

PART 2 OF THE SCHEDULE: COMPLETION DOCUMENTS

Section 1: Documents to be delivered by Project Co

Unless an original document is specifically requested, a certified true copy of each of the following documents is to be delivered by Project Co to the Board in accordance with Clause 2.1 (*Execution and Delivery of Documents*) of the Agreement:

1. The Consents and other authorisations, licences, permits, and approvals listed below:

Detailed planning permission 06/1066/FUL, dated 9 March 2007

2. The Shareholders Agreements and certification from Project Co that the Shareholders Agreements have become (or will become, simultaneously with delivery of the other documents referred to in this Schedule) unconditional in accordance with their terms, accompanied by evidence of the same.
3. The Initial Funding Agreements and certification from Project Co that (1) the Initial Funding Agreements have become unconditional (other than any condition relating to the conditionality of this Agreement) and (2) that all conditions to the availability of funds to Project Co under the Initial Funding Agreements have been satisfied or waived, accompanied by evidence of the same.
4. The Construction Contract, the Service Contract and the Performance Guarantees, executed by the parties to such agreements.
5. An original of the Funders' Direct Agreement, the Independent Tester Contract, the Insurance Proceeds Account Agreement, the Collateral Agreements and the brokers letters of undertaking in the form set out in Appendix 1 to Part 21 of the Schedule (*Insurance Requirements*) relating to the Insurances referred to in paragraph 12 below, executed by the parties to such agreements (other than the Board).
6. An original copy of the Financial Supplement.
7. A certified true copy of extracts from the minutes of the meeting of the board of directors of each of Project Co, each Shareholder, HoldCo, the Contractor, the Service Provider, Laing O'Rourke plc and Serco Group plc, at which resolutions were passed approving the execution, delivery and performance of each relevant document listed in this Section 1 of Part 2 of the Schedule (*Completion Documents*) to which such company is expressed to be a party and in each case authorising a named person or persons to execute and deliver each such document and any other documents to be delivered by it pursuant to it, together

with specimen signatures of the person or persons named in the relevant certified extract.

8. Not Used.
9. Evidence of the share subscriptions required under the Shareholders Agreements and other shareholder funding commitments having been made by the Shareholders in Project Co and HoldCo.
10. Project Co's and HoldCo's Certificate of Incorporation and of any Certificate(s) of Incorporation on Change of Name.
11. The Memorandum and Articles of Association of Project Co and HoldCo.
12. Evidence of the insurances required in accordance with Clause 36 (*Insurances*) having been taken out by Project Co and that the policies comply with the requirements of this Agreement.
13. Two copies of the Financial Model audited by PKF (UK) LLP and a computer disk copy.
14. Evidence that an election has been made for Project Co to act as "client" for the Project for the purposes of the CDM Regulations.
15. Evidence that the Insurance Proceeds Account has been opened.
16. Not Used.
17. An original duly executed copy of this Agreement and each of the documents referred to in this Agreement as being an Agreed Form document.

PART 2 OF THE SCHEDULE: COMPLETION DOCUMENTS

Section 2: Documents to be delivered by the Board

The Board shall deliver to Project Co the following documents:

1. An original copy of the Financial Supplement.
2. An original copy of the Funders' Direct Agreement, the Collateral Agreements, the Independent Tester Contract, the Insurance Proceeds Account Agreement, this Agreement and each of the documents referred to in this Agreement as being an Agreed Form document, duly executed by the Board.
3. A certified copy of the board resolution(s) of the Board approving:
 - (i) the execution and delivery and performance of the documents referred to in paragraph 2 above; and
 - (ii) the full business case for the Project,and in the case of the execution and delivery of the documents referred to in paragraph 2 above authorising a named person or persons to execute and deliver each such document and any notices, consents, waivers, letters, certificates or other documents to be delivered by it pursuant thereto.
4. A certificate of the relevant officer of the Board setting out the names and specimen signatures of the person or persons named in the board resolution of the Board.
5. An original copy of the Licence, duly executed on behalf of the Scottish Ministers, together with written confirmation from the Scottish Ministers of delegation of authority to the Board to execute the Licence in a form acceptable to Project Co (acting reasonably).
6. An original certificate of the Scottish Ministers issued pursuant to section 1 of the National Health Service (Private Finance) Act 1997 as amended by the NHS Reform (Scotland) Act 2004, in relation to the documents referred to in paragraphs 1 and 2 above.
7. A certified copy of the letter confirming that the full business case of the Board has been approved on behalf of the Scottish Executive, in respect of the Project.
8. An original Certificate of Title, executed on behalf of Biggart Baillie Solicitors.
9. Copies of the Board's:
 - (a) standing orders;

(b) standing financial instructions; and

(c) scheme of delegation

certified as true and up to date.

10. Written confirmation from the Board certifying that no claim has been made or threatened against it for breach of any Procurement Legislation in respect of the tender process for the Project in a form acceptable to Project Co (acting reasonably).

PART 3 OF THE SCHEDULE: CUSTODY OF THE FINANCIAL MODEL

1. DEFINITIONS AND INTERPRETATION

1.1 Definitions

In this Part 3 of the Schedule (*Custody of the Financial Model*), the following terms shall, unless the context otherwise requires, have the following meanings:

| | |
|-------------------|--|
| "Disc 1" | means a disc to be held by Project Co in accordance with paragraph 3.1.4; |
| "Disc 2" | means a disc to be held by the Board in accordance with paragraph 3.1.4; |
| "Discs" | means Disc 1 and Disc 2 as defined in this Part 3 of the Schedule (<i>Custody of the Financial Model</i>); |
| "Model Variation" | means a variation to the Financial Model resulting from a Variation or any other matter arising pursuant to this Agreement which requires a change to the Financial Model and/or the Annual Service Payment; |
| "Password 1" | means a password to be chosen and kept confidential by the Board; |
| "Password 2" | means a password to be chosen and kept confidential by Project Co. |

2. VERIFICATION AND DELIVERY OF THE FINANCIAL MODEL

2.1 Verification

- 2.1.1 On the Effective Date and following any delivery of the Financial Model to the Board, the Board and Project Co will verify the identity of a copy of the Financial Model which shall be a copy of the then current version of the Financial Model which can be found at Part 19 of the Schedule (*Financial Model*) as amended from time to time in accordance with Clause 37.2 (*Custody of Financial Model*) of this Agreement. Whenever a Model Variation is made to the Financial Model a hard copy showing the amendment will be printed off and kept with the original version of the Financial Model in Part 19 of the Schedule (*Financial Model*). This will then be stored on to Disc 1 and Disc 2 by Project Co and the Board respectively.

- 2.1.2 On such date as may be agreed by the Board and Project Co but in any event no later than 20 Business Days after the Effective Date or (in the event of a Model Variation being made) after the date of the Model Variation, the Board and Project Co will verify that the data stored on Disc 1 and Disc 2 is identical and is a copy of the then current version of the Financial Model which can be found at Part 19 of the Schedule (*Financial Model*), as amended from time to time.

2.2 Obligations of Project Co

- 2.2.1 Project Co shall ensure that the Financial Model as delivered to the Board is capable of being rerun on Excel 2000 run on Microsoft Windows along with all available optional functions (when loaded onto a networked desktop PC) in accordance with this Agreement.
- 2.2.2 Project Co hereby grants to the Board a perpetual, transferable (but only to any permitted assignee of any rights or benefits of the Board under the Project Agreement), non-exclusive, royalty free licence (carrying the right to grant sub-licences) to use the Financial Model or any revised Financial Model for any purpose in connection with this Agreement (whether during or after the Project Term).

3. SECURITY OF THE FINANCIAL MODEL

- 3.1.1 On such date as may be agreed by the Board and Project Co but in any event no later than 20 Business Days after the date of verification of Disc 1 and Disc 2 in accordance with paragraph 2.1.1 the Board shall take possession of Disc 1 and Project Co shall take possession of Disc 2.
- 3.1.2 Within 48 hours of taking possession of Disc 1 and Disc 2 in accordance with paragraph 3.1.1 the Board shall render the data on Disc 1 accessible only by use of Password 1 and Project Co shall render the data on Disc 2 accessible only by use of Password 2 and the Board will hand over Disc 1 to Project Co and Project Co will hand over Disc 2 to the Board. After having rendered the data on Disc 1 and Disc 2 accessible only by the use of Password 1 and Password 2 respectively, but before handing over Disc 1 and Disc 2 to Project Co and the Board respectively, the Board and Project Co shall clearly mark the Discs identifying them as "Disc 1" and "Disc 2" and as being the current version of the Financial Model.
- 3.1.3 The Board will not reveal Password 1 to Project Co and Project Co will not reveal Password 2 to the Board unless and until a dispute arises or there is a Model Variation in relation to the Financial Model.

3.1.4 The Board will hold Disc 2 and Project Co will hold Disc 1 unless and until a dispute arises or there is a Model Variation in relation to the Financial Model.

3.1.5 The Board and Project Co will use best endeavours at all times when the Discs are in their custody or control to ensure that the Discs are kept securely and not damaged or corrupted in any way. In the event that the Discs are damaged or corrupted the Board and Project Co will follow the procedure outlined in paragraphs 2 and 3 and create new Discs having made reference to the hard copy of the Financial Model kept in accordance with Clause 37.2 (*Custody of Financial Model*) of this Agreement.

4. DISPUTE OR MODEL VARIATION IN RELATION TO THE FINANCIAL MODEL

4.1 In the event of any dispute arising or Model Variation being agreed in relation to the Financial Model the Board will reveal Password 1 to Project Co and Project Co will reveal Password 2 to the Board.

4.2 When both the Board and Project Co have agreed in writing that any dispute in relation to the Financial Model has been resolved or a Model Variation in relation to the Financial Model has been agreed the relevant amendment will be made to the Financial Model and the procedure outlined in paragraph 3 will again be followed save with a different Password 1 and Password 2.

5. INTELLECTUAL PROPERTY RIGHTS

The Board and Project Co agree that the Financial Model shall remain the confidential property of Project Co and all copyright and Intellectual Property Rights in the Financial Model will remain with Project Co.

PART 4 OF THE SCHEDULE: KEY WORKS PERSONNEL

Project Co's Key Works Personnel comprises:

Name: Martin Watson

Title: Project Co's Representative

Address: Forth Health Project Office
Evans Easy Space
3 Whitehouse Road
Springkerse Industrial Estate
Stirling
FK7 7SP

Telephone: 01786 476782

Project Co's Representative will be the Board's primary source of contact during the Project Term but during the Construction Phase will be assisted by:

Name: John Dundas

Title: Project Manager

Address: Forth Health Project Office
Evans Easy Space
3 Whitehouse Road
Springkerse Industrial Estate
Stirling
FK7 7SP

Telephone: 01786 476781

PART 5 OF THE SCHEDULE: DISASTER PLAN

1. There is set out in the Appendix to this Part 5 of the Schedule, the Board's Major Infrastructure Failure Response Plan, which is current at the Effective Date.
2. Subject to paragraphs 3 to 5 below, the Board and Project Co shall, through the Liaison Committee, meet to discuss, prepare and agree a Disaster Plan to cover the Facilities and the Site during the Operational Term. Such Disaster Plan, once agreed or determined in accordance with Part 26 of the Schedule (*Dispute Resolution Procedure*) shall supersede the Major Infrastructure Failure Response Plan and shall form the basis of Project Co's and the Board's obligations in the event of major infrastructure failure.
3. The Disaster Plan will cover:
 - 3.1 the circumstances in which it will apply; and
 - 3.2 the action to be taken by each party when such circumstances arise (the allocation of such action to be determined by reference to the requirements of Law and Good Industry Practice),

all based on the circumstances contemplated in and actions required under the Board's Major Infrastructure Failure Response Plan and paragraph 5 below.
4. Each party shall negotiate with the other in good faith to agree the Disaster Plan based on the principles referred to in paragraph 3 above, no later than 3 months before the Phase 1 Actual Completion Date and each party shall be responsible for bearing its own costs in relation to such negotiation.
5. It is acknowledged and accepted by the Board that Project Co shall not be obliged to agree to any provision within the Disaster Plan that could reasonably be expected to have a material adverse effect on Project Co's cost or risk profile, unless such provision is treated as a Qualifying Variation.

PART 5 OF THE SCHEDULE: DISASTER PLAN

Appendix: Major Infrastructure Failure Response Plan

NHS FORTH VALLEY ACUTE SERVICE

MAJOR INFRASTRUCTURE FAILURE RESPONSE PLAN

NHS FORTH VALLEY ACUTE SERVICES

RESPONSE TO MAJOR INFRASTRUCTURE FAILURE

Introduction and background

NHS Forth Valley has specific procedures for dealing with external Major Medical Emergencies, i.e. bus crash, explosion, etc. where there are a number of casualties requiring emergency treatment, putting pressure on the Trust's routine activities. These procedures are well documented and distributed to key staff.

There is, however, a need to acknowledge and provide guidance in dealing with other types of emergency situations and major infrastructure failure that may affect the normal activities of the Acute Service, but which may not involve any increase in emergency patient's requiring treatment. Examples of these emergency situations include;

- power failure;
- accidents involving the transportation of hazardous material on site;
- fires or explosions;
- telephones/ Paging;
- failure of critical/life support equipment;
- fuel supplies disruption;
- any national crisis.

The following guidelines detail the Acute Services, response to a situation, arising or threatened, which requires special mobilisation and redeployment of staff and interrupts routine activities, but which may not result in patient's attending hospital for emergency treatment, but may well require a reduction of services to a "Life & Limb" service only. The guidelines will enable an emergency to be dealt with in a manner, which will restore services to normal as quickly as possible, and minimise the impact of any disruption to services, staff, patients and visitors.

The guidelines are designed to ensure that the necessary Corporate Management support structure is in place to control and manage problems that might arise and to maintain the continuity of service during any crisis period. The special arrangements set out in this document are designed to compliment the individual service contingency/continuity plans held by the Clinical Units/Departments and the Board's Major Emergency Plan.

The main function of this document is to highlight the roles and responsibilities of the Major Infrastructure Failure Control Team, who will oversee the affect on services, by interfacing with wards and departments ensuring the appropriate escalation of operational issues through the general management structure and facilitate, where required, a reduction in service.

LEVELS OF RESPONSE

The response levels and definitions that will guide any reduction in service provision towards a "life & limb service, are as follows:-

Definitions

- Normal activity on both sites
- Reduced service by :-
 - Cancelling of some/all elective procedures
 - Cancelling of some/all outpatient services
 - Closing some wards
 - Transferring services to another site
- Life and limb service:- This would involve only those services and patients we would envisage treating in extreme circumstances in consultation with FVHB, i.e. ITU, HDU, CCU, Labour Ward, Neonatal ITU, Renal Patients, emergency admissions/ treatments and patients unable to be discharged

Services will remain under review during a Major Infrastructure Failure on an ongoing basis and the Major Infrastructure Failure Control Team should take any necessary action to reduce part or all services, based on an assessment of the emergency.

There will be a regular review of the procedure (at least once a year) led by the Estates Manager - Acute Services. A group, involving representatives from Estates, Board Page Holders (bed managers and site co-ordinators) and General Managers, will be set up to consider any amendments to these Emergency Procedures. Any suggestions for amendment should be sent in writing to the Estate Services Manager for consideration.

PROCEDURE

Due to the nature of these incidents, the initial notification of a major infrastructure failure or potential failure, may be identified through various sources, e.g. ward/department managers, on call technician, electrician or plumber, on call estates officer, member of the public, etc. All staff are advised to report any infrastructure failures or potential failures to the switchboard as soon as possible. The switchboard

operator will then contact the estates department immediately to assess the situation (Appendix 1).

The decision to declare a **MAJOR INFRASTRUCTURE FAILURE** will lie with the Duty Estates Officer (during office hours - Extension 4010 (SRI) or 5100 (FDRI)) and/or the Page Holder (700 (SRI) or 137 (FDRI) and on-call estates officer (i.e. Bed Manager or, out of hours, the site co-ordinator).

Once they have assessed the situation, if they decide to declare a Major Infrastructure Failure and they will contact switchboard giving the instruction to commence the Major Infrastructure Failure Control Team call-out (Appendix 3).

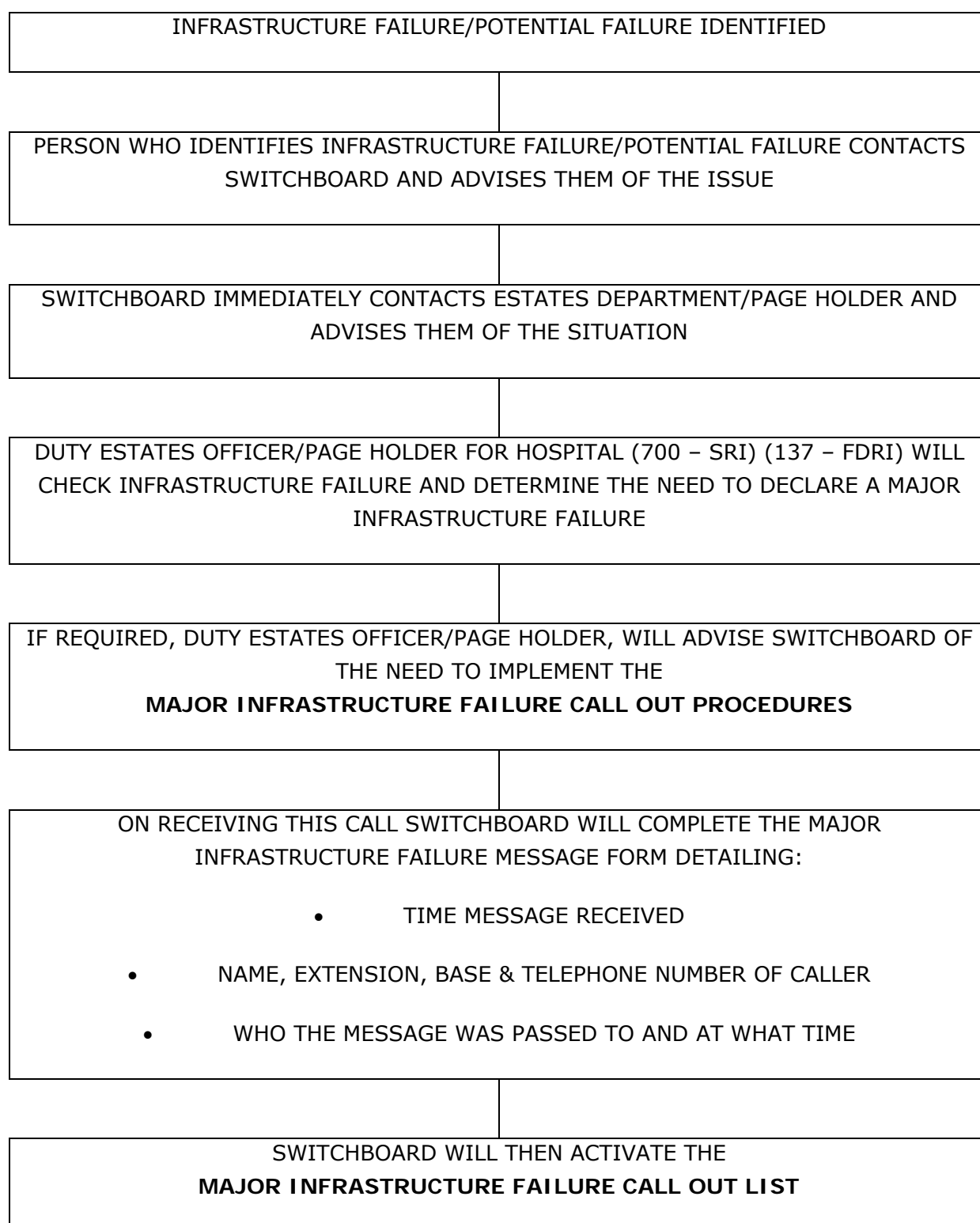
Once switchboard has been notified, they will complete a Major Infrastructure Failure Message form detailing;

- Time message received
- Name, Extension, Base and Telephone Number of Caller
- Nature and Location of Incident
- Who the message was passed to and at what time.

The call out list includes members of the Major Infrastructure Failure Control Team consisting of representation from Executive Directors, supported by General Managers, Estates, Hotel Services, Support Services and Corporate Services. The Control Team's roles/responsibilities are detailed in Appendix 4, together with those of the General Managers, Estates Officers, Hotel Services and Support Services (Appendix 4A).

For incidents where advanced notice of any disruption of service is given, e.g. fuel disruption, the Medical Director and/or Human Resources Director will call a meeting of the Major Infrastructure Control Team and support Team to determine the Trust's response and appropriate escalation programme.

APPENDIX 1



| NHS FORTH VALLEY - ACUTE SERVICES HOSPITALS Switchboard Major Infrastructure Failure Telephone Message Form | | | |
|--|--|---|--|
| 1 | Date & Time Message Received | <input style="width: 80%;" type="text"/> Date | <input style="width: 80%;" type="text"/> Time *am/pm |
| 2 | Received by(Telephonist name) | <input style="width: 95%;" type="text"/> | |
| 3 | Message Received From: *Ambulance/Police/Other (specify) | <input style="width: 95%;" type="text"/> | |
| 4 | Nature of Incident/Specific Risks | <input style="width: 95%;" type="text"/> | |
| 5 | Location | Type of incident | |
| 6 | Any Casualties? | <input style="width: 80%;" type="text"/> Yes | <input style="width: 80%;" type="text"/> Number? <input style="width: 80%;" type="text"/> No |
| 7 | Any Known dead (numbers) | <input style="width: 95%;" type="text"/> | |
| 8 | Message Passed to(Name) | <input style="width: 95%;" type="text"/> | |
| DUTY/ON-CALL ESTATES OFFICER/GENERAL | | <input style="width: 80%;" type="text"/> | Time *am/pm |
| MANAGER/SITE MANAGER | | | |
| <u>TO BE CARRIED OUT ONLY ON THE INSTRUCTION OF THE DUTY/ONCALL ESTATES OFFICER/GENERAL MANAGER OR SITE MANAGER</u> | | | |
| 9 | Telephonist instructed to activate: | | |
| | <input style="width: 80%;" type="text"/> Major Infrastructure Failure Procedures | <input style="width: 80%;" type="text"/> | Time *am/pm |
| 10 | Telephonist name: | <input style="width: 95%;" type="text"/> | |
| | Instruction given by: Name: | <input style="width: 95%;" type="text"/> | |
| | Designation: | <input style="width: 95%;" type="text"/> | |
| 11 | Message received | <input style="width: 80%;" type="text"/> Date | <input style="width: 80%;" type="text"/> Time *am/pm |
| 12 | Message received by | <input style="width: 95%;" type="text"/> | |
| 13 | Message received from | <input style="width: 95%;" type="text"/> | |
| 14 | Message passed to Medical Controller at: | <input style="width: 80%;" type="text"/> | Time *am/pm |
| *Please delete as appropriate | | | |

ACTION BY TELEPHONIST

On receiving authorisation from Duty Estates Officer/Page Holder (700 – SRI/137 – FDRI) (i.e. Bed Manager/Site Co-ordinator), proceed with **CALL OUT PROCEDURES FOR MAJOR INFRASTRUCTURE FAILURE**.

Page/Telephone the following personnel, giving this message:

“THERE IS A MAJOR INFRASTRUCTURE FAILURE - THE HOSPITAL IS ON ALERT - PLEASE REPORT TO CONTROL ROOM”

MAJOR INFRASTRUCTURE FAILURE CONTROL TEAM

- General Manager, FV Facilities or Estates Manager
- On-Call Consultant or On-Call Consultant Physician
- Director of Nursing or Associate Director of Nursing

Support Team

- Estates Manager (if not already called) or on-call Estates Officer (if not already called)
- Risk Management Co-ordinator or Corporate Services Administrator or Patient Involvement Coordinator
- General Manager(s) for the relevant area(s) or Nurse Manager(s) for the relevant area(s) or other General Manager (if not already called)
- On-Call Executive Director
- Chief Operating Officer

ACTION BY MAJOR INFRASTRUCTURE FAILURE CONTROL TEAM

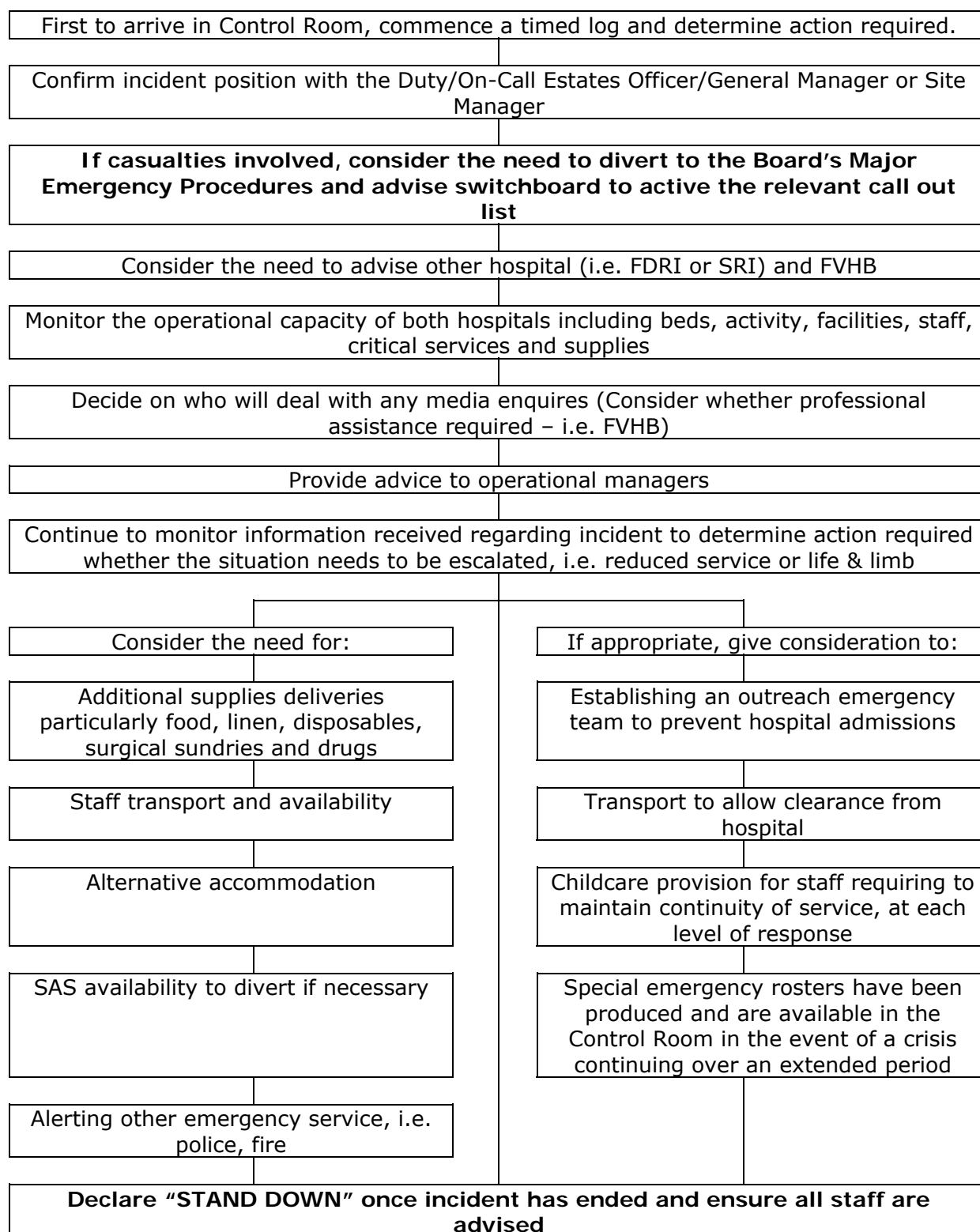
Whoever is first to arrive at the Control Room:

- Commence a timed log
- Confirm position with the Duty Estates Officer/relevant General Manager (or deputy) or Site Manager

If casualties are involved in the incident, decide if it is required to divert to the Board's Major Emergency Procedures and advise switchboard to arrange for contact with key staff, as per Major Emergency Procedure's Alert process - if not, proceed as below.

- Continue to monitor information from Estates Department/General Manager to determine action required
- Consider the need to advise other hospital (i.e. FDRI/SRI) and FVHB
- Monitor operational capacity of both hospitals (including beds, activity, facilities staff, critical services, supplies) in consultation with Clinical Chairs/General Managers
- Handle media enquiries (consider whether professional advice is required (e.g. FVHB))
- Provide advice to operational managers
- Decide if and when a situation needs to be escalated to reduce service, life and limb service, etc.
- Communicate and co-ordinate with FVHB's Control Team if, and when, required (FVHB Control Team will handle press and media enquiries and situation reports for the Scottish Office)
- Consider the possible need for:
 - Support arrangements at A & E, e.g. labs, pharmacy, ECG, Imaging, Social Services, PCT
 - Additional supplies deliveries, particularly food, linen, disposables, surgical sundries and drugs

- Staff transport and availability
- Alternative accommodation
- SAS availability to divert, if necessary
- Other emergency services response, i.e. fire, police
- Mortuary availability, if applicable
- Give consideration to:
 - Establishment of outreach emergency team to prevent hospital admissions
 - Transport to allow clearance from the hospital particularly for A & E
 - Childcare provisions for staff requiring to remain on site to deal with emergency (On-site nurseries/childcare)
 - Any actions required to ensure attendance of staff to maintain continuity of service, at each level. Special emergency rosters have been produced and are available in the Control Room in the event of a crisis continuing over an extended period. These rosters take consideration of:
 - staff's means of transport
 - alternative transport arrangements (i.e. can they walk to work, public transport, bike, etc.), skill mix required in each area – possibility of SAS using minibus to transport staff
 - staff's dependants(i.e. children, older relatives)
 - staff's availability to stay on site
 - Extended shift cover (i.e. 12 hour shifts over 3 days, etc.)
- Declare 'Stand Down' and ensure all staff advised

ACTION BY MAJOR INFRASTRUCTURE FAILURE CONTROL TEAM

**ACTION BY GENERAL MANAGERS/ESTATES OFFICERS/SUPPORT
SERVICES/HOTEL SERVICES**

- Support the Acute services in its preparations
- Have regular contact with Clinical Ward Managers/Heads of Departments to obtain a continuous review of services
- Update CWM/Heads of Departments on status of alert
- Highlight, to the Major Infrastructure Failure Control Team, any staff shortages, supplies difficulties, transport problems, etc. and to intimate any necessary actions to rectify situations and ensure continuity plans are implemented
- Monitor operational capacity of both hospitals (including beds, activity, facilities staff, critical services, supplies) and advise Control Team

SUPPORTING DOCUMENTS

A number of documents are held within the Control Room to assist in the decision making process during a Major Infrastructure Failure, including:

- Departmental/Unit Contingency Plans
- Special emergency in the event of a crisis continuing over an extended period. These rosters take consideration of:
 - staff's means of transport
 - alternative transport arrangements (i.e. can they walk to work, public transport, bike, etc.), skill mix required in each area – possibility of SAS using minibus to transport staff
 - staff's dependants (i.e. children, older relatives)
 - staff's availability to stay on site
 - Extended shift cover (i.e. 12 hour shifts over 3 days, etc.)
- Key staff contact numbers

PART 6 OF THE SCHEDULE: NOT USED

PART 7 OF THE SCHEDULE: NOT USED

PART 8 OF THE SCHEDULE: CONSTRUCTION MATTERS

Section 1: Not Used

PART 8 OF THE SCHEDULE: CONSTRUCTION MATTERS

Section 2: Safety During Construction

1. In this Section 2 of Part 8 of the Schedule and wherever used elsewhere in this Agreement:
 - (a) "CDM Regulations" means the Construction (Design and Management) Regulations 2007 (and "CDM Regulation" shall be construed accordingly); and
 - (b) "the client", and "the Executive" shall have the same meanings as are ascribed to them in the CDM Regulations.
2. In so far as not already done, within twenty (20) Business Days of the Effective Date, Project Co shall make and serve on the Executive a declaration pursuant to and in the form (if any) required by CDM Regulation 8 that Project Co will act as the client in relation to the Works for all the purposes of the CDM Regulations. Project Co shall forthwith send a copy of the declaration to the Board's Representative and upon receipt of notice from the Executive that it has received the declaration Project Co shall send a copy of such notice to the Board's Representative. During the Project Term, Project Co shall not, and shall not seek to, withdraw, terminate or in any manner derogate from its declaration that it will act as, and its acceptance of its responsibilities as, the client in relation to the Works for all the purposes of the CDM Regulations. During the Project Term Project Co will, as and when required, serve upon the Executive such further declarations under CDM Regulation 8 as may be necessary in order to procure that in respect of the Works and the provision of the Services Project Co will act as the client for all the purposes of the CDM Regulations.
3. Project Co warrants that it has the competence, resources and capacity to, and shall, observe, perform and discharge or shall procure the observance, performance and discharge of:
 - (a) all the obligations, requirements and duties of the client arising under the CDM Regulations in connection with the Works and, where necessary, the provision of the Services; and
 - (b) any obligations incumbent on the client under any Code of Practice for the time being approved by the Health and Safety Commission pursuant to the Health and Safety at Work etc. Act 1974 issued in connection with the CDM Regulations.
4. Project Co shall issue to the Board's Representative within five (5) Business Days of its delivery to Project Co, one electronic copy (on computer disk, tape or other

format) of each and every health and safety file to be prepared by it pursuant to the CDM Regulations in relation to the Works and the Services and electronic or paper copies of every amendment or update made to such file during the Project Term.

PART 8 OF THE SCHEDULE: CONSTRUCTION MATTERS

Section 3: Board's Construction Requirements

The Board's Construction Requirements are set out in the Agreed Form document comprising one volume labelled "Board's Construction Requirements", which shall have effect as if expressly set out in this Section 3 of Part 8 of the Schedule.

PART 8 OF THE SCHEDULE: CONSTRUCTION MATTERS

Section 4: Project Co's Proposals

Project Co's Proposals are set out in the Agreed Form document comprising 19 volumes labelled "Project Co's Proposals", which shall have effect as if expressly set out in this Section 4 of Part 8 of the Schedule.

PART 8 OF THE SCHEDULE: CONSTRUCTION MATTERS

Section 5: Reviewable Design Data

This Section 5 of Part 8 of the Schedule contains details of the Reviewable Design Data to be reviewed by the Board in accordance with Part 10 of the Schedule (*Review Procedure*).

