

SCHEDULE 8

PAYMENTS

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SCHEDULE 8

PAYMENTS

1. INTERPRETATION

1.1 Definitions

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

“Availability Condition” means, with respect to a Functional Unit, that the Functional Unit, Maintained Equipment within the Functional Unit and normal access routes are in a state or condition that:

- (a) allows safe and convenient access to all persons who are entitled to enter, leave, occupy or use it, using normal access routes; and
- (b) is complete, operational, safe, functional and fit for its intended use (as contemplated in the Room Data Sheets), and meets all other requirements of this Agreement including with respect to power, BMS functions, utilities, light, sewerage, water temperature and humidity and information technology connectivity as set out in the Room Data Sheets, the Design and Construction Specifications or Schedule 4 [Services Protocols and Specifications];

and for Functional Units on floors other than the ground floor at least one elevator is functional and operating to manufacturer’s specifications;

“Capital Payment” means the payment described in Section 2.1(a) of this Schedule;

“Deduction” means a deduction from a Service Payment or an Early Opening Payment, calculated in accordance with this Schedule;

“ED Opening Payments” has the meaning set out in Section 2.3 of this Schedule;

“Event” means an incident or state of affairs affecting the Availability Condition of a Functional Unit or requiring Services to be performed or both;

“Facility Maintenance Payment” means the payment described in Section 2.1(c) of this Schedule;

“Functional Unit” means a room or space which is specified as such in Appendix 8A to this Schedule;

“High Service Failure” means a Service Failure which has been designated in Schedule 4 [Services Protocols and Specifications] or in this Schedule as a High Service Failure;

“Life Cycle Payment” means the payment described in Section 2.1(b) of this Schedule;

“Linked Unit” means, with respect to a Functional Unit, any other Functional Unit which is designated in Appendix 8A as being linked to the first Functional Unit;

“Long Stop Return Date” has the meaning set out in Section 4.10 of this Schedule;

“Low Service Failure” means a Service Failure which has been designated in Schedule 4 [Services Protocols and Specifications] or in this Schedule as a Low Service Failure, or a Service Failure which has not been designated as a Medium Service Failure or High Service Failure;

“Market Tested Services Costs” means the costs for the Market Tested Services, as set out in Appendix 8D and as may be modified from time to time pursuant to Section 2.2 of this Schedule;

“Medium Service Failure” means a Service Failure which has been designated in Schedule 4 [Services Protocols and Specifications] or in this Schedule as a Medium Service Failure;

“New Service Provider Start Date” means:

- (a) the ED Opening Date in respect of delivery of the ED Opening Services;
- (b) the Service Commencement Date; or
- (c) if any Service Provider is replaced by a new Service Provider, either:
 - (1) in the case of replacement following a Market Testing, the later of the Market Testing Date to which the Market Testing related and the date on which the Preferred Service Tenderer begins to perform the relevant Market Tested Services; or
 - (2) in other cases, the date on which the Services begin to be provided by the replacement Service Provider or, if earlier, the date on which they were first due to be provided;

“New Service Provider Transition Period” has the meaning set out in Section 3.15 of this Schedule;

“Payment Adjustment Report” has the meaning set out in Section 7.1(f)(2) of this Schedule;

“Payment Period” means a calendar month;

“Permanent Repair” means Rectification where a Temporary Repair has been permitted and carried out pursuant to Section 3.11 of this Schedule;

“Permanent Repair Deadline” has the meaning set out in Section 3.11(a)(4) of this Schedule;

“Return Date” has the meaning set out in Section 4.3(d) of this Schedule;

“Service Failure” means any failure by Project Co, other than an Unavailability Event, to provide the Services in accordance with this Agreement and in particular in accordance with Schedule 4 [Services Protocols and Specifications], and includes a failure to satisfy any Performance Indicator;

“Service Failure Deduction” means a Deduction which may be made in respect of a Service Failure;

“Service Payment” means the sum calculated in accordance with Section 2.1 of this Schedule;

“Temporary Alternative Accommodation” means accommodation offered to the Authority by Project Co as a substitute for any Unavailable Functional Unit pursuant to Section 4.1 of this Schedule;

“Temporary Alternative Accommodation Notice” has the meaning set out in Section 4.1 of this Schedule;

“Temporary Availability Condition” has the meaning set out in Section 3.11(a)(2) of this Schedule;

“Temporary Repair” means, in respect of the occurrence of an Unavailability Event, works of a temporary nature that do not constitute Rectification;

“Temporary Repair Proposal” has the meaning set out in Section 3.11(a) of this Schedule;

“Total Unavailability” occurs if:

- (a) 25% or more of the Functional Units which are ranked a category 4 or 5 are Unavailable at the same time and a Rectification Period has expired with respect to each such Unavailable Functional Unit;
- (b) 50% or more of the washrooms in the Facility are Unavailable at the same time and a Rectification Period has expired with respect to each such washroom;
- (c) the following are Unavailable at the same time:
 - (1) the entrance to the Emergency Department;
 - (2) the ambulance entrance;
 - (3) the main entrance Lobby to the Building; and
 - (4) the North Building Link;
- (d) the South Building Spine and the main entrance Lobby to the Building are Unavailable at the same time; or
- (e) any of the following are not accessible:
 - (1) two or more of the required fire exits;
 - (2) all of the patient transfer elevators,

and a Rectification Period has expired with respect to each Event that caused such lack of access and the Authority has not approved a mitigation plan put forward by Project Co;

