

## Schedule 12 – Review Procedures

### 1 SUBMISSION AND REVIEW

#### 1.1 Submission

- (a) Project Co must submit all drawings, documents, data or other information which this Deed requires it to provide (**Submitted Documents**) to the State or the Independent Certifier (as applicable) (**Reviewing Party**) for review or approval in accordance with the terms of this Deed.
- (b) With each Submitted Document, Project Co must provide:
  - (i) details of the Submitted Document, its nature and the relevant clause or schedule of this Deed in accordance with which it is submitted for review; and
  - (ii) any other information required in accordance with the State Project Document or otherwise reasonably required by the Reviewing Party for the review of the Submitted Document in accordance with this Schedule 12.

#### 1.2 Review

- (a) The Reviewing Party must review the Submitted Document submitted in accordance with Section 1.1 of this Schedule 12 and provide any comments in writing to Project Co in accordance with this Schedule 12 and this Deed within the Review Period.
- (b) For the purpose of this Schedule 12 and unless stated otherwise in this Deed, “**Review Period**” means, 15 Business Days from the day that the Submitted Document is submitted to the State for review, or such longer period as the State reasonably requires, given the volume and complexity of the Submitted Documents.

### 2 FURTHER INFORMATION

Without limiting Clause 2.22 of this Deed, Project Co must as soon as possible upon request by the Reviewing Party:

- (a) submit any further information, data or documents;
- (b) make available appropriately qualified personnel;
- (c) provide access to all Project Co Material and Project Co’s books, records and systems; and
- (d) allow the State to review and undertake audits to enable it to verify compliance with this Section 2 in respect of information provided,

that the Reviewing Party reasonably requires in order to review the Submitted Document and respond in accordance with this Schedule 12.

### 3 REVIEW IN PHASES

- (a) If Submitted Documents are to be reviewed in phases, each phase must be submitted for review and the review completed in accordance with this Schedule 12 before any subsequent phase may be submitted for review.
- (b) If, for any reason, any phase is reviewed out of sequence as a consequence of any Project Co Act or Omission, the Reviewing Party will be entitled to further review or to complete a new review of those phases of the Submitted Documents that have already been reviewed in accordance with this Schedule 12.

## **4 COMMENTS ON SUBMITTED DOCUMENT**

### **4.1 Comments or no comments**

The Reviewing Party may return a Submitted Document to Project Co with or without comment. If the Reviewing Party has no comments on a Submitted Document, the Reviewing Party may mark that document with the statement "No comment".

### **4.2 Failure to comment**

Except in the case of the Submitted Documents described in Section 7.4 of this Schedule 12, if the Reviewing Party fails to comment on or respond to any Submitted Document within the Review Period, then the Reviewing Party will be deemed to have returned the Submitted Document to Project Co with "No comment".

### **4.3 Response to Submitted Document**

The Reviewing Party may provide comments in connection with a Submitted Document or approve or reject a Submitted Document in accordance with Section 5 of this Schedule 12.

### **4.4 Substantiate rejection or comments**

If the Reviewing Party provides Project Co with comments in connection with the Submitted Document or rejects the Submitted Document in accordance with Section 5 of this Schedule 12, the Reviewing Party must provide sufficient detail to Project Co to substantiate those comments, or that rejection.

## **5 GROUNDS ON WHICH THE REVIEWING PARTY MAY COMMENT OR REJECT**

### **5.1 General**

The Reviewing Party may provide comments in connection with, or reject, a Submitted Document if:

- (a) the Submitted Document:
  - (i) is incomplete or inaccurate, of poor quality, is ambiguous or unclear or otherwise is not in a condition to allow the Reviewing Party to adequately review it;
  - (ii) does not comply with the relevant Laws or Quality Standards; or
  - (iii) is otherwise not in accordance with, or is not submitted in accordance with, the requirements of the State Project Documents (including that Project Co will not satisfy the FFP Warranty, the Design Requirements or the Services Requirements); or
- (b) the Reviewing Party is of the view, acting reasonably, that the implementation of the Submitted Document or proceeding on the basis of the Submitted Document would:
  - (i) affect any right of the State in accordance with a State Project Document, the State's ability to perform its obligations under a State Project Document or exercise any of its statutory functions or its ability to enforce any such right;
  - (ii) confer an obligation on the State that is not expressly stated in this Deed;
  - (iii) not allow Project Co to comply with its obligations in accordance with the State Project Documents (including the FFP Warranty); or
  - (iv) likely result in an increase to the State's Liabilities under a State Project Document.