For the avoidance of doubt, there is no requirement for Project Co to submit Room Data Sheets or items set out in the following table, which are included as part of Project Co's Proposals unless they have been revised.

| Ref | Sample | Drawing | Other | Fast Track | Description | Project Co to submit by: |
|-----|--------|---------|-------|------------|--|--------------------------|
| A | | | | | GENERAL INFORMATION | |
| A1 | | | * | √ | Room Data Sheets (for all rooms excluding Plant, Circulation, Communication, Engineering and Project Co. Space) | (wk 8) |
| A2 | | * | | | Layout of Entrance Areas, including finishes in the context of the entrance. | (wk 8) |
| A3 | | * | | | 1:500 Detailed Landscape Plans for all areas including levels, planting details, kerbs, paths and lighting | (wk8) |
| A4 | | * | | √ | 1:200 General Arrangement Floor and Room Plans | (wk 8) |
| A5 | | * | | √ | 1:50 Room Layouts showing reflected ceiling plans showing all lights, engineering and access hatches, internal wall elevations and loaded floor plans. | (wk 9) |
| A6 | | * | | √ | 1:200 Fire Strategy Plans – showing all main fire | (wk 8) |

| Ref | Sample | Drawing | Other | Fast Track | Description | Project Co to submit by: |
|-----|--------|---------|-------|------------|--|--------------------------|
| | | | | | compartments, sub compartments, hazard rooms, fire doors, fire escape doors and routes, call points, detectors, fire extinguishers, emergency lighting, fire dampers | |
| A7 | | * | | √ | 1:100 Elevations and details of window glazing and opening lights types and locations | (wk 16) |
| A8 | | * | | | 1:200 Roof Plan with details of rooflights and other roof terminations. | (wk 8) |
| A9 | | * | | | 1:200 Sections | (wk 8) |
| A10 | | * | | | Floor Loading Schedule | (wk 8) |
| A11 | | | * | √ | Detailed Specifications for all Mechanical and Electrical Components | (wk 16) |
| A12 | | | | | Not Used | |
| A13 | | * | | | Entrance Canopy and Covered Walkway Plans and Details | (wk 32) |
| A14 | | * | | | Entrance Details | (wk 32) |
| A16 | * | | | √ | Facing Blocks | (wk 16) |
| A20 | * | | * | | Internal wall, column and ceiling linings | (wk 28) |
| A21 | * | * | * | √ | Bespoke Joinery | (wk 28) |
| A22 | | | * | √ | External doors | (wk 16) |
| A24 | | * | * | √ | Handrails and Balustrade | (wk 32) |

| Ref | Sample | Drawing | Other | Fast Track | Description | Project Co to submit by: |
|-----|--------|---------|-------|------------|---|--------------------------|
| A25 | | | * | | Plaster/render | (wk 16) |
| A28 | * | | * | √ | Sanitary fittings inc Schedule | (wk 32) |
| A29 | | | * | √ | Drainage materials | (wk 8) |
| A31 | * | | | | In patient radiator/valve | (wk 20) |
| A32 | | * | * | √ | Dialysis Station | (wk 20) |
| A34 | * | | * | √ | Typical smoke detector etc | (wk 20) |
| A35 | * | | * | √ | Vent, grill & diffuser | (wk 20) |
| A36 | | * | | √ | Location of all structural and movement joints | (wk 2) |
| A37 | | | * | √ | Fixed hoists | (wk 29) |
| A38 | | * | * | √ | Catering Equipment | (wk 42) |
| B | | | | | SPECIFIC PROPOSALS | |
| B1 | * | * | * | √ | Nurse call/communication system | (wk 23) |
| B2 | * | * | * | √ | Security installations (inc sample of CCTV cameras) | (wk 23) |
| C | | | | | ELEMENTAL INFORMATION | |
| C1 | | * | * | | Internal doors and screens | (wk 28) |
| C3 | * | | * | | Finishes schedule | (wk 28) |
| C4 | * | | * | | Schedule and Details of Furniture & Fittings for which Project Co are responsible | (wk 28) |
| D | | | | | FLOOR FINISHES | |
| E | | | | | CEILING FINISHES | |

| Ref | Sample | Drawing | Other | Fast Track | Description | Project Co to submit by: |
|---|--------|---------|-------|------------|--|--------------------------|
| E1 | * | | | √ | Suspended - tile types | (wk 10) |
| E2 | | | * | | Plaster Board | (wk 10) |
| F | | | | | WALL FINISHES | |
| F1 | | | * | √ | Decorations schedule | (wk 33) |
| G | | | | | FIXTURES & FITTING | |
| G3 | | * | * | | Reception counters | (wk 31) |
| G4 | | | * | | Office workstations | (wk 31) |
| G6 | | | | | Not used | |
| G7 | | | * | | Work Benches/work surfaces | (wk 31) |
| G8 | * | * | * | | Bed head arrangement and patient call | (wk 35) |
| G9 | * | | * | | Cubicle curtain track | (wk 31) |
| G10 | * | | * | √ | Blinds | (wk 31) |
| H | | | | | ENGINEERING SERVICES | |
| The following for mechanical and electrical engineering reviewable design data shall be provided. This will encompass the design, size, location, interface with existing, phasing and temporary provision in schematic format with respect to the following. | | | | | | |
| H1 | | * | * | √ | Boiler/primary heating distribution | (wk 12) |
| H2 | | * | * | √ | Hot and cold domestic water storage and distribution | (wk 16) |
| H3 | | | * | √ | Medical Gas Installation including Gas scavenging system | (wk 20) |
| H4 | | * | * | √ | HV & LV electrical distribution | (wk 28) |

| Ref | Sample | Drawing | Other | Fast Track | Description | Project Co to submit by: |
|--|--------|---------|-------|------------|---------------------------------------|--------------------------|
| H5 | | * | * | √ | Standby generators | (wk 32) |
| H6 | | * | * | √ | Fire alarms and detection system | (wk 30) |
| H7 | | * | * | | Nurse call system | (wk 31) |
| H8 | | * | * | | CCTV/security system | (wk 50) |
| H9 | | * | * | √ | Air handling systems | (wk 33) |
| H10 | | * | * | √ | Lifts/transportation | (wk 42) |
| H11 | | * | * | √ | Controls/BMS | (wk 30) |
| H12 | | * | * | √ | Voice & Data | (wk 50) |
| H13 | | * | * | √ | Oil Storage | (wk 32) |
| 1:200 Primary distribution for all areas indicating main distribution routes and plant locations with respect to the following services: | | | | | | |
| I1 | | * | | | LPHW heating | (wk 12) |
| I2 | | * | | | Domestic water services | (wk16) |
| I3 | | * | | | Ventilation | (wk 30) |
| I4 | | * | | | Lighting and power | (wk 30) |
| I5 | | * | | | Fire alarms | (wk 34) |
| I7 | | * | | | Voice & Data | (wk 40) |
| 18 | | * | | | Nurse call | (wk 32) |
| I9 | | * | | | Lightning Protection | (wk 18) |
| 1:100 Detail layouts for all areas for the following services: | | | | | | |
| J1 | | * | | √ | Plant rooms and supporting schematics | (wk 16) |

| Ref | Sample | Drawing | Other | Fast Track | Description | Project Co to submit by: |
|---|--------|---------|-------|------------|-----------------------------------|--------------------------|
| J2 | | * | | √ | Heating | (wk 16) |
| J3 | | * | | √ | Domestic water services | (wk 16) |
| J4 | | * | | √ | Ventilation | (wk 30) |
| J5 | | * | | √ | Lighting & power | (wk 35) |
| J6 | | * | | √ | Fire alarms | (wk 40) |
| J7 | | * | | √ | Voice & Data | (wk 44) |
| J8 | | * | | √ | Nurse call | (wk 50) |
| J9 | | * | | √ | Specialist | (wk 42) |
| J10 | | * | | √ | Security/CCTV | (wk 44) |
| J11 | | * | | √ | Personal Alarms | (wk 42) |
| 1:500 External services drawing indicating all new works and site modifications, routes of all new and diverted services encompassing the following services: | | | | | | |
| K1 | | * | | | Natural gas | (wk 18) |
| K2 | | * | | | Electrical supplies | (wk 19) |
| K3 | | * | | | Water supplies | (wk 20) |
| K4 | | * | | | Street Lighting Car Park Lighting | (wk 16) |
| K5 | | * | | | Foul and surface water drainage | (wk 8) |
| K6 | | * | | | Fire alarms | (wk 22) |
| Such supporting calculations, schedules and information, as requested, to support items above. | | | | | | |
| Elevational information related to fully loaded plans for complex areas. | | | | | | |
| L1 | | * | | | Voice & Data Communication | (wk 44) |

| Ref | Sample | Drawing | Other | Fast Track | Description | Project Co to submit by: |
|-----|--------|---------|-------|------------|---|--------------------------|
| M | | | | | Other outstanding information | |
| M1 | | | * | | Schedule 13 Equipment Schedules. Model and Manufacturer of Equipment. | (wk 20) |
| M2 | | | * | | CDM Risk Assessments | (wk 8) |

1. The Board shall notify Project Co no later than 5 days after submission or re-submission of a Submitted Item of Reviewable Design Data (3 days in the case of a Submitted Item of Reviewable Design Data that is designated as "Fast Track" in the table above) of a request for significant further or other information pursuant to paragraph 2 of Part 10 of the Schedule (*Review Procedure*).
2. Subject to paragraph 2 of Part 10 of the Schedule (*Review Procedure*), the ten (10), five (5) or three (3) Business Day review period pursuant to paragraph 1.2(a) of Part 10 of the Schedule (*Review Procedure*) will be suspended upon receipt by Project Co of the request from the Board for the information pursuant to paragraph 1 of this Section 5 of Part 8 of the Schedule (*Construction Matters*) and request by the Board for suspension of the review period. The review period will only be deemed to have recommenced upon receipt by the Board of the further or other information requested by the Board pursuant to paragraph 1 of this Section 5 of Part 8 of the Schedule (*Construction Matters*) and paragraph 1.2 of Part 10 of the Schedule (*Review Procedure*).
3. In the case of less significant omissions from Reviewable Design Data submittals, the Board shall notify Project Co, following commencement of the review in detail of any reasonable further information required to complete the review. This information shall not be unreasonably withheld by Project Co. In the event that such further information is unreasonably withheld by Project Co, then the review period will be increased in line with the delay experienced by the Board.
4. The dates indicated in the column titled 'Project Co to submit by' represents the first iteration only of Reviewable Design Data for the area, and/or Phase of the Works as appropriate to each Reviewable Design Data item.
5. Project Co and the Board shall meet at a date falling not less than 1 month from the Effective Date to review and agree in good faith (both parties acting reasonably) the further detail of a programme for submission of the Reviewable

Design Data. The programme for submission shall be based on the indicative programme for submission, represented by the dates set out in the column titled "Project Co to submit by" in the table above, as adjusted by the parties, acting reasonably. This programme shall provide the additional detail necessary to clarify the additional iterations of Reviewable Design Data required for the subsequent areas and Phases of the Works. Thereafter, the agreed programme shall be the basis under which Project Co shall submit Reviewable Design Data.

6. Both parties shall agree to amendment of the agreed programme for submission of the Reviewable Design Data if required to align the programme with the actual progress of the Works, both parties acting reasonably.

PART 8 OF THE SCHEDULE: CONSTRUCTION MATTERS

Section 6: Room Data Sheets

1. The Section 6 of Part 8 of the Schedule sets out the methodology to be adopted by Project Co to complete the Agreed Form Room Data Sheets (as defined below) and produce the Room Data Sheets for the departments for which there are no Agreed Form Room Data Sheets as at Financial Close.
2. The following terminology has been used in this Section 6 of Part 8 of the Schedule:

"Acoustic Strategy" means the acoustic strategy set out in Section 9 of Project Co's Proposals;

"Agreed Form Room Data Sheet" means a Room Data Sheet that is contained in the Agreed Form bundle labelled "Room Data Sheets";

"Board's Comments" means the table of Board comments on the Room Data Sheets set out in Appendix B of this Section 6 of Part 8 of the Schedule;

"Environmental Matrix" means the environmental matrix comprised in the Agreed Form document labelled "Environmental Matrix";

"Equipment List Database" means the database which encapsulates, amongst other matters, the location of each item of equipment listed in the Equipment Responsibility Matrix, as contained on the Agreed Form disk labelled "Equipment List Database";

"Finishes Schedule" means the finishes schedule titled "Architectural Specification v14 and in accordance with the Room Design Character Data Schedule KEP-SH(40)ODD001 rev 4" set out in Section 2 of Project Co's Proposals;

"Fire Strategy" means the fire strategy set out in Section 7 of Project Co's Proposals;

"Radiation Protection Strategy" means the radiation strategy set out in Section 11 of Project Co's Proposals;

"Schedule of Accommodation" has the meaning given to it in Part 1 of the Schedule;

"Specific Clinical Requirements" means the specific clinical requirements set out in Sub-Part D of the Board's Construction Requirements; and

"1:200 Floor Plans" means those referred to in the definition of "Clinical Functionality" in Part 1 of the Schedule.

3. The Agreed Form Room Data Sheets relate to 8 exemplar departments (as set out below) and 33 supplementary rooms.

Ambulatory Care department

Generic Wards

Materials Management

Outpatients

Pharmacy

Radiology

Renal

Theatres

4. Project Co will complete the Agreed Form Room Data Sheets in accordance with the Review Procedure and the relevant timescales as set out in Section 5 of Part 8 of the Schedule.
5. Project Co shall further develop the Agreed Form Room Data Sheets to include the following:
 - 5.1 Fire classification – this shall detail the compartment classification and shall be in accordance with the Fire Strategy;
 - 5.2 Door and window specification – this shall detail the specification for the doorsets and windows and shall be in accordance with Appendix A to this Section 6 of Part 8 of the Schedule. The doorsets shall be developed in accordance with the Fire Strategy, Acoustic Strategy, Radiation Protection Strategy, 1:200 Floor Plans and to meet the requirements resulting from the operational use of the space in which they are located;
 - 5.3 Prescribed Health Function – this detail shall be developed using the standard ADB data and aligning with the Specific Clinical Requirements;
 - 5.4 the Board's Comments;
 - 5.5 the addition of relevant mechanical/electrical design notes as indicated on the Environmental Matrix.

6. Project Co shall develop Room Data Sheets for all rooms for which there is not an Agreed Form Room Data Sheet (excluding plant, circulation, communication, engineering and Project Co space as indicated on the Schedule of Accommodation), to set out the same scope of information as the Agreed Form Room Data Sheets, and shall be based on the following principles:
 - 6.1 Where an Agreed Form Room Data Sheet exists for the same type of room then the Room Data Sheet shall be developed to the same specification;
 - 6.2 Where an Agreed Form Room Data Sheet does not exist for the same type of room then the Room Data Sheet shall be developed on the following basis:
 - 6.2.1 The room identification, department, drawn area, room name and room number shall be in accordance with the Schedule of Accommodation;
 - 6.2.2 The wall finish, floor finish, ceiling grid and ceiling finish shall be in accordance with the Finishes Schedule;
 - 6.2.3 The acoustic notes (mechanical noise levels) shall be in accordance with the Acoustic Strategy;
 - 6.2.4 The fire detection (in electrical notes) shall be in accordance with the Fire Strategy;
 - 6.2.5 The elements set out in the following table shall be in accordance with the Environmental Matrix:

| | |
|----------------------------|---|
| Mechanical Systems: | |
| | winter room temperature (°c) |
| | summer design dry resultant temperature based on shade ambient dry bulb conditions (°c) |
| | minimum room air change rate for mechanical ventilation of internal spaces (ac/hr) |
| | for mechanical ventilation (+ve), (-ve) or balanced (b) pressure with adjacent areas |
| | relative humidity (%rh) |
| | suppression system (y/n) |

| | |
|----------------------------|--|
| Electrical Systems: | |
| | general lighting level – day/night (lux) |
| | minimum escape lighting |
| | standby lighting grade |
| | task lighting (y/n) |

6.2.6 The temperature control of water in mechanical notes shall be in accordance with the publication SHGN "Safe" hot water and surface temperatures December 1999;

6.2.7 The Equipment shall be in accordance with the Equipment List Database.

In addition, the Room Data Sheets shall include the information set out in paragraph 5 above.

Appendix A: Door and window specification criteria

DOORSET CODES

Every door has a six figure Doorset Code e.g. A15HRL which consists of :

| Door Profile | Doorset size | Grade | Configuration | Finish |
|--------------|--------------|-------|---------------|--------|
| A | 15 | H | R | L |

Doorset types and codes are based on guidance contained in HTM 58 Internal Doorsets (1997)

All the codes being used on the project can be found in the Equipment Code Document used for the Room Data Sheets and the Equipment Layout Drawings.

| | | |
|---------------------|----|---|
| Door Profile | A | Solid door |
| | B | Door with upper vision panel |
| | C | Door with upper and lower vision panel |
| | E | Cubicle Door |
| Doorset Size | 08 | 800mm x 2100mm doorset |
| | 10 | 1000mm x 2100mm doorset |
| | 15 | 1500mm x 2100mm doorset (nominal 900 +500mm door leaves) |
| | 17 | 1700mm x 2100mm doorset (2 equal leaves) |
| | 18 | 1800mm x 2100mm doorset |
| | 19 | 1900mm x 2100mm doorset (2 equal leaves) |
| Grade | M | Medium Duty |
| | H | Heavy Duty |
| | T | Thirty minutes fire resistance/ smoke seal |
| | S | Sixty minutes fire resistance/smoke seal |
| | R | Radiology Protection (Lead lined) |

| | | |
|----------------------|---|---|
| | L | Laser Protection |
| | X | Radiology Protection (Lead lined) 30 minutes fire resistance/smoke seal |
| | Z | Laser Protection 30 minutes fire resistance/smoke seal |
| Configuration | L | Left hand, single swing (single and one and a half leaf doors) |
| | R | Right hand, single swing (single and one and a half leaf doors) |
| | E | Either swing (double), single leaf /Emergency Release |
| | S | Single swing, double leaf |
| | D | Double swing, double leaf |
| | A | Sliding door - slide to the right |
| | B | Sliding door - slide to the left |
| Finish | A | Acrovyn |
| | P | Painted |
| | C | Clear (hardwood veneered) |
| | L | Laminate (PVC) |
| | V | Veneer |
| | E | Existing |

The Matrix of Door Profiles and Doorset Sizes indicates where the different types of doors are most commonly used.

Not all profiles or sizes are required in all grades, configuration or finish

Eg:

Only Type C17 and C19 doors are double swing

Only 800mm and 1000mm doorsets are medium duty

Only 800mm and 1000mm doorsets used in WC's and Changing Cubicles may be Emergency Release

WINDOW and APERTURE CODES

Every window has a five figure Window Code eg. W12FC which consists of :

| Component | Window height/size | Type | Glazing |
|---------------|------------------------|--------------|--------------------|
| W | 12 | F | C |
| <i>Window</i> | <i>1200mm x 1020mm</i> | <i>Fixed</i> | <i>Clear glass</i> |

Window types and codes are based on guidance contained in HTM 55 Windows (1998)

All the codes being used on the project can be found in the Equipment Code Document used for the Room Data Sheets and the Equipment Layout Drawings.

Full description for each code is given eg.

W12FC - :Window, 1200mm x 10020mm, sill height 1020mm, fixed light, clear glass

| | | | |
|--------------------|-----------|-----------------|--------------------|
| Component | W | Window | |
| | I | Infill panels | |
| | D | Doors | |
| | C | Curtain Walling | |
| | L | Louvre | |
| | S | Special | |
| Window Size | 06 | 600mm x 1020mm | Sill height 1620mm |
| | 08 | 800mm x 1020mm | Sill height 1420mm |
| | 10 | 1000mm x 1020mm | Sill height 1220mm |
| | 12 | 1200mm x 1020mm | Sill height 1020mm |
| | 14 | 1400mm x 1020mm | Sill height 820mm |
| | 20 | 2000mm x 1020mm | Sill height 220mm |
| | 25 | 2500mm x 1020mm | Sill height 220mm |

| | | |
|----------------|-----------|--|
| | SP | Special : non standard dimensions |
| Type | F | Fixed |
| | O | Opening or contains opening element |
| Glazing | C | Clear glass |
| | O | Obscure glass |
| | S | Solar controlled glass |
| | D | Decorative glass |
| | B | Clear glass with integral blinds (note A) |
| | P | Includes opacified panel |
| | M | Insulated metal panel |

Note A

All external windows to have interstitial blinds with the exception of the following areas:

- In atrium and corridor elevations
- windows which would normally be frosted such as store-rooms, changing rooms or toilets etc.
- high level strip windows such as those in theatres

Where interstitial blinds are excluded as defined above there will be no requirement for the FM Contractor to provide either internal blinds, curtains or any other window covering. The same will apply should there be further exclusions.

Appendix B: Board's Comments

| RDS Sheet no. | Architectural Comments | Mechanical Comments | Electrical Comments |
|--|--|--|---------------------|
| A&E028 4 bay Resuscitation Room | Ceiling height requires to be 3000mm | N/C | N/C |
| A&E037-01 Major Treatment Room | 1700mm wide door leaf required | N/C | N/C |
| AMH008 – 01 Bedroom single standard with ensuite MH | | Air pressure difference (matrix = N/A; RDS = Balanced) Suppression system (matrix = No; RDS = Yes) | |
| ASU013 Day Area | | Min air change difference (matrix = 4; RDS = Natural) Air pressure difference (matrix = B; RDS = Natural) | |
| CAR026 Cardiac Catheter Laboratory | | Winter temp difference (matrix = 21°C; RDS = 23°C) Relative Humidity (matrix = 40-60%; RDS = N/A) | |
| GWD001 Reception 1-2 Staff | Window blind required. | N/C | N/C |
| GWD006 Isolation Lobby | Door requires observation ? | N/C | N/C |
| GWD011 Treatment Room Standard | 1700mm wide internal doorset required. X-Ray viewer required. | N/C | N/C |
| GWD012 Interview/Counselling | Window blind required. Incorrect Acoustic NR level – Should be NR 35. | N/C | N/C |
| GWD013 Office / Multi-purpose | Window blind required. | N/C | N/C |
| GWD014 Office – 1 Person | Window blind required. | N/C | N/C |
| ICCO39-01 | | Min air change difference | |

| RDS Sheet no. | Architectural Comments | Mechanical Comments | Electrical Comments |
|--|---|---|---|
| Bedroom – Single CR Care | | (matrix = 4; RDS = natural) Air pressure difference (matrix = N/A; RDS = natural) | |
| IMH015-01 Interview/ Counselling | | Min air change difference (matrix = Natural; RDS = 4) Air pressure difference (matrix = N/A; RDS = balanced) | |
| MAT008 Large LDRP Room | Obscure glazing to window not considered appropriate | N/C | N/C |
| MAT012 Neonatal exam and resus | | Relative humidity (matrix = 40-60%; RDS = N/A) | General lighting level (matrix = 100- 1000; RDS = 100 Day/ Night lux) |
| NE0006 Special care area | | Relative humidity (matrix = 40-60%; RDS = 45) | General lighting level (matrix = 50-100-400; RDS = 50-100 Day/night lux) |
| ONC006 Chemotherapy 6 bed area | | | General lighting level (matrix = 50-100-400; RDS = 50-100 Day/night lux) |
| OPD042 Soundproof Testing Room | Door seals to be in accordance with PCP9 'Acoustics' – Fig 1 and Section 9. | N/C | N/C |
| RAD010 WC – Visitor & Patient | Incorrect door width for patient WC. | N/C | N/C |
| RAD032 Admin Office – 4 Persons | Window blind required. | N/C | N/C |
| RAD033 Admin Office – 2 Persons | Window blind required. | N/C | N/C |
| RAD034 QA Admin Office – 2 Person | Window blind required. | N/C | N/C |
| RAD035 Secretarial Office – 2 | Window blind required. | N/C | N/C |

| RDS Sheet no. | Architectural Comments | Mechanical Comments | Electrical Comments |
|---------------------------------------|--|--|---------------------|
| Person | | | |
| RAD036 Typing Office - 2 Person | Window blind required. | N/C | N/C |
| RAD037 3 Person Office (Appts) | Window blind required. | N/C | N/C |
| RAD038 Sorting Area | Window blind required. | N/C | N/C |
| RAD043 Imaging General | For bed or trolley access doorset requires to be 1900. | N/C | N/C |
| RAD059 MRI Office - 1 Person | Window Blind required. | N/C | N/C |
| RAD067 Fluoroscopy Room | Ceiling height should be 3100mm ? | N/C | N/C |
| RAD089 Interventional Room | Ceiling height should be 3100mm ? | N/C | N/C |
| RAD091 Nursing Care | Does this not require to be 1500mm doorset for trolley access ? | N/C | N/C |
| RAD092 Gamma camera room | Requires either obscure glass or interstitial window blind. | N/C | N/C |
| RAD041 Report Filing | | Min air change difference (matrix = 4; RDS = natural) Air pressure difference (matrix = B; RDS = natural) | N/C |
| RAD043 Imaging general | | Summer temp difference (matrix = 21 to 25; RDS = 25) | N/C |
| RAD047 Imaging review | | Summer temp difference (matrix = ambient+3; RDS = ambient- 3) | |
| RAD052 MRI - Pre- assessment | | NO RDS | |
| REN005 Dialysis room - 6 | | NO RDS | |

| RDS Sheet no. | Architectural Comments | Mechanical Comments | Electrical Comments |
|--------------------------------------|--|---|---------------------|
| patients | | | |
| REN006 Dialysis room - 6 patients | | NO RDS | |
| THR008 Operating theatre | | Air pressure difference (matrix = SHTM2025+ve; RDS = SHTM2025) | N/C |
| THR008 Operating Theatre | Preferred door widths to theatres (HBN 26 and HTM 58) is 1900mm. These are identified as 1700mm. Some theatres (on north side of dept. presumably) are to have high level clear glass windows. Integral window blinds will be required to protect users from east and west sunlight / glare) | N/C | N/C |
| THR054 Medical Physics Workshop | Window blinds required to reduce glare from east / west sunlight through high level window. | N/C | N/C |
| THR039 Office - 2 person | Window blind required | N/C | N/C |
| THR061 Office - 3 person | Window blind required | N/C | N/C |
| THR040 Office - 4 person | Window blind required | N/C | N/C |
| THR900 Office - 8 person | Window blind required | N/C | N/C |

PART 8 OF THE SCHEDULE: CONSTRUCTION MATTERS

Section 7: Thermal and energy efficiency testing procedure

1. INTRODUCTION

1.1 These proposals set out the structure and main principles of the thermal and energy efficiency testing procedures to be carried out by Project Co at the Hospital Facilities in order to ascertain the actual Energy Consumption during each Contract Month from the Phase 1 Actual Completion Date until the expiry of the Project Term (or, if earlier, termination of this Agreement) and in particular:

(a) during the period of two (2) years following the Commissioning End Date for Phase 3 (or such longer period as is necessary pursuant to Clause 17.3 (*Thermal and energy efficiency*)), in order to ascertain the actual Energy Consumption during each Contract Month and whether and to what extent:

(i) the thermal and energy efficiency of the Hospital Facilities complies with the requirements of Clause 17.3 (*Thermal and energy efficiency*); and

(ii) if required pursuant to Clause 17.4 (*Thermal and energy efficiency*), whether the Construction Energy Target, as defined in paragraph 6.1.1 of this Section 7 of Part 8 of the Schedule, has been met;

(b) during the Initial Period, in order to ascertain the Energy Consumption in each Contract Month and the Annual Energy Target for the Hospital Facilities during the first Energy Year, in accordance with paragraphs 2, 3 and 6 of Section F of Part 18 of the Schedule (*Payment Mechanism*) and Section 4 of Part 33 of the Schedule (*Joint Operating Protocol*); and

(c) in respect of each Energy Year following the expiry of the Initial Period, in order to ascertain the Energy Consumption in each Contract Month and the Annual Energy Target, in accordance with paragraphs 2, 3 and 6 of Section F of Part 18 of the Schedule (*Payment Mechanism*) and Section 4 of Part 33 of the Schedule (*Joint Operating Protocol*).

1.2 Project Co will provide the following main functions in implementation of a programme of thermal energy and efficiency testing:

- (a) installation of suitable monitoring/metering facilities;
- (b) on site measurements and collection of record data;
- (c) collation of user inputs; and
- (d) consumption calculations. (supplementary information in relation to consumption calculation methodology is included at Appendix 1 to this Section 7 of Part 8 of the Schedule (*Construction Matters*)).

1.3 Project Co shall, in performance of its functions under this Section 7 of Part 8 of the Schedule (*Construction Matters*), have regard to the provisions of Section 1, Sub-Section C.03 of Part 1 of Part 14 of the Schedule (*Service Level Specifications*), Part 33 of the Schedule (*Joint Operating Protocol*) and this Section 7 of Part 8 of the Schedule (*Construction Matters*).

2. **INSTALLATION OF EQUIPMENT TO RECORD AND MONITOR ENERGY CONSUMPTION**

2.1 Metering equipment shall be installed by Project Co in sufficient numbers and in appropriate locations to extract energy usage from actual site conditions (including in respect of matters specified in Part 33 of the Schedule (*Joint Operating Protocol*)), over the range of consumption elements detailed in paragraph 2.2 of this Section 7 of Part 8 of the Schedule (*Construction Matters*).

2.2 Meters will be installed by Project Co in accordance with Section 4 of Part 8 of the Schedule (*Project Co's Proposals - 5.4 Energy Audit on Proposed Design*)) and in respect of the following consumption elements:

- (a) gas;
- (b) electricity;
- (c) oil; and
- (d) water.

2.3 Calibration of metering equipment will be provided by the manufacturers and suitable certificates demonstrating this will be provided. Periodic re-calibration of meters shall be conducted in accordance with the manufacturers' recommendations.

2.4 Any relevant areas of guidance set out in CIBSE Guide F and CIBSE TM39 relating to the installation and operation of the meters set out in Section

4 of Part 8 of the Schedule (*Project Co Proposals - 5.4 Energy Audit on Proposed Design*) shall be followed.

2.5 The equipment installed shall enable a detailed monitoring of the energy trends and consumption to allow an analysis of the data collected to facilitate:

- (a) comparisons to be made with declared energy targets; and
- (b) early warning of deviations from norms and malfunctions.

2.6 In relation to the 'Big Ticket' Equipment being separately metered:

- (a) Project Co shall procure, install and connect the required meters to the Building Management System; and
- (b) Project Co shall monitor and report on such Energy Consumption in respect of such items (as part of its other reporting requirements under this Section 7 of Part 8 of the Schedule (*Construction Matters*) and Part 18 of the Schedule (*Payment Mechanism*)).

3. ON SITE READINGS, REPORTS AND TARGET CALCULATIONS

3.1 General

- (a) No later than the end of the Contract Month following each Phase Actual Completion Date all meters relating to the completed Phase will be checked for operation.
- (b) At the end of the Contract Month following each Phase Actual Completion Date, all meters relating to the completed Phase will have their readings recorded as the first reading.
- (c) At the end of each Contract Month, the meters will be read and readings shall be compiled into a report including data obtained from the Building Management System or other acceptable monitoring systems capable of verification by the Board.

3.2 Testing of thermal and energy efficiency

Pursuant to Clause 17.3 the thermal and energy efficiency of the Hospital Facilities will be established:

- (a) with regard to the assumptions set out in paragraph 6.2 of this Section 7 of Part 8 of the Schedule; and

- (b) excluding from the utility meter readings the Energy Consumption of the Process Loads (as defined in paragraph 6.4 of this Section 7 of Part 8 of the Schedule (*Construction Matters*)), that relate to the delivery of services to off-site locations which are agreed to be:
 - (i) 50% of kitchen & catering Energy usage;
 - (ii) 40% of laboratories Energy usage;
 - (iii) 20% of mortuary Energy usage;
- (c) using the methodology described in Appendix 1 to this Section 7 of Part 8 (*Construction Matters*).

3.3 Annual Energy Target

The Annual Energy Target shall be calculated in accordance with the applicable testing and monitoring procedures set out in this Section 7 of Part 8 of the Schedule (*Construction Matters*) and paragraphs 2, 3 and 6 of Section F of Part 18 of the Schedule (*Payment Mechanism*). For the avoidance of doubt, there shall be no Annual Energy Target before or during the Initial Period but on-site readings shall be conducted in respect of:

- (a) Energy Consumption for each Contract Month during the Initial Period, in order to ascertain the Annual Energy Target for the Hospital Facilities for the first Energy Year, in accordance with paragraphs 2, 3 and 6 of Section F of Part 18 of the Schedule (*Payment Mechanism*) and Section 4 of Part 33 of the Schedule (*Joint Operating Protocol*); and
- (b) Energy Consumption for each Contract Month, and the Annual Energy Target in respect of each Energy Year, following the expiry of the Initial Period, in accordance with paragraphs 2, 3 and 6 of Section F of Part 18 of the Schedule (*Payment Mechanism*) and Section 4 of Part 33 of the Schedule (*Joint Operating Protocol*).

3.4 Monthly Reports

- (a) Project Co shall from the Phase 1 Actual Completion Date provide the Board with a monthly energy report ("Monthly Energy Report"), in respect to each Contract Month.
- (b) Each Monthly Energy Report will compare actual Energy Consumption with monthly performance targets in compliance

with the Utilities Services Specification in Part 14 of the Schedule (*Service Level Specifications*).

3.5 Annual Reports

Project Co shall provide an annual energy report ("Annual Energy Report") in compliance with the Utilities Services Specification in Part 14 of the Schedule (*Service Requirements*) which will also include Energy Consumption for the year and trends in an electronic format which can easily be transferred into Estates Returns Information Collection for submitting to Scottish Executive Health Department.

3.6 Provision of Energy Efficient Catering Equipment

Project Co shall use reasonable endeavours to procure equipment installed in the kitchens in support of the provision of the Catering Service pursuant to Part 14 of the Schedule (the "Catering Equipment") that achieves a balance between operational efficiency and energy efficiency in line with Good Industry Practice. The selection of Catering Equipment will be subject to Part 10 of the Schedule (*Review Procedure*) to enable the Board to confirm its energy and operational efficiency pursuant to this paragraph.

4. USER INPUTS

4.1 Project Co and the Board shall work in conjunction with each other in order to record and set out the following information in relation to each area:

- (a) patient occupancy levels (including in patient, day care and out-patients);
- (b) clinical staffing levels;
- (c) periods of Board use;
- (d) management procedures and policies relevant to the management of the environment, including heating and ventilation systems, use of blinds, window openings, operation of ward-based controls (thermostatic valves); and
- (e) operational data and information relating to major medical equipment used by clinical staff.

5. ENERGY DESIGN BRIEF

5.1 In order to conduct the efficiency testing there shall be appropriate design information against which to make comparisons of information obtained in the course of the testing programme. The document used as the comparison tool will be the Energy Design Brief ("EDB") and shall:

- (a) demonstrate the calculated energy efficiency of the Hospital Facilities based on final design information;
- (b) validate the effect on the Construction Energy Target values of any Variations; and
- (c) provide the calculation basis for separating operating parameters from design and construction parameters in determining whether the Construction Energy Target has been met.

5.2 The EDB will be based on Project Co's Proposals and will be set out in a working document which shall be developed during the Construction Phase and updated as necessary to incorporate latest building changes and design parameters. The information to be contained in the EDB shall be as follows:

- (a) Current energy benchmark information obtained from Enco2de for similar building types along with details of current NHS energy performance figures. In this section there will also be a clear statement of the energy targets set for the Hospital Facilities, in sufficient detail to allow future comparison with predicted design performance and on site measurement.
- (b) Building operation information obtained from Design Data, Reviewable Design Data and associated information.
- (c) Building form information. This shall include statements on minimum building 'U' values, air tightness parameters, fenestration properties and solar shading.
- (d) Building services performance criteria shall be documented either by way of statements of performance or detailed design information prepared through appropriate software packages.
- (e) The weather file used for calculating the Construction Energy Target.
- (f) Commissioning summary reports which document the commissioning set-points which have been established by

Project Co and accepted by the Independent Tester as part of Project Co's Pre-Completion Commissioning.

6. CONSTRUCTION ENERGY TARGET CONSUMPTION CALCULATIONS

6.1 Construction Energy Target

6.1.1 The agreed anticipated energy use of the Hospital Facilities excluding Process Loads (as defined in paragraph 6.4 of this Section 7 of Part 8 of the Schedule (Construction Matters)) and having been calculated in accordance with paragraph 6 of this Section 7 of Part 8 of the Schedule (Construction Matters) is 48.122 GJ/100m³, being made up of the following elements:

31.09 GJ/100m³ - Gas

0.002 GJ/100m³ - Oil

17.03 GJ/100m³ - Electricity,

(the "Construction Energy Target").

6.1.2 Project Co shall monitor the actual Energy Consumption at the Hospital Facilities in accordance with Clauses 17.3, 17.4 and this Section 7 of Part 8 of the Schedule (*Construction Matters*) with a view to establishing whether any failure to meet the Construction Energy Target is as a consequence of the design and construction of the Facilities by Project Co, in accordance with the calculation methods and assumptions set out in paragraphs 6.2 to 6.6 of this Section 7 of Part 8 of the Schedule (*Construction Matters*).

6.2 Project Co and the Board agree that for the calculation of thermal and energy efficiency pursuant to Clause 17.3, and in ascertaining whether the Construction Energy Target has been met:

- (a) The NHS Estates Returns Information Collection (ERIC) definition of heated volume (allowing for the inclusion of un-insulated ceiling void spaces) shall be adopted.
- (b) ERIC calculation - For the overall heated volume based on floor to soffit height, the current value is taken as 3.9m. The floor to floor height is currently 4.25m – structural zone based on 350mm.
- (c) The floor area used in the calculation of the Construction Energy Target is 95.115m².

- (d) The heated volume is 319,798m³.
 - (e) 6% reduction is made to the above mentioned floor area to allow for riser space, lift shafts and internal partitioning.
- 6.2.1 Without prejudice to the generality of Part 22 of the Schedule (*Variation Procedure*), Project Co and the Board agree that in determining whether the Construction Energy Target has been met, changes to the factors listed (a) to (o) during the Initial Period, or such additional period required under Clause 17.3 will impact upon Energy Consumption. Any such factors shall be reflected in an upwards adjustment to the Construction Energy Target (other than in the case of paragraphs (a) and (b) of this paragraph 6.2.1 of Section 7 of Part 8 of the Schedule (*Construction Matters*) where any beneficial change in such factors to Project Co shall result in a downwards adjustment), calculated using the Energy Design Brief, for the purposes of calculating if the Construction Energy Target has been met pursuant to Clause 17.4 (*Thermal and energy efficiency*):
- (a) Change in the calorific value of natural gas or detrimental supply voltage variance, as stated in Appendix 1 to Section 7 of Part 8 of the Schedule (*Construction Matters*), supplied to the Hospital Facilities;
 - (b) The parties agree that the Construction Energy Target is based on the 20 year average for West of Scotland Area 13 as published in 2006. Any change to the agreed weather file in the EDB, used for calculating the Construction Energy Target;
 - (c) failure by the Board to adopt and comply with the energy policies and initiatives implemented by Project Co (in agreement with the Board (pursuant to paragraph 3.2.1 of Section 4 of Part 33 of Schedule (*Joint Operating Protocol*)), aimed at conserving energy, reducing fuel costs and failure to incorporate what could reasonably be considered to be good housekeeping techniques in the use of the Hospital Facilities and the carrying out of Clinical Services;
 - (d) unreasonable propping open of external doors;

- (e) windows being opened by the Board and/or Board Parties in a room where heating is operating unless the room is not within the environmental conditions required by the Room Data Sheets or such opening is required to disperse odours or fumes not reasonably within the capacity of the air handling provisions;
- (f) windows being closed by the Board and/or Board Parties when opened by Project Co to provide natural ventilation and comfort conditions during summer conditions unless required for the Prescribed Health Function or Prescribed Operation Function of the room;
- (g) without prejudice to paragraph 9 of Section 1 of Part 22 of the Schedule (*Variation Procedure*), any changes in the use of a room (to that identified on the Room Data Sheets) that has an adverse effect on energy consumption;
- (h) interference by the Board and/or Board Parties with the thermostatic radiator valves or such other equivalent equipment or settings unless undertaken reasonably within the Prescribed Health Function or Prescribed Operational Function of the room;
- (i) other than in relation to equipment which is required to be operational on a 24 hour basis for clinical reasons, failure by the Board and/or Board Parties (acting reasonably) to switch off energy consuming equipment and devices when not in use;
- (j) use by the Board, Board Parties or Hospital users of energy consuming equipment which is not PAT tested and not authorised for use by Project Co. Such authorisation will not be unreasonably withheld;
- (k) failure by the Board and/or Board Parties to ensure that all Board / Board Party Energy consuming equipment is maintained in accordance with Good

Industry Practice and manufacturers recommendations;

- (l) medical and other equipment in excess of that specified in the Room Data Sheets;
- (m) without prejudice to paragraph 9 of Section 1 of Part 22 of the Schedule (*Variation Procedure*), use of energy consuming equipment and operation of the Facility outwith the hours of use for that area set out in paragraph 6.6 of Section 7 of Part 8 of the Schedule (*Construction Matters*);
- (n) Energy Consumption arising directly from the occurrence of any Excusing Cause, Relief Event or Force Majeure; and
- (o) Adjustment of commissioning set-points by the Board or Board Parties which have been established by Project Co and accepted by the Independent Tester as part of Project Co's Pre-Completion Commissioning.

6.3 For the avoidance of doubt, Qualifying Variations shall all be taken into account in the calculation of whether the Construction Energy Target has been met, in the terms set out in this Agreement so that Project Co would be in a no better no worse position than it would have been had the Qualifying Variation not have occurred.

6.4 Project Co and the Board agree that in determining whether the energy and efficiency of the Hospital Facilities is in excess of the Construction Energy Target, Energy Consumption arising from the following services, equipment and areas(together the "Process Loads"), shall be excluded from the calculation determining whether the Construction Energy Target has been met:

- (a) Kitchens, and catering loads;
- (b) Cold rooms;
- (c) Telecommunications & data rooms and associated cooling;
- (d) Big Ticket Equipment and associated cooling;
- (e) Process steam or power for sterilisation;

- (f) Pathology / mortuary and laboratory usage serving more than the hospital;
- (g) External lighting.