“Transition” means the tolerance level for the making of Deductions in respect of Service Failures as described in Section 3.15 of this Schedule;

“Unavailable” and **“Unavailability”** means, with respect to a Functional Unit, that such Functional Unit or an applicable Linked Unit is in a state or condition that does not comply with the Availability Condition;

“Unavailability Deduction” means a Deduction which may be made in respect of an Unavailability Event;

“Unavailability Event” means an incident or state of affairs which causes one or more Functional Units to be Unavailable; and

“Unit Deduction Amounts” means the amount of the Deduction specified in Appendix 8A per Functional Unit for an Unavailability Event, which amounts are Index Linked.

2. CALCULATION OF SERVICE PAYMENTS

2.1 Service Payment

From and after the Service Commencement Date, the Authority will pay Project Co in respect of each Payment Period a Service Payment calculated as follows:

- (a) the Capital Payment for that Payment Period in an amount equal to [REDACTED] which amount will not be Index Linked; plus
- (b) the Life Cycle Payment for that Payment Period in the amount set out in Appendix 8C [Life Cycle Payment] which amount will be Index Linked; plus
- (c) the Facility Maintenance Payment for that Payment Period in an amount equal to [REDACTED] which amount will be Index Linked; minus
- (d) the aggregate of Deductions for that Payment Period, subject to Section 3.1,

provided that:

- (e) if the first Payment Period from and after the Service Commencement Date is less than a full calendar month, the Service Payment will be reduced by the same proportion that the first Payment Period is less than the total number of days in the calendar month in which Service Commencement occurs;
- (f) if the last Payment Period of the Term is less than a full calendar month, the Service Payment will be reduced by the same proportion that the last Payment Period is less than the total number of days in the calendar month in which the final day of the Term occurs; and
- (g) the Service Commencement Date and the date Service Payments commence will not be earlier than February 28, 2014 notwithstanding Project Co achieving Service Commencement earlier than such date.

The Payment Periods identified in Appendix 8C [Life Cycle Payment] assume that Service Commencement will be achieved by the Target Service Commencement Date and the Payment Periods are expressed numerically in terms of the Payment Periods starting from the Target Service Commencement Date. If Service Commencement is achieved after the Target Service Commencement Date, then the first Service Payment will be for the relevant Payment Period, or prorated portion thereof, indicated for the time after the Target Service Commencement Date, and Project Co will not be entitled to

any Service Payment for Payment Periods, or prorated portions thereof, between the Target Service Commencement Date and the Service Commencement Date.

2.2 Effect of Market Testing

On the appointment of any Preferred Service Tenderer, or, if applicable, on the completion of the re-pricing of a Market Tested Service pursuant to the Market Testing Exercise or as otherwise agreed by the Authority, the Service Payments following the Market Testing will be adjusted according to the following procedure:

- (a) new Market Tested Services Costs will be determined and calculated for each Payment Period for the applicable Contract Year in accordance with Appendix 4G [Market Testing Procedure];
- (b) after such calculations, the Service Payments will be adjusted by the amount of the difference (positive or negative) between the new Market Tested Services Costs and the previous Market Tested Services Costs;
- (c) any adjustment to the Service Payments will take effect, in the case of Market Tested Services subject to a Benchmarking Exercise, on the Market Testing Date or as otherwise agreed by the parties, and in the case of all other Market Tested Services, on the later of the Market Testing Date to which the Market Testing related and the date on which the Preferred Service Tenderer begins to perform the relevant Market Tested Services; and
- (d) for the purpose of subsequent Market Testing, Appendix 8D will be deemed to be modified as required to give effect to the new Market Tested Services Costs.

2.3 ED Opening Payments

From and after the ED Opening Date until the Service Commencement Date, the Authority will pay to Project Co a monthly amount of \$250,000 (the “**ED Opening Payments**”). The ED Opening Payments will:

- (a) be subject to all Deductions applicable to the ED Opening Areas; and
- (b) terminate as of the Service Commencement Date;
- (c) if the first Payment Period after the ED Opening Date is less than a full calendar month, the ED Opening Payment in respect of that Payment Period will be reduced by the same proportion that such Payment Period is less than the total number of days in the calendar month in which ED Opening occurs; and
- (d) if the last Payment Period in which an ED Opening Payment is payable is less than a full calendar month, the ED Opening Payment in respect of that Payment Period will be reduced by the same proportion that the last Payment Period is less than the total number of days in the calendar month in which the final ED Opening Payment becomes payable; and

The ED Opening Date and the date ED Opening Payments commence will not be earlier than the Target ED Opening Date notwithstanding Project Co achieving ED Opening earlier than such date.

