

SCHEDULE 2

DESIGN AND CONSTRUCTION PROTOCOLS

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SCHEDULE 2

DESIGN AND CONSTRUCTION PROTOCOLS

1. PARTIES' DESIGN AND CONSTRUCTION REPRESENTATIVES

1.1 Appointment of Representatives

Both parties will, within 5 Business Days of the Effective Date, designate in writing, a person (the "**Design and Construction Representative**") to be the party's single point of contact with respect to the Design and Construction. A party's Design and Construction Representative may or may not be a Key Individual. Except as otherwise set out in this Agreement, all costs or expenses incurred by, or with respect to, a party's Design and Construction Representative will be for the account of that party.

1.2 Replacement

Subject to Section 2.8 [Key Individuals] of this Agreement in respect of Key Individuals, a party may at any time and in its own discretion by notice to the other party change the person appointed as the party's Design and Construction Representative. If for any reason a party's Design and Construction Representative is unable or unwilling to continue then the party will immediately appoint a replacement Representative. If at any time a party objects to a Representative of the other party then the other party will give reasonable consideration to replacing the Representative with a person reasonably acceptable to the objecting party.

1.3 Authority of Representatives

A party's Design and Construction Representative will have full authority to act on behalf of and bind the party with respect to Design and Construction under this Agreement, including giving any review, acceptance, approval or confirmations which may be given by the Authority. Notwithstanding the above, a party's Design and Construction Representative will not have the authority to execute or agree to any amendments or to give any waivers of this Agreement.

1.4 Review Procedure

The parties will comply with Appendix 2B [Review Procedure].

1.5 Authority Not Responsible for Design or Construction

The Authority's rights of review, acceptance, approval or confirmation of compliance with respect to any aspect of the Design or the Construction, including pursuant to Appendix 2B [Review Procedure], will be for the Authority's benefit only, and no review, acceptance, approval or confirmation of compliance by the Authority's Design and Construction Representative or any other representative of the Authority will in any way relieve Project Co of its obligation for all aspects of the Design and Construction of the New Infrastructure and the Upgraded Infrastructure, except as may be expressly set out in this Agreement.

1.6 Project Co's Additional Observer

Project Co may, at its discretion, designate in writing an additional person (the "**Project Co's Additional Observer**") who may participate in Design and Construction as follows:

- (a) Project Co's Additional Observer will be permitted to participate in, observe and be fully informed on all aspects of the Design and Construction, including:
 - (1) accompanying Project Co's Design and Construction Representative to any Design and Construction meeting with the right to speak and be heard at such meeting (including for illustration the meetings described in Section 5.21 [Project Meetings] of this Schedule;
 - (2) participating in the inspections and discussions relating to the issuance of the Certificate of Service Commencement described in Section 12.3 [Application for Certificate of Service Commencement] of this Schedule; and
 - (3) participating in the inspections to identify Deficiencies as described in Section 12.1 [Deficiency List] of this Schedule;
- (b) the appointment of Project Co's Additional Observer will not amend or alter the authority of Project Co's Design and Construction Representative as provided by this Agreement;
- (c) Project Co may, from time to time, give notice to change the person who is Project Co's Additional Observer but at any one time there may not be more than one person who is Project Co's Additional Observer;
- (d) the Authority will co-operate to facilitate the participation of Project Co's Additional Observer, including copying Project Co's Additional Observer on notices and written communications that it issues to Project Co's Design and Construction Representative and inviting Project Co's Additional Observer to all meetings held between the Authority and Project Co's Design and Construction Representative; and
- (e) all costs and expenses incurred by, or with respect to, Project Co's Additional Observer will be for the account of Project Co.

1.7 Construction Period Committee

- (a) Not less than 20 Business Days after the Effective Date, the Authority and Project Co will establish, and will maintain until Service Commencement, a joint liaison committee (the "**Construction Period Joint Committee**") consisting of the Design and Construction Representatives and such other members as the parties may agree from time to time.
- (b) The purpose of the Construction Period Joint Committee is to provide a formal forum for the parties to consult and cooperate in all matters relating to the Facility during the Construction Period and any member appointed to the Construction Period Joint Committee will not have any duties or obligations arising out of such appointment

independent of such member's duties or obligations to the party making such appointment.

- (c) The Construction Period Joint Committee:
- (1) will only have the authority as expressly delegated to it by the Authority and Project Co, and both parties will give reasonable consideration to delegating appropriate authority to permit efficient decision making with respect to the Facility;
 - (2) may strike, establish terms of reference for, delegate authority and appoint members having the necessary experience and qualifications, to such sub-committees as the Construction Period Joint Committee may determine are necessary from time to time and all such sub-committees will report to the Construction Period Joint Committee;
 - (3) will establish protocols and procedures for undertaking the tasks and responsibilities delegated to it, including a co-operative and consultative process to review all documentation submitted to it in relation to the Design and Construction;
 - (4) may make recommendations to the parties on all matters relating to the Facility, which the parties may accept or reject in their complete discretion; and
 - (5) will have no authority to agree to any amendments or to give any waivers of this Agreement.
- (d) Subject to the provisions of this Agreement, the members of the Construction Period Joint Committee may adopt such procedures and practices for the conduct of the activities of the Construction Period Joint Committee as they consider appropriate from time to time and:
- (1) may invite to any meeting of the Construction Period Joint Committee such other (non-voting) persons as a member may decide; and
 - (2) receive and review a report from any person agreed by the members of the Construction Period Joint Committee.
- (e) The Construction Period Joint Committee will meet at least once each month at a location provided by Project Co at or near the Site (unless otherwise agreed by its members) and from time to time as necessary. If any member of the Construction Period Joint Committee requests an additional meeting, the parties will act reasonably in accommodating this request. Meetings of the Construction Period Joint Committee will be convened on not less than 10 Business Days' notice (which will also identify the agenda items to be discussed at the meeting) provided that in an emergency a meeting may be called at any time on such notice as may be reasonable in the circumstances. The Construction Period Joint Committee will be chaired by a representative of the Authority unless the Authority requires that a representative of Project Co chair the

Construction Period Joint Committee. The Project Co Design and Construction Representative may attend meetings other than the regular monthly meeting by conference call.

- (f) The Authority will keep minutes of all recommendations and meetings of the Construction Period Joint Committee and circulate such minutes to Project Co within five Business Days of the making of the recommendation or the holding of the meeting.

2. INDEPENDENT CERTIFIER

2.1 Appointment

The parties will cooperate to jointly appoint a person (or firm of persons) (the “**Independent Certifier**”), who is:

- (a) qualified and experienced with respect to the design and construction of projects in British Columbia similar to the Project, and
- (b) independent from both the Authority and Project Co (and who will be impartial to the parties),

to provide certification services for the benefit of the parties during the Construction Period. The parties will enter into an agreement with the Independent Certifier on the terms generally as set out in Appendix 2A [Independent Certifier Agreement]. The parties confirm that Project Co may also appoint the Independent Certifier to provide certification services in respect of the Design-Build Agreement.

2.2 Appointment and Replacement

If, within 20 Business Days of the Effective Date, the Independent Certifier has not been appointed, or if for any reason during the Construction Period the Independent Certifier is unable or unwilling to continue to perform the Independent Certifier services or if the Independent Certifier’s appointment has been terminated by the Authority and Project Co, then:

- (a) within 5 Business Days of the date that is 20 Business Days after the Effective Date (or within five Business Days of the date of termination of the Independent Certifier’s appointment, if applicable), Project Co will provide the names of 3 candidates acceptable to Project Co for consideration by the Authority;
- (b) within 10 Business Days of receiving the candidate names, the Authority will notify Project Co of the candidates acceptable to the Authority, and the parties will cooperate to enter into a contract with an acceptable candidate generally in the form set out in Appendix 2A [Independent Certifier Agreement]; and
- (c) if none of the candidates are acceptable to the Authority, acting reasonably, or if for any reason an Independent Certifier is not appointed within 40 Business Days of the Effective Date (or within 20 Business Days of the date of termination of the Independent Certifier’s appointment, if applicable), then either party may immediately apply to the British Columbia International Commercial Arbitration Centre for the selection of an Independent

Certifier, providing the other party the opportunity to participate in the selection and appointment process. The person appointed by the British Columbia International Commercial Arbitration Centre to act as Independent Certifier will at a minimum:

- (1) have commercial dispute resolution experience;
- (2) be qualified and experienced with respect to the design and construction of projects in British Columbia similar to the Project;
- (3) be independent from both the Authority and Project Co (and impartial to the parties); and
- (4) have such other training, qualifications and experience as may be considered relevant in the circumstances.

2.3 Monthly Review and Report

The parties will require the Independent Certifier to:

- (a) consult with the Design-Builder and others involved in the Design; and
- (b) conduct reviews of the Construction,

as the Independent Certifier determines is required to be generally satisfied that the Design and Construction are proceeding in accordance with the requirements of this Agreement, and, no later than the 10th day of each month, prepare and deliver to the Authority and Project Co a monthly written report containing a description of:

- (c) the Design and Construction completed in the previous month;
- (d) the progress of the Design and Construction relative to the Updated Project Schedule, with an explanation and analysis of any variances; and
- (e) any elements of the Facility that for any reason vary from the requirements of this Agreement, with particular reference to this Schedule and Schedule 3 [Design and Construction Specifications].

2.4 Payment Certificates

As contemplated in Appendix 8B [Construction Period Payments], the parties will require the Independent Certifier to, promptly after the end of each month in the Construction Period, but in any event on or before the fifth Business Day of the month, and promptly upon request by Project Co in relation to a payment under Section 2 [Invoicing and Payment] of Appendix 8B [Construction Period Payments], prepare and deliver to the Authority and Project Co a certificate certifying the Cost to Date.

2.5 Application for Certificate of Service Commencement

The parties will require the Independent Certifier to perform the obligations of the Independent Certifier described in Section 12 [Completion] of this Schedule.

2.6 Permitted Access

Project Co will give the Independent Certifier access to the Design and Construction work as the Independent Certifier reasonably requests in order to be fully informed as to the progress of the Design and Construction, including:

- (a) access to drawings, specifications, schedules, records, and other documents or data relating to the Design and Construction, including such information that is being produced by or in the possession of the Design Builder or others; and
- (b) access to the Site,

and Project Co will:

- (c) permit the Independent Certifier to attend all Design meetings and, during Construction, all Construction meetings, except to the extent Project Co and the Authority expressly otherwise agree; and
- (d) keep the Independent Certifier fully informed as to the progress of the Construction, including giving notice in accordance with Good Industry Practice of any part of the work on the Facility before it becomes covered up and unavailable for review.

2.7 No Responsibility for Design or Construction

Nothing in this Agreement (including this Schedule) will be interpreted as giving the Independent Certifier any responsibility or authority for any aspect of the Design or the Construction, or as relieving Project Co of its responsibility for the Design and Construction as set out in this Agreement, and neither Project Co nor the Design-Builder nor any Sub-Contractor will be entitled to rely on any review, acceptance, approval or confirmation that the Independent Certifier may give with respect to Design or Construction.

3. PROJECT CO'S RESPONSIBILITIES

3.1 Design/Build Responsibility

Notwithstanding any other provision of this Agreement, Project Co will:

- (a) have complete responsibility for the Design and Construction of the New Infrastructure and the Upgraded Infrastructure;
- (b) perform and complete the Design and Construction:
 - (1) in accordance with all terms of this Agreement including the terms of this Schedule and the Design and Construction Specifications;
 - (2) so as to provide a new pre-trial facility that, at Service Commencement:
 - (A) is complete and operational and fit for the Intended Uses;

- (B) will permit Project Co to provide the Services in accordance with the requirements of this Agreement;
 - (C) is fully integrated with the Existing Facility and the Upgraded Infrastructure, as described in the Design and Construction Specifications; and
- (3) to reflect and capture the intent and benefits of the Proposal Extracts (Design and Construction).

