

APPENDIX 21

COMPLIANCE FAILURE EVENTS

1. INTERPRETATION

In this Appendix, in addition to the definitions set out in Schedule 1 of this Agreement:

“**Compliance Failure Event**” means the failure by Project Co to meet any of the requirements set out in Section 3 of this Appendix.

2. DEVELOPMENT OF PLANS AND SCHEDULES

2.1 Development of Plans and Schedules and Update Timing

Project Co will submit the following plans and schedules, and updates thereto, to the Authority in accordance with the timelines set out in this Agreement, which have been reproduced below, for reference:

#	Plan/Schedule Name	Relevant Project Agreement Provision(s)	Deadline for Initial Submission of Plan(s)/ Schedule(s)	Timing for Updates to Plan(s)/ Schedule(s)
1.	Phasing Plan	Section 6.9 (Site Issues) of Schedule 2 [Design and Construction Protocols]	Not less than 30 days after the Effective Date	N/A
2.	Demolition Plan	Section 6.10 (Demolition and Site Preparation) of Schedule 2 [Design and Construction Protocols]	Not less than 60 calendar days in advance of the commencement of demolition activities	Detailed version to follow within 14 calendar days of preliminary submission
3.	Work Plans	Section 6.11 (Connections and Integration to the Hospital) of Schedule 2 [Design and Construction Protocols]	Not less than 60 calendar days in advance for major impacts of systems shutdowns and interruptions Not less than 30 calendar days in advance for medium impacts of systems shutdowns and interruptions Not less than 14 calendar days in advance for minor impacts of systems shutdowns and interruptions Major, medium and minor impacts are defined in section 2.8.3 of Schedule 3 [Design	N/A

#	Plan/Schedule Name	Relevant Project Agreement Provision(s)	Deadline for Initial Submission of Plan(s)/ Schedule(s)	Timing for Updates to Plan(s)/ Schedule(s)
			and Construction Specifications]	
4.	Quality Assurance Plan	Section 8.5 (Quality Assurance Plan) of Schedule 2 [Design and Construction Protocols]	Not less than 20 Business Days after the Effective Date	Not less than 20 Business Days after receiving the Authority's comments
5.	Quality Assurance Plan monthly reports	Section 8.6 (Reporting) of Schedule 2 [Design and Construction Protocols]	Monthly	None
6.	Updated Project Schedule	Section 10.2 (Project Schedule Updates) of Schedule 2 [Design and Construction Protocols]	N/A (Initial Project Schedule is attached as Appendix 2F [Initial Project Schedule])	At least monthly by the 15 th day of each month
7.	Commissioning Plan	Section 12.3 (Commissioning Plan) of Schedule 2 [Design and Construction Protocols]	Outline with the 30% Design and Construction Documents	<p>Preliminary draft with the 50% Design and Construction Documents</p> <p>First revised draft with the 70% Design and Construction Documents</p> <p>Second revised draft with the 90% Design and Construction Documents</p> <p>Third revised draft with the 100% Design and Construction Documents</p> <p>Fourth revised draft within 90 days of the 100% Design and Construction Documents</p> <p>Final revised draft within 180 days of the 100% Design and Construction Documents</p>
8.	Move Plans	Section 12.4 (Move Plans) of Schedule 2 [Design and	Not less than 18 months before each of the Target SFB Expansion Substantial Completion Date or the Target New	Not less than 40 Business Days after receipt of the Authority's

#	Plan/Schedule Name	Relevant Project Agreement Provision(s)	Deadline for Initial Submission of Plan(s)/ Schedule(s)	Timing for Updates to Plan(s)/ Schedule(s)
		Construction Protocols]	Tower Substantial Completion Date, as applicable	comments on the preliminary draft
9.	BIM Project Execution Plan	Attachment D (Project Execution Plan – Outline Requirements – Design Team and Construction Team) to Appendix 2B [BIM Requirements]	Not less than 10 days before the BIM Design Kick-off meeting	Update plan with each BIM Submittal
10.	Submittal Coordination Plan	Section 4.4 of Appendix 2K [Asset Management]	Not less than 180 days prior to the Target New Tower Substantial Completion Date	Not less than 30 days prior to the Target New Tower Substantial Completion Date
11.	Handover Plan	Section 4.4 of Appendix 2K [Asset Management]	Not less than 180 days prior to the Target New Tower Substantial Completion Date	Not less than 30 days prior to the Target New Tower Substantial Completion Date
12.	Life Cycle Plan	Section 4.4 of Appendix 2K [Asset Management]	Not less than 180 days prior to the Target New Tower Substantial Completion Date	Not less than 30 days prior to the Target New Tower Substantial Completion Date
13.	Updated Submittal Schedule	Section 2(g) (Submittal Schedule) of Appendix 2C [User Consultation and Design Review]	N/A (Initial Submittal Schedule is attached as Attachment 1 to Appendix 2C [User Consultation and Design Review])	Monthly
14.	Energy Management Plan Submittals	Section 2.1 (Energy Management Plan Submittal Schedule) of Attachment 1 (Energy Model Assumptions) to Appendix 2D [Energy and Carbon Guarantees]	In accordance with Section 2.1 of Attachment 1 to Appendix 2D	In accordance with Section 2.1 of Attachment 1 to Appendix 2D
15.	Clinical Equipment Logistics Plan	Section 7 (Clinical Equipment Logistics Plan) of Appendix 2E [Clinical Equipment and Furniture]	Within 40 Business Days after the Effective Date	Monthly summary of changes within the first five days of each month Details of orders, Delivery, and Installation to be updated monthly Amendments as required due to major