3. DEDUCTIONS FROM SERVICE PAYMENTS

3.1 Entitlement to Make Deductions

If at any time after the Service Commencement Date an Unavailability Event or a Service Failure occurs the Authority will be entitled to make Deductions in accordance with this Schedule 8 (including Section 3.9 of this Schedule 8) in respect of that Unavailability Event or Service Failure (and, for greater certainty, in respect of all other Unavailability Events and Service Failures) from the Service Payment for the relevant Payment Period, except that:

- (a) the aggregate of all Deductions that the Authority may make from a Service Payment may not exceed the amount of the Service Payment in respect of a Payment Period; and
- (b) to the extent that an Unavailability Event or a Service Failure is the result of an Excusing Event or a Compensation Event, the Authority will not be entitled to make Deductions.

3.2 Classification of Event

The classification of an Event as a Service Failure or an Unavailability Event, and the rank of an Unavailability Event, will be made at the time at which the occurrence of the Event is reported to the Help Desk or otherwise reported to Project Co. If an Event which results in an immediate Service Failure Deduction (because there is no applicable Response Time or Rectification Period) can properly be classified as both a Service Failure and an Unavailability Event at the time it is reported, it will be classified as the Event that has the highest potential Deduction applicable to it. An Event which is incorrectly classified may be re-classified only with the approval of the Authority, such approval not to be unreasonably withheld. If such an Event is re-classified, the appropriate Deduction (if applicable) will be made and any Deduction incorrectly applied will be withdrawn.

3.3 Service Failure Becoming Unavailability Event

A Service Failure may become or lead to an Unavailability Event if circumstances change or the Service Failure continues. In such a circumstance, when the Functional Unit becomes Unavailable, the Service Failure will have ended (without prejudice to the Service Failure Deductions that have accrued to that point) and an Unavailability Event will have occurred.

3.4 Total Unavailability

When Total Unavailability occurs, there will be deemed to be an Unavailability Event for each Functional Unit that otherwise met the Availability Condition at that time and all Functional Units will continue to be deemed to be Unavailable until Total Unavailability no longer occurs.

3.5 Deductions for Unavailability Events

Subject to Sections 3.1, 3.9 and 3.12 of this Schedule, the Deduction in respect of each Unavailability Event will be the greater of:

- (a) \$100, Index Linked; and
- (b) subject to Section 3.6 of this Schedule, the aggregate of the Unit Deduction Amounts for all Functional Units made Unavailable as a result of the Unavailability Event.

3.6 Unavailable But Used

If any Functional Unit is Unavailable (including, for greater certainty, Functional Units that are deemed Unavailable under Section 3.4 of this Schedule) but the Authority continues to use it or a Linked Unit for the intended use or purpose of that Functional Unit or Linked Unit, for the purposes of Section 3.5(b) of this Schedule the Unit Deduction Amount applicable to an Unavailability Deduction for such Functional Unit and Linked Unit will be multiplied by 50%.

3.7 Deductions for Service Failures

Subject to Sections 3.1 and 3.15 of this Schedule, the amount of the Deduction in respect of a Service Failure will be as follows:

- (a) for a High Service Failure, the sum of \$3000, Index Linked;
- (b) for a Medium Service Failure, the sum of \$1000, Index Linked; and
- (c) for a Low Service Failure, the sum of \$100, Index Linked.

3.8 Response Time

If an Event occurs and a Response Time is indicated in Schedule 4 [Services Protocols and Specifications], in addition to any other Deduction arising from such Event, if Project Co does not respond as required under this Agreement within the applicable Response Time:

- (a) a Low Service Failure will be deemed to have occurred; and
- (b) unless otherwise specified in Schedule 4 [Services Protocols and Specifications], a new Response Time will start and the provisions of this Section 3.8 will again apply and will continue to apply with repeated Low Service Failures until Project Co responds as required under this Agreement.

Nothing in this Section 3.8 will limit any other Deductions in respect of the same Event or the occurrence of, and Deductions in respect of, additional Events that occur within a Response Time period.

3.9 Deduction Triggers

If an Event occurs:

- (a) in the case of a Service Failure for which there is no Rectification Period, the Authority will make the applicable Service Failure Deduction;

- (b) in the case of an Unavailability Event, other than a deemed Unavailability Event due to Total Unavailability, if Project Co Rectifies the Unavailability Event within the Rectification Period, then no Deduction will be made for such Unavailability Event;
- (c) in the case of a deemed Unavailability Event due to Total Unavailability, the Authority will make the applicable Unavailability Deduction; and
- (d) in any case and in addition to the foregoing, if Project Co does not Rectify the Event (which in the case of deemed Unavailability Events due to Total Unavailability means that Total Unavailability no longer occurs) within the Rectification Period:
 - (1) the applicable Deduction will be made for the Event; and
 - (2) a new Event (which in the case of a Service Failure will be of the same category as the original Service Failure unless otherwise specified in Schedule 4 [Service Protocols and Specifications]) will be deemed to occur at the end of such Rectification Period and the provisions of this Section 3.9 will again apply and will continue to apply with repeated Deductions until Project Co Rectifies the Event.

Nothing in this Section 3.9 will limit any other Deductions in respect of the same Event or the occurrence of, and Deductions in respect of, additional Events that occur within a Rectification Period.