### **5.2 Development Phase Programs and Summary Program**

If the Submitted Document is a Development Phase Program for a Stage or the Summary Program, in addition to its rights in accordance with Section 5.1 of this Schedule 12, the Reviewing Party may:

- (a) provide comments in connection with the Development Phase Program for that Stage or the Summary Program (as applicable); or

- (b) reject the Development Phase Program for that Stage or the Summary Program (as applicable),

and Project Co must amend the Development Phase Program for that Stage or the Summary Phase Program (as applicable) accordingly if:

- (a) the Development Phase Program for that Stage or the Summary Program (as applicable) is inconsistent with or is otherwise not in accordance with Schedule 10 (Programming Requirements);
- (b) compliance with the Development Phase Program for that Stage or the Summary Program (as applicable) would mean that Commercial Acceptance for a Stage would not be achieved by the Date for Commercial Acceptance of that Stage unless it is not possible, by acceleration or otherwise, to achieve Commercial Acceptance of a Stage by the Date for Commercial Acceptance; or
- (c) compliance with the Submitted Document would materially increase the likelihood of disruption to the timing for the commencement of the provision of School Activities or Services for a Stage.

If the Development Phase Program for a Stage or the Summary Program (as applicable) shows that Commercial Acceptance will occur after a relevant Date for Commercial Acceptance, any acceptance by a Reviewing Party of that Development Phase Program or Summary Program does not give rise to an extension of time or imply acceptance (of the Reviewing Party) of an extension to the Date for Commercial Acceptance.

### **5.3 Reviewable Services agreements**

Without limiting the State's rights or Project Co's obligations under this Deed, where the Submitted Document is an agreement in respect of Reviewable Services, in addition to its rights under Section 5.1 of this Schedule 12, the State may provide comments in respect of the relevant agreement or reject the relevant agreement where:

- (a) the State considers that the prices included in the agreement are too high; or
- (b) the terms of the agreement are otherwise not acceptable to the State.

### **5.4 Design Deliverables**

If the Submitted Document is a Design Deliverable, in addition to its rights under Section 5.1 of this Schedule 12, the Reviewing Party may provide comments in respect of, or reject, the Submitted Document:

- (a) is not in accordance with the Design Requirements; or
- (b) where the Submitted Document is not submitted in accordance with the Design Development Process.

### **5.5 Remedy Implementation Plan**

If the Submitted Document is a Remedy Implementation Plan under Clause 19.2 (Independent Certifier's review of progress) of this Deed, in addition to its rights under Sections 7.1(b) and 5 of this Schedule 12, the Reviewing Party may provide comments or reject a Remedy Implementation Plan where it does not satisfy its concerns.

### **5.6 Operating Phase Management Plans**

If the Submitted Document is an Operating Phase Management Plan, in addition to its rights under Section 5 of this Schedule 12, the Reviewing Party may provide comments in respect of, or reject, the Submitted Document and Project Co must amend the Submitted Document accordingly if:

- (a) the Submitted Document is not in accordance with Services Requirements; or
- (b) the Submitted Document does not accurately set out (or set out in sufficient detail) how Project Co will deliver the Services so as to meet the Services Requirements.
- (c) the Operating Phase Management Plan relates to maintenance:
  - (i) carrying out the maintenance in the period or at the times suggested would interfere with or disrupt the carrying out the performance of the School Activities;

- (ii) the safety of Users would be adversely affected; or
- (iii) the period for carrying out the maintenance would exceed the period reasonably required for the relevant maintenance activity.

## **6 DOCUMENT MANAGEMENT**

### **6.1 Copies of Submitted Documents**

- (a) Unless otherwise stated in this Deed, Project Co must provide:
  - (i) 1 electronic version in .pdf format;
  - (ii) 1 electronic version in native file format (in accordance with Section 6.1(b) of this Schedule 12); and
  - (iii) where requested by the State, up to 3 original paper copies in the original format size, or other format size as agreed,of each Submitted Document to the relevant Reviewing Party for review in accordance with this Schedule 12.
- (b) An electronic copy of a Submitted Document must be an electronic copy of that document in the format of the software in which the document was originally created that has been configured to allow the person to whom the electronic copy is provided to access and amend the information contained therein in the same manner as could the original creator(s) of that document.

### **6.2 Register of Submitted Documents**

Project Co must compile and maintain a register of the date of submission and content of each Submitted Document and must regularly update that register to record:

- (a) a unique identifier number, revision number, or code for each Submitted Document including any responses or comments;
- (b) each Submitted Document to which it receives a response or comment from the Reviewing Party, including a copy of that response or comment; and
- (c) each Submitted Document to which it receives no response or comment or is deemed not to receive any response or comment in accordance with Section 4.1 or 4.2 of this Schedule 12 (as applicable).

### **6.3 Information Management**

- (a) Project Co must unify, align and coordinate the form of Submitted Documents to ensure a seamless review and storage and must ensure a single point of search, indexing and referencing is available, including the consistent use of common forms for similar disciplines, services or functions, common filing and referencing and consistent use of keywords, searching and meta data (where appropriate).
- (b) Project Co must ensure all Submitted Documents are fully compatible with the State's document management system.

