept this letter as instruction to submit a Stage Proposal for design, construction and handover services for the above named Project **or** alternative wording where the proposal formed part of the *Contractor* tender (the **“Project Letter of Instruction”**).

The services are;

[Insert brief description of the scope of work for the Project].

The Affordability Amount for the Project within the Scheme, to be entered in the Project Agreement Contract Data Part One – Data provided by the *Client* is:

[£…………………………… Words …………… (excluding VAT)]

The Project Affordability Amount Cost Plan is included with this Project Letter of Instruction. The *Contractor* is to review the Project Affordability Amount as required by the Scope and report to the *Project Manager* on its viability within (XX) weeks of acceptance of this Project Letter of Instruction.

OR

The *Contractor* provides an estimate of the Project Affordability Amount to the *Project Manager* within (XX) weeks of acceptance of this Project Letter of Instruction.

All work undertaken by the *Contractor* in association with this Project and under this Project Letter of Instruction is to be carried out in accordance with the relevant terms and conditions of the ProCure2020 Framework Agreement (the “P23 FA”) from commencement of work associated with this instruction. This also includes the Project Agreement provisions and processes as relevant to each Stage of the Project both before and after the Project Agreement is entered into.

**Project Initiation Process**

1. Preparatory work is to be undertaken in establishing the scope, resources and programme to support your P23 Entry Form of Proposal for the Project [Name of Project] and submission for our acceptance pending the execution of the Project Agreement pursuant to this instruction. **Or** Preparatory work to [insert wording where the *Contractor* appointment is to be as per the *Contractor* tender detailing the necessary preparatory work to mobilise the project]
2. For the purposes of paragraph 1 above, you are not authorised to commence the preparatory work until the Project pre-start meeting has been held.
3. The limit of authorised expenditure by the *Contractor* [including Fee] as per the terms of the Project Agreement in the period prior to submission of the *Contractor’s* Stage Proposal and/or execution of the Project Agreement by the *Client* and the *Contractor* for this Project is:

[£…………………………………. Words ……………(excluding VAT)]

**(**the **"Maximum Amount")**

1. No payments will be made that exceed the Maximum Amount prior to the signing of the Project Agreement for each Project by the Parties except where agreed otherwise in writing prior to incurring the additional expenditure.
2. The period for providing the preparatory work and entering into the Project Agreement between the Parties is [Insert number of weeks] whereupon this Project Letter of Instruction will expire except where agreed otherwise in writing.
3. We confirm your entry into the Project at [Stage 1] [Stage 2] [Stage 3]
4. The pre-start meeting for the Project is to be arranged/has been arranged for:-

[Insert date and time] at [Insert location]

1. In the meantime, the *Project Manager* with whom you may communicate on any matter concerning the Project is.

[Insert name, address, telephone number, email address],

1. The *Project Manager* named above is the only person authorised to give instructions in accordance with this appointment on behalf of the *Client*.
2. The *Contractor* and their supply chain are to embrace the benefits of StandardShare (P23 FA Schedule 12) by their inclusion into the design as it is developed for the Project.
3. The *Contractor* and their Supply Chain are to embrace the benefits of ProjectShare (P23 FA Schedule 12) by the utilisation of information from other Projects in the design as it is developed for the Project.
4. For the purposes of paragraph 5 above, you are not authorised to commence the preparatory work until your copy letter confirming acceptance of this Project Letter of Instruction has been received at the above address and acknowledged by the *Client*.

We look forward to a successful working relationship and if you have any queries please do not hesitate to contact [\*me/\*the undersigned/\*other stated person].

Yours sincerely

Sign and insert name

Client authorised signatory

## PSCP Letter of Acceptance of Client PLOI

**Guidance Notes:**

1. Complete on PSCP letterheaded paper.
2. Complete entries or choose between options highlighted in grey shading/boxes.

To

Insert *Client* (Client) Name and Address

Date: XXXXX

Reference: XXXXX

Dear Sirs,

|  |  |
| --- | --- |
| **Name of Scheme** |  |
| **Name of Project** |  |
| **Form of Contract** | **NEC4 Engineering and Construction Contract [Option A Priced Contract with Activity Schedule] OR [Option C Target Contract with Activity Schedule] OR [Short Form of Contract** |
| **P23 Framework Lot** |  |

I/We confirm acceptance of the instruction [insert date of PLOI] and will liaise with the *Project Manager* regarding any information he may require for the Project Pre start meeting.

Yours faithfully,

Sign and insert name

Contractor Authorised signatory

This information can be made available in alternative formats, such as easy read or large print, and may be available in alternative languages, upon request. Please contact [nhsi.procureconstruction@nhs.net](about:blank)

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