3.10 Multiple Events

If the root cause of a series of Events is substantially the same, whether or not Project Co Rectifies any or all of the Events within the applicable Rectification Period, there will be deemed to be a Medium Service Failure on the occurrence of any of the following:

- (a) the third such Event in a day and on the occurrence of each subsequent such Event in that day; and
- (b) the fourth such Event in a rolling consecutive seven day period and on the occurrence of each subsequent such Event in that seven day period.

3.11 Temporary Repairs

If Project Co is unable to Rectify an Unavailability Event within the applicable Rectification Period due to the need for specialized materials or personnel that are not required by this Agreement to be immediately available at the Facility and are not, and cannot reasonably be expected to be, available at the Facility, then:

- (a) Project Co may provide the Authority with a proposal (the “**Temporary Repair Proposal**”) for:
 - (1) a Temporary Repair;
 - (2) a temporary modification to the Availability Condition for the relevant Functional Unit until the Permanent Repair is completed (the “**Temporary Availability Condition**”);

- (3) the Permanent Repair; and
- (4) the period within which to complete the Permanent Repair (the “**Permanent Repair Deadline**”);
- (b) the Authority may in its discretion but without unreasonable delay, consider the Temporary Repair Proposal, and Project Co will not carry out the Temporary Repair until the Temporary Repair Proposal is accepted by the Authority;
- (c) if the Authority accepts the Temporary Repair Proposal, Project Co will carry out the Temporary Repair in accordance with the Temporary Repair Proposal;
- (d) if the Temporary Repair is completed in accordance with the Temporary Repair Proposal, the Availability Condition for the relevant Functional Unit will be modified to be the Temporary Availability Condition until the Permanent Repair Deadline;
- (e) if the Permanent Repair is not completed by the Permanent Repair Deadline:
 - (1) the Temporary Availability Condition will cease to be the Availability Condition and the Authority may make all applicable Unavailability Deductions with effect from the Permanent Repair Deadline; and
 - (2) Project Co may revise the Temporary Repair Proposal and resubmit such proposal to the Authority for consideration as a new Temporary Repair Proposal pursuant to section 3.11(b) of this Schedule; and
- (f) except with respect to the applicable modification of the Availability Condition, nothing in this Section 3.11 will limit the Authority’s entitlement to Deductions within the applicable Rectification Periods.

3.12 Compliance with Laws and Good Industry Practice

When carrying out Rectification, or works of Temporary Repair pursuant to Section 3.11 of this Schedule, Project Co will at all times act in accordance with Laws and Good Industry Practice. If in doing so Project Co breaches Law, there will be deemed to be a new additional High Service Failure. If in doing so Project Co breaches Good Industry Practice, but does not also breach Laws, there will be deemed to be a new additional Low Service Failure.

3.13 Deficiency Correction Period - Unavailability

During the 28 day period beginning on the Service Commencement Date, the amount of any Unavailability Deductions for Unavailability Events directly caused by Deficiencies will be reduced by 100%. This Section 3.13 does not give any relief in respect of any Service Failure Deductions.

3.14 Service Failure Related Solely to Unavailability

No Service Failure Deduction will be made if the Service Failure to which it relates arises solely as a result of the Unavailability of the Functional Unit in which the Service was to be provided. If any Functional Unit is Unavailable but the Authority continues to use it for the intended use or purpose of that

Functional Unit, the Authority will, subject to Section 3.3 of this Schedule, deduct the full amount of any Service Failure Deductions that apply to the Services in the applicable Functional Unit.

3.15 Transition Periods - Service Failures

In respect of each Service, there will be a period of 90 days (the “**New Service Provider Transition Period**”) for Transition beginning on each New Service Provider Start Date. During each New Service Provider Transition Period the following provisions will apply:

- (a) during the first 30 days of the New Service Provider Transition Period, the amount of any Service Failure Deductions will be reduced by 75%;
- (b) during the next 30 days of the New Service Provider Transition Period, the amount of any Service Failure Deductions will be reduced by 50%; and
- (c) during the final 30 days of the New Service Provider Transition Period, the amount of any Service Failure Deductions will be reduced by 25%.

This Section 3.15 will not give any relief during any period of Transition in respect of Unavailability Deductions.

4. TEMPORARY ALTERNATIVE ACCOMMODATION

4.1 Project Co Option to Provide

If an Unavailability Event occurs Project Co may offer the Authority Temporary Alternative Accommodation by notice (the “**Temporary Alternative Accommodation Notice**”) to the Authority within 5 Business Days from the commencement of the applicable Event.

4.2 Requirements

The Temporary Alternative Accommodation must:

- (a) comply with the Availability Condition for the Functional Units affected by the Unavailability Event for which Temporary Alternative Accommodation is offered;
- (b) be a temporary alternative having regard to the facts and the circumstances in existence;
- (c) be upon terms which are not materially different from the terms upon which the Authority occupied the affected Functional Unit;
- (d) unless the Authority otherwise agrees, be accommodation that Project Co is not already obligated to provide to the Authority;
- (e) be supplied with the Services to the standards set out in Schedule 4 [Services Protocols and Specifications] which Project Co would under normal circumstances be providing within the Unavailable Functional Unit;

- (f) not involve the Authority incurring any additional cost or charges in respect of the Temporary Alternative Accommodation including the reasonable costs of any relocation to and from the Temporary Alternative Accommodation; and
- (g) be in reasonable proximity to the Facility, be reasonably accessible by public and private transport and have adequate parking.