## **7 COMPLIANCE WITH SUBMITTED DOCUMENTS**

### **7.1 Rejected or comments on Submitted Document**

- (a) Subject to Section 7.2 of this Schedule 12, if the Reviewing Party comments on or rejects a Submitted Document in accordance with Section 5 of this Schedule 12, Project Co must:
  - (i) amend the Submitted Document in accordance with the comments of the Reviewing Party to the extent necessary to ensure that the Submitted Document meets the requirements of this Deed; and
  - (ii) resubmit the revised Submitted Document to the Reviewing Party within 5 Business Days of receipt of the comments (or such longer period as the Reviewing Party may agree),

and the provisions of Sections 1 to 6 of this Schedule 12 will reapply to the amended document until such time as the Submitted Document is returned to

Project Co without any comment, is approved by the Reviewing Party or Parties, or is deemed to have been returned with “No comment” in accordance with Section 4.2 of this Schedule 12.

- (b) Where the Submitted Document is a Remedy Implementation Plan referred to in Clause 19.2 (Independent Certifier’s review of progress) of this Deed, the Reviewing Party may in reviewing the Remedy Implementation Plan, determine that it does not satisfactorily address the requirements set out in Clause 19.2 of this Deed or its concerns, in which case this will constitute a Major Default.

## 7.2 Disputed amendments

- (a) If Project Co does not agree that any amendments requested by the Reviewing Party to a Submitted Document are required, Project Co and the Reviewing Party must meet within a reasonable time to try to resolve the difference of opinion in good faith.
- (b) If, following good faith negotiations, Project Co still disputes that any amendments are required to the Submitted Document, Project Co may refer the matter to expert determination in accordance with Clause 43 (Dispute Resolution procedure) of this Deed. If the dispute is determined in favour of the State, then the provisions of Section 7.1 of this Schedule 12 will reapply following determination of the dispute.

## 7.3 Submitted Document with “No Comment”

If all relevant Reviewing Parties return a Submitted Document to Project Co:

- (a) without any comment (except in the case of the Submitted Documents described in Section 7.4 of this Schedule 12) or which is deemed to have been returned with “No comment” in accordance with Section 4.2 of this Schedule 12;
- (b) with the statement “No comment”; or
- (c) which is determined in accordance with Section 7.2 of this Schedule 12 not to require any further amendment,

then:

- (d) Project Co must deliver the Project in accordance with the Submitted Document and otherwise in accordance with this Deed;
- (e) subject to Sections 7.3(f) and 7.3(g) of this Schedule 12, Project Co may depart from that document where it is necessary to do so to comply with this Deed;
- (f) if Project Co wishes to depart from that document, then:
  - (i) it may do so subject to giving the Reviewing Party prior written notice of this intention, together with an updated version of the Submitted Document incorporating all or any changes proposed; and
  - (ii) the provisions of Sections 1 to 6 of this Schedule 12 will apply again to such re-submission; and
- (g) if Project Co becomes aware or ought reasonably to have become aware that the requirements of the Submitted Document conflict with this Deed, Project Co must notify the State.

## 7.4 Submitted Documents to be “Approved”

For the purposes of Clause 23 (Operating Phase Management Plans and Operating Phase Reports) of this Deed, if the State returns the Submitted Document to Project Co with the statement “Approved”, or if the Submitted Document is determined in accordance with Section 7.2 of this Schedule 12 not to require any further amendment this will constitute approval of the Submitted Document for the purposes of this Deed and Sections 7.3(d) to 7.3(g) of this Schedule 12 apply.

## 8 NO LIMITATION ON OBLIGATIONS

- (a) Except as otherwise expressly provided in the Independent Certifier Deed of Appointment, the Reviewing Party does not owe any duty of care to Project Co to review at all, or in reviewing, commenting or failing to comment on, accepting,

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approving, endorsing or rejecting a Submitted Document, to detect defects, errors, omissions or non-compliances with the State Project Documents, any Law or any Approval.

- (b) Notwithstanding this Schedule 12, where in this Deed the words “review”, “comment”, “accept”, “endorse”, “approve”, “consent” or “reject” (or other grammatical forms of those words) are used in relation to documents of any kind, including Submitted Documents, or where such words are used by the Reviewing Party, then those words, their use and the acts or omissions associated with them (including pursuant to this Schedule 12) do not in any way:
- (i) relieve Project Co from, or alter, affect or reduce, the obligations and Liabilities of Project Co in accordance with the State Project Documents or at Law;
  - (ii) constitute any representation that any Submitted Document complies with the State Project Documents;
  - (iii) prejudice the State’s rights against Project Co, whether in accordance with the State Project Documents or otherwise according to Law; or
  - (iv) affect the time for performance of the State’s obligations in accordance with the State Project Documents.
- (c) The review, acceptance, endorsement or approval of, comment or failure to comment on or provision of consent to, any Submitted Document will not be evidence that any Development Phase Activities or Services have been or will be undertaken or performed in accordance with the State Project Documents.
- (d) Project Co agrees that:
- (i) Project Co will not be entitled to make any Claim against the Reviewing Party, whether under this Deed or at Law, for any Liabilities incurred by Project Co in connection with any review, comment or failure to comment on, provision of conditions to, or acceptance, approval, endorsement or rejection of, a Submitted Document; and
  - (ii) without limiting Section 8(d)(i) of this Schedule 12, Project Co will not be entitled to make any Claim against the Reviewing Party in connection with any delay in the review of a Submitted Document.