Each of the obligations in Sections 3.1(b)(1), 3.1(b)(2) and 3.1(b)(3) [Design/Build Responsibility] of this Schedule are independent obligations, and the fact that Project Co has satisfied one obligation will be no defence to an allegation that it has failed to satisfy another.

3.2 Standard of Performance for Design and Construction

Project Co will, at all times during the Construction Period and in all respects, perform the Design and Construction to the standards as required by Section 2.1 of Schedule 3 [Design and Construction Specifications].

3.3 Defects in Design or Construction

Project Co will, without cost to the Authority, and without limiting Project Co's obligations to perform the Services as set out in this Agreement, including Schedule 4 [Services Protocols and Specifications], correct any Defect that becomes apparent at any time during the Term, subject to the terms of this Agreement, including any Scheduled Maintenance and the Handback Requirements.

3.4 Compliance with Laws

Project Co will undertake and perform the Design and Construction in accordance with applicable Laws, and so that all elements of the Design and the Construction, including all workmanship, construction equipment and materials, and the supply and installation of Equipment, meet or exceed the requirements of applicable Laws. If there is any conflict or ambiguity between the provisions of applicable Laws, or between a provision of applicable Laws and the Design and Construction Specifications, or between provisions of the Design and Construction Specifications, then the provision of higher quality or higher standard will govern.

3.5 Permits for the Design and Construction and Use

Except as expressly provided otherwise in this Agreement, Project Co will obtain all Permits required for the Design and Construction. Project Co will keep the Authority's Design and Construction Representative fully informed of the details of all discussions and negotiations with Governmental Authorities with respect to all Permits for which it is responsible and, upon request from the Authority's Design and Construction Representative, Project Co will provide to the Authority copies of all documentation and correspondence with a Government Authority relating to such Permits. Project Co will provide reasonable advance notice to the Authority of any meetings with the City or other Governmental Authorities (where practicable) and upon request by the Authority a representative of the Authority may attend any such meetings. Project Co assumes all risk and costs arising in relation to Permits for which

Project Co is responsible as described in this Section 3.5 [Permits for the Design and Construction and Use], including delays to the Project Schedule arising from delays in obtaining Permits or inability to obtain Permits, conditions of obtaining Permits, or amendments to Permits as may be required.

The Authority will provide Project Co with such information within the Authority's possession, and co-operate with Project Co, as Project Co may reasonably require in relation to all Permits for which Project Co is responsible

3.6 LEED Gold Certification

Project Co will obtain LEED Gold Certification of the Project in accordance with the following:

- (a) For the purpose of obtaining LEED Gold Certification for the Project, Project Co may define the LEED boundary (the "**LEED Boundary**") in the manner it considers appropriate, but may only exclude the following areas of the Facility:
 - (1) the Existing Facility, including the Upgraded Infrastructure and the Non-Upgraded Infrastructure;
 - (2) the tunnel from Admission & Discharge to the New Infrastructure, if required by Project Co's Design; and
 - (3) the upgraded and expanded Food Services Area and laundry facilities comprising part of the New Infrastructure.
- (b) Within 60 days of the Effective Date Project Co will register the Facility with CaGBC.
- (c) Project Co will, subject to this Section, achieve all necessary prerequisites, credits and points under the LEED Rating System required to achieve the LEED Gold Certification and may in its discretion determine which of the credits and points to pursue, except that Project Co will not include any points which require any action by or on behalf of the Authority without the Authority's prior written consent. The Authority will take reasonable steps, consistent with the nature of the Facility, to cooperate with Project Co in respect of its achievement of LEED points and credits, provided that such cooperation shall not require that the Authority incur any liability, cost or expense.
- (d) If at any time after Project Co obtains registration with the CaGBC in accordance with Section 3.6(a) [LEED Gold Certification] of this Schedule the requirements to achieve LEED Gold Certification under the LEED Rating System change, and Project Co is required to comply with such change in order to achieve LEED Gold Certification of the Project, then Project Co will forthwith notify the Authority of such change and such change will be handled in accordance with and subject to the procedure set out in Schedule 6 [Changes, Minor Works and Innovation Proposals].
- (e) Project Co will compile and submit the required documents for certification.
- (f) If for any reason Project Co fails to obtain LEED Gold Certification for the Project within 36 months of the Service Commencement Date then Project Co will, upon written

demand from the Authority, immediately pay to the Authority \$100,000 for every point less than 60 points, to a maximum payment amount of \$1,000,000.

- (g) Upon payment of amounts, if any, owing under this Section 3.6 [LEED Gold Certification] Project Co will have no further obligations or liabilities in respect of obtaining LEED Gold Certification, except to provide the Authority with such information and administrative assistance as the Authority may reasonably require in relation to obtaining LEED Gold Certification, and for greater certainty the failure to obtain LEED Gold Certification will not be a Project Co Event of Default.

3.7 LEED Project Checklist

As a condition of Service Commencement Project Co will deliver to the Authority:

- (a) a LEED project checklist, generally in accordance with CaGBC requirements, together with a written confirmation that, in Project Co's judgment:
- (1) the LEED credits/points specified in Section 3.6(c) [LEED Gold Certification] of this Schedule will be achieved for the Project; and
 - (2) LEED Gold Certification will be achieved for the Project as required by Section 3.6 [LEED Gold Certification] of this Schedule; and
- (b) a written opinion from a LEED accredited professional supporting the confirmation described in Section 3.7(a) [LEED Project Checklist] above.

3.8 Energy

Project Co will comply with the requirements of Appendix 2D [Energy].

3.9 Facility Threat and Risk Assessment

Project Co will, by the date specified in the Submittal Schedule, deliver to the Authority a comprehensive threat and risk assessment report for the Facility ("**Facility Threat and Risk Assessment**") identifying specific risks and vulnerabilities to people, property and the Authority associated with the Facility and the surrounding community, and describing how the design of the New Infrastructure and the Upgraded Infrastructure will mitigate these risks and vulnerabilities. The Facility Threat and Risk Assessment will be based on the preliminary facility threat and risk assessment included in the Proposal Extracts (Design and Construction). The Authority may provide comments on the Facility Threat and Risk Assessment within 15 Business Days of receiving it. Project Co will, acting reasonably, take account of the Authority's comments in finalizing the Facility Threat and Risk Assessment and deliver to the Authority a copy of the final Facility Threat and Risk Assessment within 15 Business Days of receiving the Authority's comments. Project Co will implement the risk mitigation strategies described in the Facility Threat and Risk Assessment in developing the design of the New Infrastructure and the Upgraded Infrastructure.

4. DESIGN

4.1 Additional Design Considerations

In addition to other requirements of this Agreement, Project Co will undertake and perform the Design so that the Design:

- (a) is undertaken by a design team exercising such degree of care, skill and diligence as would reasonably be expected from consultants qualified to perform services similar in scope, nature and complexity to the Design, as of the date of this Agreement, and Project Co will appoint a design team that:
 - (1) is so qualified;
 - (2) includes (as required by applicable Law or Good Industry Practice) licensed or registered professional architects and engineers;
 - (3) includes the following specialist consultants:
 - (A) Certified Professional (CP);
 - (B) Professional consultant qualified in the design of building envelopes;
 - (C) Code Consultant;
 - (D) Acoustic Engineer;
 - (E) Food Services Consultant;
 - (F) Laundry Consultant; and
 - (G) Fire Stopping Contractor;
 - (4) has sufficient expertise and experience to expeditiously and efficiently perform all of the Design in a proper and professional manner to the standard set out in this Agreement; and
- (b) includes specific consideration of "constructability" and "life cycle" cost issues at all stages of Design, as appropriate; and
- (c) includes consideration of efficient and cost-effective operation and maintenance.

4.2 Municipal Approval

Without limiting Section 3.5 [Permits for the Design and Construction and Use] of this Schedule 2 [Design and Construction Protocols], Project Co will: (i) be responsible to obtain all Permits and approvals required for the Design and Construction, including the "Development Permit" and any "Development Variance Permit" that may be required by any Government Authority; (ii) enter into any "Servicing Agreements" as may be required by the City of Surrey; and (iii) be responsible for satisfaction of all conditions and other requirements associated with, or required to obtain, such Permits and approvals.

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Project Co assumes all risk and costs arising in relation to Permits and approvals for which Project Co is responsible as described in this Section 4.2 [Municipal Approval], including delays to the Project Schedule arising from delays in obtaining such Permits and approvals, or inability to obtain such Permits and approvals, conditions of obtaining such Permits and approvals, or amendments to such Permits and approvals, as may be required.

4.3 Design Process

Project Co will undertake the Design:

- (a) With appropriate consultation with representatives of the Facility Administration (the "**Administration Consultation Group**"), in accordance with Appendix 2C [Administration Consultation Protocol];
- (b) in accordance with Appendix 2B [Review Procedure]; and
- (c) in phases progressively, with each phase capturing the information and detail reviewed in a previous phase, as follows:
 - (1) Schematic Design Phase – this phase will include supplemental information not included in Appendix 2G [Proposal Extracts (Design and Construction)] and development of drawings and other documents illustrating the scale and character of the Facility, architecture and engineering systems and any Development Permit requirements, in sufficient detail to describe how the parts of the Facility (New Infrastructure, Upgraded Infrastructure, and Non-Upgraded Infrastructure) functionally relate to each other, such as the Site plan, spatial relationship diagrams, principal floor plans, room data sheets, sections, and elevations. The information included in Appendix 2G [Proposal Extracts (Design and Construction)] may reflect differing stages of Design development. The specific stage of Design development reflected in each drawing is noted in Appendix 2G [Proposal Extracts (Design and Construction)];
 - (2) Design Development Phase – this phase will include drawings and other documents, including a Site plan, elevations and sections, together with a written project brief detailing area calculations, building systems and outline specifications, to fully describe the size and character of the New Infrastructure and expanded facilities within the Upgraded Infrastructure, including the architectural, structural, mechanical, and electrical systems, materials, room data sheets and other elements to fully describe the Facility.
 - (3) Construction Documents Phase - this phase will include construction documents consisting of drawings and specifications describing in detail the requirements for the construction of the New Infrastructure and the Upgraded Infrastructure delivered to the Authority:
 - (A) at 50% completion and at 95% completion;

- (B) in accordance with the Submittal Schedule and Appendix 2B [Review Procedure] and in a timely way in advance of Construction with sufficient detail to permit the Authority to understand and assess the design of the New Infrastructure and the Upgraded Infrastructure.

If Project Co intends to proceed with construction of an element of the Facility in advance of the completion of the design of the entire New Infrastructure and Upgraded Infrastructure then Project Co will deliver the 50% and 95% construction documents for that element (with sufficient accompanying detail to permit the Authority to understand and assess the design of that element) in advance of the design documents for other elements of the Facility.

- (d) so that in each phase, Project Co will provide to the Authority the level of detail and documentation that the Authority would customarily receive or expect to receive for a facility similar to the Facility in accordance with Good Industry Practice, including (as applicable to a particular phase):
- (1) completed Site and landscaping plans;
 - (2) dimensioned floor plans
 - (3) room layout plans;
 - (4) dimensioned roof plan;
 - (5) reflected ceiling plans;
 - (6) exterior building elevations;
 - (7) typical building cross sections;
 - (8) interior elevations for all rooms showing all millwork;
 - (9) interior finish schedules;
 - (10) room data sheets;
 - (11) furniture and equipment list; and
 - (12) a written report detailing and describing the manner in which the following have been taken into account in the Design:
 - (A) planning;
 - (B) LEED Gold Certification, including energy efficiency/sustainability and the relevant LEED project checklist and points;
 - (C) material selection;
 - (D) implementation phasing;

- (E) constructability;
- (F) Life Cycle Requirements;
- (G) the Facility Threat and Risk Assessment; and
- (H) building operating services.