#	Plan/Schedule Name	Relevant Project Agreement Provision(s)	Deadline for Initial Submission of Plan(s)/ Schedule(s)	Timing for Updates to Plan(s)/ Schedule(s)
				design and construction changes
16.	Updated Commissioning Schedule	Section 5.4.5.3 (Commissioning Schedule) of Schedule 3 [Design and Construction Specifications]	As part of 50% Design and Construction Documents Commissioning Plan submission	At least concurrently with the issuance of Commissioning meeting minutes
17.	Training Plans	Section 5.4.7.7(4) (Training) of Schedule 3 [Design and Construction Specifications]	Within 6 weeks of 'Reviewed' Submittals for any given equipment or system	As needed to address Authority comments Approved training plans to be in place 9 months prior to each Substantial Completion
18.	IM/IT Equipment Logistics Plan	Section 1.6 (IM/IT Equipment Logistics Plan) of Appendix 3F [Equipment List IM/IT]	Within 12 months after the Effective Date	At least monthly
19.	Communications plan	Section 4 (Lead Responsibilities) of Schedule 16 [Communication Roles]	Not less than 3 months in advance of the commencement of Construction	Annually

3. COMPLIANCE FAILURE EVENTS

3.1 Adherence to Submitted Deliverables

Project Co will comply with the deliverables listed in Section 2.1, including:

- (a) perform audit requirements of plans;
- (b) adhere to submitted schedules, as such schedules are updated in accordance with this Agreement.

3.2 No Unilateral Changes to Submittals

Project Co will not revise any previously reviewed Submittal without the Authority's written consent.

3.3 Design Quality

Project Co will ensure that drawings provided to the Authority as Submittals are:

- (a) are in the format required under Section 3(f) of Appendix 2C [User Consultation and Design Review];
- (b) are coordinated with all other disciplines in the same Submittal;

- (c) include adequate information;
- (d) are aligned with equipment shop drawings;
- (e) are matched with the then current Equipment List;
- (f) are consistent with specifications/matrices.

3.4 Design Completeness

Project Co will ensure that with regard to Submittals all disciplines are designed to the same level of completeness.

3.5 Design Response

Project Co will ensure that each progressive Design adequately addresses the Authority's previous comments and/or resolves Design requirements.

3.6 Repeated Failures

If two Compliance Failure Events occur with respect to any one of the Performance Indicators listed in the table in Section 5 of this Appendix, then the following will apply:

- (a) within 10 Business Days of the second such Compliance Failure Event, Project Co will provide the Authority with a reasonable plan for correcting such failures;
- (b) if Project Co puts forward a plan, the Authority will have 10 Business Days from receipt of the plan within which to notify Project Co that the Authority, acting reasonably, does not accept the plan, failing which the Authority will be deemed to have accepted the plan;
- (c) if the Authority notifies Project Co that it does not accept the plan as being reasonable, the parties will use all reasonable efforts within the following five Business Days to agree to any necessary amendments to the plan put forward and in the absence of an agreement, the question of whether the plan will remedy such Compliance Failure Events in a reasonable manner (and, if not, what would be a reasonable plan) may be referred by either party for resolution in accordance with the Dispute Resolution Procedure;
- (d) Project Co will fully implement the plan accepted by the Authority, otherwise agreed by the parties or that has been determined to be reasonable pursuant to the Dispute Resolution Procedure; and
- (e) if Project Co fails to achieve any material element of the plan or if another Compliance Failure Event occurs with respect to the same Performance Indicator:
 - (1) Project Co will retain a qualified third party consultant, acceptable to the Authority, to provide an independent peer review of Project Co's plans, drawings and other Submittals in advance of submitting them to the Authority; and
 - (2) it is a condition of the Authority's review of the Submittals that such consultant has certified that the consultant is of the opinion that the Submittals are in compliance with and meet the requirements of this Agreement.