4.3 Notice Requirements

The Temporary Alternative Accommodation Notice must:

- (a) describe the Temporary Alternative Accommodation;
- (b) invite the Authority to inspect the Temporary Alternative Accommodation and give the Authority reasonable notice of a time and a date when it may do so;
- (c) set out Project Co's proposals regarding the timing and co-ordination of relocation to the Temporary Alternative Accommodation;
- (d) specify the date (which must be agreed by the Authority before the submission of the written notice) by which Project Co reasonably expects the Authority to be able to relocate back to the applicable Functional Unit (the "**Return Date**"); and
- (e) describe the terms upon which the Authority will be entitled to occupy such Temporary Alternative Accommodation including the proposed division of such accommodation into Functional Units and the weighting to be attributed to them for the purposes of the operation of this Schedule.

4.4 Acceptance by Authority

If it wishes to inspect the Temporary Alternative Accommodation the Authority will do so within 5 Business Days of receipt of the Temporary Alternative Accommodation Notice. The Authority will notify Project Co in writing of its acceptance or refusal of the proposed Temporary Alternative Accommodation within 24 hours of its inspection or, if the Authority has elected not to inspect, within 5 Business Days of receipt of the Temporary Alternative Accommodation Notice. The Authority may in its discretion refuse or accept any proposed Temporary Alternative Accommodation that does not meet the requirements of Section 4.2 of this Schedule and in all other cases will act reasonably when deciding to accept or refuse any proposed Temporary Alternative Accommodation.

4.5 Effect of Acceptance

If the Authority accepts the offer of Temporary Alternative Accommodation:

- (a) which is not within the Facility then, without affecting the Authority's remedial rights under Section 11 of this Agreement, the Authority will not be entitled to vacate the Temporary Alternative Accommodation until the earlier of the Return Date and the date on which the Authority is entitled and able to return to and use the Functional Unit in accordance with the agreed program for return and re-commissioning referred to in Section 4.8 of this Schedule; and

- (b) which is within the Facility and the Authority subsequently needs such Temporary Alternative Accommodation in connection with needs that were not anticipated at the time the Authority agreed to occupy the space, then the Authority will be entitled to vacate the Temporary Alternative Accommodation.

4.6 Additional Authority Costs

Project Co will pay for any additional reasonable and direct costs and expenses incurred by the Authority in respect of Temporary Alternative Accommodation, including reasonable relocation costs to and from the Temporary Alternative Accommodation.

4.7 Deduction

If the Authority accepts Project Co's offer of Temporary Alternative Accommodation, no further Deductions will be made in respect of a Functional Unit vacated by the Authority while the Temporary Alternative Accommodation replacing that Functional Unit is being used by the Authority. The Authority will be entitled to make Deductions in respect of any Service Failure or Unavailability Event which occurs in the Temporary Alternative Accommodation as if the Temporary Alternative Accommodation was the Functional Unit which it replaced and any Deduction in respect of an Unavailability Event will be calculated using the Unit Deduction Amounts attributed to such Functional Unit.

4.8 Return to Functional Unit

When Project Co has completed the required works to enable the Authority to return to the Functional Unit the Authority will confirm that the Availability Condition is met for the Functional Unit and the Authority and Project Co will agree to a relocation program to return to the Functional Unit and any necessary period for re-commissioning.

4.9 Failure to Complete Works

If the Authority has accepted the proposed Temporary Alternative Accommodation and Project Co fails to complete the works to enable the Authority to return to the relevant Functional Unit on the Return Date:

- (a) the Temporary Alternative Accommodation will be deemed to be Unavailable with effect from the Return Date until the date on which the Unavailability Event has been Rectified and the Authority is able to resume its use of the Functional Unit; and
- (b) the Authority may, in its absolute discretion, vacate the Temporary Alternative Accommodation at any time after the Return Date or remain in occupation, and in the latter circumstance a 50% reduction will apply with respect to the Unavailability Deduction.

4.10 Long Stop Return Date

The Authority will specify a date (the "**Long Stop Return Date**"), being a date no earlier than 30 days after the Return Date, by which the Rectification must be completed and if Project Co fails to complete the Rectification of the Functional Unit for which the Temporary Alternative Accommodation is a replacement by the Long Stop Return Date:

- (a) the Authority may (without prejudice to its rights under Section 12 (Project Co Events of Default) or any other express rights of the Authority under this Agreement) take such steps as it considers to be appropriate (either itself or by engaging others to take such steps) to restore the Functional Unit to a condition that satisfies in all respects the requirements of Schedule 4 [Services Protocols and Specifications]; and
- (b) Project Co will reimburse the Authority for all reasonable direct costs and expenses incurred by the Authority in relation to taking the steps, or engaging others to take the steps, referred to in Section 4.10(a) and the Authority will be entitled to deduct any such amount from any amounts payable to Project Co under this Agreement.