Project Co will only issue drawings and specifications for construction purposes based on Reviewed Drawings and Specifications as described in Appendix 2B [Review Procedure].

4.4 Design Change

The following will apply to the Authority's requests for amendments to the Facility design:

- (a) revisions to drawings and specifications and additional Design requested by the Authority under the processes described in Section 4 [Design] of this Schedule and in Appendix 2C [Administration Consultation Protocol], are not Changes and will be completed at Project Co's cost (except to the extent that any such requested revision would constitute a material change to the Design and Construction Specifications, the terms of Schedule 6 [Changes, Minor Works and Innovation Proposals] will apply and such revision will not be implemented except under a Change Certificate issued by the Authority); and
- (b) if, and to the extent, the Authority requires a variation of any Design described in the Reviewed Drawings and Specifications (other than a variation required to bring the Design into conformity with the Design and Construction Specifications or the Proposal Extracts (Design and Construction)) then such variation will be handled in accordance with and subject to the procedure set out in Schedule 6 [Changes, Minor Works and Innovation Proposals].

4.5 Mock Ups and Prototype Rooms

Project Co will, at its cost, provide "mock-ups" and "prototype" rooms as follows:

- (a) at an early stage of the Administration Consultation Process described in Appendix 2C [Administration Consultation Protocol], Project Co will provide three dimensional computer modeling mock-ups of the following rooms indicating the dimensions and sizing of the room and location of millwork, services, equipment and furniture and configuration of headwalls:
 - (1) two adjoining Cells, including the service chase and party wall;
 - (2) corridor security door assembly with detention hardware and electronic controls; and
 - (3) control post with three dimensional computer modeling to confirm layout and sight-lines into Living Units and to demonstrate compliance with the requirements specified in Part 2, Section 1.1.4.4(1) to 1.1.4.4(3), inclusive, of Appendix 3A [Functional Program].

- (b) at a later stage of the Administration Consultation Process described in Appendix 2C [Administration Consultation Protocol], Project Co will provide fully constructed mock-ups (the “**Mock-Ups**”) of the following rooms (at a location either within the Facility as it is under construction or at another location provided by Project Co near the Facility), including all actual materials, finishes, millwork, services, equipment and furniture included in the design of the room so that the Authority and the Administration Consultation Group can experience all features of the design and make design decisions:
- (1) two adjoining Cells, including the service chase and party wall, complete with all mechanical (i.e. air ducts, plumbing risers and fixtures and sprinkler system), electrical (i.e. junction boxes, conduit, light fixtures and receptacles), and communication/security services; and
 - (2) corridor security door assembly with detention hardware and electronic controls.
- (c) during Construction, Project Co will construct an in-situ “prototype” of each of the following rooms and make each prototype available to the Authority at appropriate stages of construction so that the Authority and the Administration Consultation Group can review the prototype room (including all materials, services, millwork, finishes, equipment and furniture) in its actual location within the Facility at various stages of construction, and consider whether any design adjustments are necessary:
- (1) two adjoining Cells, including the service chase and party wall, complete with all mechanical (i.e. air ducts, plumbing risers and fixtures and sprinkler system), electrical (i.e. junction boxes, conduit, light fixtures and receptacles), and communication/security services;
 - (2) corridor security door assembly with detention hardware and electronic controls; and
 - (3) typical Cell to typical Cell with acoustic treatment in place for purposes of acoustic testing in accordance with Schedule 3 [Design and Construction Protocols].

Project Co will modify the Mock-Ups and prototypes as may be required as the design develops based on feedback from the Administration Consultation Group and the Authority.

4.6 Security of Design

Project Co will ensure that the Design is kept confidential and that only persons authorized by Project Co to review the Design are permitted access.

The Authority, acting reasonably, may designate any portion of the Design as Security Sensitive Work subject to the following restrictions:

- (a) All persons preparing or viewing the Design will be required to comply with the requirements of Section 17.3 [Security Sensitive Work] of this Agreement; and

- (b) All Design materials will be kept confidential and only released to those persons who have been cleared by the Authority pursuant to Section 17.3 [Security Sensitive Work] of this Agreement.

4.7 Life Cycle Report

On or before the Service Commencement Date, Project Co will prepare, in consultation with the Design-Builder and the Service Provider, a report (“**Life Cycle Report**”) that sets out the proposed parameters for the anticipated life of major elements in the New Infrastructure, the Upgraded Infrastructure and the Non-Upgraded Infrastructure, and the Life Cycle Requirements relating thereto, to be used as a basis for the Life Cycle Plan referred to in Section 4.1.4 [Life Cycle Plan] of Schedule 4 [Services Protocols and Specifications], and deliver such report to the Authority. If a copy of a proposed Life Cycle Report is included in the Proposal Extracts (Design and Construction), the Life Cycle Report will be an update of the proposed Life Cycle Report. The Authority will, acting reasonably, make its staff who work in building maintenance and repair available for consultation with Project Co, the Services Provider(s) and the Design-Builder regarding Design issues and the Life Cycle Report.

4.8 Ownership of Design

With respect to ownership and property rights relating to the Design:

- (a) the Authority will not have an ownership interest in the Design, including any of the drawings or specifications prepared and produced by Project Co, the Design-Builder or any Sub-Contractor;
- (b) Project Co grants to the Authority, or as required will cause the Design-Builder and all Sub-Contractors to grant to the Authority, an irrevocable license giving the Authority the non-exclusive right to use the Design in connection with the Facility, including any of the documents and information listed in Section 5.22 [Project Records] of this Schedule, beyond the end of the Term and as long as the Facility exists, including for renovations, additions and alterations to the Facility, provided that, except for reference purposes, the Design, including the plans, sketches, drawings, electronic files, graphic representations and specifications will not be used on any other project; and
- (c) Project Co will execute and deliver, or cause to be executed and delivered, any and all further and other documents as the Authority may reasonably request to effect and record the licence referred to in Section 4.8(b) [Ownership of Design] of this Schedule.

5. CONSTRUCTION

5.1 Construction of the Facility

Project Co will perform the Construction in strict conformity with the Reviewed Drawings and Specifications, as may be modified and amended from time to time in accordance with the terms of this Agreement, and this obligation will be in addition to all other obligations of Project Co under this Agreement.

5.2 Amendments and Changes to the Drawings and Specifications

During the Construction, Project Co will submit all amendments or additions to the Reviewed Drawings and Specifications to the Authority's Design and Construction Representative for review under Appendix 2B [Review Procedure].

Any Changes during the Construction will be subject to the terms of Schedule 6 [Changes, Minor Works and Innovation Proposals].

5.3 Reference Product

Where reference manufacturers or products are described in Schedule 3 [Design and Construction Specifications], such references are provided for purposes of establishing the minimum performance requirements.

5.4 Skilled Workers

Project Co will employ or cause the Design-Builder to employ a sufficient number of sufficiently skilled workers to perform the Construction in compliance with this Agreement.

5.5 Control of the Construction

Project Co will have total control of the Construction and will effectively direct and supervise the Construction so that it is undertaken in compliance with the terms of this Agreement. Project Co will be responsible for all construction means, methods, techniques, sequences and procedures with respect to the Construction and for coordinating the various elements of the Construction, and nothing in this Agreement (including this Schedule) will be interpreted as giving any responsibility for the above to the Authority, the Authority's Design and Construction Representative or any other representative or agent of the Authority, or to the Independent Certifier. In areas of the Existing Facility being renovated or where Project Co access is needed and that are still operational, the Authority will have control of access and work activities in accordance with Sections 5.10 [Site Issues] and 5.11 [Connections and Integration to Existing Facility] of this Schedule.

5.6 Existing Utilities

Project Co will confirm the location of, and protect:

- (a) all existing off-Site Utilities that may be affected by the Construction; and
- (b) all existing on-Site Utilities that may be affected by the Construction that were disclosed by the Authority in the Disclosed Data prior to the Financial Submission Date.

Project Co will protect any existing on-Site Utilities that are discovered by Project Co during the Construction that were not disclosed by the Authority in the Disclosed Data.

5.7 Site Investigation

By entering into this Agreement, Project Co will be deemed to have inspected the Site in relation to the performance of its obligations under this Agreement and to have satisfied itself and accepted all risks and

related responsibilities relating to the Site (except as expressly provided to the contrary in this Agreement) including:

- (a) the adequacy of the rights of access to and through the Site for the Construction;
- (b) vehicular access and parking;
- (c) temporary accommodation for dislocated functions (e.g. Food Service) during construction of the New Infrastructure and the Upgraded Infrastructure;
- (d) temporary storage of building materials and equipment;
- (e) existing Utilities on the Site; and
- (f) geotechnical conditions.

5.8 Existing Building Condition Report

The Authority has made available the Existing Building Condition Report for Project Co's reference, but Project Co acknowledges that the Authority makes no representation whatsoever as to the accuracy or completeness of any information in the Existing Building Condition Report.

5.9 Geotechnical Reports

The Authority has made available the Geotechnical Reports included in the Disclosed Data. The Authority makes no representation whatsoever as to the accuracy or completeness of any information in the Geotechnical Reports and Project Co specifically acknowledges that the Authority assumes and accepts no responsibility that the geotechnical information, as may be available in the Geotechnical Reports, is accurate or completely describes actual site conditions including geotechnical or soil conditions (including presence of boulders, rock, low-strength soil and voids) and ground water conditions (including presence of underground streams or water table conditions) that may affect the Design or Construction.

5.10 Site Issues

- (a) The Site consists of the following areas:
 - (1) the portion of the Site that the Authority will make available to Project Co for construction of the New Infrastructure (identified on Appendix 2I [Site Access Diagram] as "**Work Area A**", as shown on Appendix 2I [Site Access Diagram]; and
 - (2) the portions of the Site identified on Appendix 2I [Site Access Diagram] as "**Work Area B**", which the Authority will make available to Project Co to perform related Construction activities, but within which Project Co must at all times maintain existing vehicle and pedestrian access routes to and from City streets and Existing Facility buildings (except as may be permitted pursuant to a Work Plan);
- (b) Project Co will:

- (1) construct the New Infrastructure within "Work Area A";
- (2) maintain staff and visitor parking to the levels in effect as at the Effective Date. Project Co may replace staff parking north of the Existing Facility with a like number of stalls within 300 meters of the front entrance of the Existing Facility subject to approval by the Authority, such approval shall not be unreasonably withheld;
- (3) install a six foot fence around the perimeter of "Work Area A" and such hoarding as may be required to separate "Work Area A" from the Existing Facility;
- (4) perform all Construction activities within "Work Area A" except as approved by the Authority under Section 5.11 [Connections and Integration to Existing Facility] of this Schedule 2 [Design and Construction Protocols] for any work required in "Work Area B", Existing Facility buildings or other areas of the Existing Facility (a Work Plan for construction activity in "Work Area B" must include an adequate plan for maintaining vehicle and pedestrian access to the Existing Facility buildings within or adjacent to "Work Area B", including the areas listed in Section 5.10(b)(5) [Site Issues] below);
- (5) perform all Construction activities without blocking or disrupting vehicle or pedestrian access to, except as may be permitted pursuant to a Work Plan, the Existing Facility's:
 - (A) secure vehicle sallyport;
 - (B) maintenance access;
 - (C) fire service access; or
 - (D) delivery areas;
- (6) cause Project Co Persons, construction workers and suppliers to enter or exit the Site only at the access routes labelled as "PRIMARY ACCESS" on Appendix 21 [Site Access Diagram], unless otherwise approved by the Authority and the City of Surrey;
- (7) take reasonable steps to ensure that Construction workers or suppliers do not:
 - (A) impede access to the existing secure vehicle sallyport, staff or Authority contractor access; and
 - (B) smoke except in areas designated by the Authority.
- (8) provide a 24-hour hotline (and post the phone number in a prominent location on the Site) for:
 - (A) Authority staff to notify Project Co of any Construction related emergencies; and

- (B) neighbours and passers-by to contact Project Co;
and Project Co will respond to any phone calls made on the hotline within 1 hour;
- (9) provide a community liaison officer to provide a single point of contact with Project Co regarding construction and development issues; and
- (10) before commencing the Construction, prepare and implement, in co-operation with the Authority, a construction fire safety plan for the Project, which plan will describe emergency access routes to and from the Existing Facility.