3.7 Compliance with Program to Prevent Breach

- (a) After the occurrence of a breach or series of breaches by Project Co of any term, covenant or undertaking to the Authority, other than a Project Co Material Breach and

other than a breach of Sections 2.1, or 3.1 to 3.6 of this Appendix, the Authority may serve a notice on Project Co specifying in reasonable detail the type and nature of the breach and:

- (1) Project Co will remedy the breach referred to in such notice (if it is continuing) within five Business Days of such notice; and
 - (2) Project Co will deliver to the Authority within 10 Business Days of such notice a reasonable program for remedying the breach (if it is continuing) and for preventing the same or similar breach.
- (b) If Project Co puts forward a program in accordance with the foregoing, the Authority will have 10 Business Days from receipt of the program within which to notify Project Co that the Authority, acting reasonably, does not accept the program, failing which the Authority will be deemed to have accepted the program. If the Authority notifies Project Co that it does not accept the program as being reasonable, the parties will use all reasonable efforts within the following five Business Days to agree to any necessary amendments to the program put forward. In the absence of an agreement within such five Business Days, the question of whether the program (as it may have been amended by agreement) will remedy such breach in a reasonable manner and within a reasonable time period (and, if not, what would be a reasonable program) may be referred by either party for resolution in accordance with the Dispute Resolution Procedure.
- (c) Project Co will comply with such program.

3.8 Early Access for Category 1 Equipment

Project Co will provide the Authority with storage rooms, access and a transportation route as set out in Section 9.9 of Appendix 2E [Clinical Equipment and Furniture].

4. DEDUCTIONS

4.1 Entitlement To Make Deductions

If at any time a Compliance Failure Event occurs, the Authority will be entitled to make Deductions from the Construction Payments in accordance with the Performance Indicators set out in Section 5 of this Appendix.

4.2 Deductions for Compliance Failure Events

The amount of the Deduction in respect of a Compliance Failure Event will be as follows:

- (a) for a Very High Failure, the sum of \$15,000;
- (b) for a High Failure, the sum of \$7,500;
- (c) for a Medium Failure, the sum of \$5,000; and
- (d) for a Low Failure, the sum of \$2,500.

5. PERFORMANCE INDICATORS

A Performance Indicator applies and a Compliance Failure Event occurs in accordance with the following Table.

	Performance Indicator	Deduction	Recording Frequency
5.1.	Plans, including updates and revised drafts, are submitted in accordance with required timelines as provided in Section 2.1 of this Appendix.	Low (for the first 20 Business Days) Medium (thereafter)	Per occurrence (and weekly thereafter until rectified)
5.2.	Schedules, including updates, are submitted in accordance with required timelines as provided in Section 2.1 of this Appendix.	Low	Monthly for the first month (and weekly thereafter until rectified)
5.3.	Comply with submitted Plans and Schedules as provided in Section 2.1 of this Appendix.	Medium	Per occurrence
5.4.	No revisions to any previously reviewed Submittal without the Authority's written consent as provided in Section 3.2 of this Appendix.	High	Per occurrence
5.5.	Submitted drawings for each Design stage meet the Design quality requirements as set out in Section 3.3 of this Appendix.	Very High	Per occurrence (applicable to the full set of submitted drawings at each Design stage)
5.6.	Submittals for each Design stage meet the Design completeness requirements as provided in Section 3.4 of this Appendix.	Medium	Per occurrence (applicable to the full set of Submittals at each Design stage)
5.7.	Submittals meet the Design response requirements as provided in Section 3.5 of this Appendix.	High	Per occurrence
5.8.	A reasonable plan for correcting repeated Compliance Failure Events is provided as set out in Section 3.6(a) and such plan is fully implemented in accordance with Section 3.6(d).	High	Per occurrence (and weekly thereafter until rectified)
5.9.	Project Co complies with the program established in accordance with Section 3.7.	High	Per occurrence
5.10.	Project Co complies with the access and route requirements in accordance with Section 3.8.	Medium (for each of the first 30 days) Very High (for each day after the first 30 days)	Daily, per occurrence

	Performance Indicator	Deduction	Recording Frequency
5.11.	No work described in Section 6.11(c) of Schedule 2 [Design and Construction Protocols] is carried out unless the Authority has provided its prior written approval of the relevant Work Plan or has confirmed in writing that a Work Plan is not required for such work, as provided in Section 6.11(c) of Schedule 2 [Design and Construction Protocols].	Very High	Daily, per occurrence
5.12.	Project Co complies in all material respects with a Work Plan approved by the Authority pursuant to Section 6.11 of Schedule 2 [Design and Construction Protocols].	Very High	Daily, per occurrence