6.5 With the exception of Big Ticket Equipment, it is agreed by the Board and Project Co that it is assumed in the calculation of Construction Energy Target that each department will operate items of equipment which individually do not use large amounts of energy and in aggregate will not exceed the small power consumption targets in the table below. Project Co and the Board agree that, based upon realistic assessments of likely energy demand arrived at through design development and user-consultation, assumed small power consumption targets (included within the Construction Energy Target) for each department are as follows and shall be assumed in determination of whether the Construction Energy Target has been met:

| INSTALLED ELECTRICAL CONSUMPTION ASSESSMENT | | | |
|--|--------------------|--------|--------|
| | Small Power | | |
| Department | Watts | Occ | Usage |
| | per m ² | Factor | Factor |
| Accident & Emergency | 30 | 0.9 | 0.4 |
| Common Assessment Unit | 30 | 0.9 | 0.4 |
| Acute Receiving Unit | 30 | 0.9 | 0.4 |
| Generic Ward | 35 | 0.9 | 0.6 |
| Critical Care Ward | 40 | 0.9 | 0.5 |
| Renal Unit | 25 | 0.9 | 0.5 |
| Cardiology | 35 | 0.9 | 0.4 |
| Outpatients | 30 | 0.9 | 0.5 |
| Ambulatory Unit | 35 | 0.9 | 0.5 |
| Oncology | 35 | 0.9 | 0.6 |
| Rehabilitation Unit | 30 | 0.9 | 0.5 |
| Acute Stroke Unit | 30 | 0.9 | 0.5 |
| Day Hospital | 30 | 0.9 | 0.5 |
| Therapy Department | 30 | 0.9 | 0.5 |
| W&C Front Door Services | 5 | 0.9 | 0.5 |
| Labour Ward | 35 | 0.9 | 0.6 |
| Obstetric Inpatients | 35 | 0.9 | 0.6 |
| Gynaecology | 35 | 0.9 | 0.6 |
| Neonatal Care | 35 | 0.9 | 0.6 |
| Paediatrics | 35 | 0.9 | 0.6 |
| Integrated Mental Health Unit | 30 | 0.9 | 0.6 |
| Mortuary | 20 | 0.9 | 0.5 |
| Radiology | 20 | 0.9 | 0.4 |
| Laboratories | 75 | 0.9 | 0.5 |
| Pharmacy | 20 | 0.9 | 0.5 |
| Theatres | 40 | 0.9 | 0.5 |
| Main Entrance | 15 | 0.9 | 0.15 |

| INSTALLED ELECTRICAL CONSUMPTION ASSESSMENT | | | |
|--|--------------------|-----|-----|
| | Small Power | | |
| Office Accommodation | 30 | 0.9 | 0.7 |
| Medical Records | 5 | 0.9 | 0.7 |
| ICT | 50 | 0.9 | 0.7 |
| Staff Facilities | 10 | 0.9 | 0.5 |
| Training & Education | 25 | 0.9 | 0.7 |
| Materials Management | 25 | 0.9 | 0.5 |
| Occupational Health | 25 | 0.9 | 0.5 |
| Medical Physics | 50 | 0.9 | 0.5 |
| FM Estates | 25 | 0.9 | 0.7 |
| Acute Adult Inpatients | 25 | 0.9 | 0.6 |
| Old Age Psychiatry Inpatients | 25 | 0.9 | 0.6 |
| Intensive Psychiatric Care Unit | 25 | 0.9 | 0.5 |
| Main Entrance & Shared Facilities | 15 | 0.9 | 0.2 |
| Circulation | 5 | 0.8 | 0.1 |
| Atrium | 5 | 0.8 | 0.1 |

6.6 Departmental Operating Hours

| Area | Department | Operational Pattern | | |
|------------------------------------|-----------------------------------|----------------------------|------|-------|
| | | Hours | Days | Weeks |
| Emergency Centre | 1.1 Accident & Emergency | 24 | 7 | 52 |
| | 1.2 Common Assessment Unit | 24 | 7 | 52 |
| | 1.3 Acute Receiving Unit | 24 | 7 | 52 |
| Complex Services | 2.1 Generic Ward | 24 | 7 | 52 |
| | 2.2 Critical Care Ward | 24 | 7 | 52 |
| | 2.3 Renal Unit | 15.5 | 6 | 52 |
| | 2.4 Cardiology | 24 | 7 | 52 |
| Ambulatory Care | 3.1 Outpatients | 13.5 | 6 | 52 |
| | 3.2 Ambulatory Unit | 24 | 7 | 52 |
| | 3.3 Oncology | 8.5 | 5 | 52 |
| Rehabilitation & Intermediate Care | 4.1 Rehabilitation Unit | 24 | 7 | 52 |
| | 4.2 Acute Stroke Unit | 24 | 7 | 52 |
| | 4.3 Day Hospital | 13.5 | 6 | 52 |
| | 4.4 Therapy Department | 10 | 5 | 52 |
| Women's & Children's Services | 5.1 W&C Front Door Services | 24 | 7 | 52 |
| | 5.2 Labour Ward | 24 | 7 | 52 |
| | 5.3 Obstetric Inpatients | 24 | 7 | 52 |
| | 5.4 Gynaecology | 24 | 7 | 52 |
| | 5.5 Neonatal Care | 24 | 7 | 52 |
| | 5.6 Paediatrics | 24 | 7 | 52 |
| Mental Health | 6.1 Integrated Mental Health Unit | 24 | 7 | 52 |
| Clinical Support | 7.2 Mortuary | 9 | 5 | 52 |

| Area | Department | Operational Pattern | | |
|----------------------|---------------------------------------|---------------------|------|-------|
| | | Hours | Days | Weeks |
| | 7.3 Radiology | 24 | 7 | 52 |
| | 7.4 Laboratories | 24 | 7 | 52 |
| | 7.5 Pharmacy | 12 | 7 | 52 |
| | 7.6 Theatres | 24 | 7 | 52 |
| Non Clinical Support | 8.1 Main Entrance | 16 | 7 | 52 |
| | 8.2 Office Accommodation | 10 | 5 | 52 |
| | 8.3 Medical Records | 12.5 | 7 | 52 |
| | 8.4 ICT | 10 | 5 | 52 |
| | 8.5 Staff Facilities | 24 | 7 | 52 |
| | 8.6 Training & Education | 24 | 7 | 52 |
| | 8.7 Materials Management | 9 | 5 | 52 |
| | 8.8 Occupational Health | 8.5 | 5 | 52 |
| | 8.9 Medical Physics | 10 | 5 | 52 |
| | 8.10 FM Estates | 10 | 7 | 52 |
| Mental Health Unit | 9.1 Acute Adult Inpatients | 24 | 7 | 52 |
| | 9.2 Old Age Psychiatry Inpatients | 24 | 7 | 52 |
| | 9.3 Intensive Psychiatric Care Unit | 24 | 7 | 52 |
| | 9.4 Main Entrance & Shared Facilities | 12 | 7 | 52 |
| Circulation | Circulation | 24 | 7 | 52 |

7. PERFORMANCE APPRAISAL OF CONSTRUCTION ENERGY TARGET

- 7.1 Evaluations of the Construction Energy Target against the consumption figures arrived at using records of on-site readings, shall be made taking into account the calculation methods and assumptions set out in paragraph 6 of this Section 7 of Part 8 of the Schedule (*Construction Matters*).
- 7.2 The evaluations and comparisons shall be reported to the Board, in formats agreed with the Board.
- 7.3 Should the comparisons be compliant with the Construction Energy Target set out in paragraph 6.1 of this Section 7 of Part 8 of the Schedule (*Construction Matters*) then remedial actions or compensation shall not be necessary.
- 7.4 In the case of the Construction Energy Target not being achieved a systematic review of the Energy Design Brief shall be conducted in order to determine the precise areas where design criteria are not being achieved and in order to identify remedial measures. A full review of user inputs, equipment and area use shall be conducted and remedial measures agreed with all relevant parties where measures related to

user inputs, equipment or area use are considered necessary. If it is agreed or determined that any non compliance with the Construction Energy Target is a consequence of the design and construction of the Facilities then Clause 17.4 shall apply.

- 7.5 Any relevant guidance set out in the CIBSE Guide F document previously referred to shall be followed in the conduct of performance appraisals.

PART 8 OF THE SCHEDULE: CONSTRUCTION MATTERS

Section 7: Thermal and energy efficiency testing procedure

Appendix

Energy Calculation Methodology - Supplementary Information

Key estimated consumptions at Financial Close

GJ/100m3

| | |
|--------|--|
| 54.992 | estimated energy use for the Hospital Facilities |
| 52.372 | estimated thermal and energy efficiency for the Facilities (adjusted for off-site use per EnCO2de) as per the following Board confirmation of off-site adjustments : Kitchen (50%), Laboratories (40%), Mortuary (20%) |
| 6.87 | estimated Process Loads / benchmark exclusions (as per definition at paragraph 6.4 of Section 7 of Part 8) |
| 48.122 | The 'Construction Energy Target' as defined at Section 7 of Part 8 |

Methodology for establishing the Thermal and Energy Efficiency of the Facilities (for the purpose of ERIC returns to NHS Estates, and with a view to establishing the Annual Energy Target)

The following text identifies the process that should be followed for the purpose of calculating the actual Energy Consumption at the Facilities as per Clause 17.3.

Steps

1. Electricity, Gas and Fluid Meters are collated and totalled for their annual consumption (this will be in kWh for Electricity, m3 for Gas and m3 for Oil) to formulate the total metered energy consumption.
2. As per Board advice, relevant process loads are removed to reflect the degree of consumption related to off site uses ie. Kitchen (50%), Laboratories (40%), Mortuary (20%)
3. The Electricity metered (adjusted for off-site use) from Step 2 then requires to be converted to Giga-joules from kWh. This is done by applying a conversion factor of 0.0036 to the kWh load, the resultant figure is in Giga-joules.
4. The Gas metered (adjusted for off site use) from Step 2 then requires to be converted to Giga-joules from m3. This is done by applying a

conversion factor supplied from
www.nationalgrid.com/uk/Gas/Data/misc/reports/calorificvalue.htm
(circa 39.7MJ/m³ in Scotland) to the m³ load, the resultant figure is in
mega-joules which requires to be divided by 1000 to convert the figure
to Giga-joules.

5. The Oil metered (adjusted for off site use) from Step 2 then requires to be converted to Giga-joules from m³. This is done by applying a conversion factor supplied from the BSRIA blue book 2006 (circa 42.8MJ/m³) to the m³ load, the resultant figure is in mega-joules which requires to be divided by 1000 to convert the figure to Giga-joules.
6. The sum of the Giga-joules figures (from steps 3-5) is then divided by the heated volume per 100m³ of the building. The result of this is a GJ/100m³ figure for actual energy use (in relevant period). This figure represents the actual Energy Consumption at the Facilities for the purpose of Clause 17.3

Methodology for establishing compliance with the Construction Energy Target

The following text identifies the techniques that will be employed to calculate the actual Energy Consumption from the metered energy. This process will be followed for the purpose of comparison with the 'Construction Energy Target'

Steps

1. Reference is made to Clause 17.3 of the Project Agreement : to make a comparison of the heating degree days in the two year period (following the Actual Completion Date) with the published 20 year average figure for 2006 (for West of Scotland Area 13 as published by NHS Estates), which the parties have agreed will be the "average year figure" used for the purpose of this comparison. If the average degree day figure for the two year period is within +/- 3% of this average, then a comparison of actual energy use can be made with the 'Construction Energy Target'.
2. Electricity, Gas and Fluid Meters are collated and totalled for their annual consumption (this will be in kWh for Electricity, m³ for Gas and m³ for Oil) to formulate the total metered energy consumption.
3. Process Loads (identified in paragraph 6.4 of Section 7 of Part 8) are then removed from the total metered energy consumption from Step 2.
4. The Electricity metered (non-process load) from Step 3 then requires to be converted to Giga-joules from kWh. This is done by applying a

conversion factor of 0.0036 to the kWh load, the resultant figure is in Giga-joules.

5. The Gas metered (non-process load) from Step 3 then requires to be converted to Giga-joules from m3. This is done by applying a conversion factor supplied from www.nationalgrid.com/uk/Gas/Data/misc/reports/calorificvalue.htm (circa 39.7MJ/m3 in Scotland) to the m3 load, the resultant figure is in mega-joules which requires to be divided by 1000 to convert the figure to Giga-joules.
6. The Oil metered (non-process load) from Step 3 then requires to be converted to Giga-joules from m3. This is done by applying a conversion factor supplied from the BSRIA blue book 2006 (circa 42.8MJ/m3) to the m3 load, the resultant figure is in mega-joules which requires to be divided by 1000 to convert the figure to Giga-joules.
7. The sum of the Giga-joules figures (from steps 4-6) is then divided by the heated volume per 100m3 of the building. The result of this is a GJ/100m3 figure for actual energy use (in relevant period)
8. Subject to Clause 17.3 The parties agree Any adjustments which are applicable to the 'Construction Energy Target' are made to reflect the adjustment factors listed within paragraph 6 of Section 7 Part 8.
9. Comparison is made between actual energy consumption (derived per steps 1-7 above), and the Construction Energy Target (adjusted if necessary per Step 8 above).

Below is a worked example:

Step 1

Compare the heating degree days in the two year period (following the Actual Completion Date) with the published 20 year average figure for 2006 (as published by NHS Estates). If the average degree day figure for the two year period is within +/- 3% of this average, then a comparison of actual energy use can be made with the 'Construction Energy Target'.

Step 2

Electrical Energy Consumption measured from meters = 20,456,825kWh

Gas Energy Consumption measured from meters = 2,547,608.82m3

Oil Energy Consumption measured from meters = 150m3

Electrical Process Load = 5,424,418kWh

Gas Process Load = 70,618.39m³

Step 3

Target Energy = Totalled Metered – Process Loads (which are separately metered & sub-totalled by Project Co.)

Electrical Target Energy = 20,456,825 – 5,424,418 = 15,032,407kWh

Gas Target Energy = 2,547,608.82 – 70,618.39 = 2,476,990.43 m³

Oil Target Energy = 150 m³

Step 4

Total Electrical Giga-joules = 15,032,407 x 0.0036 = 54,116.67GJ

Step 5

Total Gas Giga-joules = 2,476,990.43 x 39.7 / 1000 = 98,336.52GJ

Step 6

Total Oil Giga-joules = 150 x 42.8 / 1000 = 6.42GJ

Step 7

Total Giga-joules = 54,116.67 + 98,336.52 + 6.42 = 152,459.6GJ

Heated Volume per 100m³ = 3197.98 (to be re-confirmed after Construction)

Actual energy use = 152,459.16 / 3197.98 = 47.674GJ/100m³

Step 8

Make any adjustments which are applicable to the 'Construction Energy Target' per paragraph 6 of Section 7 Part 8

Step 9

Compare actual energy consumption (derived per steps 1-7 above), and the Construction Energy Target (adjusted if necessary per Step 8 above).

PART 8 OF THE SCHEDULE: CONSTRUCTION MATTERS

Section 8: Construction Quality Plan and Design Quality Plan

The Construction Quality Plan and the Design Quality Plan are set out in Section 4.15 of Project Co's Proposals, which shall each have effect as if expressly set out in this Section 8 of Part 8 of the Schedule.

PART 8 OF THE SCHEDULE: CONSTRUCTION MATTERS

Section 9: Board's Comments on Project Co's Proposals

No comments.

PART 9 OF THE SCHEDULE: THE PROGRAMME

Section A: Programme

The Programme is set out in the Agreed Form document comprising one volume labelled "Programme", which shall have effect as if expressly set out in this Section A of Part 9 of the Schedule.

PART 9 OF THE SCHEDULE: THE PROGRAMME

Section B: Phasing

Fiona Mackenzie Irene Marsh

Phasing of the Works will be carried out in accordance with the Phasing Plans. The following description is for information only and does not take precedence over the contents of the said Phasing Plans.

| Phase | Description of Phase | Phase Completion Date/Finishing Works Completion Date |
|--------------|---|--|
| Phase 1 | The Phase 1 Works are comprised within the areas shown shaded red on the Phasing Plans (and in the case of the Drainage Scheme, illustrated by the area shaded blue on the Works Site Plan) and shall include the design and construction of a main entrance and patient/visitor amenities, restaurant, training centre, office accommodation, ICT offices, pharmacy, outpatients, ambulatory unit, radiology, renal, operating theatres, mortuary, 4 generic wards, acute stroke ward, rehabilitation ward, elements of the therapy department, Occupational Health, oncology, catering, materials management, energy centre, associated access roads and hard and soft landscaping, visitor parking and part staff parking. | 10 May 2010 |

| Phase | Description of Phase | Phase Completion Date/Finishing Works Completion Date |
|-----------------|---|---|
| Phase 2 | The Phase 2 Works are comprised within the areas shown shaded green on the Phasing Plans and shall include the design and construction of a single storey mental health unit, associated access, hard and soft landscaping and parking and associated plant space located in Phase 3. | 16 August 2010 |
| Phase 3 | The Phase 3 Works are comprised within the areas shown shaded blue on the Phasing Plans and shall include the design and construction of Accident and Emergency, Acute Receiving Unit, Common Assessment Unit, Women and Children, Cardiology, Laboratories, 2 ward blocks (remainder of therapies, day hospital, five generic wards, integrated mental health, remainder of the staff car park, associated access and hard and soft landscaping. | 18 April 2011 |
| Finishing Works | The Finishing Works are comprised within the areas shown shaded yellow on the Phasing Plans and shall include removal of site establishment, capping off of temporary site services and recording of position. and removal of temporary surfacing materials and grading surfaces of compacted granular fill to form a barrier along the edge adjacent to the access road with material to prevent access to the area. | 5 August 2011 |

Fiona Mackenzie Irene Marsh

PART 10 OF THE SCHEDULE: REVIEW PROCEDURE

1. Review Procedure

1.1 The provisions of this Part of the Schedule shall apply whenever any item, document or course of action is required to be reviewed, approved or otherwise processed in accordance with Part 10 of the Schedule (*Review Procedure*).

1.2 Subject to any express provision of this Agreement, the manner, form and timing of any submission to be made by Project Co to the Board's Representative for review under the Review Procedure shall be a matter for Project Co to determine. Each submission under the Review Procedure shall be accompanied by a copy of the proposed document to be reviewed (including, where applicable, any Reviewable Design Data) or a statement of the proposed course of action (the entire contents of a submission being referred to in this Part 10 of the Schedule (*Review Procedure*) as a "Submitted Item"). In relation to each Submitted Item, the following procedure shall apply:

(a) subject to paragraph 1.5 (*Review Procedure*), as soon as possible and, if the Submitted Item comprises:

- (i) an item of Reviewable Design Data;
- (ii) a revised Programme submitted pursuant to Clause 19 (*Programme and Dates for Completion*);
or
- (iii) a document or proposed course of action submitted in the case of an emergency,

within ten (10) Business Days of the date of receipt of a submission (or re-submission, as the case may be) of the Submitted Item to the Board's Representative (or such other period as the parties may agree), the Board's Representative shall return one copy of the relevant Submitted Item to Project Co endorsed "no comment" or (subject to and in accordance with paragraph 3 (*Grounds for Objection*)) "comments" as appropriate; and

(b) subject to paragraph 1.4 (*Review Procedure*), if the Board's Representative fails to return a copy of any Submitted Item (including any re-submitted Submitted Item) duly endorsed in accordance with paragraph 1.2(a) (*Review Procedure*), within ten (10) Business Days (or within such other period as the

parties may agree in writing or as is referred to in paragraph 1.5 (*Review Procedure*)) of the date of its submission to the Board's Representative, then the Board's Representative shall be deemed to have returned the Submitted Item to Project Co endorsed "no comment" (and, in the case of Reviewable Design Data, endorsed "Level A - no comment"); and

(c) in relation to finishes:

- (i) Project Co shall, within the period set out in Table A below, propose to the Board's Representative a range or selection of aspects of finishes ("Range of Finishes") listed in Table A below in accordance with the Board's Construction Requirements and Project Co's Proposals for selection by the Board in accordance with paragraph 3(d) (*Grounds of Objection*) of this Part 10 of the Schedule (*Review Procedure*) and within the relevant selection period listed in Table A below ("Selection Period");
- (ii) the Board's Representative shall, following receipt of the Range of Finishes listed in Table A below, notify Project Co of its selection within the Selection Period for each of the Finishes (and for these purposes the Selection Period shall run from the date of receipt of the Range of Finishes by the Board):

| Finishes | Aspects | Period from the Effective Date within which the proposal shall be made | Selection Period |
|--|---------------------|---|-------------------------|
| External Finishes - Roofs | colour | 60 Business Days | 15 Business Days |
| External Finishes - Windows | Material | 60 Business Days | 15 Business Days |
| External Finishes - External Elevations | Colour and Material | 60 Business Days | 15 Business Days |
| Internal wall finishes | colour | 200 Business Days | 15 Business Days |

| Finishes | Aspects | Period from the Effective Date within which the proposal shall be made | Selection Period |
|----------------------------------|-------------------------------------|---|-------------------------|
| floor finishes | colour and type | 200 Business Days | 15 Business Days |
| ironmongery | style and colour | 150 Business Days | 15 Business Days |
| tapware | style and content | 100 Business Days | 15 Business Days |
| bed head arrangement | layout and content | 160 Business Days | 15 Business Days |
| nurses station | colour, content, style and material | 120 Business Days | 15 Business Days |
| main public light fittings | specification and style | 100 Business Days | 15 Business Days |
| external signage | size, style, colour and location | 200 Business Days | 15 Business Days |
| internal signage | size, style, colour and location | 160 Business Days | 15 Business Days |
| light switches and sockets | style and colour | 100 Business Days | 15 Business Days |
| light fittings in clinical areas | style and colour | 100 Business Days | 15 Business Days |
| hard landscaping | colour and material | 100 Business Days | 15 Business Days |

and

- (iii) if no selection of a Finish has been made by the Board's Representative and notified to Project Co in accordance with paragraph 1.2(c)(ii) (*Review Procedure*) by the end of the relevant Selection Period, Project Co shall be entitled to make a selection of the particular Finish. After the end of the relevant Selection Period, should the Board wish to vary any selection previously made by Project Co or by the Board, such variation shall be

effected as a Variation in accordance with Part 22 of the Schedule (*Variation Procedure*).

- 1.3 If the Board's Representative raises comments on any Submitted Item in accordance with paragraph 3 (*Grounds of Objection*) he shall state the ground upon which such comments are based and the evidence or other information necessary to substantiate that ground. To the extent that the Board's Representative comments on a Submitted Item other than on the basis set out in this Schedule, or fails to comply with the provisions of this paragraph, Project Co may, in its discretion, either:
- (a) request written clarification of the basis for such comments and, if clarification is not received within ten (10) Business Days of such request by Project Co, refer the matter for determination in accordance with Part 26 of the Schedule (*Dispute Resolution Procedure*); or
 - (b) at its own risk, and without prejudice to Clause 17 (*The Design, Construction and Commissioning Process*), proceed with further design or construction disregarding such comments.
- 1.4 In the case of any Submitted Item of the type referred to in paragraph 3(i) (*Grounds of Objection*), a failure by the Board's Representative to endorse and return such Submitted Item within the period specified in paragraph 1.2(b) (*Review Procedure*) shall be deemed to constitute an objection by the Board's Representative to such Submitted Item. If the parties fail to agree the form and content of such Submitted Item, within ten (10) Business Days following the expiry of the period specified in paragraph 1.2(b) (*Review Procedure*), the matter shall be determined in accordance with Part 26 of the Schedule (*Dispute Resolution Procedure*).
- 1.5 In respect of any Submitted Item that is designated as a "Fast Track" item in column five (5) of the table set out in Section 5 of Part 8 of the Schedule (*Reviewable Design Data*), subject to paragraphs 2 and 3 of Section 5 of Part 8 of the Schedule (Construction Matters), if that Submitted Item is submitted to the Board within the relevant week for such item set out in column seven (7) of that table, then the Board's Representative shall return one copy of the relevant Submitted Item to Project Co endorsed "no comment" or (subject to and in accordance with paragraph 3 (*Grounds for Objection*)) "comments" as appropriate within five (5) Business Days following the submission (or three (3) Business Days following re-submission) of the relevant Submitted Item and the reference to ten (10) Business Days in paragraph 1.3(a) shall be construed as meaning five (5) Business Days.

2. **Further Information**

Subject to paragraph 1 of Section 5 of Part 8 of the Schedule (*Construction Matters*), Project Co shall submit any further or other information, data and documents that the Board's Representative reasonably requires in order to determine whether he has a basis for raising comments or making objections to any Submitted Item in accordance with this Schedule. If Project Co does not submit any such information, data and documents, the Board's Representative shall be entitled to:

- (a) comment on the Submitted Item on the basis of the information, data and documents which have been provided; or
- (b) object to the Submitted Item on the grounds that insufficient information, data and documents have been provided to enable the Board's Representative to determine whether he has a legitimate basis for commenting or objecting in accordance with this Part 10 of the Schedule (*Review Procedure*).

3. **Grounds of Objection**

The expression "raise comments" in this paragraph shall be construed to mean "raise comments or make objections" unless the contrary appears from the context. The Board's Representative may raise comments in relation to any Submitted Item on the grounds set out in paragraph 2 (*Further Information*) above or on the ground that the Submitted Item would (on the balance of probabilities) breach any Law but otherwise may raise comments in relation to a Submitted Item only as follows:

- (a) in relation to any Submitted Item if:
 - (i) Project Co's ability to perform its obligations under this Agreement would (on the balance of probabilities) be adversely affected by the implementation of the Submitted Item; or
 - (ii) the implementation of the Submitted Item would (on the balance of probabilities) adversely affect any right of the Board under this Agreement or its ability to enforce any such right;
- (b) in relation to any Submitted Item submitted pursuant to Clause 4.1 (*Ancillary Documents*) if:

- (i) the Board's ability to perform its obligations under the Agreement would be adversely affected by the proposed course of action;
 - (ii) the Board's ability to provide the Clinical Services or to carry out any of its statutory functions would (on the balance of probabilities) be adversely affected by the proposed course of action;
 - (iii) the proposed course of action would be likely to result in an increase to the Board's liabilities or potential or contingent liabilities under this Agreement;
 - (iv) the proposed course of action would adversely affect any right of the Board under this Agreement or its ability to enforce any such right; or
 - (v) Project Co's ability to perform its obligations under this Agreement would be materially adversely affected by the proposed course of action;
- (c) in relation to Reviewable Design Data submitted pursuant to Clause 17.7(a) (*Board design approval*):
- (i) which does not comprise 1:50 scale Room Layout Drawings the Board's Representative may raise comments, subject to and in accordance with paragraph 4 (*Effect of Review*) on the ground that the Submitted Item is not in accordance with:
 - (aa) the Board's Construction Requirements; and/or
 - (bb) Project Co's Proposals;
 - (ii) which comprises a 1:50 scale Room Layout Drawing in respect of which there is a corresponding generic 1:50 scale Room Layout Drawing for the relevant room type (which has previously been reviewed and commented upon by the Board's Representative in accordance with this Part 10 of the Schedule (*Review Procedure*)), the Board's Representative may raise comments, subject to and in accordance with paragraph 4 (*Effect of Review*), on the ground that the

Submitted Item does not conform to the generic 1:50 scale Room Layout Drawing; and

- (iii) which comprises a 1:50 scale Room Layout Drawing in respect of which there is no corresponding generic 1:50 scale Room Layout Drawing for the relevant room type (which has previously been reviewed and commented upon by the Board's Representative in accordance with this Part 10 of the Schedule (*Review*)), the Board's Representative may raise comments, subject to and in accordance with paragraph 4 (*Effect of Review*), on the grounds that the Submitted Item:
 - (aa) is not in accordance with the Board's Construction Requirements and/or Project Co's Proposals; or
 - (bb) is inconsistent with the guidance contained in any current NHS Requirement which is applicable to a room of that function provided that such guidance has not been superseded by and is not inconsistent with any other provisions of the Board's Construction Requirements (including any existing Approved RDD Item);
 - (iv) which comprises Room Data Sheets, the Board's Representative may raise comments on the ground that the Submitted Item is inconsistent with the Room Data Sheet Methodology contained within Section 6 of Part 8 of the Schedule (*Construction Matters*); or
 - (v) which comprises Catering Equipment, the Board's Representative may raise comments on the ground that the Submitted Item does not achieve a balance between operational efficiency and energy efficiency in line with Good Industry Practice having regard to the requirements of the Catering Services pursuant to Part 14 of the Schedule;
- (d) in relation to Finishes:

- (i) which have the effect of making a selection from the Range of Finishes (or any alternative range or selection of Finishes submitted by Project Co to the Board's Representative) pursuant to Clause 17.7(a) (*Board design approval*); or
 - (ii) where the Submitted Item does not comply with the relevant provisions of the Board's Construction Requirements and/or Project Co's Proposals;
- (e) in relation to the submission of any revised Programme pursuant to Clause 19 (*Programme and Dates for Completion*) on the ground that the revised Programme would not (on the balance of probabilities) enable the Works to be completed by the Completion Date;
- (f) in relation to the submission of any Quality Plan or part of a Quality Plan or any changes to any Quality Plan pursuant to Clause 25.4 (*Quality Plans and Systems*) or Clause 25.7 (*Quality Plans and Systems*) or any quality manual or procedure in accordance with Clause 25.10 (*Quality Manuals and Procedures*), on the grounds that such Quality Plans, or parts of or changes to such Quality Plans, quality manuals or procedures, or the quality management systems which they reflect, would not comply with:
 - (i) in the case of the Design Quality Plan and the Construction Quality Plan referred to in Clause 25 (*Quality Assurance*), the requirements referred to in Section 8 of Part 8 of the Schedule (*Construction Matters*); and
 - (ii) in the case of the Services Quality Plan referred to in Clause 25 (*Quality Assurance*), the requirements referred to in Section 3 of Part 14 of the Schedule (*Service Requirements*);
- (g) in relation to the submission of any proposed revision or substitution for the Method Statements or any part of any Method Statement (as the case may be) pursuant to Clause 27.3 (*Project Co Services Changes*), on the grounds that:
 - (i) the proposed revision or substitution is not in accordance with Good Industry Practice;

- (ii) the performance of the Service in accordance with the proposed revision or substitution would (on the balance of probabilities):
 - (aa) be materially different from the performance of the Service in accordance with the Method Statement prior to such proposed revision or substitution; or
 - (bb) be less likely to achieve compliance with the Service Level Specification for that Service; or
 - (cc) have an adverse effect on the provision by the Board of the Clinical Services or on the safety of any users of the Facilities; or
 - (iii) the proposed revision or substitution would (on the balance of probabilities) result in an inferior standard of performance of the relevant Service to the standard of performance in accordance with the Method Statement prior to such proposed revision or substitution; and
- (h) in relation to the submission of any Schedule of Programmed Maintenance, any revision to any Schedule of Programmed Maintenance pursuant to Clause 28.1 (*Programmed Maintenance Works*) or 28.6 (*Programmed and Unprogrammed Maintenance*) or any submission of Unprogrammed Maintenance Works pursuant to Clause 28.8 (*Programmed and Unprogrammed Maintenance*), on the grounds that:
 - (i) carrying out the Programmed Maintenance or the Unprogrammed Maintenance Works in the period or at the times suggested would (on the balance of probabilities) interfere with the operations of the Board and such interference could be avoided or mitigated by Project Co rescheduling the Programmed Maintenance or the Unprogrammed Maintenance Works; or
 - (ii) in relation to the Schedule of Programmed Maintenance, the proposed hours for carrying out the Programmed Maintenance are not consistent with the principles set out in Appendix 2 to this Part 10 of the Schedule (*Review Procedure*); or

- (iii) the proposed method of performance of the Programmed Maintenance or the Unprogrammed Maintenance Works would not be in accordance with the Service Level Specifications for that Service; or
 - (iv) the safety of patients or other users of the Facilities would (on the balance of probabilities) be adversely affected; or
 - (v) the period for carrying out the Programmed Maintenance or the Unprogrammed Maintenance Works would (on the balance of probabilities) exceed the period reasonably required for the relevant works; and
- (i) in relation to the submission of Project Co's proposals for the Handback Works, the Handback Programme and the Handback Amount, on the grounds that:
 - (i) in the case of the Handback Works, Project Co's proposals will not (on the balance of probabilities) ensure that the Handback Requirements are achieved by the Expiry Date;
 - (ii) in the case of the Handback Programme, performance of the Handback Works in accordance with the programme is not (on the balance of probabilities) capable of achieving satisfaction of the Handback Requirements by the Expiry Date; and
 - (iii) in the case of the Handback Amount, it does not represent the cost of carrying out the Handback Works according to the Handback Programme and the provisions of Part 24 of the Schedule (*Handback Procedure*).

4. **Effect of Review**

- 4.1 Any Submitted Item which is returned or deemed to have been returned by the Board's Representative endorsed "no comment" (and in the case of Reviewable Design Data, endorsed "Level A - no comment") shall be complied with or implemented (as the case may be) by Project Co.

4.2 In the case of any Submitted Item other than Reviewable Design Data, if the Board's Representative returns the Submitted Item to Project Co endorsed "comments", Project Co shall comply with such Submitted Item after amendment in accordance with the comments unless Project Co disputes that any such comment is on grounds permitted by this Agreement, in which case Project Co or the Board's Representative may refer the matter for determination in accordance with Part 26 of the Schedule (*Dispute Resolution Procedure*) and Project Co shall not act on the Submitted Item until such matter is so determined or otherwise agreed.

4.3 In the case of a Submitted Item comprising Reviewable Design Data, if the Board's Representative returns the Submitted Item endorsed other than "Level A - no comment", Project Co shall:

- (a) where the Board's Representative has endorsed the Submitted Item "Level B - proceed subject to amendment as noted", either proceed to construct or proceed to the next level of design of the part of the Works to which the Submitted Item relates but take into account any amendments required by the Board's Representative in his comments;
- (b) where the Board's Representative has endorsed the Submitted Item "Level C - subject to amendment as noted" not act upon the Submitted Item, amend the Submitted Item in accordance with the Board's Representative's comments and re-submit the same to the Board's Representative in accordance with paragraph 4.4 (*Effect of Review*); and
- (c) where the Board's Representative has endorsed the Submitted Item "Level D - rejected" not act upon the Submitted Item, amend the Submitted Item and re-submit the Submitted Item to the Board's Representative in accordance with paragraph 4.4 (*Effect of Review*),

unless Project Co disputes that any such comment or proposed amendment is on grounds permitted by this Agreement, in which case Project Co or the Board's Representative may refer the matter for determination in accordance with Part 26 of the Schedule (*Dispute Resolution Procedure*) and Project Co shall not act on the Submitted Item until such matter is so determined or otherwise agreed.

4.4 Within ten (10) Business Days of receiving the comments of the Board's Representative on any Submitted Item comprising Reviewable Design Data, Project Co shall (except in the case contemplated in paragraph

4.3(a) (*Effect of Review*)) send a copy of the Submitted Item as amended to the Board's Representative pursuant to paragraph 4.3 (*Effect of Review*) and the provisions of paragraphs 1.2(a) (*Review Procedure*), 4.1 (*Effect of Review*) and 4.3 (*Effect of Review*) shall apply (changed according to context) to such re-submission.

- 4.5 The return or deemed return of any Submitted Item endorsed "no comment" (or in the case of Reviewable Design Data endorsed "Level A - no comment" or otherwise endorsed in accordance with paragraph 4.3(a) (*Effect of Review*) or 4.3(b) (*Effect of Review*)) shall mean that the relevant Submitted Item may be used or implemented for the purposes for which it is intended but, save to the extent expressly stated in this Agreement including, without limitation, as specified in Appendix 1 Table A to this Part 10 of the Schedule (*Review Procedure*), such return or deemed return of any Submitted Item shall not otherwise relieve Project Co of its obligations under this Agreement nor is it an acknowledgement by the Board that Project Co has complied with such obligations.

5. Documentation Management

- 5.1 Project Co shall issue four (4) copies of all Submitted Items to the Board and compile and maintain a register of the date and contents of the submission of all Submitted Items.
- 5.2 Project Co shall compile and maintain a register of the date of receipt and content of all Submitted Items that are returned or deemed to be returned by the Board's Representative.
- 5.3 Save to the extent set out in Appendix A to this Part of the Schedule or elsewhere in this Part 10 of the Schedule (*Review Procedure*), no review, comment or approval by the Board shall operate to exclude or limit Project Co's obligations or liabilities under this Agreement (or the Board's rights under this Agreement).

6. Variations

- 6.1 No approval or comment or any failure to give or make an approval or comment under this Part 10 of the Schedule (*Review Procedure*) shall constitute a Variation save to the extent provided in this Part 10 of the Schedule (*Review Procedure*).
- 6.2 If, having received comments from the Board's Representative, Project Co considers that compliance with those comments would amount to a Variation, Project Co shall, before complying with the comments, notify the Board of the same and, if it is agreed by the parties or determined pursuant to Part 26 of the Schedule (*Dispute Resolution Procedure*) that

a Variation would arise if the comments were complied with, the Board may, if it wishes, implement the Variation and it shall be dealt with in accordance with Part 22 of the Schedule (*Variation Procedure*). Any failure by Project Co to notify the Board that it considers compliance with any comments of the Board's Representative would amount to a Variation shall constitute an irrevocable acceptance by Project Co that any compliance with the Board's comments shall be without cost to the Board and without any extension of time.

- 6.3 No alteration or modification to the design, quality and quantity of the Works arising from the development of detailed design or from the co-ordination of the design shall be construed or regarded as a Variation.