5.11 Connections and Integration to Existing Facility

If it is not possible or practical to maintain an operational area suitable for use in the Authority's opinion, Project Co will provide alternate suitable accommodation. The proposed solution must be acceptable to the Authority acting reasonably. The Existing Facility must remain operational at all times during Construction, in particular the kitchen, laundry, Healthcare Unit, administration areas and Admission and Discharge must be functional at all times or a temporary alternate accommodation solution provided. Project Co will:

- (a) ensure that the safe and secure operation of the Existing Facility is not compromised by Construction activities;
- (b) co-operate with the Authority to co-ordinate any work required to connect the New Infrastructure to the Existing Facility to minimize the interference to the on-going operation of the Existing Facility;
- (c) co-operate with the Authority to co-ordinate any work in the Upgraded Infrastructure to minimize the interference to the on-going operation of the Existing Facility;
- (d) comply with Authority Regulations with respect to conduct of work within a secure facility (included in Disclosed Data – A Guide to Contractors); and
- (e) at least seven days before undertaking any work in Existing Facility or proceeding with any proposed interruption of Existing Facility services, deliver to the Authority and obtain the Authority's approval of a work plan ("**Work Plan**") clearly identifying:
 - (1) the activity that may interfere with the operation of the Existing Facility, including a description of the nature, timing and extent of interference;
 - (2) the steps Project Co intends to take to minimize the extent of such interference;
 - (3) the temporary measures that the Authority will be required to take to accommodate the interference; and
 - (4) any specific reporting relationships between Project Co and the staff desirable or required to coordinate the interference,

unless the Authority, at its discretion, notifies Project Co in writing that a Work Plan will not be required for particular work or a particular interruption.

Prior to delivering a Work Plan, Project Co will consult with the Authority and, upon reasonable request, the Authority will make appropriate staff available for such consultation to determine the Work Plan that minimizes interference to the Existing Facility. Project Co will not proceed with any work in the Existing Facility or any proposed interference with Existing Facility services without: (i) the Authority's prior written approval of a Work Plan under this Section, such approval not to be unreasonably withheld or delayed; or (ii) advance written notice from the Authority confirming that a Work Plan is not required.

The Authority, acting reasonably, may impose restrictions on the hours of work, sequencing or operation of Construction activities which impact life safety or security systems to ensure the continued safe and secure operation of the Existing Facility.

5.12 The Authority's Access to Site

Subject to complying with all relevant safety procedures, including any relevant health and safety plans for the carrying out of the Construction and Project Co's and/or the Design-Builder's reasonable site rules, the Authority's Design and Construction Representative, and its delegates, will have access at all times to:

- (a) attend the Site and view the Construction; and
- (b) subject to obtaining the consent of the relevant manufacturer or supplier (which Project Co will use all reasonable efforts to obtain), visit any site or workshop where materials, plant or equipment are being manufactured, prepared or stored for use in the Construction for the purposes of general review and of attending any test or investigation being carried out in respect of the Construction.

The Authority's Design and Construction Representative and its delegates will have the right to attend all monthly progress meetings and site meetings, including meetings between Project Co and the Design-Builder or its Sub-contractors, and Project Co shall provide reasonable advance notice of the time and location of all such meetings to the Authority's Design and Construction Representative.

Project Co will cooperate with the Authority to arrange for tours of the Site at reasonable times during Construction for interested corrections officials and personnel, in a way that does not interfere with the progress of the Construction.

Except as set out above or as otherwise provided for in this Agreement, the Authority will not grant any Person access to the Site or New Infrastructure during the Construction Period without the consent of Project Co, such consent not to be unreasonably withheld or delayed.

5.13 Inspection

Prior to the Service Commencement Date, Project Co will, upon request by the Authority's Design and Construction Representative, including detailed reasons for the request, open up for inspection by the Authority's Design and Construction Representative any part of the work on the New Infrastructure or the

Upgraded Infrastructure which the Authority's Design and Construction Representative, acting reasonably, believes is defective and:

- (a) if the parties agree or if it is determined in accordance with the Dispute Resolution Procedure that there are no Defects in the relevant part of such work, and Project Co complied with the requirements of Section 2.6 [Permitted Access] of this Schedule, then any delay caused by the exercise of such rights will be treated as a Compensation Event and be subject to Section 8.3 [Project Co's Entitlements Upon Occurrence of a Compensation Event] of this Agreement;
- (b) if the parties agree or if it is determined in accordance with the Dispute Resolution Procedure that any relevant part of the work on the New Infrastructure or the Upgraded Infrastructure is defective, then:
 - (1) Project Co will rectify and make good such Defect(s);
 - (2) any consequence of such rectification or making good Defect(s) will be carried out by Project Co at no cost to the Authority; and
 - (3) Project Co will not be entitled to any extension of time to the Project Schedule in relation to such rectification and making good of such work; and
- (c) if the parties are unable to reach agreement in accordance with Sections 5.13(a) or 5.13(b) [Inspection] above, then the matter will, at the request of either party, be referred to the Dispute Resolution Procedure. If, in order to maintain compliance with the Project Schedule, it is necessary to proceed in respect of the matter in Dispute, the parties will proceed in accordance with the position of the Authority, provided that Project Co proceeding in accordance with the Authority's position will be a Compensation Event if the relevant matter in Dispute is determined in favour of Project Co.

5.14 Builders Lien Act and Builders Liens

With respect to builders liens and the requirements of the *Builders Lien Act*, S.B.C. 1997, c.45:

- (a) the Authority will not have any responsibility to be the payment certifier under any contract related to Construction, and Project Co shall ensure that an appropriate payment certifier is appointed and identified as required in respect of each such contract;
- (b) Project Co will make all required builders lien holdbacks;
- (c) no builders lien holdback will be retained by the Authority under this Agreement;
- (d) if it is determined that any builders lien holdback is required to be retained by the Authority, then Project Co agrees that it is making and will make all of its required holdbacks as agent for the Authority;
- (e) Project Co will indemnify the Authority from any damages, costs, claims and expenses of any kind, including actual solicitors costs, arising from the failure of the Authority to retain a builders lien holdback; and

- (f) failure to hold back payment of amounts due to any Person in accordance with section 4 of the *Builders Lien Act*, S.B.C. 1997, c.45 will not constitute a Project Co Event of Default.

5.15 Safety

During the Construction Period, Project Co will be solely responsible for the safety of all persons on those portions of the Site designated as “Work Area A” and “Work Area B” on Appendix 2I [Site Access Diagram] and any other location where the Construction is being performed (whether on the Site or other location lawfully or not) and members of the public, and will comply with the requirements of applicable Laws, applicable construction safety legislation, regulations and codes and Good Industry Practice.

5.16 Protection of Property

Project Co will:

- (a) protect the Authority's property (and any third party's property) from damage during the Construction, including buildings, roadways, drainage systems, landscaping, surfaces, services and infrastructure (including carrying out the Construction so that Construction-caused settlement of existing buildings and structures does not exceed 6 mm at any location); and
- (b) promptly repair any damage to property caused by Project Co in undertaking the Construction, including any damage caused by site settlement or ground vibration.

5.17 Pre-Construction Survey and Monitoring

Project Co will:

- (a) prior to start of any Construction, conduct a pre-construction survey of the Existing Facility, roadways, services, infrastructure, and adjacent properties, in a form and detail satisfactory to the Authority, acting reasonably, which will, without limitation, include field observations and photographs of existing conditions, with spot elevations by a British Columbia Land Surveyor (BCLS) registered surveyor at locations that will be accessible throughout and following construction for ongoing settlement monitoring, and deliver a copy of the pre-construction survey report to the Authority; and
- (b) re-survey of the spot elevations at regular intervals throughout the Construction Period and at six months following Service Commencement, to determine ongoing long-term settlement effects, and deliver monitoring surveys to the Authority in a form and detail satisfactory to the Authority, acting reasonably.

5.18 Control of Dust and Noise

Project Co will take all reasonable steps (including any specific steps reasonably required by the Authority) to minimize dust and noise from the Construction and to mitigate any adverse effects on the Existing Facility.

5.19 Signage

Project Co may erect signage at the Site during Construction to identify Project Co, the Design-Builder and Project Contractors provided such signs are acceptable to the Authority's Design and Construction Representative, acting reasonably.

5.20 Temporary Works

During the Construction Period, Project Co will:

- (a) have the sole responsibility for the design, erection, operation, maintenance and removal of temporary structures and other temporary facilities and the design and execution of construction methods required in their use; and
- (b) provide its own services necessary for Project Co's construction use including but not limited to power, telephone, water and sewage, and will not connect directly to the Existing Facility or any other existing buildings or infrastructure, except with the Authority's prior approval.

5.21 Project Meetings

Without limiting the obligations pursuant to Section 1.7 [Construction Period Committee] of this Schedule in respect of the Construction Period Joint Committee, at the Authority's request, Project Co's Design and Construction Representative will attend meetings by conference call to update the Authority on the progress of Construction and to discuss any issues that have arisen. The meetings will be at least weekly unless agreed otherwise by the Authority.

5.22 Project Records

Notwithstanding any other provision of this Agreement:

- (a) As-Built Drawings and Specifications: Project Co will:
 - (1) throughout the Construction, update the Reviewed Drawings and Specifications (with respect to the drawings, such update will be in hard copy and "CAD" or other electronic format reasonably acceptable to the Authority's Design and Construction Representative), including all final shop drawings, so as to produce accurate and complete as-built documents for the Facility;
 - (2) as requested from time to time during the Construction, make available such as-built drawings and specifications to the Authority's Design and Construction Representative for review to permit the Authority's Design and Construction Representative to monitor Project Co's compliance with the requirements of this Section; and
 - (3) provide three full-size hard copies and two electronic copies in ".dwg" format of the completed as-built drawings and specifications to the Authority's Design and Construction Representative on or before Service Commencement.

- (b) Maintenance Manuals: Project Co will:
- (1) on or before Service Commencement, make available all maintenance manuals, specifications, warranties and related information, in either written or electronic form, for all the equipment and systems that have been included in the Design and Construction of the Facility for review by the Authority's Design and Construction Representative in accordance with Appendix 2B [Review Procedure]; and
 - (2) organize and store such information in accordance with Schedule 14 [Records and Reports];
- (c) Design Records: Project Co will retain records of the Design development;
- (d) Minutes of Meetings: The Authority will retain minutes of the following meetings between the Authority and Project Co: Design management meetings, Construction management meetings and Construction Period Joint Committee meetings. Project Co will retain minutes of all other meetings between the Authority and Project Co relating to the Design and Construction. The party responsible for keeping minutes will circulate such minutes to the other party's Design and Construction Representative for review and comment within the time period specified in this Agreement for the particular meeting or if no time period is specified then as soon as reasonably possible after the relevant meeting, and a reasonable period before any subsequent meeting so that all parties may consider the minutes and take required actions in advance of the subsequent meeting;
- (e) Inspection Reports and Tests Results: Project Co will retain official reports and certified test records of all inspections and tests which were undertaken as part of the Construction;
- (f) Utility Plans: Project Co will retain utility plans for the Facility and the Site;
- (g) Landscape and Irrigation Plans: Project Co will retain landscape and irrigation plans for the Facility and the Site;
- (h) Copies of all Permits: Project Co will retain copies of all Permits for the Construction and occupation of the Facility; and
- (i) Signed Quality Assurance Plan: Project Co will retain a signed copy of the Quality Assurance Plan for the Construction, together with all records of the Quality Assurance Program implemented, as required by this Agreement.

