

**APPENDIX 4G
OPERATING PERIOD REVIEW PROCEDURE**

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**APPENDIX 4G
OPERATING PERIOD REVIEW PROCEDURE**

PART 1. OPERATING PERIOD SUBMITTALS

- 1.1 Except as expressly set out otherwise in this Agreement, the provisions of this Appendix 4G [Operating Period Review Procedure] will apply to any and all items, documents, plans, reports and anything else required or specified by this Agreement, in respect of the Services, to be submitted to, reviewed, accepted or otherwise processed by, the Authority, whether prior to Service Commencement or after Service Commencement, including any and all subsequent revisions, amendments and changes thereto. (collectively and individually, "**Operating Period Submittal**" or "**Operating Period Submittals**" as applicable).

PART 2. OPERATING PERIOD SUBMITTAL SCHEDULE

- 2.1 Not less than 90 days prior to:
- 2.1.1 the Target Service Commencement Date, Project Co will prepare and submit to the Authority a proposed Operating Period Submittal Schedule for the first year of the Operating Period; and
 - 2.1.2 each anniversary of the Service Commencement Date, Project Co will prepare and submit to the Authority a proposed Operating Period Submittal Schedule for the ensuing year.
- 2.2 Project Co will submit each proposed Operating Period Submittal Schedule to the Authority in accordance with this Appendix 4G [Operating Period Review Procedure], and once marked "REVIEWED" in accordance with Part 4 [Review Procedure] of this Appendix, the proposed Operating Period Submittal Schedule will be the "**Operating Period Submittal Schedule**".
- 2.3 The Operating Period Submittal Schedule may be amended by agreement of the parties in accordance with the terms of this Appendix 4G [Operating Period Review Procedure]. The Operating Period Submittal Schedule and any amendment to the Operating Period Submittal Schedule will provide for a progressive and orderly flow of Operating Period Submittals from Project Co to the Authority as appropriate to allow sufficient time for review of each Operating Period 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 then current Operating Period Submittal Schedule).
- 2.4 Unless a longer period is required by this Agreement or is otherwise reasonably required by the Authority, the Authority will have a minimum of 20 Business Days for review of an Operating Period Submittal from the date the Authority received the Operating Period Submittal, provided that if Project Co has made major changes to the grouping and volume of Operating Period Submittals, such period of time will be adjusted by the parties, acting reasonably, taking into account the factors set forth in this Appendix 4G [Operating Period Review Procedure]. If the Operating Period Submittal Schedule is inconsistent with the foregoing review period, then it will be deemed to be amended to be consistent. If the Authority receives an Operating Period

Submittal after 12pm P.S.T. on a Business Day, the 20 Business Day review period will commence on the next Business Day.

- 2.5 Project Co will, in scheduling Operating Period Submittals and in the performance of the Services, allow adequate time prior to performing any Services that are the subject of the Operating Period Submittals, for review of the Operating Period Submittals and for Project Co to make changes to the Operating Period Submittals, as may be required to account for any comments received from the Authority.
- 2.6 If the Operating Period Submittal Schedule indicates that a large number of Operating Period Submittals will be made at one time, the Authority, acting reasonably, may request a longer period for review or a staggering of the Operating Period Submittals, and Project Co will revise the Operating Period 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 Operating Period Submittal will have a material impact on Project Co's ability to progress future anticipated Operating Period Submittals and the Services in accordance with this Agreement.
- 2.7 All amended Operating Period Submittal Schedules will be submitted in accordance with, and required to meet, all the requirements of PART 2 [Operating Period Submittal Schedule] of this Appendix 4G [Operating Period Review Procedure].
- 2.8 Project Co will submit all Operating Period Submittals to the Authority in accordance with the then current Operating Period Submittal Schedule.
- 2.9 Project Co will bear the risk of delays and additional costs caused as a result of the late submission of Operating Period Submittals to the Authority, by Operating Period Submittals which are rejected or required to be corrected and re-submitted in accordance with the terms of this Appendix 4G [Operating Period Review Procedure], or by changes in the anticipated performance of the Services, required as a result of comments made pursuant to this Appendix 4G [Operating Period Review Procedure].