PART 10 OF THE SCHEDULE : REVIEW PROCEDURE

Appendix 1

Table A

| Approved RDD Item (by category) | Scale | Meaning of “Level A - no comment” and “Level B – proceed subject to amendment as noted” endorsement of Reviewable Design Data under Part 10 of the Schedule (<i>Review Procedure</i>) (including both the actual and deemed endorsement). |
|--|--------------|---|
| Room Data Sheets | n/a | A “Level A - no comment” endorsement or a “Level B - proceed subject to amendment as noted” endorsement of any room data sheet means that Project Co may proceed to construct in accordance with the Submitted Item and that the Board is satisfied that the design and other information in the relevant room data sheet satisfies Clinical Functionality. |
| Drawings - Development Control Plan | 1:1250 | A “Level A - no comment” endorsement or a “Level B - proceed subject to amendment as noted” endorsement of any 1:1250 scale development control plan means that Project Co may proceed to construct in accordance with the Submitted Item and that the Board is satisfied that the design and other information contained in the relevant drawing satisfies Clinical Functionality. |
| Drawings - Site Plan | 1:500 | A “Level A - no comment” endorsement or a “Level B - proceed subject to amendment as noted” endorsement of any 1:500 scale site plan means that Project Co may proceed to construct in accordance with the Submitted Item and that the Board is satisfied that the design and other information contained in the relevant drawing satisfies Clinical Functionality. |
| Drawings - Floor Plans | 1:200 | A “Level A - no comment” endorsement or a “Level B - proceed subject to amendment as noted” endorsement of any 1:200 scale floor plan |

| Approved RDD Item (by category) | Scale | Meaning of “Level A - no comment” and “Level B – proceed subject to amendment as noted” endorsement of Reviewable Design Data under Part 10 of the Schedule (<i>Review Procedure</i>) (including both the actual and deemed endorsement). |
|---|-------|---|
| | | means that Project Co may proceed to construct in accordance with the Submitted Item and that the Board is satisfied that the design and other information contained in the relevant drawing satisfies the Clinical Functionality. |
| Drawings - Room Layouts (including room elevations) & Reflected ceiling plans | 1:50 | A “Level A - no comment” endorsement or a “Level B - proceed subject to amendment as noted” endorsement of any 1:50 scale room layout and/or reflected ceiling drawing means that Project Co may proceed to construct in accordance with the Submitted Item and that the Board is satisfied (to the extent of the design and other information contained in the relevant drawing) that the design and other information in the relevant drawing satisfies Clinical Functionality. |
| Drawings - Departmental plans | 1:50 | A “Level A - no comment” endorsement or a “Level B – proceed subject to amendment as noted” endorsement of any 1:50 scale departmental plan means that Project Co may proceed to construct in accordance with the Submitted Item and that the Board is satisfied (to the extent of the design and other information contained in the relevant drawing) that the design and other information in the relevant drawing satisfies Clinical Functionality. |

PART 10 OF THE SCHEDULE: REVIEW PROCEDURE

Appendix 2: Normal Working Hours

1. Subject to paragraphs 3 to 6 below, Project Co shall carry out Programmed Maintenance at the Facilities during the hours of 0800 to 1700 from Monday to Friday ("Normal Working Hours").
2. Project Co may, with the consent of the Board (which consent shall not be unreasonably withheld) carry out Maintenance Works outside the Normal Working Hours provided always that it shall take into account:
 - (i) the likely disturbance to the Board, its staff and patients within the immediate area where the Maintenance Works are to be undertaken;
 - (ii) the likely disturbance to adjacent areas, the Board, its staff and patients in those adjacent areas that may be affected by the Maintenance Works to be undertaken in the area(s) identified in (i) above; and
 - (iii) compliance with the Law.
3. Subject to paragraph 4, Project Co shall have access to the Facilities during the hours of operation to the areas set out in and in accordance with Table B below ("Hours of Operation") to carry out Programmed Maintenance.

Table B

| | |
|-------------------------------|-------------|
| Wards | 1000 - 2000 |
| Day Surgery | 1000 - 2000 |
| Day Case Investigation Unit | 2000 - 0700 |
| Accident & Emergency | 0800 - 1600 |
| Theatres | 1700 - 0700 |
| Laboratories | 0800 - 1600 |
| ITU/High Dependency | 1000 - 2000 |
| Procedure Rooms (Outpatients) | 0800 - 1700 |

| | |
|-----------------------------|-------------|
| Public Toilets | Anytime |
| High Profile Corridors | 2000 - 0700 |
| VIP Rooms and Meeting Rooms | Anytime |
| Staff Toilets | Anytime |
| On-Site Accommodation | 0900 - 1700 |
| Outpatient Departments | 0800 - 1700 |
| Office Accommodation | 0800 - 1700 |
| Service Corridors | Anytime |
| Reception/Entrances | Anytime |
| Storage Areas | Anytime |

4. Where Project Co requires access to an area of the Facilities during the Hours of Operation, Project Co will consult with and obtain the consent of the member of personnel in charge of a department ("Head of Department") concerning dates, times and periods during which Programmed Maintenance is to be undertaken in those departments so as to minimise disruption to those departments.
5. Where Project Co requires access to an area of the Facilities outwith the Hours of Operation, Project Co will consult with a view to obtaining the consent of the Head of Department concerning dates, times and periods during which Programmed Maintenance is to be undertaken in those departments so as to minimise disruption to those departments.
6. The Board may request Project Co to carry out Programmed Maintenance outside the Board's Normal Working Hours in the event that the carrying out of such Programmed Maintenance during Normal Working Hours would adversely affect the clinical and operational function of the department or area.

PART 11 OF THE SCHEDULE: NOT USED

PART 12 OF THE SCHEDULE: OUTLINE COMMISSIONING PROGRAMME

1. For the purposes of this Part 12 of the Schedule (Outline Commissioning Programme), unless the context otherwise requires:

| | |
|--|--|
| "Building Familiarisation" | has the meaning given to it in Appendix C of this Part 12 of the Schedule (<i>Outline Commissioning Programme</i>); |
| "Induction Programme" | has the meaning given to it in Appendix C of this Part 12 of the Schedule (<i>Outline Commissioning Programme</i>); |
| "Manufacturer's Training Programme" | means the programme contained in Appendix D of this Part 12 of the Schedule (Outline Commissioning Programme), detailing the dates on which the Board shall make Transferring Board Employees available for manufacturer's training by Project Co in accordance with paragraph 1 of Appendix C of this Part 12 of the Schedule (Outline Commissioning Programme), as updated by Project Co to correspond with the Final Commissioning Programme; |
| "Commissioning Programme" | means the programme contained in Appendix E of this Part 12 of the Schedule (Outline Commissioning Programme), setting out the assessment periods during which each party shall carry out Project Co's Pre Completion Commissioning, the Board's Commissioning, Project Co's Post Completion Commissioning and the Board's Post Completion Commissioning activities for each Phase; |
| "Staff Familiarisation Training Programme" | has the meaning given to it in Appendix C of this Part 12 of the Schedule (Outline Commissioning Programme); |
| "Staff Training Programme" | means the programme to be agreed between the parties not less than 6 months prior to a Phase Actual Completion Date, based on the Training Release Schedule, Clause 5.2 of this Part 12 (Outline Commissioning Programme), and the Service Provider's Mobilisation Plan as |

set out in Appendix E of Part 38 (Transitional Arrangements), and detailing the dates on which the Board shall make Transferring Board Employees available for training by Project Co;

“Training Release Schedule” means the training release schedule contained in Appendix A of Part 38 of the Schedule (Transitional Arrangements), detailing the period for which the Board shall make Transferring Board Employees available for training by Project Co.

2. Final Commissioning Programme

A Final Commissioning Programme shall be prepared for each Phase to replace the Outline Commissioning Programme. The Final Commissioning Programme relating to the relevant Phase shall be prepared in accordance with the requirement of the Completion Process.

3. Pre-Completion Commissioning

3.1 Project Co’s Pre-Completion Commissioning shall comprise the activities described as such in Table A of Appendix A of this Part 12 of the Schedule (Outline Commissioning Programme).

3.2 Project Co shall give written notice to the Independent Tester and the Board’s Representative of the commencement of Project Co’s Pre-Completion Commissioning in respect of each Phase not less than 5 Business Days prior to the date when Project Co (acting reasonably) considers that it shall commence Project Co’s Pre-Completion Commissioning in respect of the relevant Phase.

3.3 Project Co shall, at the times set out in the Final Commissioning Programme (and in relation to manufacturer’s training, induction training and Building Familiarisation, when the Transferring Board Employees are made available for training by the Board pursuant to the Manufacturer’s Training Programme, Staff Familiarisation Training Programme, Induction Programme and/or Staff Training Programme, as appropriate) undertake and complete Project Co’s Pre-Completion Commissioning in respect of the relevant Phase.

- 3.4 The Board's Commissioning shall comprise the activities identified as such in Table A of Appendix A of this Part 12 of the Schedule (Outline Commissioning Programme).
- 3.5 Project Co shall give written notice to the Board's Representative of the date upon which the Board shall be entitled to commence the Board's Commissioning in respect of each Phase, such notice to be given at least 1 month prior to the date when Project Co (acting reasonably) considers that the Board should commence the Board's Commissioning in accordance with the Final Commissioning Programme.
- 3.6 The Board shall undertake and complete the Board's Commissioning for the relevant Phase, within the time period permitted within the Final Commissioning Programme, the Manufacturer's Training Programme, Staff Familiarisation Training Programme, the Induction Programme and/or Staff Training Programme (as appropriate) and shall comply with the Contractor's Site Rules and shall not cause any damage to the Works and/or Facilities or delay to the Works, in the carrying out of such activities.

4. Completion

- 4.1 Project Co shall, no later than two months prior to the date that it anticipates (acting reasonably) a Phase will achieve the Completion Criteria, notify the Independent Tester and the Board's Representative of such anticipated completion.

5. Post Completion Commissioning

- 5.1 Project Co's Post Completion Commissioning shall comprise the activities identified as such in Table A of Appendix A of this Part 12 of the Schedule (Outline Commissioning Programme).
- 5.2 Project Co shall undertake and complete Project Co's Post Completion Commissioning for the relevant Phase as follows:
- 5.2.1 in relation to staff training, when Transferring Board Employees are made available to Project Co for training in accordance with the Training Release Schedule, Induction Programme, Staff Familiarisation Programme and/or Staff Training Programme (as appropriate); and
- 5.2.2 in relation to clinical cleans, in accordance with the Final Commissioning Programme.

- 5.3 The Board's Post Completion Commissioning shall comprise the activities identified as such in Table A of Appendix A of this Part 12 of the Schedule (Outline Commissioning Programme).
- 5.4 The Board shall undertake and complete the Board's Post-Completion Commissioning for the relevant Phase in accordance with the Final Commissioning Programme, Training Release Schedule, Induction Programme, Staff Familiarisation Programme and/or Staff Training Programme (as appropriate) and shall not cause damage to the Facilities in the carrying out of such activities.
- 6. Equipment and Training**
- 6.1 Project Co shall not clean, or move to enable general cleaning, items of equipment so identified by the Board unless in agreement with the Board's Representative. This shall include but not be limited to:
- 6.1.1 physiological monitoring equipment;
 - 6.1.2 patient medical equipment when in use (e.g. respirators, air tanks, infusion pumps);
 - 6.1.3 department based computers, visual display units and radiographic equipment or machine consoles including anything bearing radiation or hazard Warning signs; and
 - 6.1.4 equipment that is plugged in for re-charging.
- 6.2 The Board shall ensure that any equipment of the Board that is transferred from an existing site is cleaned and disinfected prior to being transferred to the Facility.

PART 12 OF THE SCHEDULE: OUTLINE COMMISSIONING PROGRAMME

Appendix A: Commissioning

Table A:

| Area comprised within a Phase | Pre Completion Commissioning | | Post Completion Commissioning | |
|--|---|---|---|--|
| | Project Co's Pre-Completion Commissioning | Board Commissioning | Project Co's Post Completion Commissioning | Board Post Completion Commissioning |
| Rooms/areas which only contain Project Co equipment and movable equipment to be installed/commissioned by Project Co in accordance with Part 13 of the Schedule (<i>Equipment</i>) | <p>Project Co to install Big Ticket Equipment as required in accordance with Part 13 of the Schedule (<i>Equipment</i>)</p> <p>Project Co to commission and test equipment as required in accordance with Part 13 of the Schedule (<i>Equipment</i>)</p> <p>Project Co to carry out Handover clean</p> <p>Project Co to carry out staff familiarisation training when</p> | <p>Board to make available Transferring Board Employees for training in accordance with the Staff Familiarisation Training Programme, Manufacturer's Training Programme, Induction Programme and/or Staff Training Programme.</p> <p>The Board shall witness medical gas testing including provision of gas for such testing purposes in accordance with The Board's obligations as set out in the Completion Criteria of The Independent</p> | <p>Project Co to train Transferring Board Employees make available for training pursuant to the Training Release Schedule, Induction Programme, Staff Familiarisation Training Programme and/or Staff Training Programme</p> <p>Project Co to carry out clinical clean in accordance with the Commissioning Programme</p> | <p>Board to install, commission and test equipment as required pursuant to Part 13 of the Schedule (<i>Equipment</i>) and the Commissioning Programme</p> <p>Board to make available Transferring Board Employees for training in accordance with the Training Release Schedule, Induction Programme, Staff Familiarisation Training Programme and/or Staff Training Programme</p> |

| Area comprised within a Phase | Pre Completion Commissioning | | Post Completion Commissioning | |
|-------------------------------|--|---------------------|--|---|
| | Project Co's Pre-Completion Commissioning | Board Commissioning | Project Co's Post Completion Commissioning | Board Post Completion Commissioning |
| | Transferring Board Employees are made available to Project Co by the Board for training, in accordance with the Staff Familiarisation Training Programme, Manufacturer's Training Programme, Induction Programme and/or Staff Training Programme | Tester Contract. | Clinical clean of Board equipment | Board decant of patients to be carried out in accordance with the Commissioning Programme |

| Area comprised within a Phase | Pre Completion Commissioning | | Post Completion Commissioning | |
|--|---|--|--|---|
| | Project Co's Pre-Completion Commissioning | Board Commissioning | Project Co's Post Completion Commissioning | Board Post Completion Commissioning |
| Rooms/areas which contain items of fixed equipment which are installed/commissioned by Project Co and items of fixed equipment which are installed/commissioned by the Board in accordance with Part 13 of the Schedule (<i>Equipment</i>) | <p>Project Co "big ticket equipment" and fixed equipment installed, connected, commissioned and tested in accordance with Part 13 of the Schedule (<i>Equipment</i>) and the Commissioning Programme</p> <p>Project Co to carry out Handover clean</p> <p>Completion of Works after Board equipment installation</p> <p>Project Co to insure Big Ticket Equipment in accordance with Part 13 of the Schedule (<i>Equipment</i>)</p> <p>Project Co to carry out staff familiarisation training when Transferring Board</p> | <p>Board Big Ticket Equipment and fixed equipment installed, connected, commissioned and tested in accordance with Part 13 of the Schedule (<i>Equipment</i>) and the Commissioning Programme</p> <p>Board fixed equipment protected/mothballed until after the Phase Actual Completion Date for the relevant Phase</p> <p>Board to protect and maintain the Board Equipment placed, and / or installed.</p> <p>Board to make available Transferring Board Employees for training in accordance with the Staff Familiarisation Training Programme, Manufacturer's Training</p> | <p>Project Co to train Transferring Board Employees made available for training pursuant to the Training Release Schedule, Induction Programme, Staff Familiarisation Training Programme and/or Staff Training Programme</p> <p>Project Co to carry out clinical clean in accordance with the Commissioning Programme</p> <p>Clinical clean of Board equipment</p> | <p>Board to install, commission and test equipment as required pursuant to Part 13 of the Schedule (<i>Equipment</i>) and the Commissioning Programme</p> <p>Board to make available Transferring Board Employees for training in accordance with the Training Release Schedule, Induction Programme, Staff Familiarisation Training Programme and/or Staff Training Programme</p> <p>Board decant of patients to be carried out in accordance with the Commissioning Programme</p> |

| Area comprised within a Phase | Pre Completion Commissioning | | Post Completion Commissioning | |
|-------------------------------|---|---|--|-------------------------------------|
| | Project Co's Pre-Completion Commissioning | Board Commissioning | Project Co's Post Completion Commissioning | Board Post Completion Commissioning |
| | Employees are made available to Project Co by the Board for training, in accordance with the Staff Familiarisation Training Programme, Manufacturer's Training Programme, Induction Programme and/or Staff Training Programme | <p>Programme, Induction Programme and/or Staff Training Programme.</p> <p>Board to witness medical gas testing including provision of gas for testing purposes as set out in the Completion Criteria.</p> | | |

| Area comprised within a Phase | Pre Completion Commissioning | | Post Completion Commissioning | |
|---|---|---|---|--|
| | Project Co's Pre-Completion Commissioning | Board Commissioning | Project Co's Post Completion Commissioning | Board Post Completion Commissioning |
| <p>ICT</p> <p>Board are responsible for installing hardware (server, PCs printers etc) and Project Co responsible for infrastructure (containment, cabling, computer rooms etc)</p> | <p>Project Co infrastructure installed, commissioned and tested in accordance with Part 36 of the Schedule (<i>ICT</i>)</p> | <p>Board hardware installed, commissioned and tested (Network, servers, critical clinical workstations) in accordance with Part 36 of the Schedule (<i>ICT</i>) and the Commissioning Programme</p> | <p>Project Co to train Transferring Board Employees made available for training pursuant to the Training Release Schedule, Induction Programme, Staff Familiarisation Training Programme and/or Staff Training Programme</p> <p>Project Co to carry out clinical clean in accordance with the Commissioning Programme</p> | <p>Board hardware installed, commissioned and tested in accordance with Part 36 of the Schedule (<i>ICT</i>) and in accordance with the Commissioning Programme</p> <p>Board to make available Transferring Board Employees for training in accordance with the Training Release Schedule, Induction Programme, Staff Familiarisation Training Programme and/or Staff Training Programme</p> |

PART 12 OF THE SCHEDULE: OUTLINE COMMISSIONING PROGRAMME

Appendix B: Completion Process

1. Final Commissioning Programme

1.1 The Final Commissioning Programme shall be in accordance with the Outline Commissioning Programme and shall impose no greater or more onerous obligation on the Board or Project Co than those set out in the Outline Commissioning Programme, unless otherwise agreed. The Final Commissioning Programme shall be developed by Project Co in conjunction with and having consulted:

- 1.1.1 the Contractor;
- 1.1.2 the Board;
- 1.1.3 the Independent Tester; and
- 1.1.4 the Service Provider.

1.2 The draft Final Commissioning Programme shall contain, amongst other things, full details of the following (including timing and sequence of events) for each Phase:

- 1.2.1 Project Co's Pre Completion Commissioning;
- 1.2.2 Board's Commissioning;
- 1.2.3 Project Co's Post Completion Commissioning;
- 1.2.4 the Board's Post Completion Commissioning; and
- 1.2.5 the Completion Criteria applicable to the relevant Phase.

1.3 Project Co shall provide the Board with a draft of the Final Commissioning Programme relating to each Phase not less than 12 months prior to the anticipated Phase Completion Date.

1.4 If the Board has any comments on the draft Final Commissioning Programme, it shall issue comments on the draft Final Commissioning Programme to Project Co within ten (10) Business Days of receipt of the draft Final Commissioning Programme by the Board from Project Co, pursuant to paragraph 1.3 of this Appendix B to Part 12 of the Schedule (Outline Commissioning Programme).

- 1.5 If the Board raises comments on the draft Final Commissioning Programme in accordance with paragraph 1.4 of this Appendix B to Part 12 of the Schedule (Outline Commissioning Programme), the parties shall meet in good faith to discuss the terms of the Final Commissioning Programme), in order to agree the terms of the Final Commissioning Programme within ten (10) Business Days of receipt by Project Co of the Board's comments.
- 1.6 If the parties cannot agree the content of the Final Commissioning Programme in the time period set out in paragraph 1.4 of Appendix B to Part 12 of the Schedule (Outline Commissioning Programme), the matter shall be referred for determination in accordance with Part 26 of the Schedule (Dispute Resolution Procedure).
- 1.7 If the Board does not raise any comments on the draft Final Commissioning Programme within ten (10) Business Days of issue of the draft Final Commissioning Programme pursuant to paragraph 1.3 of Appendix B to Part 12 of the Schedule (Outline Commissioning Programme) it shall be deemed to have been agreed by the Board.
- 1.8 Where any amendments to the scope and/or timing of the Board's Commissioning and/or the Board's Post Completion Commissioning are agreed or determined pursuant to paragraph 1.5 and/or 1.6 of this Appendix B to Part 12 of the Schedule (Outline Commissioning Programme) such change shall be treated as a Qualifying Variation.

PART 12 OF THE SCHEDULE: OUTLINE COMMISSIONING PROGRAMME

Appendix C: Staff Familiarisation Training

1. Manufacturers' Training

Project Co shall provide technical manufacturer's training to such numbers of Transferring Board Employees as is agreed between the parties as being appropriate to allow for a cascade training regime, in accordance with the Manufacturer's Training Programme, which shall be submitted for agreement with the Board (acting reasonably) 4 months prior to a Phase Actual Completion Date. The training shall be carried out prior to each Phase Actual Completion Date, in accordance with the durations per system required pursuant to Table 1 of this Appendix C to this Part 12 of the Schedule (Outline Commissioning Programme), and in accordance with the Manufacturer's Training Programme. Project Co shall only be responsible for those Transferring Board Employees directly trained by it. Systems requiring such manufacturer's training and thus more direct staff exposure to the manufacturer, are listed (but are not limited to those set out in) in Table 1 of this Appendix C to Part 12 of the Schedule (Outline Commissioning Programme). The Board shall make available the relevant staff for training in accordance with the Manufacturer's Training Programme.

2. Building Familiarisation Training

- 2.1 Building familiarisation training shall be provided to each Transferring Board Employee by Project Co to provide staff with general building and Site familiarisation, general Site orientation and Building Health and Safety Induction. This shall be organised in small groups for half a day so that the impact on the existing sites is minimised and subject to paragraph 2.2 below, shall comprise part of Project Co's Post Completion Commissioning "Building Familiarisation"). The Building Familiarisation shall be programmed on a training plan, prepared by Project Co and agreed with the Board (acting reasonably) not less than 40 Business Days of the anticipated Phase Actual Completion Date (the "Staff Familiarisation Training Programme").
- 2.2 The Transferring Board Employees transferring at each Phase Actual Completion Date shall receive this training leading up to their transfer, in a time period agreed with the Board and shall comprise part of Project Co's Pre Completion Commissioning.
- 2.3 The Board shall make available the relevant staff for training in accordance with the Staff Familiarisation Training Programme.

3. Department Induction

- 3.1 Each Transferring Board Employee shall receive a department induction prior to the Relevant Service Transfer Date. This training (comprising two half days) shall be provided by Project Co at the existing sites. Should the Board require this to be undertaken off site the costs associated with this shall be borne by the Board. This training shall cover department operational procedures, risk assessments, an overview of the Service solution and the Performance Monitoring System ("Induction Training").
- 3.2 The Induction Training shall be programmed and set out in a training plan with the Transferring Board Employees receiving the training in the period leading up to the Relevant Service Transfer Date. The training plan shall take into account the Board's responsibility for delivering the Services at the existing sites and shall therefore be designed to limit the impact on operational delivery and shall be prepared by Project Co and agreed by the Board (acting reasonably) not less than 12 months prior to the anticipated Phase Actual Completion Date (the "Induction Programme").
- 3.3 The Board shall make available the relevant staff for training in accordance with the Induction Programme.

Table 1: Systems requiring staff direct manufacturers' training (to familiarise Transferring Board Employees with new plant and equipment)

| Systems | Car Park Operative | Switchboard Operator | Receptionist | Helpdesk Operative | Security Officer | Managers | Supervisors | Technicians | Electrical Craftspersons | Mechanical Craftspersons | Building Craftspersons | Maintenance Assistants | Administrators |
|--|-----------------------|-------------------------|--------------|-----------------------|------------------|----------|-------------|-------------|-----------------------------|-----------------------------|---------------------------|---------------------------|----------------|
| Access Control | ½ day | | | | ½ day | | | | | | | | |
| CCTV | | | | | | | | | | | | | |
| Other Alarms | ½ day | ½ day | ½ day | ½ day | ½ day | | | | | | | | |
| Switchboard System | | 2 days | 2 days | 2 days | | | | | | | | | |
| Helpdesk System | | 2 days | 2 days | 2 days | | | | | | | | | |
| Passenger Lift Evacuation | ½ day | ½ day | ½ day | ½ day | ½ day | ½ day | ½ day | ½ day | ½ day | ½ day | ½ day | | |
| Computer Aided Facilities Management System | | | | 2 days | | 2 days | 2 days | 2 days | 2 days | 2 days | 2 days | 2 days | 2 days |
| AHU | | | | | | | 1 day | 1 day | 1 day | 1 day | | | |
| Airtube | | | | | | 1 day | 1 day | 1 day | 1 day | 1 day | | | |
| Auto Doors/Barriers | | | | | | | | ½ day | ½ day | ½ day | ½ day | | |
| BMS | ½ day | | | | ½ day | 2 days | 2 days | 2 days | 2 days | 2 days | | | |
| Boilers MTHW | | | | | | | 1 day | 1 day | | 1 day | | | |
| Chillers/Local DX Units | | | | | | | 1 day | 1 day | 1 day | 1 day | | | |
| CHP | | | | | | 0 | 0 | 0 | 0 | 0 | | | |
| Fire Systems | ½ day | ½ day | ½ day | ½ day | ½ day | 2 days | 2 days | 2 days | 2 days | 2 days | 2 days | 2 days | |
| Generators | | | | | | | 1 day | 1 day | 1 day | 1 day | | | |
| Hydropool | | | | | | | | 0 | | 0 | 0 | 0 | |
| Refrigeration | | | | | | | 1 day | 1 day | 1 day | 1 day | | | |
| Security Systems | | | | | | | 1 day | 1 day | 1 day | | | | |
| Sterilisers/Washer Disinfectors | | | | | | 1 day | 1 day | 1 day | | 1 day | | | |
| Switchgear HV | | | | | | 1 day | 1 day | 1 day | | | | | |
| Switchgear LV | | | | | | 1 day | 1 day | 1 day | 1 day | | | | |
| UPS/Battery Cubicles | | | | | | | ½ day | ½ day | ½ day | | | | |
| Robotics | | | | | | | 2 days | 2 days | 2 days | 2 days | | | |
| Chutes | | | | | | | ½ day | ½ day | ½ day | ½ day | ½ day | ½ day | |
| Nurse Call | | | | | | 1 day | 1 day | 1 day | 1 day | | | | |

PART 12 OF THE SCHEDULE: OUTLINE COMMISSIONING PROGRAMME

Appendix D: Manufacturers' Training Programme

The Manufacturer's Programme is set out in the Agreed Form document with that title, which shall have effect as if expressly set out in this Appendix D of Part 12 of the Schedule

PART 12 OF THE SCHEDULE: OUTLINE COMMISSIONING PROGRAMME

Appendix E: Commissioning Programme

The Commissioning Programme is set out in the Agreed Form document with that title, which shall have effect as if expressly set out in this Appendix E of Part 12 of the Schedule.

PART 13 OF THE SCHEDULE: EQUIPMENT

1. DEFINITIONS

For the purposes of this Part 13 of the Schedule (*Equipment*), unless the context otherwise requires:

| | |
|-------------------------------------|---|
| "Big Ticket Equipment" | means the Equipment listed in the Big Ticket Programme; |
| "Big Ticket Programme" | means the programme set out in Appendix 3 to this Part 13 of the Schedule (<i>Equipment</i>); |
| "Board Input Item" | means any item of Equipment that is subject to the Equipment Selection Process, in accordance with paragraph 3.1; |
| "Board Input Item Specification" | <p>means, in respect of a Board Input Item, the basic specification provided in:</p> <ul style="list-style-type: none">(a) the column headed "Component Description" against that Board Input Item in the Equipment Responsibilities Matrix; together with(b) (where provided) the further draft specification for that Board Input Item set out in Appendix 1 to this Part 13 of the Schedule (<i>Equipment</i>); |
| "Board's Preferred Supplier" | has the meaning given to it in paragraph 3.11; |
| "Equipment Responsibilities Matrix" | means the equipment responsibilities matrix contained in Appendix 2 to this Part 13 of the Schedule (<i>Equipment</i>); |
| "Equipment Selection Process" | has the meaning given to it in paragraph 3; |
| "Final Specification Date" | <p>means:</p> <ul style="list-style-type: none">(a) in the case of any Board Input Item referred to in paragraph 3.1(a) that is Big Ticket Equipment or any Big Ticket Equipment that is to be procured by the Board pursuant to the Equipment Responsibilities Matrix, the date set |

out in the column headed "Final Specification Date" against that item in the Big Ticket Programme; and

- (b) in the case of any Board Input Item referred to in paragraphs 3.1(a) or 3.1(b) that is not Big Ticket Equipment, 30 Business Days prior to the date on which Project Co intends to place an order for such Board Input Item;

"Specialist Contractor" means a contractor appointed by the Board to fulfil the Board's obligations in relation to specialist Equipment or the Scottish Ambulance Service; and

"Technical Documentation" means, in respect of a potential suppliers proposals for the supply of a Board Input Item, all relevant technical information including make, model and technical specification, such information to be in writing (whether in the form of a brochure, technical specification or otherwise).

2. EQUIPMENT RESPONSIBILITIES MATRIX

2.1 The Equipment Responsibilities Matrix sets out the respective responsibilities of the parties in relation to various matters relating to Equipment, namely:

- 2.1.1 the party responsible for developing the initial specification for the item of Equipment, carrying out the tender process and selecting the appropriate Equipment (at its own cost), the responsibility for which (subject to paragraph 2.3) is set out in the column headed "Initial and subsequent Specification, tendering, selection";
- 2.1.2 the party responsible for initial procurement of the item of Equipment (at its own cost), the responsibility for which is set out in the column headed "Initial Procure";
- 2.1.3 the party responsible for the initial installation of the item of Equipment (at its own cost), the responsibility for which is set out in the column headed "Initial and refresh Installation", provided that in relation to Big Ticket Equipment that is to be installed by the Board (or a Specialist Contractor on behalf of the Board), Project Co shall be responsible (at its own cost) for:

- 2.1.3.1 providing services as appropriate to facilitate the installation (including the prior installation of fixings provided by the Board);
- 2.1.3.2 undertaking specific site training/familiarisation (including in relation to health and safety and site management matters) for personnel of the Board and/or its Specialist Contractors; and
- 2.1.3.3 allowing access in accordance with the terms of the Joint Operating Protocol,

so as to allow the installation to take place in accordance with the timescales set out in the Big Ticket Programme;

2.1.3A the party responsible for the subsequent installation of the item of Equipment (at its own cost), the responsibility for which is set out in the column headed "Initial and refresh Installation", provided that in relation to Big Ticket Equipment that is to be installed by the Board (or a Specialist Contractor on behalf of the Board), Project Co shall be responsible (at its own cost) for:

- 2.1.3A.1 providing services as appropriate to facilitate the installation (including the prior installation of fixings provided by the Board); and
- 2.1.3A.2 undertaking specific site training/familiarisation (including in relation to health and safety and site management matters) for personnel of the Board and/or its Specialist Contractors; and

2.1.4 the party responsible (at its own cost) for the initial commissioning of items of Equipment and staff training (at its own cost) as appropriate, the responsibility for which is set out in the column headed "Initial Commissioning (and staff training where required)";

2.1.5 the party who will be operating the item of Equipment (at its own cost) on a day to day basis, the responsibility for which is set out in the column headed "Operation";

2.1.6 the party responsible for maintaining the item of Equipment (at its own cost), the responsibility for which is set out in the column headed "Maintenance";

- 2.1.7 the party responsible for subsequent refresh/replacement of the item of Equipment (at its own cost), the responsibility for which is set out in the column headed "Refresh (Replacement)";
- 2.1.8 the party responsible (at its own cost) for the safe removal of the Equipment at the time of refresh/replacement and liaison with the party responsible for refresh/replacement, the responsibility for which is set out in the column headed "Decommissioning"; and
- 2.1.9 the party responsible (at its own cost) for the safe disposal of the item of Equipment and adherence to any Law, Consents, regulations and/or guidelines relating to such disposal, the responsibility for which is set out in the column headed "Disposal".
- 2.2 If the Equipment Responsibilities Matrix identifies that the Board is to be responsible for a service referred to in paragraph 2.1, that shall be construed to mean that Project Co is not responsible for the service in question, and not that the Board is under any obligation to Project Co to provide such service (unless expressly stated otherwise in this Part 13 of the Schedule (*Equipment*)). However, the parties agree that if the Board does not perform any such service which is specified as the Board's responsibility in the Equipment Responsibilities Matrix, then Project Co shall not suffer Deductions or incur Service Failure Points to the extent that such Deductions or Service Failure Points are incurred as a consequence of the Board's non-performance.
- 2.3 In respect of the service referred to in paragraph 2.1.1, if the Board is to be responsible (as indicated in the column headed "Initial and subsequent Specification, tendering, selection" in the Equipment Responsibilities Matrix), that shall be construed as meaning that Project Co is to be responsible for such service, if the Equipment Selection Process is applicable pursuant to paragraph 3.1(a). *Fiona Mackenzie Irene Marsh*
- 2.3A In respect of the service referred to in paragraph 2.1.1, if Project Co is to be responsible (as indicated in the column headed "Initial and subsequent Specification, tendering, selection" in the Equipment Responsibilities Matrix), that shall be construed as meaning that Project Co is to be responsible for such service (and that it will not be subject to the Equipment Selection Process).
- 2.4 In respect of the services referred to in paragraphs 2.1.2, 2.1.3 and 2.1.4, if the Board is to be responsible (as indicated in the columns headed "Initial Procure", "Initial and refresh Installation" and "Initial Commissioning (and staff training where required)" in the Equipment Responsibilities Matrix) then (save in respect of the installation of refresh/replacement Equipment after the relevant Phase Actual Completion Date) the provisions of paragraph 4 shall apply if the relevant item of equipment is listed in the Big Ticket Programme.

2.5 In respect of the services referred to in paragraphs 2.1.2, 2.1.3 and 2.1.4 (other than in respect of the installation of refresh/replacement Equipment), where Project Co is to be responsible (as indicated in the columns headed "Initial Procure", "Initial and refresh Installation" and "Initial Commissioning (and staff training where required)" in the Equipment Responsibilities Matrix), Project Co shall provide such services at its own expense in order to meet the Completion Criteria by the relevant Phase Completion Date and in accordance with the timetable set out in the Final Commissioning Programme and (if applicable) the Big Ticket Programme and in accordance with Project Co's Proposals.

2.6 In respect of the services referred to in paragraphs 2.1.5, 2.1.6, 2.1.7, 2.1.8 and 2.1.9, where Project Co is to be responsible (as indicated in the columns headed "Operation", "Maintenance", "Refresh (Replacement)", "Decommissioning" and "Disposal" in the Equipment Responsibilities Matrix), Project Co shall provide such services at its own expense:

- (a) (in the case of the services referred to in paragraph 2.1.6) so that the Equipment is maintained in a good, safe and sound condition;
- (b) as necessary in order that the Services may be provided regularly and reliably without unplanned interruption and in accordance with the Service Level Specifications throughout the Project Term;
- (c) (in the case of the services referred to in paragraph 2.1.7) so that any replacement Equipment:
 - (i) is new;
 - (ii) (without prejudice to paragraph 2.6(c)(iv) below) at least meets the original specification or intention of the item being replaced;
 - (iii) is of a type and nature generally being bought by NHS Boards or contractors in hospitals or similar businesses; and
 - (iv) is of a type which has kept pace with the evolution of that type or piece of Equipment; and
- (d) in accordance with Good Industry Practice,

and (at the Board's request) Project Co shall provide details of arrangements made by Project Co for the maintenance or replacement of all such Equipment together with a schedule of maintenance completed from the commencement of the Operational Term to the date of the request.

2.6A In respect of the services referred to in paragraphs 2.1.5, 2.1.6, 2.1.7, 2.1.8 and 2.1.9, where the Board is to be responsible (as indicated in the columns headed "Operation", "Maintenance", "Refresh (Replacement)", "Decommissioning" and "Disposal" in the Equipment Responsibilities Matrix), if the Board chooses to provide such services, then the Board shall provide such services at its own cost:

- (a) as necessary in order that the Services may be provided regularly and reliably without unplanned interruption and so that the Services can be performed in accordance with the Service Level Specifications;
- (b) in accordance with Good Industry Practice and Law; and
- (c) to the extent that the Equipment for which the Board is responsible will be utilised by Project Co in the provision of the Services, then the provisions of paragraph 2.6 shall apply mutatis mutandis.

2.7 In respect of the service referred to in paragraph 2.1.7, if the Board is to be responsible (as indicated in the column headed "Initial and Subsequent Specification tendering, selection" in the Equipment Responsibilities Matrix), that shall be construed as meaning that Project Co is to be responsible for such service, if the Equipment Selection Process is applicable pursuant to paragraph 3(b). *Fiona Mackenzie Irene Marsh*

2.8 In respect of the service referred to in paragraph 2.1.7, in respect of items of Equipment for which Project Co is to be responsible (as indicated in the column headed "Refresh (Replacement)" in the Equipment Responsibilities Matrix), three (3) months prior to the start of each Contract Year during the Operational Term, Project Co shall supply to the Board a list of the Equipment which Project Co considers will be likely to need replacement in the following Contract Year.

2.9 For the avoidance of doubt:

- 2.9.1 if the Equipment Responsibilities Matrix specifies that tasks are to be undertaken by "FV Board", then this shall be construed as a reference to the Board; and
- 2.9.2 if the Equipment Responsibilities Matrix specifies that tasks are to be undertaken by a Specialist Contractor, then the Board shall be responsible for the same.

3. **BOARD INPUT TO SELECTION OF EQUIPMENT**

3.1 The process set out in this paragraph 3 (the "Equipment Selection Process") shall apply in two circumstances, namely:

- (a) in respect of the initial selection and procurement of items of Equipment in respect of which:

- (i) in the column headed "Initial and subsequent Specification, tendering, selection", responsibility is allocated to the Board; and
 - (ii) in the column headed "Initial Procure", responsibility is allocated to Project Co; and
 - (b) in respect of the selection and procurement of replacements for items of Equipment in respect of which:
 - (i) in the column headed "Initial and subsequent Specification, tendering, selection", responsibility is allocated to the Board; and
 - (ii) in the column headed "Refresh (Replacement)", responsibility is allocated to Project Co.
- 3.2 Project Co shall give the Board prior written notice that the Equipment Selection Process in respect of a Board Input Item is to commence. Such notice shall be given by the date:
- 3.2.1 set out in the column headed "Specification Details from Project Co to Board" against the relevant Board Input Item in the Big Ticket Programme, in the case of any Board Input Item referred to in paragraph 3.1(a) that is Big Ticket Equipment;
 - 3.2.2 which is three (3) months prior to the Final Specification Date, in the case of any Board Input Item that is not Big Ticket Equipment.
- 3.3 The notice provided by Project Co pursuant to paragraph 3.2 shall include details of potential suppliers whom Project Co proposes to approach in connection with the procurement of the relevant Board Input Item.
- 3.4 Following receipt of notification from Project Co pursuant to paragraph 3.2, the Board shall be entitled at any time up to the date that is 20 Business Days prior to the Final Specification Date to propose amendments to relevant Board Input Item Specification(s). Any such proposal shall be regarded as a Variation Enquiry to which the provisions of Part 22 of the Schedule (*Variation Procedure*) shall apply, provided that for the purposes of paragraph 3.2 of Section 1 of Part 22 of the Schedule (*Variation Procedure*), Project Co shall issue its notice within 10 Business Days of receipt of the Variation Enquiry and further provided that if any matter is referred pursuant to the Variation Procedure to Part 26 of the Schedule (*Dispute Resolution Procedure*), Project Co shall be entitled at its own cost to procure Equipment which accords to the original Board Input Item Specification(s) (subject and without prejudice to final determination under the Dispute Resolution Procedure).