5.23 Archaeological Report

The Authority has made available the Archaeological Impact Assessment (AIA). The Authority makes no representation whatsoever as to the accuracy or completeness of any information in the AIA and Project Co specifically acknowledges that the Authority assumes and accepts no responsibility that the archaeological information, as may be available in the AIA, is accurate or completely describes actual site conditions that may affect the Design or Construction.

Project Co will comply with all applicable Laws, including the *Heritage Conservation Act, R.S.B.C. 1996, c.187*, and with the Good Industry Practice should any archaeological sites or heritage objects, protected under the *Heritage Conservation Act, R.S.B.C. 1996, c.187*, be discovered during the Construction.

6. EQUIPMENT SUPPLY AND INSTALLATION

6.1 Design and Construction Requirements

The obligations and responsibilities of the parties related to Equipment are set out in Appendix 2E [Equipment and Furniture]. Project Co will complete the Design and Construction to accommodate in the Facility the installation, operation, repair and maintenance of all the Equipment, including as required all electrical and plumbing connections, structural support, seismic restraints and space for efficient access, all to the tolerances and specifications as may be specified and required by the manufacturers or suppliers of the Equipment (which may be of a higher standard than specified in Schedule 3 [Design and Construction Specifications]).

7. QUALITY MANAGEMENT

7.1 Quality of the Design and Construction

Project Co is solely responsible for the quality of the Design and Construction.

7.2 Quality System

Project Co acknowledges that a comprehensive Quality System is critical for the proper and timely completion of the Design and Construction and accordingly Project Co will implement and follow a Quality System.

7.3 Project Co's Quality Consultant

Project Co will retain a qualified expert in quality management ("**Project Co's Quality Consultant**") to develop a Quality Assurance Program and Quality Assurance Plan.

7.4 Quality Assurance Program

Project Co's quality assurance program (the "**Quality Assurance Program**") will:

- (a) detail Project Co's measures required to complete all aspects of the Design and Construction pursuant to its Quality System and in accordance with the requirements of this Agreement including this Schedule 2 [Design and Construction Protocols] and Schedule 3 [Design and Construction Specifications];
- (b) address and be applicable to all aspects of the Design and Construction;
- (c) provide for a graded approach to quality in which the appropriate level of quality assurance requirements for various elements of the Design and Construction are defined;
- (d) describe or comply with the following:

- (1) the required quality level for each process or activity involved in the Design and Construction and the means of achieving it;
 - (2) the steps to ensure that everyone participating in the Design or Construction is committed to the Quality Assurance Program;
 - (3) the steps to ensure that the management and organizational structure and responsibilities are defined and understood by everyone participating in the Design or Construction;
 - (4) require that all persons participating in the Design or Construction are competent to do their required tasks;
 - (5) require that individuals involved with the Quality Assurance Program will be held accountable for their work;
 - (6) provide that the right people will have the right information at the right time;
 - (7) provide that relevant experience for each process or activity will be sought and used;
 - (8) Design and Construction activities are planned and controlled;
 - (9) the right items, processes, and practices will be used;
 - (10) materials and services are verified to confirm that they are correct; persons giving verification will be sufficiently qualified and will be independent from those who perform or install the materials or services;
 - (11) peer reviews and inspections will be performed on structured planned basis on all elements of the Design and Construction and:
 - (A) errors and deficiencies will be identified and recorded;
 - (B) errors and deficiencies remedied or corrected and a record maintained of the remedy or correction, and
 - (12) maintain records as required by this Agreement;
- (e) provide for independent design verification in accordance with Good Industry Practice; and
- (f) provide that professionals of record will:
- (1) carry out on-site inspections, review materials testing and inspector's reports, undertake required surveying, measuring, and verification of materials and construction methods to ensure conformance with the Reviewed Drawings and Specifications and the Design and Construction Specifications; and

- (2) provide a letter of assurance that is an attestation that the Design and Construction has been performed in accordance with the Reviewed Drawings and Specifications and the Design and Construction Specifications.

7.5 Quality Assurance Plan

Project Co will develop a reasonable quality assurance plan (the “**Quality Assurance Plan**”) that describes the implementation of the Quality Assurance Program in accordance with the following:

- (a) Project Co will deliver to the Authority a preliminary draft of the Quality Assurance Plan (that is based on the preliminary quality assurance plan included in the Proposal Extracts (Design and Construction) not less than 20 Business Days after the Effective Date, failing which, the Authority will be entitled to make a Deduction of \$2,500 for each week or part thereof after the date falling 20 Business Days after the Effective Date until Project Co has delivered to the Authority a preliminary draft of the Quality Assurance Plan, but if Project Co has not delivered to the Authority a preliminary draft of the Quality Assurance Plan by the date falling 40 Business Days after the Effective Date, the Deduction applicable under this Section 7.5(a) [Quality Assurance Plan] will increase to \$5,000;
- (b) the Authority will provide its comments, if any, on the preliminary draft to Project Co within 20 Business Days of receipt of the preliminary draft;
- (c) Project Co will deliver a revised draft of the Quality Assurance Plan to the Authority not less than 20 Business Days after receiving the Authority’s comments, failing which, the Authority will be entitled to make a Deduction of \$5,000 for each week or part thereof after the date falling 20 Business Days after the Authority’s comments were received by Project Co until Project Co has delivered to the Authority a revised draft of the Quality Assurance Plan;
- (d) the Authority will, within 15 Business Days of receipt of the revised draft, advise Project Co whether the Authority accepts the Quality Assurance Plan, and if the Authority does not accept it the Authority will provide its reasons for such non-acceptance in sufficient detail to allow Project Co to address them;
- (e) if the Authority does not accept the Quality Assurance Plan, the parties will, acting reasonably, diligently work together with a view to revising the Quality Assurance Plan to address the Authority’s reasons for non-acceptance;
- (f) if the Authority has not accepted the Quality Assurance Plan by the date that is 90 Business Days after the Effective Date, Project Co may refer the dispute to the Dispute Resolution Procedure to determine whether Project Co’s proposed Quality Assurance Plan is reasonable.
- (g) any Deduction the Authority is entitled to make pursuant to Section 7.5(a) or Section 7.5(c) [Quality Assurance Plan] of this Schedule will be made from the first Service Payment payable to Project Co pursuant to Schedule 8 [Payments]; and

- (h) Deductions made pursuant to this Section 7.5 [Quality Assurance Plan] will not be counted for the purposes of Sections 11.1 [Authority Step-in Rights] or 12.1(h) [Project Co Events of Default] of this Agreement or Sections 9.7 [Increased Monitoring] or 9.8 [Replacement of Non-Performing Sub-Contractor] of Schedule 4 [Services Protocols and Specifications].

Project Co will promptly implement and strictly comply with the Quality Assurance Plan developed under this Section.

7.6 Reporting

Project Co will deliver to the Authority a monthly report of the Quality Assurance Plan prepared by Project Co's Quality Consultant covering all aspects of the Design and Construction completed in the reporting period that are relevant to the Quality Assurance Plan. Project Co will highlight any deficiencies identified and corrective actions taken to address such deficiencies during the period covered by such report.

7.7 Quality Review by the Authority

The Authority may, at its discretion, perform its own audits of the Quality Assurance Program and for that purpose Project Co will make available for review by the Authority, upon request from the Authority, all records of the Quality Assurance Program and the Quality Assurance Plan to permit the Authority to be satisfied that Project Co is following its Quality Assurance Plan.

8. WORKERS COMPENSATION

8.1 Evidence of WCB Compliance

Project Co will provide evidence, satisfactory to the Authority's Design and Construction Representative, of compliance by Project Co and all Project Contractors with the requirements of the *Workers Compensation Act*, R.S.B.C. 1996, c.492, as amended, and all regulations and successor legislation thereto, including payments due thereunder at the following times:

- (a) prior to commencing the Construction; and
- (b) at any time during Construction, upon request of the Authority's Design and Construction Representative acting reasonably.

8.2 Indemnity for WCB Non-Compliance

If Project Co or anyone employed by or through Project Co in the performance of any Construction does not comply with the requirements of the *Workers Compensation Act*, R.S.B.C. 1996, c.492, as amended, and all regulations and successor legislation thereto, including payment and deduction and remittance of any and all contributions, fees, assessments and charges required to be made pursuant to the above, Project Co will indemnify the Authority from any cost, loss, liability or obligation which the Authority may incur as a result.

8.3 Prime Contractor

For the purposes of applicable legislation and regulations, Project Co agrees to be, or will cause the Design-Builder to be, at all times during the Construction Period, the prime contractor as defined in the *Workers Compensation Act*, R.S.B.C. 1996, c.492 for the Site and accordingly will comply, or will cause to be complied, with all resulting requirements and obligations including:

- (a) ensuring continuing coordination of the occupational health and safety activities of all employers on the Site, including the Authority, the Authority's Design and Construction Representative, any other contractors and everyone engaged by or through any of them;
- (b) delivering any notices (or modified notices) of the Project as required by applicable regulations; and
- (c) complying with the obligations of a prime contractor for a multi-employer workplace as prescribed by the applicable regulations.

If for any reason the Workers Compensation Board of British Columbia refuses to recognize Project Co or the Design-Builder as the prime contractor then, to the extent permitted by law, Project Co will cooperate with the Authority and perform on behalf of the Authority the obligations which the Authority is required to undertake as prime contractor in connection with the Construction by virtue of the *Workers Compensation Act*, R.S.B.C. 1996, c.492 and Regulations, or other statutes.

8.4 Failure to Comply with WCB Requirements

If at any time the Construction is stopped because Project Co, or any Project Co Person providing services or work on the Project, unreasonably fails or refuses to comply with an order issued pursuant to the *Workers Compensation Act*, R.S.B.C. 1996, c.492, then such failure or refusal will be considered a Project Co Material Breach.

9. PROJECT SCHEDULE AND SCHEDULING

9.1 Initial Project Schedule

Attached as Appendix 2F [Initial Project Schedule] is the initial project schedule (the "**Project Schedule**"), which the parties have relied upon in entering into this Agreement.

9.2 Project Schedule Updates

Project Co will, as required from time to time until Service Commencement, but no less than once per calendar month by the 15th day of each month, in consultation with the Authority update the Project Schedule so that it is at all times an accurate, reasonable and realistic representation of Project Co's plans for the completion of the Design and Construction of the Facility in accordance with the requirements of this Agreement. The updates will include:

- (a) adjustments resulting from Supervening Events and Changes, if any, as permitted by this Agreement;
- (b) as the Design progresses, best estimates of:

- (1) the start and completion dates for the design phases described in Section 4.3 [Design Process] of this Schedule; and
- (2) the commencement of Construction;
- (c) the planned start and completion dates of the major activities of Construction; and
- (d) the Target Service Commencement Date, which (except to the extent necessary to reflect adjustments made in accordance with Section 9.2(a) [Project Schedule Updates] of this Schedule) may not be updated or otherwise changed within 12 months of such date unless the Authority, in its discretion, consents.