PART 3. GENERAL REQUIREMENTS FOR OPERATING PERIOD SUBMITTALS

- 3.1 Unless otherwise specified by the Authority, Project Co will:
 - 3.1.1 deliver 3 printed copies of each Operating Period Submittals to the Authority, together with an electronic copy in a format acceptable to the Authority; and
 - 3.1.2 post an electronic copy of each Operating Period 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.
- 3.2 All Operating Period Submittals will be in English.
- 3.3 All Operating Period Submittals required by this Agreement, applicable Law or Good Industry Practice to be signed or sealed by persons with professional designations will be so signed and, where applicable, sealed.

- 3.4 All Operating Period Submittals will refer to the relevant provisions of these Services Protocols and Specifications and to any matter that has previously been subject to review. All Operating Period Submittals (or covering documentation delivered with the Operating Period Submittals) will include a statement confirming that the Operating Period Submittals comply with, or identifying any elements of the Operating Period Submittal that for any reason vary from, the requirements of the Agreement, including these Service Protocols and Specifications.
- 3.5 All Operating Period Submittals will be clearly identified as an Operating Period Submittal and will be delivered with appropriate covering documentation, which will include:
- 3.5.1 a list of all attached Operating Period Submittal(s);
 - 3.5.2 a description of:
 - 3.5.2.1 the purpose of the Operating Period Submittal(s);
 - 3.5.2.2 the element of the Services that is subject to review by the Authority; and
 - 3.5.2.3 Project Co's expectations for the Authority's review of the Operating Period Submittal and Project Co's proposed course of action relating to the Operating Period Submittal and the Services that are the subject of the Operating Period Submittal; and
 - 3.5.3 for each Operating Period Submittal:
 - 3.5.3.1 the document number(s);
 - 3.5.3.2 revision numbers (if applicable);
 - 3.5.3.3 document title(s);
 - 3.5.3.4 name of entity that prepared the Operating Period Submittal;
 - 3.5.3.5 the Operating Period Submittal history showing date and delivery information and/or log number of all previous submissions of that Operating Period Submittal; and
 - 3.5.3.6 identification of any previous Operating Period Submittal superseded by the current Operating Period Submittal.
- 3.6 Project Co will compile and maintain a register of the date, contents and status of the submission of all Operating Period Submittals, including the date of receipt and content of all returned Operating Period Submittals and comments thereon.

PART 4. REVIEW PROCEDURE

- 4.1 The Authority will review and respond to each Operating Period Submittal in accordance with the applicable time periods set out in the Operating Period Submittal Schedule (as may be amended from time to time in accordance with this Appendix).
- 4.2 The Authority will review Operating Period Submittals submitted by Project Co and assign one of the following comments:

- 4.2.1 "REVIEWED";
- 4.2.2 "REVISE AND RESUBMIT"; or
- 4.2.3 "NOT REVIEWED"
- 4.3 The comment "REVIEWED" will be assigned to those Operating Period Submittals that, in the opinion of the Authority, acting reasonably, appear to conform to the requirements of this Agreement.
- 4.4 The comment "REVISE AND RESUBMIT" will be assigned to those Operating Period Submittals that, in the opinion of the Authority, acting reasonably, appear to contain deficiencies. Project Co will, to the extent necessary, correct these Operating Period Submittals and resubmit such Operating Period Submittals to the Authority in accordance with this Appendix 4G [Operating Period Review Procedure].
- 4.5 The comment "NOT REVIEWED" may be assigned to those Operating Period Submittals that have not be reviewed by the Authority in detail because, in the opinion of the Authority, acting reasonably, the Operating Period Submittals do not comply with the requirements of this Appendix, are incomplete or otherwise insufficient for the purposes of review, or are received by the Authority before the date scheduled in the Operating Period Submittal Schedule. Project Co will correct and re-submit these Operating Period Submittals within 15 Business Days, or if a later date is set out on the Operating Period Submittal Schedule, by such later date. Project Co will correct, revise and resubmit Operating Period Submittals as often as may be required to obtain a comment that permits Project Co to proceed. Project Co will not proceed with any Services to which such Operating Period Submittals receiving the comment "NOT REVIEWED" relate until Project Co obtains a comment that permits Project Co to proceed.
- 4.6 Where the Services are required to be performed in accordance with the requirements of a particular Operating Period Submittal, except with the written consent of the Authority, Project Co will not proceed with performance of such Services until Project Co submits the relevant Operating Period Submittal and receives the comment "REVIEWED".
- 4.7 The Authority may request additional time for the review of any Operating Period Submittal, including where the Operating Period 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.
- 4.8 If the Authority does not respond to an Operating Period Submittal within the applicable time period for that Operating Period Submittal, as determined in accordance with Section 2.4 of this Appendix, then the Operating Period Submittal will be deemed "REVIEWED" and, where the Services are required to be performed in accordance with the requirements of the particular Operating Period Submittal then, notwithstanding Section 4.6 [Review Procedure] of this Appendix 4G [Operating Period Review Procedure], Project Co may proceed with the Services on the basis set forth in the applicable Operating Period Submittal without any further action or documentation required.