- 3.5 Following receipt of notification from Project Co pursuant to paragraph 3.2, the Board shall be entitled at any time up to the date that is 20 Business Days prior to the Final Specification Date to issue written comments to Project Co on the list of potential suppliers for the relevant Board Input Item. In making such comments, the Board shall be entitled to:
- (a) object to any proposed supplier, if the Board (acting reasonably) considers that:
 - (i) such supplier is not capable of meeting the relevant Board Input Item Specification; or
 - (ii) its own previous experience of using that supplier for the supply of equipment broadly similar to the relevant Board Input Item is such that its staff engaged in the provision of Clinical Services are unlikely to have confidence in the relevant Board Input Item if it is supplied by that supplier; and/or
 - (b) to propose additional or alternative suppliers, provided that such suppliers will, in the opinion of the Board (acting reasonably):
 - (i) be capable of meeting the relevant Board Input Item Specification;
 - (ii) comply with Project Co's tendering processes; and
 - (iii) accept Project Co's contractual requirements applicable to its suppliers engaged on the Project.
- 3.6 By the Final Specification Date, the parties shall meet and the Board shall be entitled to make representations in relation to the list of suppliers to be approached by Project Co for the supply of the relevant Board Input Item, having regard to Project Co's proposed list (but without prejudice to the right of Project Co to determine the final list of suppliers in its sole discretion), and in good faith consider any comments issued by the Board pursuant to paragraph 3.5, and the criteria set out in paragraphs 3.5(b)(i) to 3.5(b)(iii).
- 3.7 Project Co shall approach the suppliers agreed or determined pursuant to paragraph 3.6 in order to obtain the Technical Documentation for the relevant Board Input Item.
- 3.8 As soon as practicable after Technical Documentation has been received by Project Co pursuant to paragraph 3.7, Project Co shall provide to the Board details of each supplier, together with the Technical Documentation received from that supplier.

- 3.9 The Board may request Project Co to supply further reasonable information and/or reasonable written clarification on the details supplied pursuant to paragraph 3.8, provided that such request is made in writing within 10 Business Days of the provision by Project Co of the information by Project Co pursuant to paragraph 3.8.
- 3.10 Project Co shall respond in writing to any request from the Board issued pursuant to paragraph 3.9 within ten (10) Business Days of the date of receipt of such request.
- 3.11 The Board shall inform Project Co in writing of its preference of supplier (the "Board's Preferred Supplier") for the relevant Board Input Item:
- (a) (in the case of any Board Input Item referred to in paragraph 3.1(a)):
 - (i) within 20 Business Days of the date Project Co has provided the Board with its response in accordance with paragraph 3.10, or
 - (ii) where no request has been made in accordance with paragraph 3.9, within 20 Business Days of the date Project Co provided the information referred to in paragraph 3.8; and
 - (b) (in the case of any Board Input Item referred to in paragraph 3.1(b)):
 - (i) within 20 Business Days of the date Project Co has provided the Board with its response in accordance with paragraph 3.10, or
 - (ii) where no request has been made in accordance with paragraph 3.9, within 20 Business Days of the date Project Co provided the information referred to in paragraph 3.8.

The Board may request Project Co to make any further representations to assist with its review of the proposed suppliers and/or Technical Documentation and Project Co shall be required to comply in a timely manner with all such reasonable written requests, provided that such requests for further representations shall not cause the deadlines under this paragraph 3.11 to be extended.

- 3.12 Following notification by the Board pursuant to paragraph 3.11, Project Co shall notify the Board whether it proposes to use the Board's Preferred Supplier to supply the relevant Board Input Item. The Board shall be entitled to make further representations to Project Co as regards the identity of the supplier to be

selected, but without prejudice to the right of Project Co to select the supplier in its sole discretion.

4. Big Ticket Responsibilities and Process

4.1 The Big Ticket Programme sets out the responsibilities of the parties and the dates relevant to the procurement and installation of the Big Ticket Equipment. The parties agree that the Big Ticket Programme shall form the basis under which Big Ticket Equipment procurement and installation prior to the Phase Actual Completion Date for the relevant Phase will be further developed. The parties will meet at periodic intervals to review and revised the Big Ticket Programme as necessary taking account of the Programme.

4.2 The Board will, by the relevant Final Specification Date, issue to Project Co written generic specification details for any item of Big Ticket Equipment in sufficient detail to enable Project Co to determine the structural, architectural and services constraints on the design of the Works.

4.3 The column headed "Installation/Commissioning" in the Big Ticket Programme indicates the intended approach to commissioning of Big Ticket Equipment. Sub-columns P, 1, 2 and 3 indicate the timescale within which installation and/or commissioning is to occur:

| | |
|---|--|
| P | Installed and commissioned prior to the relevant Phase Actual Completion Date |
| 1 | Installed and/or placed prior to the relevant Phase Actual Completion Date, and commissioned after the relevant Phase Actual Completion Date |
| 2 | Equipment fixings installed prior to the relevant Phase Actual Completion Date to allow completion of construction; installed and commissioned after the relevant Phase Actual Completion Date |
| 3 | Installed and commissioned after the relevant Phase Actual Completion Date |

4.4 The column headed "Dept/Area" in the Big Ticket Programme indicates the department or area of the Hospital in which the relevant item of Big Ticket Equipment is to be installed.

4.5 The column headed "Design Requirement" in the Big Ticket Programme indicates the elements of the Works for which subsequent design cannot be completed until the information required pursuant to paragraph 4.2 is provided. In that column:

- 4.5.1 "STRUC" refers to the structure of the Facilities;
- 4.5.2 "ARCH" refers to the architectural details of the Facilities; and
- 4.5.3 "SERV" refers to the mechanical and electrical services elements of Facilities.
- 4.6 The column headed "ADB Component Code" in the Big Ticket Programme indicates the code by which the relevant item of Big Ticket Equipment is identified in the Equipment Responsibilities Matrix.
- 4.7 The column headed "Component Description" in the Big Ticket Programme indicates the basic specification available to Project Co at Financial Close. In addition, sample specifications are also set out in Appendix 1 to this Part 13 of the Schedule (*Equipment*) in respect of some items of Big Ticket Equipment. Project Co has made provision within its structural design to spatially accommodate and to take the weight of generic equipment of the types referred to in the basic and sample specifications.
- 4.8 The column headed "Installation earliest date" in the Big Ticket Programme indicates the earliest date that the Big Ticket Equipment is to be installed or positioned within the Facilities. Project Co will finalise and confirm in writing to the Board the dates in this column by no later than 10 weeks prior to the dates set out in that column.
- 4.9 The column headed "Board's installation period" in the Big Ticket Programme indicates the number of weeks required by the Board or its specialist contractor in order to carry out installation and/or positioning of the item of Big Ticket Equipment.
- 4.10 In specifying, procuring, installing and commissioning Big Ticket Equipment, the parties will be subject to the terms of Part 12 of the Schedule (*Outline Commissioning Programme*) and Part 33 of the Schedule (*Joint Operating Protocol*).
- 4.11 Where the Board is responsible for the installation of Big Ticket Equipment in accordance with the Equipment Responsibilities Matrix, the Board shall not access the mechanical and electrical services within the Works and/or the Facilities prior to the relevant Phase Actual Completion Date, without the express approval of Project Co.
- 4.12 Where the Board is responsible for installation of Big Ticket Equipment in accordance with the Equipment Responsibilities Matrix, the Board shall ensure that any Big Ticket Equipment installed by it is adequately protected. The Board shall be responsible for any excess/deductibles resulting from damage caused by

the Board or Board Parties caused through the installation of Big Ticket Equipment.

5. Board Obligation

5.1 The Board shall provide to Project Co such information as Project Co may reasonably require from time to time in relation to Equipment which is to be procured by the Board and which is not Big Ticket Equipment, as regards the load, spatial requirements and/or mechanical and electrical requirements for such equipment.

5.2 The Board shall ensure that the clinical waste bins, linen cages and material management cages are compatible for use with the automated guided vehicle system to be operated by Project Co. For the avoidance of doubt, Project Co can confirm that the automated guided vehicle system has been designed and specified to meet the clinical waste bins, linen cages and material management cages as supplied by the Board as follows:

5.2.1 waste containers: 1250 x 760mm;

5.2.2 linen and material management cages: 890 x 690mm.

PART 13 OF THE SCHEDULE: EQUIPMENT

APPENDIX 1: BOARD INPUT ITEMS

| | |
|-------------------------|---|
| Code: AB070 Group: 2 | CABINET, recycling, radio pharmaceuticals, downward laminar flow & supply, Cl.1 BS 5295, 2400x1200x1200mm |
| Technical Specification | <p>Negative pressure radio pharmacy isolator for Technetium storage and dispensing for diagnostic nuclear medicine.</p> <p>Isolator shall consist of three main elements.</p> <p>1. Generator storage</p> <p>The generator storage system shall consist of a double port access area with a storage system built in below.</p> <p>The storage system shall be accessed via a shielded drawer or access door. The access portholes shall be at least 200 mm diameter. There shall be suitable lead shielding to accommodate two generators.</p> <p>Generator entry/exit door or drawer shall be lockable for security reasons. The seal on the door/drawer shall be capable of being integrity tested.</p> <p>Integral lighting shall be included.</p> <p>2. Main processing area</p> <p>The processing area shall have three access portholes at least 200 mm in diameter. Processing area to be approximately 1.2m wide.</p> <p>Area should have suitable lead and lead/glass or acrylic shielding.</p> <p>There shall be an allowance for electrical outlets (sockets or otherwise) to utilise ancillary equipment. This outlet shall be suitably switched remote from this area.</p> <p>This area must be supplied with a built in Isotope Assay Calibrator with external controls able to be set up to operate a remote printer to show assay results automatically - please state the type of calibrator, and which should be supplied with the accessories to perform</p> |

| | |
|--|--|
| | <p>Molybdenum tests.</p> <p>This area should also have a mains electric socket on a flexible lead to connect ancillary equipment such as radiation monitors</p> <p>This area must have a built-in stainless steel shielded holder for a standard small sharps bin and a shielded viewing barrier</p> <p>3. Transfer Chamber</p> <p>The transfer chamber should be approximately 450 mm wide by 400 mm high (or larger if possible?). Fitted with suitable access door.</p> <p><u>General</u></p> <p>Isolator to be freestanding complete with its own stand.</p> <p>A good level of general lighting throughout the isolator is required i.e. 1000 lux or greater at work surface.</p> <p>Unit to be HEPA Filtered to provide Air quality to Class A throughout. The isolator shall be suitable to be ducted to the outside, depending on building conditions. The exhaust must be HEPA filtered in any case.</p> <p>Doors must have timed interlocks whilst transferring the material from the generator store to the processing area. To ensure integrity of each area.</p> <p>Unit shall be able to be leak tested and fitted with test points at each area for validation.</p> <p>A filter alarm must be fitted to show filter validation is also required as part of the QA/testing.</p> <p>The isolator must be suitable for Molybdenum breakthrough work.</p> <p>Hanging rail is required as standard.</p> <p>Easy change glove system that will not break the integrity of the isolator is required.</p> <p>Please state if unit works on turbulent or laminar airflow principle.</p> <p>All working areas of the isolator must have good access for</p> |
|--|--|

| | |
|--|---|
| | <p>cleaning and disinfecting. Please state disinfection procedures.</p> <p>All controls and indicators should be clearly marked and in suitable operating location.</p> <p>Please supply costs for both ducted and recirculating isolators, plus price for ducting per meter.</p> <p>Isolator shall be compliant to "Isolators for Pharmaceutical applications".</p> <p>Equipment shall conform with BS EN 61010</p> <p>Equipment shall be CE marked</p> <p>To operate on 230V, 50Hz</p> <p>Service and operators manual to be provided</p> <p>Training for clinical users to be provided</p> <p>The availability, cost and style of training for in-house service technicians to be specified.</p> |
| <p>Date: 21/02/05</p> <p>Product Specialist: D Blues</p> | |

| | |
|--|---|
| Code: CAB072 Group: 2 | CABINET, exhaust protection |
| Technical Specification | <ul style="list-style-type: none"> • Class I cabinet with working area 1500 x 800. • Fumes extracted to atmosphere. • Anti blowback valves. • Easy access switches with alarms for fan failure etc. • Glass door (shatter proof) for easy access. • 2 x 13 amp socket outlets. • Formalin bomb dispenser for fumigation. • Must comply with all relevant standards. |
| Date: 17 th March 2005 Product Specialist: Ian Laidlaw | |

| | |
|--|---|
| Code: CAB074 Group: 2 | CABINET, microbiological |
| Technical Specification | <ul style="list-style-type: none"> • Class II cabinet with working area 1500 x 800. • Fumes extracted to atmosphere. • Anti blowback valves. • Easy access switches with alarms for fan failure etc. • Glass door (shatter proof) for easy access. • Floor standing with cupboard underneath. • 2 x 13 amp socket outlets. • Must comply with all relevant standards. |
| Date: 17 th March 2005 Product Specialist: Ian Laidlaw | |

| | |
|--------------------------|--|
| Code: CAB123 Group: 2 | CABINET, vertical laminar flow, safety model, floor standing, 2100x1300x1000 |
| Technical Specification | <p>Work surface should be smooth, laboratory grade plastic laminate, impervious, easily cleaned.</p> <p>Construction shall be steel with polyester or powder coated finish.</p> <p>Approximate size to be 2100 wide by 1300mm deep by 2100mm high inc stand.</p> <p>Cabinet should have stainless steel rail running along length of working surface and have necessary hooks to hold infusion bags for raw materials. Rail to be positioned half way through hood, and about 300mm from hood ceiling.</p> <p>Cabinet shall use HEPA filters that can be easily changed. All internal surfaces should be accessible to the operator for cleaning and disinfection purposes.</p> <p>Fan shall be integral to the machine and be rated for continuous use.</p> <p>Pressure gauge indicating pressure drop across filter.</p> <p>Laminar flow cabinet shall give Class 100 conditions (EMP Grade A).</p> <p>Airflow shall be monitored to indicate efficiency of the HEPA filter. The filter must be easily and safely changed by the operator.</p> <p>Integral lighting to 1000 lux should be included as part of the package.</p> <p>Typical air velocity shall be 0.4 - 0.5 metres per second.</p> <p>The Laminar flow cabinet should have its own stand designed that the operator can sit or stand at the unit.</p> <p>Should have an area of contrasting background (not white) to assist in identification of particles.</p> <p>Please state noise level under normal operating conditions</p> <p>Equipment shall conform with BS EN 61010 .</p> |

| | |
|--|--|
| | <p>Equipment shall be CE marked.</p> <p>To operate on 230V, 50Hz.</p> <p>Service and operators manual to be provided.</p> <p>Training for clinical users to be provided.</p> <p>The availability, cost and style of training for in-house service technicians to be specified.</p> |
| <p>Date: 21/03/05</p> <p>Product Specialist: D Blues</p> | |

| | |
|--------------------------|---|
| Code: CAN913 Group: 2 | CANOPY Ultra Clean Ventilation, operating theatre, 2000mm clear from floor level underside, 3200x3200mm, retractable |
| Technical Specification | <ul style="list-style-type: none"> • Ultra Clean Ventilation canopy, with remote air-handling plant, providing vertical downflow system, minimum 3200mm x 3200mm. • To provide air volume of minimum 3m³ / sec (combination of re-circulated air and fresh air). • Unit to be surface mountable or suitable for recessed mounting into the ceiling void. • Variable speed fans with sound attenuation to all air inlets and outlets. • Clear polycarbonate or acrylic partial walls fixed in rigid frame to extend down from the underside of the canopy and terminate 2.0m from the finished floor level. • To be provided with clear, flexible strips to one (or more) sides to allow equipment and/or pendants to be moved into canopy area when downflow system not in use. • Primary or pre-filtration of the re-circulated air from the room to be carried out by minimum 80% efficiency filters. Pre-filters to be easy to replace. • Final filtration by HEPA (High Efficiency Particulate Air) filters of minimum 99.997% efficiency. • A magnehelic pressure differential gauge to be fitted to monitor HEPA filter soiling. • System to provide approximately 500 air changes per hour within clean zone. • Discharge area within the clear partial walls to be min. 3200mm x 3200mm. • Diffuser to be at appropriate height above F.F.L. subject to local conditions and operating lamp selected. • Noise level not to exceed 55dBA at 1.5m above F.F.L. in centre of clean zone. |

| | |
|--|---|
| | <ul style="list-style-type: none"> • General lighting to be provided by luminaries recessed into canopy, to provide a minimum lighting level of 500 lux within the ultra clean zone, 1m from F.F.L.. • Canopy to be powered from remote surface mounted cabinet (e.g. in dirty corridor) containing all circuit breakers, terminals, contractors, relays, transformers etc with face mounted system malfunction warning lights. Controls to include fan speed adjustment, operational/standby mode indicator, individual fan fail warning lights and dirty filter indicator. • System to be controlled from low voltage theatre control panel which will be suitable for flush mounting into a prepared opening in the operating theatre wall or incorporation into Surgeon's Panel. To include user controls i.e. standby/operational mode switches, emergency stop switch, system fault warning indicator, general light switch and lamp test switch. • Control system must permit Ultra Clean Ventilation System to be set-back to reduced speed. System should automatically set-back when main ventilation plant is set-back or off. • All non-stainless steel to be epoxy coated or stove enamelled. • Canopies will require to be installed with Operating lights and Anaesthetist's and Surgeon's pendants. These may be supplied by others. Tenders should include installation costs, as separate items, for free issue pendants and lights. <p><u>NOTES</u></p> <p>Full technical literature on all equipment offered to be enclosed with tender, including complete, dimensioned, 1st and 2nd fix installation drawings showing mechanical and electrical services.</p> <p>Tenderers should satisfy themselves as to the suitability of locations for proposed method of mounting canopies.</p> <p>All equipment to comply with HTM2025, other relevant Health Technical Memoranda, current IEE Regulations and all other</p> |
|--|---|

| | |
|--|---|
| | <p>relevant British Standards.</p> <p>Tenders to include maintenance agreement giving options for Preventive, Comprehensive and Partnership contracts with full details.</p> <p>Tenders to include minimum 1 year full parts and labour warranty, including at least 2 warranty visits by the supplier.</p> <p>Service contract details after 1 year to be provided for a Comprehensive service contract and a Preventive Service contract.</p> <p>Costs to include delivery, installation, full commissioning, user training and user manuals as required by the Board.</p> <p>Tender to include costs for a minimum of two sets of service manuals for all equipment offered.</p> <p>Details and cost of training for technical staff to be made available.</p> |
| <p>Date: 20th March 2005</p> <p>Product Specialist: Patrick Macaulay</p> | |

| | |
|--|---|
| Code: CUP141 Group: 2 | CUPBOARD, fume |
| Technical Specification | <ul style="list-style-type: none"> • Fume cabinet with working area 1500 x 800. • Fumes extracted to atmosphere. • Easy access switches with alarms for fan failure etc. • Sliding glass door (shatter proof) for easy access. • Built in sink with swan neck taps. • 2 x 13 amp socket outlets. • Natural gas tap outlet. • Must comply with all relevant standards. |
| Date: 17th March 2005 Product Specialist: Ian Laidlaw | |

| | |
|--------------------------|--|
| Code: CUP495 Group: 2 | CUPBOARD, endoscope, security, 2060x840x210mm |
| Technical Specification | <p>CABINET, Endoscope storage and drying.</p> <p>Secure storage and rapid drying cabinet for up to eight endoscopes.</p> <p>Cabinet to provide contamination-free environment through the use of UV lighting and HEPA filtered air.</p> <p>To include system to permit air-flow to be directed through endoscope cannulae.</p> <p>Cabinet to allow storage of endoscopes, without reprocessing, for minimum 24 hours.</p> <p>Stainless steel construction.</p> <p>Storage containers to provide means of identifying equipment information.</p> <p>UV lights to automatically turn off when the door is opened.</p> <p><u>NOTES</u></p> <p>All equipment to comply with BSEN 60601 and all other relevant British Standards.</p> <p>All equipment to carry CE marking.</p> <p>Tenders to include:</p> <ul style="list-style-type: none"> • system support and software upgrades; • on-going staff training; • maintenance agreement (including provision of replacement equipment in event of failure) giving options for Preventive, Comprehensive and Partnership contracts with full details. <p>Tenders to include minimum 1 year full parts and labour warranty, including at least 2 warranty visits by the supplier.</p> <p>Service contract details after 1 year to be provided for a</p> |

| | |
|---|--|
| | <p>Comprehensive service contract and a Preventive Service contract.</p> <p>Costs to include delivery, installation, full commissioning, user training and user manuals as required by the Board.</p> <p>Tender to include costs for a minimum of two sets of service manuals for all equipment offered.</p> <p>Details and cost of training for technical staff to be made available.</p> <p>Full technical literature on all equipment offered to be enclosed with tender.</p> |
| <p>Date: 30/03/05</p> <p>Product Specialist: Patrick Macaulay</p> | |

| | |
|--------------------------|--|
| Code: ISL974 Group: 2 | ISOLATOR, negative pressure |
| Technical Specification | <p>Negative pressure isolator for operator protection.</p> <p>Two glove with two transfer hatches. Hatches to have interlocks with user adjustable lockout control.</p> <p>Isolator to be height adjustable to accommodate large number of different users.</p> <p>Arm holes to be greater than 10 inches in diameter.</p> <p>Isolator to have sufficient leg space underneath for operators to sit/stand at.</p> <p>Interior to be stainless steel, easily cleaned, free from traps and should be resistant to all chemicals used in preparations including Formalin.</p> <p>Neoprene gloves in various sizes should be available.</p> <p>Controlled workspace critical zone should be equivalent to EC GMP Grade A.</p> <p>Air should be swept from the controlled workspace and standing vortices and stagnant areas should not exist.</p> <p>Transfer hatches should not compromise the Grade A rating for the controlled workspace, so an interlock system with adjustable lock-up timers are required.</p> <p>All internal surfaces should be accessible to the operator for cleaning and disinfection purposes and must not compromise the integrity of the isolator.</p> <p>All surfaces internal & external should be able to withstand gaseous disinfection or sterilisation.</p> <p>The isolator shall be alarmed and shall continuously monitor the airflow and air change rate within the controlled workspace with pressure sensors.</p> <p>Gloves to be easily changed whilst not compromising the integrity of the isolator.</p> |

| | |
|--|--|
| | <p>The alarm should be audio and visual and should be able to be set at 20 Pascal's pressure drop. However it should have the facility to be set by the operator The alarm system should also be able to detect rapid glove withdrawals.</p> <p>The isolator shall also be able to detect when filters require replacement due to partial blockage.</p> <p>Filters must be able to be changed easily and safely. Please state safety features.</p> <p>All incoming air shall also pass through one or more HEPA filters.</p> <p>All exhaust air should pass through one or more HEPA filters. The exhaust shall also be ducted to the outside.</p> <p>Unit should be designed so that the controlled workspace will stay free from contamination whilst transferring work to and from the access ports.</p> <p>All integral air supplies should be HEPA filtered.</p> <p>Air change rate should be such that if any unfiltered air enters the isolator it should be purged within 5 minutes.</p> <p>Laminar Air velocity shall be 0.3 - 0.6m sec.</p> <p>Isolator shall have facility to carry out routine leak testing. The HEPA filters shall be integrity tested.</p> <p>The hatches should be deflated and opened using footswitches.</p> <p>The isolator should be adjustable in height to facilitate operator comfort whilst standing or sitting.</p> <p>The isolator shall be able to be brought onto site and disassembled if necessary to fit through doors on the way to its sited position.</p> <p>Please state typical air removal in cubic metres per sec.</p> <p>The isolator shall be ducted to atmosphere. Please include cost of extra remote fan if it is required. Please include cost for ducting (per meter length).</p> <p>All installation (including the fan), delivery and commissioning costs should be included in the price. This should also include starters and control wiring required to control the fan. It is</p> |
|--|--|

| | |
|---|--|
| | <p>envisaged that the building contractor will fit the wiring and ducting between the isolator and the motor and fit the electrical supplies for both.</p> <p>Equipment shall conform with BS EN 61010.</p> <p>Equipment shall conform with "Isolators for pharmaceutical applications guidance" and be CE marked.</p> <p>To operate on 230V, 50Hz.</p> <p>Service and operators manual to be provided.</p> <p>Training for clinical users to be provided.</p> <p>The availability, cost and style of training for in-house service technicians to be specified.</p> |
| <p>Date: 01/04/05</p> <p>Product Specialist: Duncan Blues</p> | |

| | |
|--------------------------|---|
| Code: ITU933 Group: 2 | SERVICES, A&E resus, horizontal beam |
| Technical Specification | <p>SERVICES, A&E resus, horizontal beam 2000mm, ceiling mounted.:light & heavy equipment carrier, medical gases & power comprising:</p> <p>- back:</p> <p>16x socket outlet switched 13amp single</p> <p>2x outlet oxygen medical</p> <p>1x outlet compressed air medical</p> <p>2x outlet vacuum medical</p> <p>1x outlet nitrous oxide</p> <p>1x outlet AGSS</p> <p>1x socket outlet patient monitoring with cover plate</p> <p>- front:</p> <p>8x socket outlet switched 13amp single</p> <p>1x push button staff emergency call</p> <p>1x push button staff 'crash' call</p> <p>1x outlet oxygen medical</p> <p>1x switch dimmer modulating</p> <p>2x socket outlet computer data</p> <p>With 1 no. telephone outlet.</p> <p>With 4 no. equipotential bonding points.</p> <p>With 1 no. shelf.</p> <p>With min 2 no. lengths of clinical rail.</p> <p>With 2 no. IV poles on adjustable arms.</p> |

| | |
|---|--|
| | <p>With facility for mounting additional patient monitoring equipment as required.</p> <p>With mounting arm/bracket for patient monitor.</p> <p>With mounting arm/bracket for computer / monitor / keyboard / mouse.</p> <p>Gas outlets to be British Standard (Schrader) type.</p> <p>All non-stainless steel to be epoxy coated or stove enamelled.</p> <p><u>NOTES</u></p> <p>Full technical literature on all equipment offered to be enclosed with tender, including complete, dimensioned, 1st and 2nd fix installation drawings showing mechanical and electrical services.</p> <p>Tenderers should satisfy themselves as to the suitability of locations for proposed method of mounting pendants.</p> <p>All equipment to comply with HTM2022, other relevant Health Technical Memoranda, BS EN 737-1, BS5682:1998, BS EN 739, current IEE Regulations and all other relevant British Standards.</p> <p>Tenders to include maintenance agreement giving options for Preventive, Comprehensive and Partnership contracts with full details.</p> <p>Tenders to include minimum 1 year full parts and labour warranty, including at least 2 warranty visits by the supplier.</p> <p>Service contract details after 1 year to be provided for a Comprehensive service contract and a Preventive Service contract.</p> <p>Costs to include delivery, installation, full commissioning, user training and user manuals as required by the Board.</p> <p>Tender to include costs for a minimum of two sets of service manuals for all equipment offered.</p> <p>Details and cost of training for technical staff to be made available.</p> |
| <p>Date: 30/03/05</p> <p>Product Specialist: Patrick Macaulay</p> | |

| | |
|--------------------------|--|
| Code: LIG053 Group: 2 | LUMINAIRE examination/minor procedures adjustable, ceiling mounted |
| Technical Specification | <p>Ceiling mounted Minor Procedures lamp, including:</p> <ul style="list-style-type: none"> • isolating transformer and low voltage (24 V) halogen lamp; • min. 50,000 lux @ 1m; • colour temperature 4,300 K; • multi facet, prism, refractor design providing shadowless illumination and deep cavity penetration; • easily adjusted position (movement in vertical and horizontal planes) with rigid, adjustable arms with balancing or locking mechanism; • removable autoclaveable handle; • 6 x spare autoclaveable handles. <p>To include Suspension system to allow low level positioning of lamps with light directed horizontally.</p> <p>Lamp to include filter system to remove infra-red from illuminated field.</p> <p>Sealed against ingress of dust and moisture.</p> <p>Simple bulb replacement without the use of tools.</p> <p>Ceiling mounting plate and all necessary fixings.</p> <p><u>NOTES</u></p> <p>Costs to include delivery, installation, full commissioning, user training and user manuals as required by the Board.</p> <p>Tenderers should satisfy themselves as to the suitability of locations for proposed method of ceiling mounting lamps and installing wiring.</p> <p>All equipment to comply with BSEN 60601, BS 4533 and all other relevant British Standards.</p> |

| | |
|---|---|
| | <p>All equipment to carry CE marking.</p> <p>Tenders to include maintenance agreement giving options for Preventive, Comprehensive and Partnership contracts with full details.</p> <p>Tenders to include minimum 1 year full parts and labour warranty, including at least 2 warranty visits by the supplier.</p> <p>Service contract details after 1 year to be provided for a Comprehensive service contract and a Preventive Service contract.</p> <p>Tender to include costs for a minimum of two sets of service manuals for all equipment offered.</p> <p>Details and cost of training for technical staff to be made available.</p> <p>Full technical literature on all equipment offered to be enclosed with tender.</p> |
| <p>Date: 30/03/05</p> <p>Product Specialist: Patrick Macaulay</p> | |

| | |
|--------------------------|--|
| Code: LIG058 Group: 2 | LUMINAIRE examination, adjustable, 1000 lux, wall/trunking/rail mounted |
| Technical Specification | <p>Wall mounted exam lamp;</p> <p>including isolating transformer and low voltage (12 V or 24V) halogen lamp;</p> <p>Min. 30,000 lux @ 0.5m;</p> <p>Easily adjusted position with rigid, adjustable arms with balancing or locking mechanism (i.e. not goose-neck);</p> <p>To include ceiling mounting plate and all necessary fixings.</p> <p><u>NOTES</u></p> <p>Costs to include delivery, installation, full commissioning, user training and user manuals as required by the Board.</p> <p>Tenderers should satisfy themselves as to the suitability of locations for proposed method of ceiling mounting lamps and installing wiring.</p> <p>All equipment to comply with BSEN 60601, BS 4533 and all other relevant British Standards.</p> <p>All equipment to carry CE marking.</p> <p>Tenders to include maintenance agreement giving options for Preventive, Comprehensive and Partnership contracts with full details.</p> <p>Tenders to include minimum 1 year full parts and labour warranty, including at least 2 warranty visits by the supplier.</p> <p>Service contract details after 1 year to be provided for a Comprehensive service contract and a Preventive Service contract.</p> <p>Tender to include costs for a minimum of two sets of service manuals for all equipment offered.</p> <p>Details and cost of training for technical staff to be made available.</p> <p>Full technical literature on all equipment offered to be enclosed</p> |

| | |
|--|--------------|
| | with tender. |
| Date: 30/03/05 Product Specialist: Patrick Macaulay | |

| | |
|--------------------------|--|
| Code: LIG907 Group: 2 | LUMINAIRE, operating, main head and satellite, with camera system |
| Technical Specification | <p>Dual lighthouse system supported from one central mount with camera.</p> <p>Main lamp:</p> <ul style="list-style-type: none"> • multi light type or single large continuous reflector / refractor system; • minimum 150,000 lux output at 1 metre; • multi facet, prism, refractor design providing shadowless illumination; • complete with height adjustable articulating arm with manual focusing facility; • 360 degree rotation, removable autoclaveable handle. <p>Satellite lamp:</p> <ul style="list-style-type: none"> • multi light type or single large continuous reflector / refractor system; • 100,000 lux output at 1 metre; • multi facet, prism, refractor design providing shadowless illumination; • complete with height adjustable articulating arm with manual focusing facility; • 360 degree rotation, removable autoclaveable handle. <p>Single chip camera system with remote control mounted on separate multimovement arm from central mount.</p> <p>Suspension system to allow low level positioning of lamps with light directed horizontally.</p> <p>Lamps to include filter system to remove infra-red from illuminated field.</p> |

| | |
|--|---|
| | <p>Sealed against ingress of dust and moisture.</p> <p>Simple bulb replacement without the use of tools.</p> <p>12 x spare autoclaveable handles suitable for main and satellite lamps.</p> <p>Complete with ceiling plate, adjustable plate fixings, all necessary additional fixings and fasteners, central lamp mount and finishing shroud.</p> <p>Above ceiling support for ceiling plate to be supplied by others.</p> <p>Full installation drawings must be supplied with quotation including mechanical and electrical diagrams. Photocopies are not acceptable (original or high quality copies are required). Full details of maximum loads exerted by system must be included, (loads to be identified in Newtons, torques in Newton-metres).</p> <p>Controls for operating lights to be included in Theatre Control Panel.</p> <p>Unit comprising all necessary relays, heat sinks and transformers etc. required for light control to be included. Tenders to indicate whether these can be incorporated within Theatre Control Panel (to be supplied by others) or whether separate enclosure is required, in which case this should be included in tender. Unit to allow the following functions:</p> <ul style="list-style-type: none"> • Independent switching of main and satellite lamps with dimmer facility; • Supply low voltage from normal and emergency mains supply; • Supply low voltage from back up battery pack when normal mains and emergency mains have failed. <p><u>NOTES</u></p> <p>Tenderers should satisfy themselves as to the suitability of locations for proposed method of ceiling mounting lamps and installing wiring.</p> <p>All equipment to comply with BSEN 60601, BS 4533 and all other relevant British Standards.</p> |
|--|---|

| | |
|---|--|
| | <p>All equipment to carry CE marking.</p> <p>Tenders to include maintenance agreement giving options for Preventive, Comprehensive and Partnership contracts with full details.</p> <p>Tenders to include minimum 1 year full parts and labour warranty, including at least 2 warranty visits by the supplier.</p> <p>Service contract details after 1 year to be provided for a Comprehensive service contract and a Preventive Service contract.</p> <p>Costs to include delivery, installation, full commissioning, user training and user manuals as required by the Board.</p> <p>Tender to include costs for a minimum of two sets of service manuals for all equipment offered.</p> <p>Details and cost of training for technical staff to be made available.</p> <p>Full technical literature on all equipment offered to be enclosed with tender.</p> |
| <p>Date: 30/03/05</p> <p>Product Specialist: Patrick Macaulay</p> | |

| | |
|--------------------------|---|
| Code: PAN952 Group: 2 | PANEL Surgeon theatre, 2400x1050 |
| Technical Specification | <ul style="list-style-type: none"> • Panel to be approx. 2400mm x 1050mm. • Panel to be flush wall-mounted with rear access doors. • Panels should be able to be supplied as 1st and 2nd fix assemblies. • Stainless steel front fascia. • Protected to IP65. • Tenders should indicate if Operating Lamp control hardware (transformers and relays) can be accommodated within the panel. • All non-stainless steel to be epoxy coated or stove enamelled. • Panels to provide the following facilities: <p>3 section X-Ray Viewing Screen c/w on/off dimmer switches and spotlight;</p> <p>Time elapsed clock (analogue) with start/stop/reset;</p> <p>Real Time Clock (analogue);</p> <p>Digital Air Temperature indicator;</p> <p>Temperature set point, +/- 4°C from B.M.S. set point (potential suppliers may require information regarding required control mechanism);</p> <p>Digital humidity indicator;</p> <p>Humidity set point;</p> <p>Air sampling grille and duct with temp and humidity sensors;</p> <p>Ventilation normal (high speed) with indicator (green);</p> <p>Ventilation set-back (low speed) with indicator (yellow);</p> |

| | |
|--|--|
| | <p>Ventilator filter dirty indicator (red);</p> <p>Ventilator low air flow indicator (red);</p> <p>Operating light (main) control;</p> <p>Operating light (satellite) control;</p> <p>Theatre room light controls including dimming facility;</p> <p>"Laser in Use" switch;</p> <p>"X-ray in Use" light switch;</p> <p>"Theatre in Use" light switch;</p> <p>2 x 13A twin socket outlets (splash-proof) with red double pole rocker switch and suitable for isolated power supply;</p> <p>2 x twin IT data outlets;</p> <p>1 x telephone outlet;</p> <p>Generator power run lamp;</p> <p>Lamp test facility;</p> <p>Isolated power remote alarm indicator;</p> <p>"Battery in use" indicator;</p> <p>AGSS controls and indicator;</p> <p>Medical gas alarm panel;</p> <p>Dry wipe board;</p> <p>Medical Gas Pendants motor isolator switches;</p> <p>Ultra Clean Ventilation Canopy controls;</p> <p>Intercom;</p> <p>Mains power available lamp.</p> <p><u>NOTES</u></p> <p>Tenderers should assume that temperature and humidity indicators and set points are free issue items.</p> |
|--|--|

| | |
|--|---|
| | <p>Tenderers should satisfy themselves as to the suitability of locations for proposed method of mounting panels.</p> <p>All equipment to comply with current Health Technical Memoranda, current IEE Regulations and all other relevant British Standards.</p> <p>Tenders to include maintenance agreement giving options for Preventive, Comprehensive and Partnership contracts with full details.</p> <p>Tenders to include minimum 1 year full parts and labour warranty, including at least 2 warranty visits by the supplier.</p> <p>Service contract details after 1 year to be provided for a Comprehensive service contract and a Preventive Service contract.</p> <p>Costs to include delivery, installation, full commissioning, user training and user manuals as required by the Board.</p> <p>Tender to include costs for a minimum of two sets of service manuals for all equipment offered.</p> <p>Details and cost of training for technical staff to be made available.</p> <p>Full technical literature on all equipment offered to be enclosed with tender, including complete, dimensioned, 1st and 2nd fix installation drawings showing mechanical and electrical services.</p> |
| <p>Date: 20th March 2005</p> <p>Product Specialist: Patrick Macaulay</p> | |