Project Co will deliver an updated Project Schedule monthly to the Authority and the Independent Certifier and upon delivery the updated Project Schedule (the “**Updated Project Schedule**”) will be the Project Schedule under this Agreement in substitution for the previously issued Project Schedule. If at any time the Authority does not agree with the proposed updates that may be required to the Project Schedule then the disagreement may be referred to the Dispute Resolution Procedure.

9.3 Failure to Update Project Schedule

If Project Co fails or refuses to deliver an Updated Project Schedule as required under Section 9.2 [Project Schedule Updates] of this Schedule, then such failure or refusal will be deemed to be a Project Co Material Breach.

9.4 Compliance with Project Schedule

Project Co will undertake the Design and Construction in compliance with the Updated Project Schedule, as it may be updated pursuant to this Agreement.

9.5 Staged Occupancy

The Authority anticipates multiple early occupancy dates for the Upgraded Infrastructure, with Service Commencement aligning with the date of occupancy of the entire Facility. Protocols for early occupancy will be consistent with full Service Commencement but will be restricted to the specific area being occupied.

9.6 Move-In Schedule

Project Co acknowledges that the Authority will rely on the Service Commencement Date as set out in the Project Schedule (as may be adjusted under Section 9.2 [Project Schedule Updates] of this Schedule).

As soon as reasonably practicable, but in any event no later than 180 days prior to the Target Service Commencement Date, as the case may be, Project Co will deliver to the Authority’s Design and Construction Representative a move-in schedule in respect of the New Infrastructure and the Upgraded Infrastructure (the “**Move-in Schedule**”), indicating the anticipated dates when such areas will become available for occupation by the Authority so as to facilitate and permit the Authority to progressively take up occupation in an efficient manner. The Authority’s Design and Construction Representative will advise Project Co of any key or significant moves or move-in requirements, and Project Co will, as reasonably

possible, accommodate the Authority's requirements and requests. Project Co will, as may be required from time to time, up-date the Move-in Schedule.

10. DELAYS AND ACCELERATION

10.1 Acceleration to Recover Project Co Delays

If at any time the Authority, acting reasonably, determines that Project Co is behind the Updated Project Schedule and will not achieve Service Commencement by the Target Service Commencement Date, then the Authority may deliver notice to Project Co's Design and Construction Representative to use its best efforts, at Project Co's own cost and at no cost to the Authority, to accelerate the Construction so as to conform to the Updated Project Schedule and achieve Service Commencement by the Target Service Commencement Date.

10.2 Service Commencement Delay Costs

If, other than due to a Supervening Event or a Change, Project Co fails to achieve Service Commencement by the Target Service Commencement Date, then Project Co will pay to the Authority, as liquidated damages and not as a penalty, the sum of \$25,000 per day for each and every day that the Service Commencement Date is delayed beyond the Target Service Commencement Date. Project Co and the Authority expressly agree that such sums represent a genuine pre-estimate of the costs which the Authority would reasonably incur because the Authority relied on the relevant move-in schedule which are in excess of the costs which the Authority would have incurred had Project Co achieved the dates set out in the relevant move-in schedule (other than due to a Supervening Event or a Change).

10.3 Acceleration to Advance Service Commencement Date

Without prejudice to the Authority's rights under Section 10.1 [Acceleration to Recover Project Co Delays] of this Schedule, if at any time the Authority determines that it requires the Construction to proceed in advance of the Updated Project Schedule then the Authority may give written notice to Project Co to provide the Authority with a written proposal to accelerate the Construction, including cost estimates and an estimate of the time saved, and if the Authority acting reasonably decides to proceed with the acceleration then Project Co will implement the directed acceleration and if the acceleration is a Change then such Change will be made in accordance with Schedule 6 [Changes, Minor Works and Innovation Proposals].

11. COMMISSIONING

11.1 Testing and Commissioning

Project Co will, prior to applying for a Certificate of Service Commencement, retain a qualified commissioning agent (who is neither a Project Co Person nor an Affiliate of a Project Co Person; and who is acceptable to the Authority, acting reasonably), to test all equipment and systems in the Facility (including Category 1, Category 3 and Category 4 Equipment, and completing the Acceptance Protocols for Category 1 Equipment) to demonstrate to the reasonable satisfaction of the Authority's Design and Construction Representative that the Facility equipment and systems are operating so that the Authority may occupy the Facility for its Intended Uses; and the Availability Conditions are satisfied for all Functional Units.

11.2 Equipment and Systems Operation and Training

Project Co will be knowledgeable on the proper use and maintenance of all equipment and systems Project Co installs in the Facility, including communication systems, and, except as otherwise provided in Appendix 2E [Equipment and Furniture], will provide sufficient training and education to the Authority staff to enable the Authority to properly utilize such equipment and systems. The Authority will identify the relevant Authority staff and make such staff available for training at reasonable times before the Service Commencement Date.

11.3 Commissioning Plan

Project Co will prepare and deliver to the Authority's Design and Construction Representative and the Independent Certifier, not less than 365 days before the Service Commencement Date, a detailed plan (the "**Commissioning Plan**") setting out the testing, commissioning, training and other activities Project Co intends to carry out to satisfy Sections 11.1 [Testing and Commissioning], 11.2 [Equipment and Systems Operation and Training] and 11.3 [Commissioning Plan] of this Schedule and to achieve Service Commencement, including

- (a) a description of the specific equipment and systems to be tested and commissioned and the associated commissioning requirements;
- (b) supporting documentation, including as appropriate:
 - (1) design calculations and/or assumptions; and
 - (2) manufacturer's specifications;
- (c) a description of the training and education that Project Co intends to provide to the Authority's staff to enable the Authority to properly utilize the equipment and systems installed in the Facility, including all training and education to be completed before Service Commencement;
- (d) the name of the commissioning agent and the names of other persons to be involved in testing, commissioning and training;
- (e) a description of Project Co's system for managing records of tests, inspections, quality assurance and training;
- (f) a general description of Project Co's transition plans for handover to the Authority of the New Infrastructure and the Upgraded Infrastructure at Service Commencement;
- (g) a schedule, related to the Project Schedule, showing:
 - (1) the timing of all testing and commissioning and training; and
 - (2) for each requirement of Service Commencement (described in Schedule 1 [Definitions and Interpretation]), the date upon which Project Co anticipates achieving the requirement.

The Commissioning Plan must be reasonable having regard to the requirements of Sections 11.1 [Testing and Commissioning], 11.2 [Equipment and Systems Operation and Training] and 11.3 [Commissioning Plan] of this Schedule and will be developed and finalized as follows:

- (h) Project Co will deliver a preliminary draft of the Commissioning Plan to the Authority not less than 12 months before the Service Commencement Date, failing which, the Authority will be entitled to make a Deduction of \$2,500 for each week or part thereof after the date falling 12 months before the Service Commencement Date until Project Co has delivered to the Authority a preliminary draft of the Commissioning Plan but if Project Co has not delivered to the Authority a preliminary draft of the Commissioning Plan by the date falling 9 months before the Service Commencement Date, the Deduction applicable under this Section 11.3(h) [Commissioning Plan] will increase to \$5,000;
- (i) the Authority will provide its comments, if any, on the preliminary draft to Project Co within 20 Business Days of receipt of the preliminary draft;
- (j) Project Co will deliver a revised draft of the Commissioning Plan to the Authority not less than 9 months before the Service Commencement Date, failing which, the Authority will be entitled to make a Deduction of \$5,000 for each week or part thereof after the date falling 9 months before the Service Commencement Date until Project Co has delivered to the Authority a revised draft of the Commissioning Plan;
- (k) the Authority will, within 15 Business Days of receipt of the revised draft, advise Project Co whether the Authority accepts the Commissioning Plan, and if the Authority does not accept it the Authority will provide its reasons for such non-acceptance in sufficient detail to allow Project Co to address them;
- (l) if the Authority does not accept the Commissioning Plan, the parties will, acting reasonably, diligently work together with a view to revising the Commissioning Plan to address the Authority's reasons for non-acceptance;
- (m) if the Authority has not accepted the Commissioning Plan by the date that is 6 months before the Service Commencement Date, Project Co may refer the dispute to the Dispute Resolution Procedure to determine whether Project Co's proposed Commissioning Plan is reasonable;
- (n) any Deduction the Authority is entitled to make pursuant to Section 11.3(h) or Section 11.3(j) [Commissioning Plan] of this Schedule will be made from the first Service Payment payable to Project Co pursuant to Schedule 8 [Payments]; and
- (o) Deductions made pursuant to this Section 11.3 [Commissioning Plan] will not be counted for the purposes of Sections 11.1 [Authority Step-in Rights] or 12.1(g) [Project Co Events of Default] of this Agreement or Sections 9.7 [Increased Monitoring] or 9.8 [Replacement of Non-Performing Sub-Contractor] of Schedule 4 [Services Protocols and Specifications].

12. COMPLETION

12.1 Deficiency List

Prior to and as a condition of issuance of the Certificate of Service Commencement, the parties will require the Independent Certifier to, in cooperation with Project Co's Design and Construction Representative and the Authority's Design and Construction Representative with respect to an application for a Certificate of Service Commencement, prepare a complete list of Defects that are apparent upon inspection of the Facility (the "**Service Commencement Deficiencies**") and deliver to Project Co and the Authority's Design and Construction Representatives the list of Service Commencement Deficiencies.

The Authority or Project Co may refer matters relating to the accuracy or completeness of the list of Service Commencement Deficiencies to the Dispute Resolution Procedure, but the Certificate of Service Commencement, when issued, will be final and not referable to the Dispute Resolution Procedure or otherwise subject to dispute between the parties.

12.2 Advance Notice of Application for Service Commencement

Project Co acknowledges that the Independent Certifier will need sufficient time to complete any inspections, consult with the Authority, and prepare the lists of deficiencies, and accordingly Project Co will:

- (a) at least 30 days (but no more than 60 days) before the Target Service Commencement Date, deliver to the Independent Certifier and the Authority's Design and Construction Representative a notice setting out:
 - (1) a description of all outstanding Design and Construction to be completed by Project Co prior to Service Commencement; and
 - (2) a list of all Defects that Project Co is aware of at the time of the notice;
- (b) assist the Independent Certifier to make any advance inspections requested by the Independent Certifier.

12.3 Application for Certificate of Service Commencement

If Project Co believes it has achieved the requirements for Service Commencement and complied with Section 12.2 [Advance Notice of Application for Service Commencement] then Project Co may apply to the Independent Certifier (with a copy to the Authority's Design and Construction Representative) for a Certificate of Service Commencement. No later than 5 Business Days after application by Project Co for a Certificate of Service Commencement, the parties will require the Independent Certifier to, in cooperation with Project Co's Design and Construction Representative and the Authority's Design and Construction Representative, make a review of the Facility, review the basis for Project Co's application for Service Commencement, and then within a further 5 Business Days, with respect to an application for a Certificate of Service Commencement:

- (a) issue a certificate indicating that Service Commencement has been achieved (a "**Certificate of Service Commencement**"), together with a list of Deficiencies (if any); or

- (b) provide Project Co and the Authority's Design and Construction Representative with a list of all incomplete Design and Construction that must be completed prior to Service Commencement.

A Certificate of Service Commencement issued by the Independent Certifier will be final and not referable to the Dispute Resolution Procedure or otherwise subject to dispute between the parties. A Certificate of Service Commencement issued by the Independent Certifier will be evidence that the Independent Certifier reviewed the basis for the Architect's certification that "substantial performance", as defined in the *Builder's Lien Act* (British Columbia) has been achieved, and found no apparent error.