5. REVIEW OF FUNCTIONAL UNITS, DEDUCTIONS, ETC.

5.1 Initiation of Review

The following will be reviewed by the Authority and Project Co at any time if requested by either party but in any event will be reviewed at least once in every Contract Year for the purposes of the following Contract Year:

- (a) the identification of Functional Units, Linked Units, Performance Indicators, Response Times, Rectification Periods, Unit Deduction Amounts; and
- (b) the amount of Deductions for each category of Service Failure and for Unavailability Events.

If so requested the Authority and Project Co will act reasonably and diligently in carrying out the review, which will not exceed 30 days without the agreement of both parties. For the avoidance of doubt, the parties intend that any changes made as a result of such a review will not alter the overall risk profile of the relevant Service or the likely magnitude of Deductions. If proposed changes would result in any such alteration, the matter will be deemed to be a Change subject to the provisions of Schedule 6 [Changes, Minor Works and Innovation Proposals].

5.2 Results of Review

The Authority and Project Co may, in respect of each matter that is the subject of the review, either:

- (a) agree that the status of the relevant matter will continue to apply unchanged for the relevant Contract Year; or
- (b) agree to adjustments to the relevant matter to take effect in the relevant Contract Year.

If the parties do not agree within 30 days after completion of the review, either party may refer the matter to the Dispute Resolution Procedure. No change will be made with respect to a matter under review until agreed or until determined under the Dispute Resolution Procedure. For the avoidance of doubt, if the changes that are agreed or determined under the Dispute Resolution Procedure alter the overall risk profile of the relevant Service, the matter will be deemed a Change subject to the provisions of Schedule 6.

5.3 Effective Time of Adjustments

Any adjustment pursuant to a review will be effective from the commencement of the relevant Contract Year.

6. FAILURE BY PROJECT CO TO MONITOR OR REPORT

6.1 Performance Monitoring Report

The Performance Monitoring Report produced by Project Co for any Payment Period will be the initial source of the information regarding the performance of the Services for the relevant Payment Period for the purposes of calculating the relevant Deductions.

6.2 Failure to Monitor or Report

If Project Co fails to monitor or accurately report an Event, a Service Failure or an Unavailability Event:

- (a) such failure will be deemed to be a new Low Service Failure for each Event that has been misreported. The relevant Deduction for the new Low Service Failure will be made in addition to the Deductions that would have been made had there been no failure to monitor or report;
- (b) the Authority will be entitled to make Deductions in respect of any Service Failures or Unavailability Events in the manner prescribed in this Schedule and the Performance Monitoring Report(s) and invoice(s) with respect to all Payment Periods affected by such failure will be restated to include any such Deductions; and
- (c) Project Co will forthwith pay to the Authority the amount, if any, by which the amount paid to it for the affected Payment Periods exceeds the amount in the restated invoices for such Payment Periods.

6.3 Misconduct

If the Authority's inspection or investigation of records reveals, on the part of Project Co or a Project Co Person:

- (a) fraudulent action or inaction;
- (b) deliberate misrepresentation; or
- (c) gross misconduct or incompetence,

then a new High Service Failure will be deemed to have occurred for each Event that has been misreported. The relevant Deduction for the new High Service Failure will be made in addition to the Deductions that would have been made had there been no misreporting.

6.4 No Prejudice to Other Rights

The provisions of this Section 6 are without prejudice to any rights of the Authority in this Agreement, including pursuant to Section 6 (Performance Monitoring and Reporting) of Schedule 4 [Services Protocols and Specifications] and Section 12.1 (Project Co Events of Default) of this Agreement.

7. GENERAL PAYMENT PROVISIONS

7.1 Invoicing and Payment Arrangements

With respect to invoicing and payment:

- (a) all Service Payments will be payable in advance for each Payment Period;
- (b) a minimum of 10 Business Days prior to each Payment Period (and any month in which an ED Opening Payment is due), Project Co will provide the Authority with an invoice in a form agreed by the parties, acting reasonably. The invoice will include as a minimum:
 - (1) the estimated Service Payments for the applicable Payment Period or the ED Opening Payment for the applicable month, or both in the case of a Payment Period in respect of which a Service Payment and a ED Opening Payment become payable;
 - (2) any adjustments to a previous Payment Period or ED Opening Payment, as set out in the applicable Payment Adjustment Report approved by the Authority;
 - (3) any amount owing to the Authority under this Agreement;
 - (4) any amount owing to Project Co under this Agreement;
 - (5) the amount of applicable HST calculated in accordance with Section 7.2 of this Appendix;
 - (6) Project Co's HST registration number; and
 - (7) the net amount owing by the Authority to Project Co, or by Project Co to the Authority, as applicable;
- (c) the Authority will:
 - (1) review each invoice submitted in accordance with this Section 7.1 within 5 Business Days; and
 - (2) pay the amount approved by the Authority on the later of the first day of the Payment Period or the 10th Business Day after receipt of the invoice;
 - (3) concurrently advise Project Co of any amounts the Authority has not approved and the reasons for non-approval; and
- (d) Project Co:

- (1) will, after discussion and agreement with the Authority, clarify and resubmit an invoice for any amounts not approved by the Authority in any previously submitted invoice and the Authority will pay such agreed amounts in accordance section 7.1(c)(2); and
 - (2) may refer for resolution pursuant to Dispute Resolution Procedure the amount of any invoice it has not agreed with the Authority;
- (e) the Authority will not be obligated to make any payment unless all conditions of payment in this Agreement have been satisfied;
- (f) within 10 Business Days following the end of each Payment Period, Project Co will submit to the Authority:
- (1) a Performance Monitoring Report for that Payment Period; and
 - (2) a report (a "**Payment Adjustment Report**") setting out any adjustments, including Deductions, to the Service Payments or ED Opening Payment for that Payment Period, and the amount of over-payment or under-payment from the amount paid previously by the Authority for that Payment Period;
- (g) Project Co will include with each invoice and Payment Adjustment Report such supporting documentation as is reasonably required to substantiate and confirm the invoiced amounts and amounts set out in each Payment Adjustment Report;
- (h) for the final 3 Payment Periods of the Term, the Authority may withhold from payment a reasonable amount for possible adjustments to the Service Payments, and within 30 days after the expiry of the Term Project Co will provide the Authority with a final invoice setting out Project Co's calculations to reconcile any over-payments or under-payments and the Authority or Project Co, as applicable, will promptly pay the amount properly due and payable to the other party; and
- (i) no payment will be construed as an acceptance or approval of incomplete, defective or improper Design, Construction, Services or any other matter provided by Project Co which is not in conformance with the requirements of this Agreement, and will not operate to relieve Project Co from any of its obligations under this Agreement.

7.2 HST

Project Co will include in each invoice:

- (a) for an ED Opening Payment, the HST payable by the Authority on such ED Opening Payment, and
- (b) for a Service Payment:
 - (1) for the Payment Period immediately following the month in which Service Commencement is achieved, the HST payable by the Authority on the Cost To Date as at the Service Commencement Date, less the HST that has already

been paid by the Authority on that portion of the Cost To Date as at the Service Commencement Date pursuant to:

- (A) Appendix 8B [Construction Period Payments]; and
 - (B) Section 7.2(a) of this Appendix; and
- (2) for each Payment Period, the HST payable by the Authority on the Service Payment, excluding any portion of such Service Payment relating to costs in respect of which the Authority has already paid HST pursuant to Section 7.2(b)(1) of this Appendix.

8. CONSTRUCTION PERIOD PAYMENTS

The Authority will make payments to Project Co during the Construction Period in accordance with Appendix 8B.

APPENDIX 8A

FUNCTIONAL UNITS, UNIT DEDUCTION AMOUNTS, RECTIFICATION PERIODS

LINKED UNITS PRINCIPLES

APPENDIX 8B

CONSTRUCTION PERIOD PAYMENTS

APPENDIX 8C

LIFE CYCLE PAYMENT

A	B
Payment Period after Service Commencement Date	Life Cycle Payment (\$ as of Base Date) (Index Linked)
Month 1	
Month 2	
Month 3	
Month 4	
Month 5	
Month 6	
Month 7	
Month 8	
Month 9	
Month 10	
Month 11	
Month 12	
Month 13	
Month 14	
Month 15	
Month 16	
Month 17	
Month 18	
Month 19	
Month 20	
Month 21	
Month 22	
Month 23	
Month 24	
Month 25	
Month 26	
Month 27	
Month 28	
Month 29	
Month 30	
Month 31	
Month 32	
Month 33	

A	B
Payment Period after Service Commencement Date	Life Cycle Payment (\$ as of Base Date) (Index Linked)
Month 34	
Month 35	
Month 36	
Month 37	
Month 38	
Month 39	
Month 40	
Month 41	
Month 42	
Month 43	
Month 44	
Month 45	
Month 46	
Month 47	
Month 48	
Month 49	
Month 50	
Month 51	
Month 52	
Month 53	
Month 54	
Month 55	
Month 56	
Month 57	
Month 58	
Month 59	
Month 60	
Month 61	
Month 62	
Month 63	
Month 64	
Month 65	
Month 66	
Month 67	
Month 68	
Month 69	
Month 70	
Month 71	

A	B
Payment Period after Service Commencement Date	Life Cycle Payment (\$ as of Base Date) (Index Linked)
Month 72	
Month 73	
Month 74	
Month 75	
Month 76	
Month 77	
Month 78	
Month 79	
Month 80	
Month 81	
Month 82	
Month 83	
Month 84	
Month 85	
Month 86	
Month 87	
Month 88	
Month 89	
Month 90	
Month 91	
Month 92	
Month 93	
Month 94	
Month 95	
Month 96	
Month 97	
Month 98	
Month 99	
Month 100	
Month 101	
Month 102	
Month 103	
Month 104	
Month 105	
Month 106	
Month 107	
Month 108	
Month 109	

A	B
Payment Period after Service Commencement Date	Life Cycle Payment (\$ as of Base Date) (Index Linked)
Month 110	
Month 111	
Month 112	
Month 113	
Month 114	
Month 115	
Month 116	
Month 117	
Month 118	
Month 119	
Month 120	
Month 121	
Month 122	
Month 123	
Month 124	
Month 125	
Month 126	
Month 127	
Month 128	
Month 129	
Month 130	
Month 131	
Month 132	
Month 133	
Month 134	
Month 135	
Month 136	
Month 137	
Month 138	
Month 139	
Month 140	
Month 141	
Month 142	
Month 143	
Month 144	
Month 145	
Month 146	
Month 147	