| | |
|--------------------------|---|
| Code: PEN922 Group: 2 | PENDANT for monitors and equipment, ceiling mounted |
| Technical Specification | <p>Pendant to be ceiling mounted.</p> <p>Pendant should be able to be supplied as 1st and 2nd fix assemblies.</p> <p>Pendant to include horizontal arm(s) allowing rotational and vertical movement, with electromagnetic or air-actuated brakes.</p> <p>Arm(s) to rotate on high quality, maintenance free bearings.</p> <p>Arm(s) should be able to rotate through minimum 270 degrees and be fitted with adjustable stops.</p> <p>Pendant to have user adjustable variable height between 1400 to 2100mm.</p> <p>Cable management system.</p> <p>With 8 no. double non-switched 13A socket outlets.</p> <p>With 4 no. IT data outlets.</p> <p>With 8 no. equipotential bonding points.</p> <p>With min. 4 no. shelves to support equipment including:</p> <p style="padding-left: 40px;">Diathermy</p> <p style="padding-left: 40px;">Insufflator</p> <p style="padding-left: 40px;">Camera controller</p> <p>Each shelf to be provided with clinical rail around 3 sides.</p> <p>Pendant to include support for High resolution flat panel monitor, support to allow monitor to swivel & tilt.</p> <p>All non-stainless steel to be epoxy coated or stove enamelled.</p> <p><u>NOTES</u></p> <p>Full technical literature on all equipment offered to be enclosed with tender, including complete, dimensioned, 1st and 2nd fix</p> |

| | |
|---|--|
| | <p>installation drawings showing mechanical and electrical services.</p> <p>Tenderers should satisfy themselves as to the suitability of locations for proposed method of mounting pendants.</p> <p>All equipment to comply with HTM2022, other relevant Health Technical Memoranda, BS EN 737-1, BS5682:1998, BS EN 739, current IEE Regulations and all other relevant British Standards.</p> <p>Tenders to include maintenance agreement giving options for Preventive, Comprehensive and Partnership contracts with full details.</p> <p>Tenders to include minimum 1 year full parts and labour warranty, including at least 2 warranty visits by the supplier.</p> <p>Service contract details after 1 year to be provided for a Comprehensive service contract and a Preventive Service contract.</p> <p>Costs to include delivery, installation, full commissioning, user training and user manuals as required by the Board.</p> <p>Tender to include costs for a minimum of two sets of service manuals for all equipment offered.</p> <p>Details and cost of training for technical staff to be made available.</p> |
| <p>Date: 30/03/05</p> <p>Product Specialist: Patrick Macaulay</p> | |

| | |
|--------------------------|---|
| Code: PEN944 Group: 2 | PENDANT ANAESTHETIST / SURGEON |
| Technical Specification | <p>Multi-movement medical gas pendants for anaesthetists and surgeons, for use in Operating Theatres. Some pendants to be used with Ultra-clean canopies.</p> <p>Specification</p> <ul style="list-style-type: none"> • Pendants to be ceiling mounted; • Pendants should be able to be supplied as 1st and 2nd fix assemblies; • Internal hoses to have NIST fittings permanently attached. 1st fix to include NIST fittings with self closing valves and protective cover; • Two horizontal arms allowing rotational and vertical (on distal arm or service head) movement, with brakes; • Both arms to be approximately 750mm length; • Arms to rotate on high quality, maintenance free bearings; • Arms should be able to rotate through minimum 270 degrees and be fitted with adjustable stops; • Arms to be fitted with brakes at each point of rotation; • Vertical movement of distal arm (or service head) to be powered, with remote control handset; • Motor to include thermal and current overload protection; • With 8 no. vertically mounted double unswitched socket outlets; • With 6 no. IT data outlets; • With 1 no. telephone outlet; • With 4 no. equipotential bonding points; • With 8 no. horizontally mounted outlets for: |

| | |
|--|---|
| | <p>Oxygen x 2</p> <p>Nitrous Oxide</p> <p>Medical Air (4 bar)</p> <p>Medical Air (7 bar)</p> <p>Vacuum x 2</p> <p>AGSS x 2</p> <ul style="list-style-type: none"> • With line pressure gauge for each piped medical gas (including vacuum); • With 1 no. shelf; • With min 2 no. lengths of clinical rail; • With 2 no. IV pole on adjustable arm; • With facility for mounting additional patient monitoring equipment as required; • Gas outlets to be British Standard (Schrader) type; • All non-stainless steel to be epoxy coated or stove enamelled. <p><u>NOTES</u></p> <p>Full technical literature on all equipment offered to be enclosed with tender, including complete, dimensioned, 1st and 2nd fix installation drawings showing mechanical and electrical services.</p> <p>Tenderers should satisfy themselves as to the suitability of locations for proposed method of mounting pendants.</p> <p>All equipment to comply with HTM2022, other relevant Health Technical Memoranda, BS EN 737-1, BS5682:1998, BS EN 739, current IEE Regulations and all other relevant British Standards.</p> <p>Tenders to include maintenance agreement giving options for Preventive, Comprehensive and Partnership contracts with full details.</p> <p>Tenders to include minimum 1 year full parts and labour warranty,</p> |
|--|---|

| | |
|---|--|
| | <p>including at least 2 warranty visits by the supplier.</p> <p>Service contract details after 1 year to be provided for a Comprehensive service contract and a Preventive Service contract.</p> <p>Costs to include delivery, installation, full commissioning, user training and user manuals as required by the Board.</p> <p>Tender to include costs for a minimum of two sets of service manuals for all equipment offered.</p> <p>Details and cost of training for technical staff to be made available.</p> |
| <p>Date: 30/03/05</p> <p>Product Specialist: Patrick Macaulay</p> | |

| | |
|---------------------------------|---|
| Code: REF986 Group: 2 | REFRIGERATOR, blood |
| Technical Specification | <ul style="list-style-type: none"> • High built quality blood refrigerator. • Temperature range from 2 to 8 degrees. • Single compartment design with approx 4 shelves. • Nominal capacity approx 200 bags. • The following alarm/indicators: <ul style="list-style-type: none"> • 7 day Chart recorder; • digital temperature display; • high/low temp alarms; • mains failure alarm; • door open alarm; • contacts for remote alarm. • Alarms must have battery backup should power fail. • Glass lockable doors. • Stainless steel interior, easy clean. • Fan assisted air flow. • Internal cool lighting. • Must comply with BS4376. • Must comply with BSEN61010 and all relevant standards. |
| Date: 17th March 2005 | |
| Product Specialist: Ian Laidlaw | |

| | |
|--------------------------|---|
| Code: STE900 Group: 2 | 600 litre steriliser/autoclave porous load |
| Technical Specification | <p>Machine</p> <ul style="list-style-type: none"> • Chamber material: Stainless Steel • Jacket Material: Stainless Steel • Vessel configuration: Double door pass through, interlocked door system` • Usable chamber capacity: 600 litres (nominal) • Door movement: Horizontal • Load type: Pre-set trays of instruments, procedure packs, fabrics and generally porous loads (bowls, basins etc, wrapped, pouches) • Programmed cycles required <ul style="list-style-type: none"> • Leak rate test • Bowie & Dick test • 134°C standard porous load cycle • 134°C extended drying porous load cycle • 121°C standard porous load cycle • 121°C extended drying cycle • Pass back function • Hold temp: 121°C & 134°C • Hold time: 15 minutes & 3 minutes • Pass Back: The machine must be capable of passing back empty load carriers from the processed goods side • Leak rate valves permanently fitted • Thermocouple entry glands permanently fitted |

| | |
|--|--|
| | <ul style="list-style-type: none"> • HTM 2010 steam test points fitted • Additional Instrumentation Required: 2 pen (1 x temp and 1 x pressure) chart recorder. 100mm wide, Z fold strip chart, calibrated 0 – 150 °C and -1 bar – +2.75 bar, chart speed is 10mm/min and shall be compatible with Type T thermocouples. Or paperless chart recorder with Graphics Display, Data Download system with software for reproducing archived data and hard printed copy as described for fanfold chart recorder above. It is essential that the chart recorder and any printers producing cycle related printouts are installed on the processed load side as this will allow the operator to validate the load before dispatch. Where the recorder is of the graphics display type, the supplier shall provide a system interface to this system which will allow processed cycles to be downloaded and printed so that documentation of periodic testing may be facilitated. This shall be positioned in the sterilizer plant area. Note: This is in addition to any other system dump facilities provided for elsewhere in this specification • The sterilizer must be capable of being operated at the processed load side by an engineer by means of a mimic panel, this is to facilitate testing from out with the clean room environment. A password entry or key shall be provided to use this function. When in test mode, selection of the processed load door only can be carried out by the engineer. As an alternative, positioning of the mimic instruments and controls mounted in plant room may be considered • The instruments will mimic the fascia instruments and include an analogue barometrically compensated AP gauge complete with steam protection to allow independent Leak Rate Testing • An RCD protected 13A double socket shall be provided mounted on the Processed Goods fascia of the sterilizer for the use of test instruments. A hinged opening with a secure catch shall be provided for the entry of test cables through the fascia panel at a suitable point near to the thermocouple entry gland <p>Vessel Door And Components</p> |
|--|--|

| | |
|--|--|
| | <ul style="list-style-type: none"> • The chamber shall be designed to promote complete drainage • All pipe work, valves, pumps, fittings etc shall be 316L stainless steel for services that directly contact the process product (EN 285) • Safety valve discharge pipes to be piped to external terminations • All valves, pressure switches and other components shall be labelled in compatibility with the as fitted drawings • Air leak metering and isolating valves to be fitted to the Sterilizer Chamber to provide up to 3 separate pre-set induced air leaks. The test set up to be connected to the Chamber, adjacent to the door. The metering valves shall be 1/8 inch needle valves and the valve adjuster shall have a calibrated graduated scale. The design of the needle valves should be such that the pre-set leak rate shall not drift by more than 0.5 mb/minute over 20 cycles. The make and type of needle valves to be supplied must be stated at the time of tender • The pass through door system shall be fully interlocked, at no time can both doors be opened simultaneously. Provision through the controller shall be provided for single door operation from the processed load side to allow validation to take place without entry to the clean room side • Consideration shall be taken with the configuration of the pipe packaging etc to facilitate the equipment within the available footprint (see panelling and finishes below) <p>Controls And Monitors</p> <ul style="list-style-type: none"> • The control system shall be pre-programmable up to 8 cycles • All temperature sensors shall be selected Duplex Type T thermocouples complying to BS 4936 Type T Class 1 • The thermocouple inputs shall be capable of being calibrated during the normal course of a cycle. (A fault |
|--|--|

| | |
|---|---|
| | <p>cycle to be indicated whenever such a procedure is used)</p> <ul style="list-style-type: none"> • Thermocouple cold junctions shall be designed to minimize thermal error • Fixed thermocouple probes shall be easily removable without risk of damage • Additional mounted monitors and controls shall be provided to replicate those on the front panel, provision for testing and fault diagnosis shall be provided by a mimic panel on the processed goods side of the machine <p>Standards</p> <ul style="list-style-type: none"> • The following standards are applicable <ul style="list-style-type: none"> • BS 3970 • BS 5500 • EN 554 • EN 285 • BSEN 292 • BSEN 1050 • BS 7671 • EN 60204 • BS 308 • SHTM 2010 • SHTM2031 |
| <p>Date: 05/04/05</p> <p>Product Specialist: Ron Shepherd</p> | |

PART 13 OF THE SCHEDULE: EQUIPMENT

APPENDIX 2: EQUIPMENT RESPONSIBILITIES MATRIX

The Equipment Responsibilities Matrix is set out in the Agreed Form document comprising one volume labelled "Equipment Responsibilities Matrix", which shall have effect as if expressly set out in this Appendix 2 to Part 13 of the Schedule.

PART 13 OF THE SCHEDULE: EQUIPMENT

APPENDIX 3: BIG TICKET PROGRAMME

The Big Ticket Programme is set out in the Agreed Form document comprising one volume labelled "Big Ticket Programme", which shall have effect as if expressly set out in this Appendix 3 to Part 13 of the Schedule.

PART 14 OF THE SCHEDULE: SERVICE REQUIREMENTS

Section 1: Service Level Specifications

The Service Level Specifications are set out in the Agreed Form document comprising one volume labelled "Service Level Specifications", which shall have effect as if expressly set out in this Section 1 of Part 14 of the Schedule.

PART 14 OF THE SCHEDULE: SERVICE REQUIREMENTS

Section 2: Method Statements

The Method Statements are set out in the Agreed Form document comprising one volume labelled "Method Statements", which shall have effect as if expressly set out in this Section 2 of Part 14 of the Schedule.

PART 14 OF THE SCHEDULE: SERVICE REQUIREMENTS

Section 3: Services Quality Plan

The Services Quality Plan is set out in the Agreed Form document comprising one volume labelled "Services Quality Plan", which shall have effect as if expressly set out in this Section 3 of Part 14 of the Schedule.

PART 15 OF THE SCHEDULE: NOT USED

PART 16 OF THE SCHEDULE: NOT USED

PART 17 OF THE SCHEDULE: BENCHMARKING AND MARKET TESTING PROCEDURE

Introduction

The following defined terms are used in this Part 17 of the Schedule (*Benchmarking and Market Testing Procedure*):

| | |
|-------------------------|---|
| "Associated Entity" | means: <ul style="list-style-type: none">(a) an Associate of any of Project Co, the Service Providers, the Contractor or the Shareholders;(b) any partner in any partnership or any person who participates in any profit sharing or joint purse arrangement, in each case to which any of Project Co, the Service Providers, the Contractor or the Shareholders or any person mentioned in paragraph (a) is also a party;(c) any shareholder, director, officer or employee of any of the persons referred to in paragraphs (a) and (b) or any of those persons' spouses, children, step-children or partners; or(d) any body corporate of which any person referred to in (c) above is a shareholder, director, officer or employee; |
| "Benchmarking Exercise" | has the meaning given to it in paragraph 1.1.1 (<i>Benchmarking Exercise</i>); |
| "Compliant Tender" | means a tender received from a Tenderer which complies with the Tender Requirements; |
| "Draft Proposal" | means the proposal described in paragraph 5.1 of this Part 17 of the Schedule (<i>Benchmarking and Market Testing Procedure</i>); |
| "Excluded Person" | means Project Co, any Associated Entity, any sub-contractor of an Associated Entity or any Associate of their respective sub-contractors; |

| | |
|---------------------------|--|
| "Latest Service Element" | has the meaning given to it in paragraph 1.1.3; |
| "Market Costs" | has the meaning given to it in paragraph 1.1.3; |
| "Market Tested Services" | means those services described in sections 04 (Ward Housekeeping), 07 (Waste Management), 09 (Catering), 10 (Domestic), 11 (Reception), 12 (Portering), 13 (Linen) and 15 (Switchboard) of Section 1 of Part 14 of the Schedule (<i>Service Requirements</i>) and any other Service from time to time designated as such by the parties; |
| "Market Testing" | means the process (excluding the Benchmarking Exercise) described in this Part 17 of the Schedule (<i>Benchmarking and Market Testing Procedure</i>) and the term "Market Tested" and "Market Test" shall be construed accordingly; |
| "Market Testing Date" | means every seventh anniversary of the Actual Completion Date during the Project Term; |
| "Market Testing Meeting" | means a meeting convened in accordance with paragraph 3.1 (<i>Market Testing Programme</i>) of this Part 17 of the Schedule (<i>Benchmarking and Market Testing Procedure</i>); |
| "Market Testing Proposal" | means the final version of the Draft Proposal, as agreed by the parties or as determined, in either case, in accordance with this Part 17 of the Schedule (<i>Benchmarking and Market Testing Procedure</i>); |
| "Preferred Tenderer" | means, following the Market Testing of any Market Tested Service, any group of Market Tested Services or any part of any Market Tested Service (as the case may be), the Tenderer selected to provide such services in accordance with the provisions of paragraph 8 of this Part 17 of the Schedule (<i>Benchmarking and Market Testing Procedure</i>); |
| "Price Change" | has the meaning given to it in paragraph 1.1.4; |
| "Prospective Tenderers" | means those persons who express an interest in being requested to prepare and submit tenders for each Market Tested Service, group |

| | |
|---------------------------|---|
| | of Market Tested Services or any part of any Market Tested Service (as the case may be); |
| "Relevant Employees" | means all of the employees of the Service Provider or Services Sub-Contractor (as the case may be) who are engaged wholly or mainly in the provision of the Market Tested Services for which those Tenderers are tendering; |
| "Services Sub-Contractor" | means a person engaged by the Service Provider to provide one or more Market Tested Services; |
| "Specification Change" | has the meaning given to it in paragraph 1.1.4; |
| "Tenderers" | means those of the Prospective Tenderers selected to submit tenders in accordance with paragraph 6 of this Part 17 of the Schedule (<i>Benchmarking and Market Testing Procedure</i>); |
| "Tender Requirements" | means the form and requirements of the tender documents to be sent to Tenderers as agreed or determined in accordance with the provisions of this Part 17 of the Schedule (<i>Benchmarking and Market Testing Procedure</i>); |
| "Tender Validity Period" | means the period within which tenders from Tenderers must be received if they are to be valid; and |
| "TUPE Information" | means the information referred to in Section 1 of Part 30 of the Schedule (<i>Employee Information and Proposed Workforce Information</i>). |

1. **Benchmarking Exercise**

1.1 Subject to paragraph 1.2 (*Benchmarking Exercise*):

- 1.1.1 Project Co shall undertake or procure that there is undertaken a benchmarking exercise (the "Benchmarking Exercise") at its own cost fourteen (14) months before each Market Testing Date in relation to the Market Tested Services.
- 1.1.2 Each Benchmarking Exercise will be undertaken to ascertain the relative cost and competitiveness of the Market Tested Services in question. The Benchmarking Exercise will be undertaken in good faith

by Project Co on the basis of an objective like for like comparison by comparing the standards and prices of the Market Tested Services in question and the costs of providing them with the standards and prices of equivalent services provided to other district general hospitals operating under the Private Finance Initiative in England or Scotland by the Service Provider (or the relevant Services Sub-Contractor) and other reputable organisations possessing an appropriate degree of skill and resources relative to the provision of the Market Tested Services in question.

- 1.1.3 With a view to agreeing with the Board the appropriate adjustments to the Annual Service Payment in order to reflect the outcome of the Benchmarking Exercise Project Co will make the results of any Benchmarking Exercise available to the Board by the date occurring twelve (12) months before the relevant Market Testing Date. The results shall indicate the extent to which (if at all) the charges made by reputable organisations possessing an appropriate degree of skill and care and resources relative to the provision of the Market Tested Services ("Market Costs") differ (in percentage terms) from the element within the Financial Model reflecting the costs of providing the Market Tested Services in question (as such element may have been adjusted as a result of being index linked or as a result of previous adjustment made to the Annual Service Payment pursuant to this Part 17 of the Schedule (*Benchmarking and Market Testing Procedure*)) (the "Latest Service Element").
- 1.1.4 Where the Market Costs are between 95% and 105% of the Latest Service Element no change shall be made to the Annual Service Payment, save that if following the Benchmarking Exercise, the Board require to amend the relevant Service Level Specifications and/or the Method Statements ("Specification Change") the Board and Project Co shall also agree, on an open book basis, such changes to the Annual Service Payment ("Price Change") as are necessary to reflect the change in cost associated with such Specification Change in accordance with the principles set out in Part 22 of the Schedule (*Variation Procedure*). A Specification Change shall be conditional upon an appropriate Price Change being agreed. Any failure to agree such Price Change shall not be subject to Part 26 of the Schedule (*Dispute Resolution Procedure*).
- 1.1.5 Where Market Costs are less than 95% or more than 105% of the Latest Service Element, the parties shall discuss the results of the relevant Benchmarking Exercise and endeavour reasonably to agree either:
- (a) that there shall be no change to the Annual Service Payment; or

- (b) the change to the Annual Service Payment, to reflect the adjustments referred to in paragraph 1.1.3 above

and in each case, the necessary changes (if any) to be made to the Service Level Specifications and/or Method Statements and if so agreed, such changes shall apply from the Market Testing Date.

1.2 Where:

1.2.1 no agreement is reached pursuant to paragraphs 1.1.4 or 1.1.5 by the earlier of two (2) months from the date on which the Board and Project Co commence discussions to agree the change to the Annual Service Payment and ten (10) months prior to the Market Testing Date and notwithstanding that the Market Costs are between 95% and 105% of the Latest Service Element, the Board requires it; or

1.2.2 a party notifies the other at any time prior to the expiry of the time periods set out in paragraph 1.2.1 above, or prior to an agreement, including an agreement to a Price Change, being reached pursuant to paragraphs 1.1.4 or 1.1.5, whichever is the earlier, that the notifying party requires Market Testing; or

1.2.3 it has not been possible to conduct a Benchmarking Exercise,

Project Co shall undertake, or procure that there is undertaken, Market Testing.

1.3 To the extent required by paragraph 1.2 above, the Market Tested Services shall be subject to Market Testing in accordance with this Part 17 of the Schedule (*Benchmarking and Market Testing Procedure*) so that the Preferred Tenderers shall commence the provision of the relevant Market Tested Services on the Market Testing Dates.

2. Market Testing Dates

2.1 Where this Agreement requires Market Testing, the procedure set out in paragraphs 2 (*Market Testing Dates*) to 14 (*Market Testing of Service Contracts and Sub-Contracts*) shall apply. The Market Testing of each Market Tested Service shall, notwithstanding any other provision of this Part 17 of the Schedule (*Benchmarking and Market Testing Procedure*) (including, without limitation, the participation of the Board described in paragraph 3 (*Market Testing Programme*)), be the responsibility of Project Co and shall be carried out in accordance with this Part 17 of the Schedule (*Benchmarking and Market Testing Procedure*) so that the Preferred Tenderers shall commence provision of the relevant Market Tested Services on the relevant Market Testing Date.

2.2 To avoid doubt Estates Services, Grounds and Gardens, Utilities, Helpdesk, Pest Control, Car Parking and Security will not be subject to Market Testing pursuant to this Part 17 of the Schedule (*Benchmarking and Market Testing Procedure*).

3. **Market Testing Programme**

3.1 At least nine (9) months before each Market Testing Date, the parties shall meet together as often as may be necessary in respect of all Market Tested Services to be Market Tested on that date:

- 3.1.1 to review the Service Level Specification and Method Statement for each Market Tested Service and, if required by the Board, amend the relevant Service Level Specifications and Method Statements as appropriate. Project Co may only object to any change in the requirements of the Board on the grounds referred to in paragraph 3.2(a) of Section 1 of Part 22 of the Schedule (*Variation Procedure*). Any such objection must be made by notice in writing to the Board within ten (10) Business Days of the relevant Market Testing Meeting;
- 3.1.2 to discuss and seek to agree (subject to the provisions of paragraph 4 (*Grouping of Services*) below) any grouping or groupings of Market Tested Services or any division of any Market Tested Service into separate parts which will optimise the opportunity for the Board to obtain best value for money;
- 3.1.3 to discuss and seek to agree the appropriate media for advertising the Market Tested Services and identifying the Prospective Tenderers;
- 3.1.4 to discuss and seek to agree the basis on which the Tenderers shall be selected from among the Prospective Tenderers;
- 3.1.5 to discuss and seek to agree the Tender Requirements which shall be in sufficient detail to allow the Preferred Tenderer to be determined and shall include, without limitation:
 - (a) a statement of the Tender Validity Period;
 - (b) requirements in respect of the possible grouping or groupings of Market Tested Services and any division of any Market Tested Service into separate parts;
 - (c) details of the tender evaluation criteria;
 - (d) in relation to the first Market Test, a statement that Tenderers shall (where the Transfer Regulations do not otherwise apply) be required to offer employment to all Relevant Employees on terms and conditions as favourable as those they enjoy with that Service Provider or relevant Services Sub-Contractor (as the case may be) as if the Transfer Regulations do apply;

- (e) the Board's requirements in relation to the following, which shall be decided (in the Board's discretion) on the basis of its consideration of what represents best value for money for the Board:
 - (i) the basis on which Tenderers are to be required to bid at the subsequent Market Test if the Transfer Regulations were not to apply at that time; and
 - (ii) whether (and on what terms) the Service Provider or relevant Services Sub-Contractor (as the case may be) would be given any protection by the Board in the event that:
 - (A) in the case of the Service Provider, it was required to sub-contract the performance of the relevant Service to a Preferred Tenderer where previously the relevant Service was not so Sub-Contracted; or
 - (B) in the case of a relevant Service Sub-Contractor it was not awarded a contract following any subsequent Market Test for the relevant Service,

(in each case) in relation to any liabilities reasonably incurred by the Service Provider or relevant Services Sub-Contractor (as the case may be) in terminating the employment of any Relevant Employee that would not transfer to a successful Preferred Tenderer because the Transfer Regulations did not apply at that time;
- (f) the TUPE Information;
- (g) the Information Tenderers are required to provide;
- (h) an explanation of the requirement for Tenderers to comply with the provisions of Clauses 30 (*TUPE and Employment Matters*), 31 (*Pension Matters*) and 32 (*Site Security and Personnel Issues*) of this Agreement;
- (i) where the Relevant Employees include any Pensionable Board Employee who is a member of the existing Service Provider's pension scheme, the terms offered for calculating the valuation of any Bulk Transfers from the existing Service Provider's pension scheme, being terms which comply with the requirements of Clause 31.6 (*Pension Matters*); and

- (j) a statement that Tenderers shall be required to accede to the Interface Agreement if not already a party.

3.2 The time, place and agenda for the first Market Testing Meeting shall be advised by Project Co to the Board at least one month in advance of the meeting. Thereafter, each subsequent meeting shall be convened on not less than ten (10) Business Days' notice (identifying the agenda items to be discussed at the meeting) provided that in emergencies a meeting may be called at any time on such notice as may be reasonable in the circumstances.

3.3 To avoid doubt, any tender evaluation criteria agreed between Project Co and the Board and made available to the Tenderers as part of the Tender Requirements must be objective and impartial.

4. **Grouping of Services**

Unless Project Co can demonstrate to the Board that it will optimise its ability to obtain best value for money for the Board if Market Tested Services are tendered separately or in particular groupings, or if any Market Tested Service is divided into separate parts, the grouping of any Market Tested Services shall be left to the discretion of Tenderers on the basis that the Tender Requirements shall specify that:

4.1 Tenderers may submit tenders for all or any of the Market Tested Services; and

4.2 where a Tenderer submits a tender for a group or groups of Market Tested Services, it may be required to provide all or any of the services in such group or groups and shall, in any event, provide separate pricing for each service in such group or groups.

5. **Market Testing Proposal**

5.1 Notwithstanding any failure of the parties to agree any matter referred to in paragraph 3.1 (*Market Testing Programme*), Project Co shall prepare and deliver to the Board no later than eight (8) months before the relevant Market Testing Date a draft proposal for the Market Testing (the "Draft Proposal") describing in detail Project Co's proposals for the Market Testing of each Market Tested Service. The Market Testing Proposal shall describe all of the matters referred to in, and agreed pursuant to, paragraph 3.1 (*Market Testing Programme*) and, if appropriate, the form of contract which the Preferred Tenderer will be required to accept.

5.2 Project Co shall procure that, in respect of any Market Testing, the Service Provider or relevant Services Sub-Contractor (as the case may be) conducts its business and provides information for inclusion in the Tender Requirements to allow:

- 5.2.1 the consequences of the Transfer Regulations or compliance with the requirements relating to employees referred to in paragraph 3.1.5 (*Market Testing Programme*) above on any change of the identity of the employer of the Relevant Employees to be assessed; and
- 5.2.2 so far as practicable, the cost of such change to the Board to be minimised.
- 5.3 If Project Co and the Board are unable to agree on any matter relating to the Draft Proposal within fifteen (15) Business Days of the Board's receipt of the Draft Proposal, either party may refer the matter for resolution in accordance with Part 26 of the Schedule (*Dispute Resolution Procedure*).
- 5.4 It shall be a principle of the Market Testing Proposal that, unless otherwise agreed by the parties, the allocation of risk to the Preferred Tenderer, if appointed, shall not be materially greater or lesser than such allocation to the Service Provider or to the Services Sub-Contractor whom the Preferred Tenderer is to replace.
- 5.5 The Service Level Specifications, Performance Monitoring Programme, Payment Mechanism, Tender Requirements and form of contracts set out in the Market Testing Proposal shall be used for the Market Testing.
- 6. **Selection of Tenderers**
- 6.1 Project Co shall be responsible for compiling the list of Prospective Tenderers.
- 6.2 Project Co shall be responsible for selecting the Tenderers from the list of Prospective Tenderers on the basis of the following criteria:
 - 6.2.1 the financial standing of the Prospective Tenderers; and
 - 6.2.2 the technical, managerial and other relevant experience and ability of the Prospective Tenderers (taking into account any relevant customer references).
- 6.3 The Board shall have a right to object to the selection of any person as a Prospective Tenderer if such person does not (or could not reasonably be considered to) comply with any of the criteria referred to in paragraph 6.2 (*Selection of Tenderers*) above.
- 6.4 To avoid doubt, an Excluded Person shall not be disqualified from selection as a Tenderer merely by virtue of the existence of the contractual relationship reflected in the Project Documents, subject to:
 - 6.4.1 compliance with all Laws; and
 - 6.4.2 the establishment of, and compliance with, arrangements reasonably satisfactory to the Board to avoid any conflict of interest or unfair

advantage. Failure by Project Co to comply or procure compliance with any such arrangements shall automatically lead to the disqualification of the Excluded Person and the provisions of paragraph 12 (*Indemnities*) shall apply.

- 6.5 The Board shall, in its absolute discretion, have the right to veto the selection of any person as a Tenderer on the grounds that the Prospective Tenderer has committed a Prohibited Act.
- 6.6 Project Co shall (after consultation with the Board) procure that any Prospective Tenderer which is unsuccessful in being selected as a Tenderer is provided with an appropriate explanation of the reasons behind its non-selection, if so requested by the person in question.
- 6.7 Where, in respect of any Market Tested Service or group of Market Tested Services or any part of any Market Tested Service, there is only one Prospective Tenderer (or Project Co intends to select only one of the Prospective Tenderers as Tenderer or believes that only one Compliant Tender is likely to be submitted, or is in fact submitted) the Board shall (in its discretion) direct Project Co to either:
- 6.7.1 proceed with the Market Testing of the same in accordance with this Part 17 of the Schedule (*Benchmarking and Market Testing Procedure*), including to conduct negotiations with the sole Prospective Tenderer; or
- 6.7.2 not proceed with the Market Testing of the same and to have further discussions with the Board in accordance with paragraph 1.1.5 of the Benchmarking Exercise.
- 6.8 Where the Board directs Project Co to proceed in accordance paragraph 6.7.2 any dispute between the parties (including in respect of appropriate changes to the Annual Service Payment and/or changes to the Service Level Specifications and/or Method Statements) shall be referred by either party for resolution in accordance with Part 26 of the Schedule (*Dispute Resolution Procedure*).

7. Tendering Process

- 7.1 Project Co shall be responsible for managing and co-ordinating the Market Testing in an efficient and fair manner in accordance with the Market Testing Proposal (and in particular, but without limitation, the Tender Requirements) and shall procure that only Tenderers selected in accordance with this Part 17 of the Schedule (*Benchmarking and Market Testing Procedure*) are invited to submit tenders. Project Co shall ensure that the principle of equality of information to, and treatment of, Tenderers shall apply at all times.

7.2 Project Co shall be responsible for sending all necessary documents and information to Tenderers (including, without limitation, the Tender Requirements) in a timely manner.

7.3 Tenders must be assessed for compliance with the Tender Requirements.

7.4 Project Co shall bear all costs, fees and expenses associated with Market Testing.

8. Preferred Tenderers

8.1 Following expiry of the Tender Validity Period, Project Co shall (subject to the provisions of this paragraph) determine which Tenderer (the "Preferred Tenderer") offers the Compliant Tender in respect of any Market Tested Service, group of Market Tested Services or individual part of any Market Tested Service, that represents (as the case may be) the best value for money for the Board. Without affecting the generality of the foregoing, Project Co shall, when evaluating the submissions of Tenderers, ensure that the existing Service Provider is not given an unfair competitive advantage because it does not have to make provision for Bulk Transfers.

8.2 Immediately upon making the determination referred to in paragraph 8.1 (*Preferred Tenderers*), Project Co shall supply to the Board a copy of the tender evaluation, together with sufficient supporting information concerning the tender evaluation to enable the Board to analyse and understand the basis for the determination reached in that tender evaluation.

8.3 If the Board does not agree with Project Co's determination in the case of any Compliant Tender, the Board may, within fifteen (15) Business Days of being provided with the tender evaluation pursuant to paragraph 8.2 (*Preferred Tenderers*) above, dispute such determination and, if the parties do not resolve such dispute within a further fifteen (15) Business Days, the dispute shall be referred for resolution in accordance with Part 26 of the Schedule (*Dispute Resolution Procedure*).

9. Appointment

9.1 Project Co shall procure that all Preferred Tenderers (as agreed or determined in accordance with paragraph 8 (*Preferred Tenderers*) above) are appointed to provide or are allowed to continue to provide (as the case may be) the relevant Market Tested Service or group of Market Tested Services or individual parts of any Market Tested Service (as the case may be) on the basis set out in their Compliant Tender.

9.2 Where Project Co believes that only one Compliant Tender is likely to be submitted, or where only one Compliant Tender is in fact submitted, paragraph 6.7 above shall apply.

- 9.3 Project Co shall (after consultation with the Board) procure that any Tenderer which is unsuccessful in being selected as a Preferred Tenderer is provided with an appropriate explanation of the reasons behind its non-selection, if so requested by the party in question.

10. Annual Service Payment Adjustments

- 10.1 On the appointment of any Preferred Tenderer, the Annual Service Payment shall be altered in accordance with Part 18 of the Schedule (*Payment Mechanism*).
- 10.2 Any alteration to the Annual Service Payment shall take effect from the Market Testing Date to which the Market Testing related or (if later) the date on which the Preferred Tenderer begins to perform the relevant Market Tested Services.

11. Information Requirements

Without prejudice to any of Project Co's general obligations under this Agreement, including without limitation pursuant to Clause 38 (*Information and Audit Access*), Part 25 of the Schedule (*Record Provisions*) and the other provisions of this Part 17 of the Schedule (*Benchmarking and Market Testing Procedure*), Project Co shall:

- 11.1 maintain a full record and audit trail of each Market Testing and make all such records (including details of all tenders received) available for inspection by the Board and its authorised representatives (including, without limitation, the National Audit Office) on reasonable notice from the Board;
- 11.2 provide to the Board, in a comprehensive and accurate manner, all information necessary to enable the Board to review and assess all matters relating to the Market Testing;
- 11.3 certify to the Board within twenty (20) Business Days of expiry of the Tender Validity Period that:
- 11.3.1 no Excluded Person intends to or will obtain any direct or indirect financial or other benefit from such appointment (other than the benefit of the contract itself);
- 11.3.2 no Excluded Person has colluded in connection with the Market Testing; and
- 11.3.3 there has been full compliance with all requirements relating to ensuring equality of information provided to, and treatment of, Tenderers.

12. Indemnities

Project Co shall indemnify and keep the Board fully indemnified at all times for and against all claims, demands or notices which may be brought or alleged or

threatened against the Board and from and against all Direct Losses or fines which the Board may suffer or incur in relation to any such claims, demands or notices which occur as a result of or in connection with:

- 12.1 the implementation of this Part 17 of the Schedule (*Benchmarking and Market Testing Procedure*);
- 12.2 any breach of the provisions of this Part 17 of the Schedule (*Benchmarking and Market Testing Procedure*); and
- 12.3 any claim made by any person (including any Prospective Tenderer, Tenderer or Preferred Tenderer) that is not awarded a contract,

save to the extent that any such breach or claim results from any failure of the Board to comply with the express provisions of this Part 17 of the Schedule (*Benchmarking and Market Testing Procedure*).

13. Irregularity in Award of Contracts

Acceptance by Project Co

- 13.1 Where Project Co is required by this Agreement to carry out Market Testing, for the purposes of Clause 54 (*Corrupt Gifts and Payments*) it shall be an additional Prohibited Act for Project Co or any Associated Entity (or anyone acting on its behalf) to:

- 13.1.1 accept or agree to accept any gift or consideration of any kind as an inducement or reward:

- (a) for doing or not doing (or for having done or not having done) any act in relation to the obtaining or performance of any sub-contract to the Agreement; or
 - (b) for showing or not showing favour or disfavour to any person in relation to any sub-contract to the Agreement; or

- 13.1.2 enter into any sub-contract relating to the Agreement in connection with which commission has been paid or has been agreed to be paid unless, before the sub-contract is made, particulars of any such commission and of the terms and conditions of any such agreement for the payment of such commission have been disclosed in writing to the Board and the Board has consented to the same (in its absolute discretion),

and the provisions of Clause 54 (*Corrupt Gifts and Payments*) (changed according to context) shall apply and be construed accordingly.

Offer by Tenderer

13.2 Where Project Co is required by this Agreement to carry out Market Testing and any Prospective Tenderer or Tenderer (or anyone acting on its or their behalf or any of its or their directors, officers or employees) offers or agrees to give to Project Co or any Associated Entity any gift or consideration of any kind as inducement or reward:

13.2.1 for doing or not doing (or for having done or not having done) any act in relation to the obtaining or performance of any sub-contract to the Agreement; or

13.2.2 for showing or not showing favour or disfavour to any person in relation to any sub-contract to the Agreement,

the Board may (without prejudice to any of its other rights) by notice to Project Co require Project Co to procure, as soon as practicable, the termination of that person's involvement in the Market Testing or, if discovered after the award of the relevant contract, the termination of the relevant sub-contract (and the provisions of Clause 54 (*Corrupt Gifts and Payments*) shall apply and be construed accordingly).

13.3 Project Co shall notify the Board of the occurrence (and details) of any Prohibited Act promptly on Project Co becoming aware of its occurrence.