12.4 Correction of Deficiencies

Upon issuance of the Certificate of Service Commencement, Project Co will proceed expeditiously to correct each Service Commencement Deficiency by the date that is 30 days after the Service Commencement Date with respect to the Service Commencement Deficiencies, or such later date as may be reasonably required to provide sufficient time to correct the Service Commencement Deficiency and that is agreed by the Authority, acting reasonably (each Service Commencement Deficiency having its own "**Deficiency Deadline**"). Each Service Commencement Deficiency which has not been fully corrected by its Deficiency Deadline will be deemed (without the requirement for any further action by the Authority) to have generated a Demand Maintenance request on that day and thereafter the applicable provisions of this Agreement, including applicable Rectification Periods and Deductions, will apply to each such deemed request.

APPENDIX 2A

INDEPENDENT CERTIFIER AGREEMENT

[Replace this page with separate printout of Appendix 2A document.]

APPENDIX 2B

REVIEW PROCEDURE

1. SUBMITTALS

Except as expressly set out otherwise in this Agreement, the provisions of this Appendix 2B [Review Procedure] will apply to any and all drawings, specifications or other documentation (“**Submittals**”) required or specified by this Agreement, including Section 4.3 [Design Process] of Schedule 2 [Design and Construction Protocols], in respect of the Design and the Construction to be submitted to, reviewed, accepted or otherwise processed by the Authority prior to Service Commencement or after Service Commencement in respect of the completion of Deficiencies, including any and all subsequent revisions, amendments and changes thereto.

2. SUBMITTAL SCHEDULE

- (a) The schedule for Submittals (the “**Submittal Schedule**”) is attached as Attachment 1 [Submittal Schedule] to this Appendix. The Submittal Schedule may be amended by agreement of the parties in accordance with the terms of this Section 2 [Submittal Schedule].
- (b) Any amendment to the Submittal Schedule will provide for a progressive and orderly flow of Submittals from Project Co to the Authority as appropriate to allow sufficient time for review of each Submittal by the Authority, taking into account both the resources necessary to be available to the Authority to conduct such review (as anticipated by or inferred from the Submittal Schedule attached as Attachment 1 [Submittal Schedule] to this Appendix 2B [Review Procedure] to this Schedule) and any administration group consultations in accordance with the Administration Consultation Protocol.
- (c) Unless a longer period is required by this Agreement or is otherwise reasonably required by the Authority, the Authority will have 15 Business Days for review of a Submittal from the date the Authority received the Submittal. If the Submittal Schedule is inconsistent with the foregoing review period then it will be deemed to be amended to be consistent. If the Authority receives a Submittal after 12pm P.S.T. on a Business Day, the 15 Business Day review period will commence on the next Business Day.
- (d) Project Co will, in scheduling Submittals and consultations with the Administration Consultation Group, and in the performance of the Design and the Construction, allow adequate time prior to performing the Design and the Construction that is the subject of the Submittals, for review of the Submittals by the Authority and the Administration Consultation Group, as applicable, and for Project Co to make changes to the Submittals, the Design and the Construction as may be required to account for any comments received from the Authority and the Administration Consultation Group.
- (e) If the Submittal Schedule indicates that a large number of Submittals will be made at one time, the Authority, acting reasonably, may request a longer period for review or a staggering of the Submittals, and Project Co will revise the Submittal Schedule

accordingly, taking into account both the availability of resources required by the Authority, acting reasonably, to conduct such review and whether delay in the review of the subject matter of the Submittal will have a material impact on Project Co's ability to progress future anticipated Submittals and the Design or Construction in accordance with the Project Schedule.

- (f) Project Co will submit the then current Submittal Schedule to the Authority on a monthly basis until the Service Commencement Date. All amended Submittal Schedules will be required to meet all the requirements of this Section 2 [Submittal Schedule].
- (g) Project Co will submit all Submittals to the Authority in accordance with the then current Submittal Schedule.
- (h) Project Co will bear the risk of delays and additional costs caused as a result of the late submission of Submittals to the Authority, by Submittals which are rejected or required to be corrected and re-submitted in accordance with the terms of this Appendix 2B [Review Procedure], or by changes in the Design and Construction required as a result of comments made pursuant to this Appendix 2B [Review Procedure].

3. GENERAL REQUIREMENTS FOR SUBMITTALS

- (a) Unless otherwise specified by the Authority, Project Co will:
 - (1) Deliver 5 printed copies of each Submittal to the Authority, together with an electronic copy in a format acceptable to the Authority; and
 - (2) Post an electronic copy of each Submittal (in a format acceptable to the Authority) on an internet based system that is established by Project Co for the Project and accessible to Authority staff.
- (b) All Submittals will be in English.
- (c) All Submittals required by this Agreement, by applicable Law or Good Industry Practice to be signed or sealed by persons with professional designations (including where applicable by registered professional architects or engineers) will be so signed and, where applicable, sealed.
- (d) All Submittals will refer to the relevant provisions of the Design and Construction Specifications, the Services Protocols and Specifications (if applicable) and to any matter that has previously been subject to review. All Submittals (or covering documentation delivered with the Submittals) will include a statement confirming that the Submittals comply with, or identifying any elements of the Facility that for any reason vary from, the requirements of the Project Agreement, with particular reference to Schedule 2 [Design and Construction Protocols] and Schedule 3 [Design and Construction Specifications].
- (e) All Submittals will be clearly identified as a Submittal and will be delivered with appropriate covering documentation, which will include:

- (1) a list of all attached Submittals;
- (2) a description of:
 - (A) the purpose of the Submittal(s) (including whether the Submittal is being submitted for review by the Administration Consultation Group under Appendix 2C [Administration Consultation Protocol], for review under Section 4 [Review Procedure] of this Appendix or for other purposes);
 - (B) the component of the design that is subject to review by the Authority or the Administration Consultation Group; and
 - (C) Project Co's expectations for the Authority's review of the Submittal and Project Co's proposed course of action relating to the Submittal and the Design and the Construction that are the subject of the Submittal;
- (3) if the Submittal is submitted as part of the design phases described in Section 4.3(c) [Design Process] of Schedule 2 [Design and Construction Protocols], a report for the Submittal including the information described in Section 4.3(d)(12) [Design Process] of Schedule 2 [Design and Construction Protocols] as applicable to that Submittal;
- (4) for each Submittal:
 - (A) the document number(s) or drawing number(s);
 - (B) revision numbers (if applicable);
 - (C) document or drawing title(s);
 - (D) name of entity that prepared the Submittal;
 - (E) the Submittal history showing date and delivery information and/or log number of all previous submissions of that Submittal; and
 - (F) identification of any previous Submittal superseded by the current Submittal.
- (f) Project Co will compile and maintain a register of the date, contents and status of the submission of all Submittals, including the date of receipt and content of all returned Submittals and comments thereon.

4. REVIEW PROCEDURE

- (a) The Authority will review and respond to each Submittal in accordance with the applicable time periods set out in the Submittal Schedule (as may be amended from time to time in accordance with this Appendix).
- (b) Before commencing Construction of a particular component of the Project, Project Co will submit to the Authority a Submittal:
 - (1) for which the Administration Consultation Process under Appendix 2C [Administration Consultation Protocol] has been concluded, and including an

- explanation of how the design reflects the concerns and requests of the Facility Administrators, or why such concerns are not reflected in the design; and
- (2) describing that component, including all necessary design and other information as the Authority may reasonably require, including any design reports and calculations, reasonably necessary for the Authority to conduct an appropriate review to confirm that the design described in the Submittal conforms to the requirements of this Agreement (including the Design and Construction Specifications and the Proposal Extracts (Design and Construction)).
- (c) Each time before Project Co submits a Submittal or package of Submittals to the Authority under Section 4(b) [Review Procedure] above, Project Co will meet with the Authority and: make a presentation to the Authority regarding the content and purpose of the Submittal(s); carry out a page-by-page review of the Submittal(s) with the Authority; and answer any questions the Authority may have in advance of its review.
 - (d) The Authority will review Submittals submitted under Section 4(b) [Review Procedure] above and assign one of the following 4 comments:
 - (1) "REVIEWED";
 - (2) "CORRECT DEFICIENCIES";
 - (3) "REJECTED"; or
 - (4) "NOT REVIEWED".
 - (e) The comment "REVIEWED" will be assigned to those Submittals that, in the opinion of the Authority, acting reasonably, appear to conform to the requirements of this Agreement, including the Design and Construction Specifications and the Proposal Extracts (Design and Construction).
 - (f) The comment "CORRECT DEFICIENCIES" will be assigned to those Submittals that, in the opinion of the Authority, acting reasonably, appear to generally conform to the requirements of this Agreement, but in which minor deficiencies have been found and identified by the Authority's review. Project Co will to the extent necessary correct these Submittals and provide a copy of such corrected Submittals to the Authority within 15 Business Days. Project Co may proceed on the portions of such Submittals that have not received comments but Project Co will not proceed on the portions of such Submittals that have received the comment "CORRECT DEFICIENCIES" until Project Co obtains a comment that permits Project Co to proceed. Project Co will correct revise and resubmit Submittals as often as may be required to obtain a comment that permits Project Co to proceed. If at any time it is discovered that Project Co has not corrected the deficiencies on Submittals that were correctly stamped "CORRECT DEFICIENCIES", then Project Co will be required to modify the Submittals and the relevant Design and the Construction as required to correct the deficiencies and Project Co may be required, at the Authority's discretion, acting reasonably, to resubmit relevant Submittals.

- (g) The comment “REJECTED” will be assigned to those Submittals that, in the opinion of the Authority, acting reasonably, contain significant deficiencies or do not generally conform with the requirements of this Agreement. Project Co will correct and re-submit these Submittals within 15 Business Days after the comment has been provided to Project Co. The Authority will then review such corrected Submittals and assign a comment to the corrected Submittal. Project Co will correct, revise and resubmit Submittals as often as may be required to obtain a comment that permits Project Co to proceed. Except with the written consent of the Authority, Project Co will not proceed with any Design or Construction to which such Submittals receiving the comment “REJECTED” relate until Project Co obtains a comment that permits Project Co to proceed.
- (h) The comment “NOT REVIEWED” may be assigned to those Submittals that have not been reviewed by the Authority in detail because, in the opinion of the Authority, acting reasonably, the Submittals do not comply with the requirements of this Appendix (including Section 4(b) [Review Procedure]), are incomplete or otherwise insufficient for the purposes of a design review, or are received by the Authority before the date scheduled in the Submittal Schedule. Project Co will correct and re-submit these Submittals within 15 Business Days or, if a later date is set out on the Submittal Schedule, by such later date. Project Co will correct, revise and resubmit Submittals as often as may be required to obtain a comment that permits Project Co to proceed. Project Co will not proceed with any Design or Construction to which such Submittals receiving the comment “NOT REVIEWED” relate until Project Co obtains a comment that permits Project Co to proceed.
- (i) The Authority may request additional time for the review of any Submittal, including where the Submittal is voluminous or requires extensive review by representatives (including consultants) of the Authority, and Project Co will, in consultation with the Authority, extend such time for any reasonable requests by the Authority.
- (j) If the Authority does not respond to a Submittal within the applicable time period for that Submittal as determined in accordance with Section 2(c) [Submittal Schedule] of this Appendix, the Submittal will be deemed “REVIEWED” and Project Co may proceed with and implement the Design and the Construction on the basis set forth in the applicable Submittal without any further action or documentation required.
- (k) Where the Authority issues the comment “CORRECT DEFICIENCIES”, “REJECTED” or “NOT REVIEWED”, the Authority will provide reasons for the comment, referencing particulars of the Section(s) of the Agreement (including the Design and Construction Specifications) that the Submittal fails to satisfy, and if requested by Project Co, the Authority will meet with Project Co to discuss the reasons for the comment.
- (l) If at any time after assigning any comment to a Submittal or where Section 4(j) [Review Process] above has applied, the Authority or Project Co discovers deficiencies or any failure to conform to the requirements of this Agreement, the Authority or Project Co, as the case may be, will promptly notify the other Party of such deficiencies or non-

conformance and the Authority may revise the comment assigned to any Submittal. If the parties agree or it is determined in accordance with the Dispute Resolution Procedure that the revised comment is correct, Project Co will make all such corrections to the Submittals and the Design and the Construction.