A	B
Payment Period after Service Commencement Date	Life Cycle Payment (\$ as of Base Date) (Index Linked)
Month 148	
Month 149	
Month 150	
Month 151	
Month 152	
Month 153	
Month 154	
Month 155	
Month 156	
Month 157	
Month 158	
Month 159	
Month 160	
Month 161	
Month 162	
Month 163	
Month 164	
Month 165	
Month 166	
Month 167	
Month 168	
Month 169	
Month 170	
Month 171	
Month 172	
Month 173	
Month 174	
Month 175	
Month 176	
Month 177	
Month 178	
Month 179	
Month 180	
Month 181	
Month 182	
Month 183	
Month 184	
Month 185	

A	B
Payment Period after Service Commencement Date	Life Cycle Payment (\$ as of Base Date) (Index Linked)
Month 186	
Month 187	
Month 188	
Month 189	
Month 190	
Month 191	
Month 192	
Month 193	
Month 194	
Month 195	
Month 196	
Month 197	
Month 198	
Month 199	
Month 200	
Month 201	
Month 202	
Month 203	
Month 204	
Month 205	
Month 206	
Month 207	
Month 208	
Month 209	
Month 210	
Month 211	
Month 212	
Month 213	
Month 214	
Month 215	
Month 216	
Month 217	
Month 218	
Month 219	
Month 220	
Month 221	
Month 222	
Month 223	

A	B
Payment Period after Service Commencement Date	Life Cycle Payment (\$ as of Base Date) (Index Linked)
Month 224	
Month 225	
Month 226	
Month 227	
Month 228	
Month 229	
Month 230	
Month 231	
Month 232	
Month 233	
Month 234	
Month 235	
Month 236	
Month 237	
Month 238	
Month 239	
Month 240	
Month 241	
Month 242	
Month 243	
Month 244	
Month 245	
Month 246	
Month 247	
Month 248	
Month 249	
Month 250	
Month 251	
Month 252	
Month 253	
Month 254	
Month 255	
Month 256	
Month 257	
Month 258	
Month 259	
Month 260	
Month 261	

A	B
Payment Period after Service Commencement Date	Life Cycle Payment (\$ as of Base Date) (Index Linked)
Month 262	
Month 263	
Month 264	
Month 265	
Month 266	
Month 267	
Month 268	
Month 269	
Month 270	
Month 271	
Month 272	
Month 273	
Month 274	
Month 275	
Month 276	
Month 277	
Month 278	
Month 279	
Month 280	
Month 281	
Month 282	
Month 283	
Month 284	
Month 285	
Month 286	
Month 287	
Month 288	
Month 289	
Month 290	
Month 291	
Month 292	
Month 293	
Month 294	
Month 295	
Month 296	
Month 297	
Month 298	
Month 299	

A	B
Payment Period after Service Commencement Date	Life Cycle Payment (\$ as of Base Date) (Index Linked)
Month 300	
Month 301	
Month 302	
Month 303	
Month 304	
Month 305	
Month 306	
Month 307	
Month 308	
Month 309	
Month 310	
Month 311	
Month 312	
Month 313	
Month 314	
Month 315	
Month 316	
Month 317	
Month 318	
Month 319	
Month 320	
Month 321	
Month 322	
Month 323	
Month 324	
Month 325	
Month 326	
Month 327	
Month 328	
Month 329	
Month 330	
Month 331	
Month 332	
Month 333	
Month 334	
Month 335	
Month 336	
Month 337	

A	B
Payment Period after Service Commencement Date	Life Cycle Payment (\$ as of Base Date) (Index Linked)
Month 338	[REDACTED]
Month 339	[REDACTED]
Month 340	[REDACTED]
Month 341	[REDACTED]
Month 342	[REDACTED]
Month 343	[REDACTED]
Month 344	[REDACTED]
Month 345	[REDACTED]
Month 346	[REDACTED]
Month 347	[REDACTED]
Month 348	[REDACTED]
Month 349	[REDACTED]
Month 350	[REDACTED]
Month 351	[REDACTED]
Month 352	[REDACTED]
Month 353	[REDACTED]
Month 354	[REDACTED]
Month 355	[REDACTED]
Month 356	[REDACTED]
Month 357	[REDACTED]
Month 358	[REDACTED]
Month 359	[REDACTED]
Month 360	[REDACTED]

APPENDIX 8D

MARKET TESTED SERVICE COSTS

The following table sets out the Market Tested Services Costs attributed to each Periodic Payment.

Market Tested Service	Market Tested Service Cost attributed to each Periodic Payment \$(Index Linked)
Cleaning Services and Waste Management Services	[REDACTED]
Contracts for the maintenance of elevators and escalators in connection with the delivery of the Plant Services	[REDACTED]

Notes: Pursuant to Section 2.2(d) of this Schedule 8, the amounts in this table will be deemed to be modified as necessary after each subsequent Market Testing.