14. Market Testing of Service Contracts and Sub-Contracts

14.1 The Board in considering exercising its option under Clause 44.6 (*Replacement of non-performing Sub-Contractor*) (in circumstances where Clause 44.6(b) (*Replacement of non-performing Sub-Contractor*) applies) will require Project Co to carry out or procure the carrying out of a Market Testing of the relevant Service Contract or relevant Sub-Contract in line with this Part 17 of the Schedule (*Benchmarking and Market Testing Procedure*) save that the Annual Service Payment shall not be adjusted following such Market Testing. Project Co shall be entitled to reflect the provisions of paragraph 14.2 (*Market Testing of Service Contracts and Sub-Contracts*) in any Sub-Contract it enters into pursuant to this paragraph.

14.2 If, following the Market Testing carried out pursuant to paragraph 14.1 (*Market Testing of Service Contracts and Sub-Contracts*) above, Project Co can demonstrate to the Board's reasonable satisfaction that the circumstances contemplated in Clause 44.6(b) (*Replacement of non-performing Sub-Contractor*) are reasonably likely to recur (notwithstanding the exercise of Good Industry Practice and the good financial standing of the new service provider), the parties shall negotiate in good faith such amendments to the Performance Monitoring Programme in respect of the relevant Service so as to make it fair and reasonable and to the extent that any such amendments reduce the risk profile in respect of that Service the Board shall be entitled to a corresponding

price reduction in respect of that reduced risk profile. In the absence of agreement on amendments to the Performance Monitoring Programme and any corresponding price reduction the matter may be referred by either party for resolution in accordance with Part 26 of the Schedule (*Dispute Resolution Procedure*).

14.3 If, following a Market Testing pursuant to paragraph 14.1 (*Market Testing of Service Contracts and Sub-Contracts*) above and provided that any Service Failure Points accrued by Project Co under this Agreement which solely relate to those Services which are being provided by the replacement Sub-Contractor are cancelled, Project Co exceeds the relevant Service Failure Point threshold in respect of the same Service after the Market Testing the Board shall be entitled:

14.3.1 in respect of any Market Tested Service, to require Project Co to terminate the relevant Sub-Contract and if Project Co fails to do so within sixty (60) Business Days of being requested to do so, to terminate this Agreement; or

14.3.2 in respect of any Service that is not a Market Tested Service, to take such steps as it considers to be appropriate (either itself or by engaging others to take such steps) to ensure performance of the relevant Service to the standards required by this Agreement (or as close as possible to those standards as the circumstances permit and, in any event, in accordance with Good Industry Practice) until such time as Project Co shall have demonstrated to the reasonable satisfaction of the Board that it will perform (and is capable of performing) its obligations in respect of the relevant Service to the required standard.

14.4 Project Co shall reimburse the Board for all reasonable costs, losses, expenses or damages incurred by it in relation to taking the steps or engaging others to take the steps referred to in paragraph 14.3.2 of this Part 17 of the Schedule (*Benchmarking and Market Testing Procedure*) and the Board shall be entitled to deduct any such amount from any amount payable to Project Co under the provisions of this Agreement.

PART 18 OF THE SCHEDULE: PAYMENT MECHANISM

Section A: Interpretation

For the purposes of this Part 18 of the Schedule (*Payment Mechanism*), unless the context otherwise requires:

| | |
|-------------------------------|---|
| "Accessibility Condition" | means a state or condition of the relevant Functional Part or the means of access to it which allows all persons who are entitled to enter, occupy or use the relevant Functional Part to enter and leave the Functional Part safely and conveniently in a manner that is reasonable having regard to the Prescribed Health Function and the Prescribed Operational Function; |
| "Additional Period" | has the meaning set out in paragraph 6.5 (<i>Rectification</i>) of Section C of this Part 18 of the Schedule (<i>Payment Mechanism</i>); |
| "Ad-Hoc Payment" | means the sum in pounds sterling payable by the Board to Project Co for the provision of the Ad-Hoc Services in accordance with this Agreement; |
| "Ad-Hoc Services" | means Services which, in accordance with Part 14 of the Schedule (<i>Service Requirements</i>) the Board is entitled to require Project Co to provide but where Project Co's obligation to provide those Services does not arise unless and until it is requested to do so by the Board. Project Co shall be entitled to payment for Ad-Hoc Services which shall be invoiced in accordance with Clause 35.2(a) (<i>Invoicing and payment arrangements</i>), separately from and in addition to the Monthly Service Payment; |
| "Ad-Hoc Services Request" | means a request for the provision of Ad-Hoc Services made by the Board to Project Co in accordance with Part 14 of the Schedule (<i>Service Requirements</i>); |
| "Adjusted Energy Consumption" | means Energy Consumption in the relevant Energy Year as adjusted to reflect the difference between the number of Degree Days applicable to that Energy Year and the number of Degree Days in the 20 Year Average; |

| | |
|-----------------------------|--|
| "Allocated Allowances" | means, in relation to the Installation(s) at the Hospital Facilities in any Scheme Year, the Allowances for emissions within the meaning of Schedule 1 Part 1 of the GGETS Regulations and Article 3 of the Directive and as set out in Appendix G, allocated to the Designated Operator (and in respect of any period shorter than a Scheme Year the Allowances for emissions shall be allocated pro rata); |
| "Allowance" | has the meaning set out in the GGETS Regulations; |
| "Allowances Variance" | has the meaning given to that term in paragraph 4.1 of Section H of this Part 18 of the Schedule (<i>Payment Mechanism</i>); |
| "Annual Energy Target" | means the total amount of Energy which (depending on the number of Degree Days occurring) it is expected will be used at the Hospital Facilities in each Energy Year, calculated in accordance with paragraph 2.7 (<i>Calculation of Annual Energy Target</i>) of Section F of this Part 18 of the Schedule (<i>Payment Mechanism</i>), as adjusted in accordance with paragraph 3 (<i>Adjustments to the Annual Energy Target</i>) of Section F of this Part 18 of the Schedule (<i>Payment Mechanism</i>); |
| "Annual Review Date" | means the first and every subsequent anniversary of the end of the Initial Period; |
| "Annual Service Payment" | means the sum in pounds sterling calculated in accordance with the provisions set out in Section B paragraph 2 (<i>Annual Service Payment</i>) of this Part 18 of the Schedule (<i>Payment Mechanism</i>); |
| "Area Weighting Percentage" | means the percentage weighting ascribed to the relevant Functional Area for the purpose of calculating Deductions for Unavailability Events as set out in Table 1 in Appendix C to this Part 18 of the Schedule (<i>Payment Mechanism</i>); |
| "Availability Condition" | means in respect of each Phase: <ul style="list-style-type: none"> (a) from the Phase Actual Completion Date until the Commissioning End Date of each Phase, (i) the Safety Condition, (ii) the |

Accessibility Condition and (iii) the Use Condition (provided that the Accessibility Condition and Use Condition will be limited to that reasonably required to allow the Board to enter, leave and use the relevant Functional Part safely and conveniently for the purposes of carrying out its activities under the Outline Commissioning Programme); or

- (b) from the Commissioning End Date for each Phase any of (i) the Accessibility Condition, (ii) the Safety Condition, (iii) the Use Condition and (iv) the Prescribed Health Function Condition or, as appropriate, the Prescribed Operational Function Condition;

“Average Annual Unit Cost”

means the average cost to Project Co of each Unit of Energy purchased by Project Co during the relevant Energy Year, calculated by taking the average of the Average Unit Costs of Energy for each Contract Month in the Energy Year allowing for the pro rata effect of Contract Months falling partially within the relevant Energy Year;

“Average Unit Cost”

means the average cost to Project Co of each Unit of Energy purchased by Project Co during the relevant Contract Month, calculated in accordance with Section F paragraph 4.10 (*Comparing Actual Consumption of Energy with Target*) of this Part 18 of the Schedule (*Payment Mechanism*), as may be amended in accordance with Section F paragraph 5.2 (*Usage of Different Types of Energy*) of this Part 18 of the Schedule (*Payment Mechanism*);

“Base Date”

means 1 April 2006;

“Baseload”

has the meaning set out in paragraph 2.5 (*Calculation of Annual Energy Target*) of Section F of this Part 18 of the Schedule (*Payment Mechanism*);

“Baseload and Slope Review Date”

means a date on which the Baseload and Slope are to be reviewed pursuant to Section F paragraph 3.4 (*Adjustments to the Annual Energy Target*) of this Part 18 of the Schedule (*Payment*

Mechanism), being the date which is the fifth anniversary of the expiry of the Initial Period and every fifth anniversary thereafter until the Expiry Date or the Termination Date, as the case may be. There shall be a further Baseload and Slope Review Date on the expiry of any period of monitoring of Energy Consumption carried out pursuant to Clauses 17.3 (*Thermal and energy efficiency*) and 17.4 (*Thermal and energy efficiency*) of this Agreement, if, in accordance with Clauses 17.3 (*Thermal and energy efficiency*) and 17.4 (*Thermal and energy efficiency*), such monitoring continues after the expiry of the Initial Period;

| | |
|---|---|
| "Baseload and Slope Review Period" | has the meaning given to it in the paragraph 3.2 of Section F of this Part 18 of Schedule (<i>Payment Mechanism</i>); |
| "Bedding-In" | means a tolerance level for the making of Deductions allowed for a period of time following, as the case may be, a New Service Provider Start Date, the Actual Completion Date or a Phase Actual Completion Date, as more particularly described in Section C paragraph 2 (<i>Bedding-in Periods</i>) of this Part 18 of the Schedule (<i>Payment Mechanism</i>); |
| "Catering Service" | has the meaning given to in Sub-Section B of Section 1 of Part 14 of the Schedule (<i>Service Requirements</i>); |
| "Catering Service Specific Specification" | has the meaning given to it in Sub-Section B of Section 1 of Part 14 of the Schedule (<i>Service Requirements</i>); |
| "CIBSE" | means the Chartered Institute of Building Services Engineers; |
| "Completion Bedding-In Period" | means, in respect of each Phase, the period commencing on each Phase Actual Completion Date and expiring six months following the Commissioning End Date for that Phase; |
| "Contract Month" | means a calendar month, provided that: <ul style="list-style-type: none"> (a) the first Contract Month shall be the period from and including Payment |

| | |
|-------------------------------|--|
| | Commencement Date 1 to and including the last day of the calendar month in which Payment Commencement Date 1 falls; and |
| | (b) the last Contract Month shall be the period from and including the first day of the calendar month in which the Expiry Date or the Termination Date (as the case may be) falls to and including the Expiry Date or the Termination Date (as the case may be); |
| "Deduction" | means a deduction made from a Monthly Service Payment in accordance with this Part 18 of the Schedule (<i>Payment Mechanism</i>); |
| "Degree Days" | means, in respect of each Contract Month, the figure, in respect of the West of Scotland (Area 13), published by NHS Estates in its degree days data set; |
| "Designated Operator" | means whichever of Project Co or any Project Co Party is the Operator and Greenhouse Gas Emissions Permit holder for the Installation(s) at the Site pursuant to the GGETS Regulations; |
| "Directive" | means, for the purposes of Section H of this Part 18 of the Schedule (<i>Payment Mechanism</i>), Directive 2003/87/EC of 13 October 2003 for establishing a scheme for greenhouse gas emission Allowances trading within the European Union and amending Directive 96/61/EC; |
| "Emissions Baseload" | means the emissions that can reasonably be expected to be generated by activities regulated by the GGETS Regulations for the Site and which is initially as set out in Appendix G to this Part 18 of the Schedule (<i>Payment Mechanism</i>), and thereafter as the same may be adjusted pursuant to paragraph 3 of Section H; |
| "Emissions Saving Adjustment" | has the meaning set out in paragraph 6.2 (<i>Emissions Savings and Excess Emissions</i>) of Section H of this Part 18 of the Schedule (<i>Payment Mechanism</i>); |

| | |
|-------------------------------|---|
| "Emissions Threshold" | means the higher of the Allocated Allowances and the Emissions Baseload; |
| "Energy" | means electricity, gas, oil, coal and any other fossil-based fuel, but does not include water; |
| "Energy Consumption" | means the number of Units of Energy actually consumed at the Hospital Facilities during the relevant period; |
| "Energy Year" | means a period of 12 months beginning on the day after the expiry of the Initial Period and ending on the first Annual Review Date and each subsequent period of 12 months beginning on the day after an Annual Review Date; |
| "Event" | means an incident or state of affairs affecting a Functional Part which does not meet or comply with the Service Requirements set out in Part 14 of the Schedule (<i>Service Requirements</i>) and which Project Co is responsible for Rectifying in accordance with Part 14 of the Schedule (<i>Service Requirements</i>) and/or does not satisfy the Availability Condition; subject to the provisions of this Agreement an Event is capable of becoming an Unavailability Event, or a Performance Failure, as appropriate, if it is not Rectified within the Rectification Time; |
| "Excess Emissions Adjustment" | has the meaning set out in paragraph 6.3 (<i>Emissions Savings and Excess Emissions</i>) of Section H of this Part 18 of the Schedule (<i>Payment Mechanism</i>); |
| "Functional Area" | means an area of the Facilities specified as such in Appendix C to this Part 18 of the Schedule (<i>Payment Mechanism</i>) comprising two or more Functional Units; |
| "Functional Part" | means a Functional Unit or a Functional Area according to the context in which it is used; |
| "Functional Unit" | means a room, a number of rooms or space within a Functional Area which is specified as such in Appendix C to this Part 18 of the Schedule (<i>Payment Mechanism</i>); |

| | |
|------------------------------------|---|
| "Gainshare Adjustment" | has the meaning set out in Section F paragraph 4 (<i>Comparing Actual Consumption of Energy with Target</i>) of this Part 18 of the Schedule (<i>Payment Mechanism</i>); |
| "GGETS Regulations" | means the Greenhouse Gas Emissions Trading Scheme Regulations 2005 (SI 2005 No. 925); |
| "Gigajoules" | means the international unit of energy being 1 Joule multiplied by a factor of 10 to the power 9; |
| "Greenhouse Gas Emissions Permit" | has the meaning set out in the GGETS Regulations; |
| "Helpdesk" | means the contact point to be established by Project Co pursuant to Part 14 of the Schedule (<i>Service Requirements</i>) in respect of the Helpdesk Service for the notification of Ad-Hoc Service Requests, the occurrence of Events and other day to day matters arising in relation to the provision of Services; |
| "Hospital Facilities" | means the Hospital, buildings and other facilities, together with all supporting infrastructure (including plant and equipment) and amenities located on the Site, as required to enable Project Co to comply with its obligations under this Agreement, all as the same may be varied or supplemented from time to time; |
| "Indexation Base Month" | means February 2006; |
| "Initial Period" | means the period of two years beginning on the first day of the first full Contract Month following the Commissioning End Date for Phase 3; |
| "Installation" | has the meaning set out in the GGETS Regulations; |
| "Joint Utilities Management Group" | means the group referred to at number 13 of paragraph 5 (<i>Service Requirements</i>) of Sub-Section C of Section 1 of Part 14 of the Schedule (<i>Service Requirements</i>) in the Utilities Service Specific Specification; |
| "Logged Event Time" | means the time (shown on the Helpdesk records) at which an Event was notified to the Helpdesk or, if a failure affecting the Helpdesk occurs which |

| | |
|--|--|
| | prevents such a record from being accurately produced, such time as the parties (acting reasonably) agree as the time at which the relevant Event was notified; |
| "Major Performance Failure" | means a Performance Failure which has been designated in the Service Level Specifications or in this Part 18 of the Schedule (<i>Payment Mechanism</i>) as a Major Performance Failure; |
| "Medium Performance Failure" | means a Performance Failure which has been designated in the Service Level Specifications or in this Part 18 of the Schedule (<i>Payment Mechanism</i>) as a Medium Performance Failure; |
| "Methodology" | means the principles and methodologies contained within the GGETS Regulations and the EU Emissions Trading Scheme Guidance Note 1 dated 30 January 2004 and Note 2 dated 14 May 2004 as published by the Department for the Environment, Food and Rural Affairs in relation to the calculation of the Specified Emissions, together with any guidance supplementing or replacing those Guidance Notes that may be published from time to time; |
| "Minimum Agreed Availability Conditions" | means the Accessibility Condition, the Safety Condition and either the Prescribed Health Function Condition or Prescribed Operational Function Condition (as the case may be) together with the Use Condition, as temporarily modified with the approval of the Board for the purposes of a Temporary Repair such approval not to be unreasonably withheld or delayed; |
| "Minimum Unavailability Deduction" | means the minimum deduction that will be made per Functional Unit on the occurrence of an Unavailability Event and shall be £50 (index linked) or £25 (index linked) where the relevant Functional Part is Unavailable but the Board continues to use it or any room or space within it; |
| "Minor Performance Failure" | means a Performance Failure which has been designated in the Service Level Specifications or in this Part 18 of the Schedule (<i>Payment Mechanism</i>) as a Minor Performance Failure; |

| | |
|-----------------------------------|--|
| "Monthly Service Payment" | means the sum in pounds sterling payable by the Board to Project Co in respect of each Contract Month for the provision of the Services in accordance with this Agreement, as calculated in accordance with paragraph 1.1 (<i>Monthly Service Payment</i>) of Section B of this Part 18 of the Schedule (<i>Payment Mechanism</i>); |
| "New Entrant Reserve" | has the meaning set out in the GGETS Regulations; |
| "New Provider Bedding-In Period" | has the meaning set out in paragraph 2.1 (<i>Bedding-in Periods</i>) of Section C of this Part 18 of the Schedule; |
| "New Service Provider Start Date" | <p>means in respect of each Service the Relevant Service Transfer Date (as defined in Clause 30.1 (<i>Employee Transfer</i>) of this Agreement) and, where a Service Provider or Sub-Contractor is replaced by a new Service Provider or Sub-Contractor, either:</p> <ul style="list-style-type: none"> (a) (in the case of replacement following a Market Testing) the date established in accordance with paragraph 10.2 (<i>Service Payment Adjustments</i>) of Part 17 of the Schedule (<i>Benchmarking and Market Testing</i>); or (b) in other cases, the date on which the Services commence to be provided by the replacement Service Provider or Sub-Contractor or, if earlier, the date on which they were first due to be provided by the replacement Service Provider or Sub-Contractor; |
| "Non-Clinical Waste" | has the meaning given in Sub-Section B of Section 1 of Part 14 of the Schedule (<i>Service Requirements</i>); |
| "Operator" | has the meaning set out in the GGETS Regulations; |
| "Painshare Adjustment" | has the meaning set out in Section F paragraph 4 (<i>Comparing Actual Consumption of Energy with Target</i>) of this Part 18 of the Schedule (<i>Payment</i> |

Mechanism);

“Pass Through Costs”

means a cost payable to Project Co, pursuant to paragraphs 9 (*Utility Charges*) and 10 (*Rates*) of Section F of this Part 18 of the Schedule (*Payment Mechanism*) as part of any Monthly Service Payment on the basis of costs reasonably incurred by Project Co and supported by an appropriate invoice from Project Co’s supplier;

“Performance Failure”

means any failure by Project Co to provide the Services in accordance with the Service Requirements and which, where a Rectification Time applies, has not been rectified within the relevant Rectification Time,

- (a) except for an Unavailability Event; and
- (b) provided that in determining whether a Performance Failure has occurred:
 - (i) if Service Requirements are duplicated in the various Service Level Specifications in Section 1 of Part 14 of the Schedule (*Service Requirements*) and Project Co fails to meet such Performance Parameters, only one Performance Failure will be incurred in respect of such failure to provide Services in accordance with the Service Requirements. In such cases of duplicated Service Requirements, Project Co and the Board shall endeavour to agree prior to the Commissioning End Date for Phase 1 (acting in good faith) which Performance Parameter should incur the Performance Failure so that there is no double counting of Performance Failures in respect of one failure to provide the Services in accordance with the Service Requirements. The Helpdesk

| | |
|---------------------------------|---|
| | shall be responsible for implementing such agreement; |
| | (ii) in respect of any Performance Parameter, no more than one Performance Failure can occur in the relevant Performance Monitoring Period (for example where the Performance Monitoring Period is Daily (D) Project Co can only incur a maximum of one Performance Failure a day); |
| "Performance Failure Deduction" | means a Deduction which may be made in respect of a Performance Failure; |
| "Performance Monitoring Period" | means the period of time specified as such in Section 1 of Part 14 of the Schedule (<i>Service Requirements</i>) in respect of a Service or a part of a Service being a period by reference to which Project Co has an obligation to monitor its performance of a Service; |
| "Performance Monitoring Report" | has the meaning set out in Sub-Section B of Section 1 of Part 14 of the Schedule (<i>Service Requirements</i>); |
| "Performance Parameter" | has the meaning given to it in Section 1 of Sub-Section B of Part 14 of the Schedule (<i>Service Requirements</i>); |
| "Permanent Repair" | means Rectification following the agreement of a Temporary Repair; |
| "Permanent Repair Deadline" | has the meaning given to it in paragraph 9.1.2 of Section C of this Part 18 of the Schedule (<i>Payment Mechanism</i>); |
| "Phase Percentage" | means: <ul style="list-style-type: none"> (a) 65% from Payment Commencement Date 1 to the day prior to Payment Commencement Date 2; (b) 80% from Payment Commencement Date 2 to the day prior to Payment |

Commencement Date 3; and

(c) 100% from Payment Commencement Date 3

and in any Contract Month in which a Payment Commencement Date falls a pro rata adjustment shall be made to reflect the actual number of days in the relevant Contract Month for which each Phase Percentage is applicable;

“Prescribed Health Function”

means the clinical use or purpose of the relevant Functional Part (if any), as identified in the Room Data Sheets;

“Prescribed Health Function Condition”

means a state or condition of the relevant Functional Part which allows the Prescribed Health Function for that Functional Part to be carried on and performed in accordance with any Law and generally accepted clinical practices for such Prescribed Health Function and having regard to the practicalities of carrying on and performing such Prescribed Health Function;

“Prescribed Operational Function”

means the use or purpose of the relevant Functional Part where it does not have a Prescribed Health Function, as identified in the Room Data Sheets;

“Prescribed Operational Function Condition”

means a state or condition of the relevant Functional Part which allows the Prescribed Operational Function for that Functional Part to be carried on and performed having regard to the practicalities of carrying on and performing such Prescribed Operational Function;

“Re-commissioning”

means any testing, including but not limited to the setting of cultures, required to demonstrate that a Functional Part listed in Appendix E to this Part 18 of the Schedule (*Payment Mechanism*) meets the Availability Condition;

“Rectification”

means, following the occurrence of an Event, making good the Event so that the subject matter of the Event complies with the levels of Service required pursuant to this Agreement, and without prejudice to the generality of the foregoing this

shall include:

- (a) restoring all functional capability; and
- (b) ensuring that any Functional Part which has been affected by the relevant Event complies with the Availability Conditions

and "Rectify" shall be construed accordingly;

"Rectification Confirmation Notice" means a formal written notice from Project Co to the Board Representative confirming the date and time that Rectification has been completed with respect to the relevant Event;

"Rectification Time" means the period (which shall commence from the Logged Event Time) specified for Rectification of an Event in Section 1 of Part 14 of the Schedule (*Service Requirements*) provided that if the Board denies Project Co or a Project Co Party access to the relevant Functional Part and in so doing prevents Rectification of that Event, the Rectification Time shall be extended for a period of time equal to the period of time for which Project Co or the relevant Project Co Party is so denied access. For the avoidance of doubt, if no period for rectification is specified in Section 1 of Part 14 of the Schedule (*Service Requirements*) in respect of the relevant Service requirement, no Rectification Time applies;

"Remedial Period" has the meaning set out in paragraph 8.1.2 (*Performance Failures with no Rectification Time*) of Section C of this Part 18 of the Schedule (*Payment Mechanism*);

"Return Date" means for the purpose of Temporary Alternative Accommodation the date agreed for the return to the original Functional Part in accordance with paragraph 12.3.4 (*Temporary Alternative Accommodation*) of Section C of this Part 18 of the Schedule (*Payment Mechanism*);

"Safety Condition" means a state or condition of the relevant Functional Part which allows those persons who it can reasonably be expected may from time to time require to enter, leave, occupy and use such Functional Part to do so safely including but not

| | |
|---------------------------------------|---|
| | limited to compliance with the Health and Safety Regime and any other Law or NHS Requirement relating to fire safety or health and safety at work; |
| "Scheme Year" | has the meaning set out in the GGETS Regulations; |
| "Service Failure Points" | means points allocated to Project Co and to individual Service Providers in respect of the occurrence of Unavailability Events and Performance Failures which are determined by the provisions set out in Section G of and Appendix A to this Part 18 of the Schedule (<i>Payment Mechanism</i>); |
| "Service Requirements" | has the meaning given to it in Sub-Section B of Section 1 of Part 14 of the Schedule (<i>Service Requirements</i>); |
| "Session" | means an eight hour period running from 06:00 to 13:59, or from 14:00 to 21:59 or from 22:00 to 05:59; |
| "Slope" | has the meaning given to it in paragraph 2.6 of Section F of this Part 18 of the Schedule (<i>Payment Mechanism</i>); |
| "Specified Emissions" | has the meaning set out in the GGETS Regulations; |
| "Temporary Alternative Accommodation" | means accommodation offered to the Board by Project Co as a substitute for any Unavailable Functional Part pursuant to paragraph 12 (<i>Temporary Alternative Accommodation</i>) of Section C of this Part 18 of the Schedule (<i>Payment Mechanism</i>); |
| "Temporary Repair" | means, in respect of the occurrence of an Event, works of a temporary nature that do not constitute Rectification but satisfy the Minimum Agreed Availability Conditions and substantially make good the relevant Event for the period until a Permanent Repair can be undertaken; |
| "Total Volume Adjustment" | means the figure expressed in pounds sterling (whether positive or negative) which shall be calculated in accordance with the provisions set out in paragraph 1 (<i>Volume Adjustment</i>) of |

| | |
|--|---|
| | Section F of this Part 18 of the Schedule (<i>Payment Mechanism</i>); |
| "Unavailable" and "Unavailability" | means in relation to a Functional Part that such Functional Part or any room or space within it is in a state or condition which does not comply with any one or more of the Availability Conditions; |
| "Unavailability Event" | means an Event which has not been Rectified within the relevant Rectification Time and which causes a Functional Part to be Unavailable; |
| "Unit" | means, in relation to Energy, one Gigajoule; |
| "Unit Weighting Percentage" | means the percentage weighting ascribed to each Functional Unit for the purpose of calculating Deductions for Unavailability Events as set out in Table 2 in Appendix C to this Part 18 of the Schedule (<i>Payment Mechanism</i>); |
| "Use Condition" | means a state or condition of the relevant Functional Part which satisfies the Use Parameters for that Functional Part; |
| "Use Parameters" | means the range of functional requirements for the proper use and enjoyment of a Functional Part for its particular purpose relating to (i) temperature; (ii) humidity; (iii) air-flow; (iv) lighting; (v) power (essential and non-essential); (vi) safe water (relating to availability, temperature, quality and safe sewerage system); (vii) nurse call system; (viii) medical and other equipment; (ix) medical gases; (x) data sockets and (xi) voice sockets as the same are specified on the Room Data Sheets for the relevant Functional Part as set out in Section 6 of Part 8 of the Schedule (<i>Construction Matters</i>), or as are agreed or determined following the Effective Date in accordance with Part 10 of the Schedule (<i>Review Procedure</i>); |
| "Utilities Service Specific Specification" | has the meaning given to it in Sub-Section B of Section 1 of Part 14 of the Schedule (<i>Service Requirements</i>); |
| "Utility Cost Adjustment" | has the meaning set out in paragraph 7.1 of Section F of this Part 18 of the Schedule (<i>Payment</i> |

Mechanism);

| | |
|--|--|
| "Utility Contract Date" | means the date, for any utility for which Project Co has supply responsibility according to paragraph 8 (<i>Utility Procurement</i>) of Section F of this Part 18 of the Schedule (<i>Payment Mechanism</i>), on which there must be a supply contract in place which would remain in place after the Phase 1 Actual Completion Date, and the date of any subsequent renewal of each utility contract; |
| "Verified Emissions" | means the aggregate emissions of the Installation(s) at the Site measured annually (or by references to such other period as may be required by the GGETS Regulations) and which have been verified for the purposes of the Greenhouse Gas Emissions Permit in accordance with the GGETS Regulations; |
| "Volume Adjusted Service Payment" | means the amount that would be calculated for the relevant Contract Month in accordance with the formula set out in paragraph 1.1 (<i>Monthly Service Payment</i>) of Section B of this Part 18 of the Schedule (<i>Payment Mechanism</i>) with the sums represented by the elements ΣD , PTC, UCA, ESA, EEA, GS, PS, IE and IEB being set to zero (0); |
| "Waste Service" | has the meaning given to it in Sub-Section B of Section 1 of Part 14 of the Schedule (<i>Service Requirements</i>); |
| "Waste Service Specific Specification" | has the meaning given to it in Sub-Section B of Section 1 of Part 14 of the Schedule (<i>Service Requirements</i>); and |
| "20 Year Average" | means, at the relevant date, the most recently available figure published by NHS Estate showing the number of Degree Days per annum in West Scotland (Area 13) calculated as an average over the immediately preceding 20 years. |

PART 18 OF THE SCHEDULE: PAYMENT MECHANISM

Section B: Calculation of Service Payments

1. MONTHLY SERVICE PAYMENT

- 1.1 The Monthly Service Payment payable in respect of any Contract Month shall be calculated in accordance with the following formula:

$$MSP_n = \left(\frac{ASP_n}{12} \times PP \right) + TVA - \sum D + PTC + UCA - GS + PS - ESA + EEA + IE + IEB$$

where:

- 1.1.1 MSP_n is the Monthly Service Payment for the Contract Month n for which the formula is to be applied;
- 1.1.2 ASP_n is the Annual Service Payment for the relevant Contract Year;
- 1.1.3 PP is the Phase Percentage for the relevant Contract Month;
- 1.1.4 TVA is the Total Volume Adjustment in respect of the most recent Contract Month for which a Performance Monitoring Report has been delivered to the Board calculated in accordance with paragraph 1.1 (*Volume Adjustment*) of Section F of this Part 18 of the Schedule (*Payment Mechanism*);
- 1.1.5 ΣD is the sum of Deductions in respect of the most recent Contract Month for which a Performance Monitoring Report has been delivered to the Board in relation to Performance Failures and Unavailability Events calculated in accordance with the provisions set out in Section C of this Part 18 of the Schedule (*Payment Mechanism*);
- 1.1.6 PTC means any un-invoiced Pass Through Costs due for which supporting information is available;
- 1.1.7 UCA means any Utility Cost Adjustment in respect of the most recent Contract Month for which a Performance Monitoring Report has been delivered to the Board calculated in accordance with paragraph 7 (*Utility Cost Adjustment*) of Section F of this Part 18 of the Schedule (*Payment Mechanism*);
- 1.1.8 GS means any Gainshare Adjustment arising pursuant to paragraph 4.7 (*Comparing Actual Consumption of Energy with Target*) of Section F of this Part 18 of the Schedule (*Payment Mechanism*), which is to be applied in the Monthly Service Payment Statement following its calculation in accordance with paragraph 4.7 (*Comparing Actual*

Consumption of Energy with Target) of Section F of this Part 18 of the Schedule (*Payment Mechanism*);

- 1.1.9 PS means any Painshare Adjustment arising pursuant to paragraph 4.9 (*Comparing Actual Consumption of Energy with Target*) of Section F of this Part 18 of the Schedule (*Payment Mechanism*), which is to be applied in the Monthly Service Payment Statement following its calculation in accordance with paragraph 4.9 (*Comparing Actual Consumption of Energy with Target*) of Section F of this Part 18 of the Schedule (*Payment Mechanism*);
 - 1.1.10 ESA means any Emissions Saving Adjustment arising pursuant to paragraph 6.2 (*Emissions Savings and Excess Emissions*) of Section H of this Part 18 of the Schedule (*Payment Mechanism*), which is to be applied in the Monthly Service Payment Statement following its calculation in accordance with paragraph 6.2 (*Emissions Savings and Excess Emissions*) of Section H of this Part 18 of the Schedule (*Payment Mechanism*);
 - 1.1.11 EEA means any Excess Emissions Adjustment arising pursuant to paragraph 6.3 (*Emissions Savings and Excess Emissions*) of Section H of this Part 18 of the Schedule (*Payment Mechanism*), which is to be applied in the Monthly Service Payment Statement following its calculation in accordance with paragraph 6.3 (*Emissions Savings and Excess Emissions*) of Section H of this Part 18 of the Schedule (*Payment Mechanism*);
 - 1.1.12 IE means the amount attributable to any increase in Energy Consumption arising pursuant to paragraph 3.6(a) of Section F of this Part 18 of the Schedule (*Payment Mechanism*) in the Energy Year ending on the Annual Review Date, which is to be applied in the Monthly Service Payment Statement following its calculation in accordance with paragraph 3.6(b) of Section F of this Part 18 of the Schedule (*Payment Mechanism*), provided, to avoid doubt, there shall be no double counting of amounts received by Project Co pursuant to the adjustment under paragraph 7.2 of Section F of this Part 18 of the Schedule (*Payment Mechanism*); and
 - 1.1.13 IEB means the amount calculated pursuant to paragraph 5.1 of Section H of this Part 18 of the Schedule (*Payment Mechanism*), which is to be applied in the Monthly Service Payment Statement following its calculation in accordance with paragraph 5.1 of Section H of this Part 18 of the Schedule (*Payment Mechanism*).
- 1.2 In the last Contract Month of the Project Term a pro rata adjustment shall be made to reflect the actual number of days in the relevant Contract Month up to and including the last day of the Project Term (for the last month).

- 1.3 Ad-Hoc Payments shall be payable in addition to the Monthly Service Payment in accordance with Clause 35.2 (*Payment*).

2. ANNUAL SERVICE PAYMENT

- 2.1 The Annual Service Payment for any Contract Year shall be calculated in accordance with the following formula:

$$ASP_n = ASP_o \times \frac{RPI_n}{RPI_o}$$

where:

- 2.1.1 ASP_n is the Annual Service Payment for the relevant Contract Year;
- 2.1.2 ASP_o is the amount set out in the Financial Supplement, being the Annual Service Payment at the Base Date, subject to paragraph 2.2 (*Annual Service Payment*) of this Section B of this Part 18 of the Schedule (*Payment Mechanism*);
- 2.1.3 RPI_n is the value of the RPI published or determined with respect to the month of February which most recently precedes the relevant Contract Year; and
- 2.1.4 RPI_o is the value of the RPI published or determined with respect to the Indexation Base Month.
- 2.2 For the purposes of paragraph 2.1.2 (*Annual Service Payment*) of this Section B of this Part 18 of the Schedule (*Payment Mechanism*), ASP_o shall be subject to cumulative adjustments as follows:
- 2.2.1 with effect from each Market Testing Date (or such other date as may be established in accordance with paragraph 10 (*Service Payment Adjustments*) of Part 17 of the Schedule (*Benchmarking and Market Testing*)) ASP_o as at that date shall be adjusted to reflect the adjustment to the cost of the Market Tested Services following a Market Testing (if any and whether up or down) re-based to reflect the value of the amount of the adjustment at the Base Date, such adjustment to be calculated in accordance with paragraph 3 (*Effect of Market Testing on Annual Service Payment*) of this Section B of this Part 18 of the Schedule (*Payment Mechanism*);
- 2.2.2 with effect from the date from which any adjustment made in accordance with Clauses 30.12 (*Provision of Information and Employment Costs*) to 30.15 (*Provision of Information and Employment Costs*) inclusive of this Agreement takes effect, ASP_o as at that date shall be adjusted to include any adjustment required pursuant to Clauses 30.12 (*Provision of Information and Employment*

Costs) to 30.15 (*Provision of Information and Employment Costs*) inclusive of this Agreement, re-based to reflect the value of the amount as at the Base Date;

2.2.3 with effect from the date from which any adjustment made in accordance with Clause 30.27 (*Provision of Information and Employment Costs*), Clause 36.14(b)(iii) (*Uninsurable Risks*), Clause 39.2 (*Relevant Changes in Law*) of and/or Parts 22 (*Variation Procedure*) or 29 (*Refinancing*) of the Schedule to this Agreement takes effect, ASPo as at that date shall be adjusted to include any such adjustment pursuant to Clause 30.27 (*Provision of Information and Employment Costs*), Clause 36.14(b)(iii) (*Uninsurable Risks*), Clause 39.2 (*Relevant Changes in Law*) of and/or Parts 22 (*Variation Procedure*) or 29 (*Refinancing*) of the Schedule to this Agreement, re-based to reflect the value of the amount(s) as at the Base Date; and

2.2.4 with effect from 5 April 2008, in the event that the rate of corporation tax does not reduce from 30% to 28% (as announced in the Chancellor of the Exchequer's budget statement of 2007) the rate of corporation tax assumed in the Financial Model will be increased from 28% to 30%. The Annual Service Payment will be increased in accordance with the increase in corporation tax rate so that Project Co is in a no better no worse position. *Fiona Mackenzie Irene Marsh*

3. EFFECT OF MARKET TESTING ON ANNUAL SERVICE PAYMENT

3.1 For the purposes of paragraph 2.2.1 (*Annual Service Payment*) of this Section B, the adjustment to be made to ASPo shall be a figure in pounds sterling (whether positive or negative) calculated in accordance with the formula:

$$A = \left(NAP - \left(OPVT \times \frac{RPI_{In}}{RPI_{Io}} \right) \right) \times \frac{RPI_{Io}}{RPI_{In}}$$

where:

3.1.1 A is the adjustment to be made to ASPo;

3.1.2 NAP is the aggregate of the new annual prices for the Market Tested Services arising from the Market Testing;

3.1.3 RPI_{In} is the value of the RPI published or determined with respect to the month of February in the Contract Year in which the Market Testing Date falls;

3.1.4 OPVT is the aggregate of the original annual prices for the Market Tested Services, as set out in the second column of Appendix B to this Part 18 of the Schedule (*Payment Mechanism*); and

- 3.1.5 RPIo is the value of the RPI published or determined with respect to the Indexation Base Month.