- (m) For the purpose of facilitating and expediting the review and correction of Submittals, the Authority and Project Co's Design and Construction Representatives will meet as may be mutually agreed to discuss and review any outstanding Submittals and any comments thereon.
- (n) Where an individual Submittal item is voluminous, the Authority at its discretion may elect to stamp only the cover page or first sheet of the Submittal with the appropriate comment, if any, and return to Project Co the cover page or first page together with individual pages or sheets on which comments are made, together with an explanation of the status of all pages not returned to Project Co. Any pages not returned without such an explanation as to their status will be deemed to be "REVIEWED" by the Authority.
- (o) In lieu of returning a Submittal, the Authority may by letter notify Project Co of the comment assigned to the Submittal and if such comment is "CORRECT DEFICIENCIES", "REJECTED", or "NOT REVIEWED" the letter will contain comments in sufficient detail, including referencing applicable Section(s) of the Agreement, for Project Co to identify the correction sought.

5. REVIEWED DRAWINGS AND SPECIFICATIONS

- (a) The following Submittals will be deemed to be "**Reviewed Drawings and Specifications**":
 - (1) Submittals which the Authority has marked as "REVIEWED" under Section 4(e) [Review Procedure] of this Appendix;
 - (2) portions of Submittals that Project Co may proceed with under Section 4(f) [Review Procedure] of this Appendix; and
 - (3) Submittals which have been deemed "REVIEWED" by the Authority under Section 4(j) [Review Procedure] of this Appendix.
- (b) Project Co's Design and Construction Representative will deliver promptly one complete copy of the Reviewed Drawings and Specifications to the Independent Certifier.

6. DISPUTES

If Project Co disputes any comment issued by the Authority in respect of a Submittal made under Section 4 [Review Procedure] of this Appendix, Project Co will promptly notify the Authority of the details of such Dispute and will submit the reasons why Project Co believes a different comment should be assigned, together with appropriate supporting documentation. The Authority will review the Submittal, the reasons and supporting documentation and within 7 Business Days after receipt thereof will either

confirm the original comment or notify Project Co of a revised comment. Nothing in this Section 6 [Disputes] will limit either party's right to refer a Dispute to the Dispute Resolution Procedure.

7. CHANGES

- (a) If Project Co considers that compliance with any comment raised by the Authority in respect of a Submittal made under Section 4 [Review Procedure] of this Appendix would lead to a Change, Project Co will, before taking into account such comment, notify the Authority. If it is agreed by the Authority that such comment would lead to a Change then the procedure set out in Schedule 6 [Changes, Minor Works and Innovation Proposals] will apply. If the parties are unable to reach agreement, then either party may refer the matter directly to the Referee in accordance with Schedule 13 [Dispute Resolution Procedure].
- (b) In all cases, the parties will cooperate to identify potential alternative solutions to any comments raised that would not lead to a Change.

8. EFFECT OF REVIEW

For clarity, Section 1.5 [Authority Not Responsible for Design or Construction] of Schedule 2 [Design and Construction Protocols] applies to any review or comment by the Authority on any Submittal.

9. SUBMITTAL MEETINGS AND EXPLANATIONS

At any time, the Authority may, acting reasonably, require Project Co, including Project Co's consultants, Sub-Contractors, and any other relevant personnel, at no additional cost to the Authority, to meet with representatives of the Authority and its advisors to answer questions regarding Project Co's Submittals or to explain to the Authority and the Authority's advisors the intent of Project Co's Submittals, including in relation to any design and any associated documentation and as to its satisfaction of the requirements of this Agreement (including the Design and Construction Specifications). Project Co will, and will cause its consultants, Sub-Contractors, and any other relevant personnel to, attend all meetings requested by the Authority and answer all questions asked by the Authority in accordance with this Section as soon as practicable and in any event no later than 5 Business Days from the date it received the Authority's questions or such longer period as agreed by the parties.

10. REVISIONS

- (a) Project Co will ensure that Submittals keep the same, unique reference number throughout the review process, and that all subsequent revisions of the same Submittal are identified by a sequential revision number. Correspondence related to such Submittal will reference the reference number and revision number.
- (b) Re-submittals will clearly show all revisions from the previous Submittal. Bound documents, including reports and manuals, will contain a preface that clearly states how revisions are marked and the previous revision number against which the revisions have been marked. A consistent format for mark-ups of documents will be used (e.g. deletions struck out and additions underscored). Revised portions of drawings will be clearly

marked (with appropriate means to visually distinguish between the parts of the drawing that are revised and the parts that are not revised) and the revision number and description of the revision will be included on the drawing.

- (c) All revisions on print media will be initialled by hand by the individual designer, design checker and, where applicable, by the drafter and the drafting checker and will identify the persons who initialled the Submittal. Electronic versions of the Submittal will identify the persons who initialled the revisions to the printed version of the Submittal.
- (d) Project Co will keep all Reviewed Drawings and Specifications current. If any Reviewed Drawings and Specifications are revised as part of a Submittal, all other Reviewed Drawings and Specifications relying on or based on that Reviewed Drawings and Specifications will also be revised accordingly. All such revised Reviewed Drawings and Specifications will also be submitted with the Submittal to which it relates.

ATTACHMENT 1 (APPENDIX 2B)

SUBMITTAL SCHEDULE

APPENDIX 2C

ADMINISTRATION CONSULTATION PROTOCOL

1. Overview

- (a) Project Co acknowledges that consultation with the Facility Administrators is an essential step in the completion of the detailed design of the New Infrastructure and the Upgraded Infrastructure and accordingly Project Co will conduct consultations with the Administration Consultation Group in respect of components of the design as reasonably required to have regard to Facility Administrators' requests and requirements.
- (b) The parties will undertake consultations with the Administration Consultation Group in accordance with the following:
 - (1) consultations will be conducted at an early stage of the design, and at appropriate stages of Design development, to facilitate meaningful input from Facility Administrators;
 - (2) the Administration Consultation Group will include the Authority's designated capital team members, Authority staff, including contracted staff, engaged at the Facility, the Authority's facilities maintenance managers, and the Authority's technical staff, but will not include representatives of the Inmates or the general public;
 - (3) consultation meetings will be interactive meetings at which Project Co will test possible design ideas and options with Facility Administrators, and Facility Administrators will provide feedback; and
 - (4) Project Co will endeavour to develop the design to incorporate all requests and design preferences expressed by the Administration Consultation Group (subject to the terms of this Appendix), and Project Co will explain any requests or preference that have not been incorporated.

2. Administration Consultation Process

- (a) Project Co will, for each component of the design of the New Infrastructure and the Upgraded Infrastructure:
 - (1) prepare and deliver to the Authority's Design and Construction Representative drawings, specifications and other documentation and materials together with a written design brief describing the design component (and highlighting design options) in appropriate detail as necessary for meaningful consultations with the Administration Consultation Group;
 - (2) make a presentation to the Administration Consultation Group describing the design component;

- (3) consult with and obtain comments from the Administration Consultation Group at an early stage of design, and at appropriate stages of development of the design; and
 - (4) after receiving input from the Administration Consultation Group, revise the next Submittal(s) to incorporate comments and requests made by the Administration Consultation Group and consult again with the Administration Consultation Group on the revised Submittal(s) if requested by the Authority acting reasonably (having regard for the nature and extent of Administration Consultation Group comments on the initial Submittals and the nature and extent of changes made by Project Co to the Submittals.
- (b) The parties will co-operate to determine the specific nature and level of detail of drawings, specifications and other documentation and materials that will be provided prior to and as part of any particular Administration Consultation Group consultation. All Submittals to the Administration Consultation Group will comply with the requirements of Section 3 [General Requirements for Submittals] of Appendix 2B [Review Procedure]. Project Co will deliver copies of all materials to be presented at a consultation meeting at least 2 Business Days before the date of that meeting. Electronic copies of drawings will be in PDF format.
 - (c) An agreed preliminary schedule for consultations with the Administration Consultation Group, and for Submittals to the Administration Consultation Group in advance of such consultations, is included in the Submittal Schedule.
 - (d) The parties acknowledge that Design development is an iterative and interactive process and that additional Administration Consultation Group meetings may be required from those shown on the preliminary schedule included in the Submittal Schedule. The parties will co-operate to amend the Submittal Schedule as may be required from time to time to ensure that sufficient consultations with the Administration Consultation Group in relation to each component of the Design (and changes to the design resulting from such consultations) are completed prior to Project Co making a Submittal under Section 4(b)) [Review Procedure] of Appendix 2B [Review Procedure] for each component of the design. For clarity, amendments to the Submittal Schedule will be subject to the requirements of Appendix 2B [Review Procedure].
 - (e) Administration Consultation Group consultation meetings will be held in Surrey, at space made available by the Authority.
 - (f) Project Co will keep minutes and records of all Administration Consultation Group consultation meetings, and within 3 Business Days of each meeting Project Co will deliver to the Authority a copy of the minutes and records related to that meeting. If the Authority notifies Project Co of any errors in the minutes, Project Co will correct such errors within 3 Business Days of the Authority's notice.

- (g) The Authority will specify from time to time the particular persons to be included in the Administration Consultation Group for particular consultation meetings.
- (h) The parties will have further consultations with the Administration Consultation Group with respect to the design if any amendments to the design are proposed or required by reason of a change in Laws, a requirement of the City (or other Governmental Authority) or result from the design process set out in Section 4.3 [Design Process] of Schedule 2 [Design and Construction Protocols] or during the Construction and which, in any of the foregoing cases, will have a material effect on Facility Administrators.
- (i) The Authority will not be bound by any input or comments provided to Project Co in connection with the consultations with the Administration Consultation Group.

3. CHANGES

- (a) If Project Co considers that compliance with any comment raised by a Administration Consultation Group member would lead to a Change, Project Co will, before taking into account such comment or objection, notify the Authority. If it is agreed by the Authority that such comments or objections would lead to a Change then the procedure as detailed in Schedule 6 [Changes, Minor Works and Innovation Proposals] will apply. If the parties are unable to reach agreement, then either party may refer the matter directly to the Referee in accordance with Schedule 13 [Dispute Resolution Procedure].
- (b) In all cases, the parties will cooperate to identify potential alternative solutions to any comments or objections raised that would not lead to a Change.

4. THE AUTHORITY'S SUPPORT AND ASSISTANCE

- (a) The Authority will make reasonable efforts, as requested by Project Co, to assist and support Project Co with the administration consultation process including making arrangements for the persons specified by the Authority under Section 2(g) [Administration Consultation Process] of this Appendix to be available to participate in scheduled Administration Consultation Group meetings, but nothing in this Section 4 [The Authority's Support and Assistance] will be interpreted to give the Authority responsibility for the design, the design schedule or the user consultation process.

APPENDIX 2D

ENERGY

[Replace this page with separate printout of Appendix 2D document.]

APPENDIX 2E

EQUIPMENT AND FURNITURE

[Replace this page with separate printout of Appendix 2E document.]

APPENDIX 2F

INITIAL PROJECT SCHEDULE

[Replace this page with separate printout of Appendix 2F document.]

APPENDIX 2G

PROPOSAL EXTRACTS (DESIGN AND CONSTRUCTION)

APPENDIX 2H

NOT USED

APPENDIX 2I
SITE ACCESS DIAGRAM