- 4.9 Where the Authority issues the comment “REVISE AND RESUBMIT” or “NOT REVIEWED”, the Authority will provide reasons for the comment, referencing particulars of the section(s) of the Agreement (including the Services Protocols and Specifications) that the Operating Period Submittal fails to satisfy, and if requested by Project Co, the Authority will meet with Project Co to discuss the reasons for the comment.
- 4.10 If at any time after assigning any comment to an Operating Period Submittal, or where Section 4.8 [Review Procedure] of this Appendix 4G [Operating Period Review Procedure] 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 Operating Period 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 Operating Period Submittals and the where practicable, the Services.
- 4.11 For the purpose of facilitating and expediting the review and correction of Operating Period Submittals, the Authority and Project Co’s Operating Period Representative will meet as may be mutually agreed to discuss and review any outstanding Operating Period Submittals and any comments thereon.
- 4.12 Where an individual Operating Period Submittal item is voluminous the Authority's Operating Period Representative, at its discretion, may elect to stamp only the cover page or first sheet of the Operating Period 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.
- 4.13 In lieu of returning an Operating Period Submittal, the Authority may by letter notify Project Co of the comment assigned to the Operating Period Submittal and if such comment is “REVISE AND RESUBMIT” 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.

PART 5. DISPUTES

- 5.1 If Project Co disputes any comment issued by the Authority in respect of an Operating Period Submittal made under PART 4 [Review Procedure], 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 Operating Period 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 PART 5 [Disputes] will limit either party’s right to refer a Dispute to the Dispute Resolution Procedure.

PART 6. CHANGES

- 6.1 If Project Co considers that compliance with any comment raised by the Authority in respect of an Operating Period Submittal made under PART 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].
- 6.2 In all cases, the parties will cooperate to identify potential alternative solutions to any comments raised that would not lead to a Change.

PART 7. EFFECT OF REVIEW

- 7.1 Any review of and comment by the Authority of any Operating Period Submittals are for general conformity to the obligations and requirements of this Agreement, and any such review and comment will not relieve Project Co of the risk and responsibility for the Services and for meeting all of its obligations and requirements of this Agreement, and will not create any new or additional obligations or liabilities for the Authority. Without limiting the generality of the foregoing any and all errors or omissions in Operating Period Submittals or of any review and comment will not exclude or limit Project Co's obligations or liabilities in respect of the Services under this Agreement or exclude or limit the Authority's rights in respect of the Services under this Agreement.

PART 8. OPERATING PERIOD SUBMITTAL MEETINGS AND EXPLANATIONS

- 8.1 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 Operating Period Submittals or to explain to the Authority and the Authority's advisors the intent of Project Co's Operating Period Submittals, including details of its satisfaction of the requirements of this Agreement, (including the Services Protocols and 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.

PART 9. REVISIONS

- 9.1 Project Co will ensure that:
- 9.1.1 all Operating Period Submittals keep the same, unique reference number throughout the review process, and that all subsequent revisions of the same Operating Period Submittal are identified by a sequential revision number. Correspondence related to

such Operating Period Submittal will reference the reference number and revision number;

- 9.1.2 any re-submittal of an Operating Period Submittal clearly shows all revisions from the previous Operating Period 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;
- 9.1.3 all revisions on print media will be initialled by hand by the individual responsible for the submittal and will identify the person who initialled the Operating Period Submittal. Electronic versions of an Operating Period Submittal will identify the persons who initialled the revisions to the printed version of the Operating Period Submittal; and
- 9.1.4 all "REVIEWED" Operating Period Submittals are kept current. If any "REVIEWED" Operating Period Submittals are revised, all other "REVIEWED" Operating Period Submittals relying on or based on that "REVIEWED" Operating Period Submittal will also be revised accordingly. All such revised "REVIEWED" Operating Period Submittals will also be submitted with the Operating Period Submittal to which it relates.