PART 18 OF THE SCHEDULE: PAYMENT MECHANISM

Section C: Deductions from Monthly Service Payments

1. ENTITLEMENT TO MAKE DEDUCTIONS

- 1.1 If at any time after the Phase Actual Completion Date for a Phase an Unavailability Event or a Performance Failure relating to that Phase shall occur the Board shall subject to paragraphs 1.2 (*Entitlement to Make Deductions*), 1.3 (*Entitlement to Make Deductions*), 2 (*Bedding-In Period*), 4 (*Tolerance for Minor Performance Failures*), 9 (*Temporary Repair*) below, be entitled to make Deductions from the Monthly Service Payment relating to that Phase in respect of that Unavailability Event or Performance Failure, calculated in accordance with this Section C.
- 1.2 The maximum aggregate of all Deductions that the Board can make from a Monthly Service Payment in respect of any Contract Month shall be the Volume Adjusted Service Payment.
- 1.3 To the extent that an Unavailability Event or a Performance Failure:
- 1.3.1 is as a result of an Excusing Cause (as defined in Clause 8.7 (*Excusing Causes*) of this Agreement); or
- 1.3.2 occurs during the period between a Phase Actual Completion Date and the relevant Commissioning End Date for a Phase, and relates to Project Co undertaking clinical clean as required in Part 12 of the Schedule (*Outline Commissioning Programme*) or the rectification of Snagging Matters in accordance with Clause 22.14 (*Phase Completion certificate*).

the Board shall not be entitled to make Deductions or to award Service Failure Points.

2. BEDDING-IN PERIODS

- 2.1 Subject to paragraph 2.2 (*Bedding-in Periods*) of this Section C, in respect of each Service, there shall be a period of 3 months for Bedding-In beginning on each New Service Provider Start Date. This is referred to as the "New Provider Bedding-In Period". During the New Provider Bedding-In Period the following provisions shall apply:
- 2.1.1 during the first Contract Month of the New Provider Bedding-In Period, no Deductions may be made in respect of Performance Failures occurring in the provision of the relevant Service;

- 2.1.2 during the second and third Contract Months of the New Provider Bedding-In Period, the amount of any Deductions in respect of Performance Failures occurring in the provision of the relevant Service shall be reduced by 50%.
- 2.2 The following provisions shall apply during each Completion Bedding-In Period:
 - 2.2.1 other than where paragraph 2.2.2 of this Section C applies, during each Completion Bedding-In Period, no Deductions may be made in respect of Performance Failures occurring in the provision of the Services provided in respect of the Facilities comprised within the relevant Phase;
 - 2.2.2 during the final two months of each Completion Bedding-In Period, the amount of any Deductions in respect of Performance Failures occurring in the provision of the Services provided in respect of the Facilities comprised within the relevant Phase shall be reduced by 50%.
- 2.3 Not Used
- 2.4 There shall be no relief during any period of Bedding-In in respect of Deductions which relate to Unavailability Events.
- 2.5 Subject to paragraph 2.6 below, there shall be no relief during any period of Bedding-In in respect of Service Failure Points.
- 2.6 During each Completion Bedding-In Period, Service Failure Points accrued by Project Co shall be deemed not to have been incurred for the purposes of Clauses 44.1(i) (*Project Co Events of Default*), 44.3(c) (*Board's Options*) or 44.6 (b) (*Replacement of non-performing Sub-Contractor*) only. For the avoidance of doubt, no relief shall be granted in relation to accrual of Service Failure Points pursuant to Clauses 29.4 to 29.5 (*Warning Notices*).
- 3. **AMOUNT OF DEDUCTIONS FOR PERFORMANCE FAILURES**
 - 3.1 Subject to paragraphs 1 (*Entitlement to Make Deductions*) and 2 (*Bedding-In Periods*) of this Section C, the amount of the Deduction in respect of a Performance Failure shall be as follows:
 - 3.1.1 in the case of a Minor Performance Failure, the sum of £25, index-linked;
 - 3.1.2 in the case of a Medium Performance Failure, the sum of £60, index-linked; and
 - 3.1.3 in the case of a Major Performance Failure, the sum of £200, index-linked.

4. TOLERANCES FOR MINOR PERFORMANCE FAILURES

4.1 No Deduction may be made by the Board to the Monthly Service Payment for the relevant Contract Month in respect of any Minor Performance Failure if:

4.1.1 in respect of the Service in which the relevant Minor Performance Failure has occurred, the relevant Minor Performance Failure and all other Minor Performance Failures which have occurred in the relevant Contract Month in respect of that Service do not exceed in aggregate 10 in number; and

4.1.2 in respect of all Services, the relevant Minor Performance Failure and all other Minor Performance Failures in all Services which have occurred in the relevant Contract Month do not exceed in aggregate 20 in number.

4.2 If 11 or more Minor Performance Failures occur in respect of an individual Service in a Contract Month a Deduction shall be made in respect of each and every Minor Performance Failure which shall have occurred in that Service during that Contract Month.

4.3 If 21 or more Minor Performance Failures in respect of all Services occur in a Contract Month, a Deduction shall be made in respect of each and every Minor Performance Failure which shall have occurred during the Contract Month.

4.4 This paragraph 4 (*Tolerances for Minor Performance Failures*) shall have no application to Service Failure Points for Minor Performance Failures, in respect of which there shall be no tolerance.

5. DEDUCTIONS FOR UNAVAILABILITY EVENTS

5.1 Subject to paragraph 1 (*Entitlement to Make Deductions*) above, the amount to be deducted from the Monthly Service Payment in respect of any Functional Unit affected by an Unavailability Event shall be the higher of:

(a) the Minimum Unavailability Deduction; and

(b) an amount calculated in accordance with the following formula:

$$D = \frac{ASP_n}{1095} \times AW \times UW \times DP$$

where:

5.1.1 D means the amount (in pounds sterling) of the Deduction in respect of the Unavailability Event;

5.1.2 ASP_n means the Annual Service Payment at the time the relevant Unavailability Event occurs;

- 5.1.3 Not Used;
- 5.1.4 AW means the Area Weighting Percentage attributable to the Functional Area in which the Unavailability Event occurs;
- 5.1.5 UW means the Unit Weighting Percentage attributable to the Functional Unit in which the Unavailability Event occurs;
- 5.1.6 DP is 50% and shall apply only where the relevant Functional Part is Unavailable but the Board continues to use any room or space within the relevant Functional Part and that room or space is in a state or condition which does not comply with any one or more of the Availability Conditions.

6. RECTIFICATION

- 6.1 This paragraph applies where, in Section 1 of Part 14 of the Schedule (*Service Requirements*), a Rectification Time is specified in respect of an Event.
- 6.2 Subject to paragraphs 4 (*Tolerances for Minor Performance Failures*) and 10 (*Repeated Rectification*) of this Section C, no Performance Failure or Unavailability Event shall occur if Project Co successfully carries out Rectification within the specified Rectification Time and in such circumstances no Deduction shall be made.
- 6.3 If Rectification is not successfully carried out by Project Co within the specified Rectification Time, a Performance Failure or, as the case may be, an Unavailability Event shall occur.
- 6.4 In respect of Unavailability Events, if the Unavailability Event is still subsisting at the commencement of a second (and any subsequent) Session following the Session in which the Rectification Time expired:
 - 6.4.1 there shall be deemed to be a new Unavailability Event occurring at the commencement of each Session in which the relevant Unavailability Event subsists without Rectification; and
 - 6.4.2 a Deduction in respect of an Unavailability Event shall be calculated in accordance with paragraph 5 (*Deductions for Unavailability Events*) of this Section C in respect of each such deemed new Unavailability Event as described in paragraph 6.4.1 (*Rectification*) above.
- 6.5 In respect of Performance Failures there shall be a further period, (an "Additional Period") beginning on the expiry of the relevant Rectification Time and of a duration equal to that of the relevant Rectification Time. Project Co shall ensure that Rectification is successfully carried out prior to the expiry of the Additional Period. If Rectification is not successfully carried out by Project Co before the

expiry of the Additional Period, a further Performance Failure shall occur and a further Additional Period shall commence.

- 6.6 Unless Rectification has been successfully carried out by Project Co prior to the expiry of each Additional Period, a further Performance Failure shall occur until such time as Rectification shall have been successfully completed.
- 6.7 The provisions of paragraphs 6.5 (*Rectification*) and 6.6 (*Rectification*) above shall not apply to Performance Failures in cases where, if Rectification is not carried out within the Rectification Time, the Board's Representative notifies Project Co's Representative that the Board no longer requires the relevant Service.
- 6.8 When carrying out Rectification, or works of Temporary Repair pursuant to paragraph 9 (*Temporary Repairs*) below, Project Co shall at all times act in accordance with Board Policies and Good Industry Practice. Failure to do so shall be deemed to be a new Performance Failure, unless the failure also constitutes a breach of Law in which case there shall be deemed to be a new Major Performance Failure.

7. RE-COMMISSIONING

- 7.1 Where a Functional Part which is listed in Appendix E to this Part 18 of the Schedule (*Payment Mechanism*) requires Re-commissioning by or at the direction of the Board following Rectification of an Unavailability Event, the Re-commissioning of the Functional Part shall be deemed to have been completed on the earlier of:
 - 7.1.1 the expiry of forty-eight hours after the time and date notified to the Board in the Rectification Confirmation Notice as the time and date that the Rectification was completed;
 - 7.1.2 the time and date on which the Board or the relevant Board Party commences to use the Functional Part again for the purposes for which it was being used prior to the occurrence of the relevant Unavailability Event.
- 7.2 If paragraph 7.1 (*Re-Commissioning*) applies, a Deduction in respect of an Unavailability Event in accordance with paragraph 5 (*Deductions for Unavailability Events*) of this Section C shall be calculated in respect of the affected Functional Part for each Session following Rectification up to and including the Session in which the Re-commissioning of the Functional Part shall have been deemed to have been completed.
- 7.3 Paragraphs 7.1 (*Re-Commissioning*) and 7.2 (*Re-Commissioning*) shall not affect the right of the Board to issue, in accordance with the Service Level Specifications, an Ad-Hoc Service Request for the provision of cleaning or other

Services by Project Co in connection with any Re-commissioning activities carried out by the Board.

8. PERFORMANCE FAILURES WITH NO RECTIFICATION TIME

8.1 Where no Rectification Time is specified in the Service Level Specifications in respect of a Performance Failure, the following provisions shall apply:

8.1.1 On the occurrence of a Performance Failure, the appropriate Deduction shall (subject to paragraph 1.2 (*Entitlement to make Deductions*), paragraph 1.3 (*Entitlement to make Deductions*), paragraph 2 (*Bedding-In Periods*) and paragraph 4 (*Tolerances for Minor Performance Failures*) above) be made, depending on whether the matter is a Minor, Medium or Major Performance Failure.

8.1.2 A period shall then apply, within which Project Co shall Rectify the Performance Failure. This period is referred to below as the "Remedial Period".

8.1.3 The length of the Remedial Period shall be as follows:

- (a) in the case of a Minor Performance Failure, one week;
- (b) in the case of a Medium Performance Failure, 3 days;
- (c) in the case of a Major Performance Failure, one day.

8.1.4 If before the expiry of the Remedial Period Project Co Rectifies the Performance Failure, no further Deduction shall be made in respect of the Performance Failure.

8.1.5 In the event that the Performance Failure has not been Rectified during the Remedial Period referred to in paragraphs 8.1.2 (*Performance Failures with no Rectification Time*) and 8.1.3 (*Performance Failures with no Rectification Time*) above (the "Initial Remedial Period"), on the expiry of the Initial Remedial Period a further Deduction shall be made and a further Remedial Period of equal duration to the Initial Remedial Period shall commence. Deductions shall continue to be incurred upon the expiry of each further Remedial Period, other than the expiry of the Remedial Period in which the Performance Failure is Rectified.

9. TEMPORARY REPAIRS

9.1 If Project Co informs the Board that it is unable to Rectify an Event within the specified Rectification Time due to the need for specialised materials or personnel that are not, and cannot reasonably be expected to be, immediately available at the Facilities but that a Temporary Repair can be effected:

- 9.1.1 the Board shall permit Project Co to carry out the Temporary Repair proposed by Project Co unless the Board, acting reasonably, considers that, if the Temporary Repair proposed by Project Co is carried out, the use of the relevant Functional Part (in the case of a Functional Part which has a Prescribed Health Function) will not be in accordance with generally accepted clinical practices or (in the case of a Functional Part which has a Prescribed Operational Function) will not be in accordance with Good Industry Practice; and
- 9.1.2 where a Temporary Repair is permitted, a deadline by which a Permanent Repair must be made shall be set, giving Project Co a reasonable period within which to carry out the Permanent Repair (the "Permanent Repair Deadline"). Both the Board and Project Co shall act reasonably in seeking to agree what the deadline should be.
- 9.2 During any period beginning at the time when a Temporary Repair has been approved by the Board and ending at the earlier of (a) the time at which a Permanent Repair is successfully completed and (b) the Permanent Repair Deadline, the Availability Conditions shall be replaced by the Minimum Agreed Availability Conditions for the purposes of assessing if the relevant Functional Part is Unavailable.
- 9.3 Subject to paragraph 6.7 (*Rectification*) above, if the agreed Temporary Repair is effected within the specified Rectification Time (as referred to in paragraph 9.1 (*Temporary Repairs*)) and the Permanent Repair is effected by no later than the Permanent Repair Deadline no Performance Failure or Unavailability Event will occur, and no Deduction may be made, in respect of the Event.
- 9.4 If the Temporary Repair is not carried out within the specified Rectification Time, a Performance Failure or, as the case may be, Unavailability Event shall be deemed to occur and the following provisions shall apply:
- 9.4.1 In respect of Performance Failures, there shall be a further period (an "Additional Period") beginning on the expiry of the relevant Rectification Time and of a duration equal to that of the relevant Rectification Time. Project Co shall ensure that the Temporary Repair is successfully carried out prior to the expiry of the Additional Period. Subject to paragraph 9.4.4 (*Temporary Repairs*), if the Temporary Repair is not successfully carried out by Project Co before the expiry of the Additional Period, a further Performance Failure shall occur and a further Additional Period shall commence.
- 9.4.2 Unless the Temporary Repair has been successfully carried out by Project Co prior to the expiry of each Additional Period then, subject to paragraph 9.4.4 (*Temporary Repairs*) below, a further Performance Failure shall occur on the expiry of each Additional Period until such time as the Temporary Repair shall have been successfully completed.

9.4.3 In respect of Unavailability Events, if the Temporary Repair has not been successfully carried out at the commencement of the Session immediately following the Session in which the Rectification Time expires, or at the commencement of any subsequent Session, subject to paragraph 9.4.4 (*Temporary Repairs*) below:

- (a) there shall be deemed to be a new Unavailability Event occurring at the commencement of each Session in which the relevant Temporary Repair has not been completed; and
- (b) a Deduction in respect of an Unavailability Event shall be calculated in accordance with paragraph 5 (*Deductions for Unavailability Events*) of this Section C in respect of each such deemed new Unavailability Event as described in paragraph 9.4.3(a) (*Temporary Repairs*) above.

9.4.4 If the Temporary Repair is not successfully carried out by Project Co prior to the Permanent Repair Deadline, and no Permanent Repair has been successfully carried out, the right for Project Co to carry out a Temporary Repair pursuant to this paragraph 9 (*Temporary Repairs*) but not the obligation to carry out a Permanent Repair shall cease and paragraph 9.5 (*Temporary Repairs*) below shall apply.

9.5 If the Permanent Repair is not carried out by the Permanent Repair Deadline, a Performance Failure or, as the case may be, an Unavailability Event shall be deemed to occur and the provisions of paragraphs 6.4 (*Rectification*), 6.5 (*Rectification*) and 6.6 (*Rectification*) above shall apply.

10. REPEATED RECTIFICATION

Notwithstanding that Project Co completes a Rectification in respect of an Event within the relevant Rectification Time:

10.1 there shall be deemed to be a Minor Performance Failure on the occurrence of:

- 10.1.1 the third such Event that arises during three (3) consecutive Sessions; and/or
- 10.1.2 the fourth such Event which occurs in any consecutive seven day period

provided that:

- (a) each such Event is in connection with the same service standard set out in Section 1 of Part 14 of the Schedule (*Service Requirements*) and occurs in the same Functional Area; and

- (b) whether the Events occur in the same Functional Unit or in different Functional Units within the same Functional Area there is good reason to believe that the root cause of each Event is the same.
- 10.2 If the same such Event occurs more than three times in three (3) consecutive Sessions or more than four times in any consecutive seven day period, a Minor Performance Failure shall be deemed to have occurred in respect of each and every Event which has occurred during the three (3) consecutive Sessions or during the consecutive seven day period (as the case may be).
- 11. **EFFECT OF UNAVAILABILITY ON OTHER DEDUCTIONS**
 - 11.1 Subject to paragraphs 11.2 (*Effect of Unavailability on Other Deductions*) and 11.3 (*Effect of Unavailability on Other Deductions*), if a Performance Failure occurs affecting a Functional Unit, and the Event giving rise to the Performance Failure also gives rise to an Unavailability Event affecting that Functional Unit, the only Deduction and Service Failure Points which the Board shall be entitled to make or award in respect of that Functional Unit shall be those Deductions and Service Failure Points which the Board may make or award in respect of the Unavailability Event.
 - 11.2 If an Unavailability Event affects any Functional Unit and the Board does not continue to use that Functional Unit or any room or space within it, the Board shall not be entitled to award further Service Failure Points or make further Deductions in respect of that Functional Unit other than in respect of the Unavailability Event.
 - 11.3 If an Unavailability Event affects any Functional Unit and the Board continues to use that Functional Unit or any room or space within it, Project Co shall continue to provide the Services to the rooms or spaces within the Functional Unit that are being used and the Board shall be entitled to award any further Service Failure Points and make Deductions in respect of any failure to provide such Services in accordance with Part 14 (*Service Requirements*) and this Part 18 (*Payment Mechanism*) of the Schedule.
- 12. **TEMPORARY ALTERNATIVE ACCOMMODATION**
 - 12.1 If an Unavailability Event occurs Project Co may offer the Board Temporary Alternative Accommodation by written notice to the Board within 5 Business Days from the commencement of the relevant Event.
 - 12.2 The Temporary Alternative Accommodation shall:
 - 12.2.1 comply with:
 - (a) the Accessibility Condition;
 - (b) the Safety Condition;

- (c) the Use Condition;
- (d) the Prescribed Health Function Condition; and
- (e) the Prescribed Operational Function Condition;

applicable to any Functional Part which is affected by the relevant Unavailability Event for which Temporary Alternative Accommodation is offered;

- 12.2.2 be a temporary alternative having regard to the facts and the circumstances in existence;
 - 12.2.3 be upon terms which are not materially different from the terms upon which the Board occupied the affected Functional Part;
 - 12.2.4 be accommodation for which the Board is not already paying within the Annual Service Payment or other terms of the Project Agreement;
 - 12.2.5 be supplied with the Services to the standards set out in the Service Level Specifications which Project Co would under normal circumstances be providing within the Unavailable Functional Part;
 - 12.2.6 not involve the Board incurring any additional cost or charges in respect of the Temporary Alternative Accommodation including, without limitation, the reasonable costs of any relocation to and from the Temporary Alternative Accommodation which shall be borne by Project Co; and
 - 12.2.7 be in reasonable proximity to the Board, shall be reasonably accessible by public and private transport and shall have reasonable parking facilities.
- 12.3 The written notice sent by Project Co to the Board pursuant to paragraph 12.1 (*Temporary Alternative Accommodation*) above shall:
- 12.3.1 describe the Temporary Alternative Accommodation;
 - 12.3.2 invite the Board to inspect the Temporary Alternative Accommodation and shall give the Board reasonable notice of a time and a date when it may do so;
 - 12.3.3 set out its proposals regarding the timing and co-ordination of relocation to the Temporary Alternative Accommodation;
 - 12.3.4 specify the date (agreed by the Board before the submission of the written notice) by which Project Co reasonably expects the Board to be able to relocate back to the relevant Functional Part (the "Return Date"); and

- 12.3.5 describe the terms upon which the Board shall be entitled to occupy such Temporary Alternative Accommodation including the proposed division of such accommodation into Functional Units and Functional Areas and the weighting to be attributed to them for the purposes of the operation of the Payment Mechanism.
- 12.4 If it requires to inspect the Temporary Alternative Accommodation the Board shall do so within 48 hours of receipt of the notice referred to in paragraph 12.1 (*Temporary Alternative Accommodation*) above. The Board shall notify Project Co in writing of its acceptance or refusal of the proposed Temporary Alternative Accommodation within 24 hours of its inspection of the same or, if the Board has elected not to carry out an inspection, within 48 hours of receipt of the notice referred to in paragraph 12.1 (*Temporary Alternative Accommodation*) above. The Board shall act reasonably when deciding to accept or refuse any proposed Temporary Alternative Accommodation.
- 12.5 If the Board accepts the offer of Temporary Alternative Accommodation then, without affecting the Board's remedial rights under Clause 29 (*Monitoring of Performance*) of this Agreement, the Board shall not be entitled to vacate the Temporary Alternative Accommodation until the earlier of the Return Date and the date on which the Board is entitled and able to return to and use the Functional Part in accordance with the agreed programme for relocation and Re-commissioning referred to in paragraph 12.9 (*Temporary Alternative Accommodation*) below.
- 12.6 For the avoidance of doubt, the Board's rights under Clause 29 (*Monitoring of Performance*) of this Agreement shall not be affected by the acceptance by the Board of the Temporary Alternative Accommodation.
- 12.7 If the Board accepts Project Co's offer of Temporary Alternative Accommodation, no further Deductions shall be made or Service Failure Points awarded in respect of the Functional Part vacated by the Board while the Temporary Alternative Accommodation is being used by the Board.
- 12.8 The Board shall be entitled to award Service Failure Points and make Deductions in respect of any Performance Failure or Unavailability Event which occurs in the Temporary Alternative Accommodation as if the Temporary Alternative Accommodation was the Functional Part which it replaced and any Deduction in respect of an Unavailability Event shall be calculated using the weighting attributed by the Board pursuant to paragraph 12.3.5 (*Temporary Alternative Accommodation*) of this Section C.
- 12.9 When Project Co has completed the required works to enable the Board to return to the Functional Part the Board Representative shall confirm that the Availability Conditions for the Functional Part are met and the Board Representative and Project Co shall agree a relocation programme to return to the Functional Part and any necessary Re-Commissioning period.

- 12.10 Where the Board has accepted the proposed Temporary Alternative Accommodation pursuant to paragraph 12.4 (*Temporary Alternative Accommodation*), in the event that Project Co fails to complete the works to enable the Board to return to the relevant Functional Part on the Return Date the Board may, in its absolute discretion, vacate the Temporary Accommodation at any time after the Return Date or remain in occupation. In such circumstances:
- 12.10.1 Where the Board, in its discretion, remains in occupation of the Temporary Alternative Accommodation following the Return Date the Temporary Alternative Accommodation shall be deemed to be Unavailable with effect from the Return Date and the Board shall levy 50% of the Deduction which would have been levied in respect of that Unavailability Event for each period of three consecutive Sessions in which the Board occupies the Temporary Alternative Accommodation thereafter until the date on which the Unavailability Event referred to in paragraph 12.2.1 (*Temporary Alternative Accommodation*) above has been rectified and the Board is able to resume its use of the Functional Part.
- 12.10.2 Where the Board, in its discretion, vacates the Temporary Alternative Accommodation following the Return Date, the Temporary Alternative Accommodation shall be deemed to be Unavailable in each period of three consecutive Sessions in which the Board is not in occupation of the Temporary Alternative Accommodation until the date on which the Unavailability Event referred to in paragraph 12.2.1 (*Temporary Alternative Accommodation*) above has been rectified and the Board is able to resume its use of the Functional Part.
- 12.11 The Board shall, after consultation with Project Co and taking into account, where reasonable, any representations made by Project Co, specify a date ("the Long Stop Return Date"), being a date no earlier than the Return Date, by which the Rectification shall be completed and if Project Co fails to complete the Rectification of the Functional Part for which the Temporary Alternative Accommodation is a replacement by the Long Stop Return Date the following shall apply:
- 12.11.1 the Board may (without prejudice to its rights under Clause 44 (*Project Co Events of Default*) or any other express rights of the Board under this Agreement) take such steps as it considers to be appropriate, acting reasonably in the circumstances (either itself or by engaging others to take such steps) to restore any Functional Part for which the Temporary Alternative Accommodation is a replacement to a condition which satisfies in all respects the requirements of the Service Level Specifications.
- 12.11.2 Project Co shall reimburse the Board for all reasonable costs, losses, expenses or damages incurred by the Board in relation to taking the

steps, or engaging others to take the steps, referred to in paragraph 12.11.1 (*Temporary Alternative Accommodation*) above and the Board shall be entitled to deduct any such amount from any amounts payable to Project Co under the provisions of this Agreement.

PART 18 OF THE SCHEDULE: PAYMENT MECHANISM

Section D: Review of Weightings

1. ANNUAL REVIEW

- 1.1 The identification of Functional Areas, Functional Units, Rectification Times, Remedial Periods, Area Weighting Percentages, Unit Weighting Percentages and the amount of Deductions for each category of Performance Failure shall be reviewed by the Board and Project Co at any time if requested by either party but in any event shall be reviewed at least once in every Contract Year. The Board and Project Co shall act reasonably and diligently in carrying out the review. For the avoidance of doubt, the parties intend that any changes made as a result of such a review shall not alter the overall risk profile of the relevant Service or the likely magnitude of Deductions. Where proposed changes would result in any such alteration, the matter shall be deemed to be a Service Variation and Part 22 of the Schedule (*Variation Procedure*) shall apply.
- 1.2 The Board and Project Co may in respect of each matter the subject of the review either:
- 1.2.1 agree that the status of the relevant matter shall continue to apply unchanged in the Contract Year immediately following the review; or
 - 1.2.2 agree adjustments to the relevant matter to take effect in the Contract Year immediately following the review.
- 1.3 Any agreed adjustment pursuant to a review shall be effective from the commencement of the Contract Year immediately following the relevant review carried out in accordance with paragraph 1.1 (*Annual Review*) of this Section D.

PART 18 OF THE SCHEDULE: PAYMENT MECHANISM

Section E: Failure by Project Co to Monitor or Report

1. Subject to paragraphs 2 to 5 inclusive of this Section E, the Performance Monitoring Report produced by Project Co for any Contract Month shall be the source of the factual information regarding the performance of the Services for the relevant Contract Month for the purposes of calculating the relevant Monthly Service Payment, the number of Service Failure Points awarded and the number of Warning Notices awarded.
2. If there shall be any error or omission in the Performance Monitoring Report for any Contract Month Project Co and the Board shall agree the amendment to the Performance Monitoring Report or, failing agreement within 10 days of notification of the error or omission which shall not be made more than 2 Contract Months following the relevant Performance Monitoring Report except in the circumstances referred to in paragraph 7 of this Section E either party may, subject to giving prior written notice to the other party refer the matter to the Dispute Resolution Procedure.
3. If Project Co fails to monitor or accurately to report an Event, a Performance Failure, an Unavailability Event or an Ad-Hoc Service Request then, without prejudice to the Deduction to be made in respect of the relevant Performance Failure or Unavailability Event (if any), the failure to monitor or report the Event, Performance Failure, Unavailability Event or Ad-Hoc Service Request shall be deemed to be a new Medium Performance Failure, unless the circumstances set out in paragraph 7 of this Section E apply, in which case there shall be deemed to be a new Major Performance Failure.
4. Where Project Co fails to monitor or accurately to report a Performance Failure or an Unavailability Event in the circumstances referred to in paragraph 7 of this Part E, for the purposes of paragraph 1 of Section 1 of Part 25 of the Schedule (*Record Provisions*) the Board shall be deemed to have reasonable cause to require that Project Co shall make available to the Board for inspection such of the records referred to in paragraphs 10 and 11 of Section 2 of Part 25 of the Schedule (*Record Provisions*) as the Board may specify.
5. Project Co shall upon submission of a valid invoice pay to the Board a sum equal to the costs reasonably incurred by the Board in carrying out any inspection and investigation of records made available pursuant to paragraph 4 above.
6. In the event that the Board's inspection or investigation of records made available pursuant to paragraph 4 above reveals any further matters of the type referred to in paragraphs 2 and 3 above, those matters shall be dealt with in accordance with paragraph 2 or 3 as appropriate and the Board shall, in addition, be entitled to make Deductions in respect of any Performance Failures

or Unavailability Events in the manner prescribed in Section B of this Part 18 of the Schedule (*Payment Mechanism*). Any such Deductions shall be made from the Monthly Service Payment covered by the Monthly Service Payment Statement issued following the calculation of the Deductions or, to the extent that the Board is unable to make any further deductions from the Monthly Service Payment in respect of that Contract Month by virtue of paragraph 1.2 (*Entitlement to Make Deductions*) of Section C of this Part 18 of the Schedule (*Payment Mechanism*), may be carried forward and deducted from Monthly Service Payments due in respect of subsequent Contract Months.

7. For the purposes of paragraphs 2, 3, and 4 of this Section E the relevant circumstances are:

7.1 fraudulent action or inaction; or

7.2 deliberate misrepresentation; or

7.3 gross misconduct or incompetence

in each case on the part of Project Co or a Project Co Party.

8. The provisions of this Section E shall be without prejudice to any rights of the Board in this Agreement pursuant to Clause 29 (*Monitoring of Performance*) Clause 44 (*Project Co Events of Default*) and Clause 54 (*Corrupt Gifts and Payments*).

PART 18 OF THE SCHEDULE: PAYMENT MECHANISM

Section F: Volume Adjustments and Energy Payments

1. VOLUME ADJUSTMENT

- 1.1 The Total Volume Adjustment in respect of any Contract Month shall be calculated in accordance with the following formula:

$$TVA = VAC + VAW$$

where:

- 1.1.1 TVA is the Total Volume Adjustment;
- 1.1.2 Not Used;
- 1.1.3 VAC is the price adjustment (if any) made in respect of the number of meals prepared in accordance with the Service Level Specifications in respect of the Catering Service calculated in accordance with paragraph 1.2 (*Volume Adjustment*) of this Section F; and
- 1.1.4 VAW is the price adjustment (if any) made in respect of the volume of Non-Clinical Waste disposed of in accordance with the Service Level Specifications in respect of the Waste Service calculated in accordance with paragraph 1.3 (*Volume Adjustment*) of this Section F.
- 1.2 For the purpose of paragraph 1.1.3 (*Volume Adjustment*) of this Section F the price adjustment in respect of the number of meals provided in accordance with the Catering Service Specific Specification in any Contract Month ("VAC") shall be calculated in accordance with the following formula:

$$VAC = \left(\frac{ICP}{BVC} \times \frac{RPI_{In}}{RPI_{Io}} \right) \times \left(ABVC - \left(BVC \times \frac{NM}{365} \right) \right)$$

where:

- (a) ICP is the initial annual patient Catering price as identified in Appendix B to this Part 18 of the Schedule (*Payment Mechanism*);
- (b) BVC is the base number of meals as set out in Appendix D to this Part 18 of the Schedule (*Payment Mechanism*);
- (c) RPI_{In} is the value of the RPI published or determined with respect to the month of February which most recently precedes the relevant Contract Year;

- (d) RPI_o is the value of the RPI published or determined with respect to the Indexation Base Month;
- (e) ABVC is the actual number of meals received by the Board in the relevant Contract Month; and
- (f) NM is the number of days in the relevant Contract Month.

For the purposes of paragraph (f) above, in the Contract Month in which Payment Commencement Date 1 falls and in the last Contract Month of the Project Term NM shall be the actual number of days in the Contract Month from and including Payment Commencement Date 1 (for the first month) and (for the last month) up to and including the last day of the Project Term.

- 1.3 For the purpose of paragraph 1.1.4 (*Volume Adjustment*) of this Section F the price adjustment in respect of the volume of Non-Clinical Waste removed in accordance with the Waste Service Specific Specification in any Contract Month ("VAW") shall be calculated in accordance with the following formula:

$$VAW = \left(\frac{IWP}{BVW} \times \frac{RPI_n}{RPI_o} \right) \times \left(ABVW - \left(BVW \times \frac{NM}{365} \right) \right)$$

where:

- (a) IWP is the initial annual Waste Management price as identified in Appendix B to this Part 18 of the Schedule (*Payment Mechanism*);
- (b) BVW is the base volume of Non-Clinical Waste as set out in Appendix D to this Part 18 of the Schedule (*Payment Mechanism*);
- (c) RPI_n is the value of the RPI published or determined with respect to the month of February which most recently precedes the relevant Contract Year;
- (d) RPI_o is the value of the RPI published or determined with respect to Indexation Base Month;
- (e) ABVW is the actual volume of Non-Clinical Waste removed by Project Co in the relevant Contract Month; and
- (f) NM is the number of days in the relevant Contract Month.

For the purposes of paragraph (f) above, in the Contract Month in which Payment Commencement Date 1 falls and in the last Contract Month of the Project Term NM shall be the actual number of days in the Contract Month from and including Payment Commencement Date 1 (for the first month) and (for the last month) up to and including the last day of the Project Term.

2. **CALCULATION OF ANNUAL ENERGY TARGET**

- 2.1 Both before and during the Initial Period there shall be no Annual Energy Target, but the consumption of Energy during the Initial Period shall be measured in accordance with paragraph 6 (*Measurement*) below.
- 2.2 In respect of each Energy Year following the expiry of the Initial Period, the remaining provisions of this paragraph 2 (*Calculation of Annual Energy Target*) shall apply for the purposes of calculating the Annual Energy Target applicable to the Hospital Facilities.
- 2.3 By no later than 1 Contract Month after the expiry of the Initial Period, Project Co shall provide to the Board a certificate showing:
- 2.3.1 the amount of Energy Consumption in each Contract Month during the Initial Period, expressed as a number of Units of Energy and measured in accordance with paragraph 6 (*Measurement*) below; and
 - 2.3.2 the number of Degree Days in respect of each of those Contract Months.
- 2.4 Project Co shall plot a graph using the information referred to in paragraph 2.3 (*Calculation of Annual Energy Target*) above in the following manner and according to the example set out in Appendix F:
- 2.4.1 the vertical axis of the graph shall show the total amount of Energy Consumption during the relevant Contract Month and the horizontal axis shall show the number of Degree Days in the relevant Contract Month;
 - 2.4.2 for each of the 24 months in the Initial Period, a point shall be plotted on the graph where the Energy Consumption for that month meets the number of Degree Days in the Contract Month;
 - 2.4.3 when all points on the graph have been plotted in accordance with paragraph 2.4.2 (*Calculation of Annual Energy Target*) above, a straight line shall be drawn through all 24 points plotted on the graph which is a best fit to each of the points plotted on the graph, using the least squares method.
- 2.5 The straight line referred to in paragraph 2.4.3 (*Calculation of Annual Energy Target*) above shall be projected until it crosses the vertical axis on the graph. The number of Units of Energy represented by the point at which the straight line crosses the vertical axis of the graph shall be the "Baseload", that is to say, the number of Units of Energy which is consumed each Contract Month at the Hospital Facilities, regardless of the number of Degree Days in that Contract Month.

2.6 The parties shall calculate the slope of the straight line referred to in paragraph 2.4.3 (*Calculation of Annual Energy Target*) above, expressed in terms of the number of Units of Energy used per Degree Day (the "Slope"). This Slope, together with the Baseload, shall be used to calculate the Annual Energy Target.

2.7 The Annual Energy Target shall be calculated using the following formula:

$$Y = MX + C$$

where:

2.7.1 Y is the Annual Energy Target;

2.7.2 M is the Slope and is expressed as a number of Units of Energy used per Degree Day, calculated in accordance with paragraph 2.6 (*Calculation of Annual Energy Target*) above;

2.7.3 X is the number of Degree Days per annum, based on the 20 Year Average at the date of calculation of the Annual Energy Target; and

2.7.4 C is the Baseload number of Units of Energy used each Contract Month, calculated in accordance with paragraph 2.5 (*Calculation of Annual Energy Target*) above, multiplied by a factor of 12.

2.8 The Annual Energy Target calculated in accordance with the provisions of this paragraph 2 (*Calculation of Annual Energy Target*) shall be the target for Energy Consumption at the Hospital Facilities during the first Energy Year.

3. **ADJUSTMENTS TO THE ANNUAL ENERGY TARGET**

Adjustments at the Annual Review Date

3.1 With effect from each Annual Review Date, the Annual Energy Target shall be recalculated using the formula set out in paragraph 2.7 (*Calculation of Annual Energy Target*) above, but using, for the purposes of X, the most recently published 20 Year Average as at the Annual Review Date and, where appropriate, for the purposes of C, the revised Baseload and for the purposes of M, the revised Slope, calculated in accordance with the following provisions of this paragraph 3 (*Adjustments to the Annual Energy Target*).

Adjustments to the Baseload and Slope

3.2 During each of the 24 Contract Months ending on a Baseload and Slope Review Date (the "Baseload and Slope Review Period"), Energy Consumption shall be measured in accordance with paragraph 6 (*Measurement*) below.

3.3 By no later than one Contract Month after the date on which the figure for Degree Days in respect of the final Contract Month of the Baseload and Slope

Review Period is published, Project Co shall provide to the Board a certificate showing:

- 3.3.1 the Energy Consumption in each Contract Month during the Baseload and Slope Review Period, expressed as a number of Units of Energy calculated in accordance with paragraph 6 (*Measurement*); and
 - 3.3.2 the number of Degree Days in respect of each of those Contract Months.
- 3.4 Any review of the Baseload and the Slope shall be subject to the provisions of Clause 40 (*Variation Procedure*) of this Agreement. Using the data referred to in paragraph 3.3 (*Adjustments to the Annual Energy Target*) and following the same procedure as that set out in paragraphs 2.4 (*Calculation of Annual Energy Target*) to 2.6 (*Calculation of Annual Energy Target*) inclusive, the parties shall re-calculate the Baseload and the Slope. The revised Baseload and Slope (factors of C and M) shall be used for the purposes of calculating the Annual Energy Target, and any revisions to the Annual Energy Target, with effect from the Baseload and Slope Review Date and on each subsequent Annual Review Date thereafter until the next Baseload and Slope Review Date.
- 3.4A Project Co or the Board may each, on one occasion only in each five year period before a Baseload and Slope Review Date, refer the Baseload and Slope to an independent expert (being an appropriately qualified representative of CIBSE) for recalculation in accordance with the principles and methodology of this paragraph 3 (*Adjustments to the Annual Energy Target*) (provided always that the independent expert may also take into account any other factors he considers relevant). In such a case, the commissioning party shall bear the costs of the appointment and Project Co shall make available such data as is reasonably required by the Board or independent expert as soon as reasonably practicable following such request. Any recalculated Baseload and Slope derived by such expert pursuant to such referral shall be used to recalculate the Annual Energy Target in accordance with paragraph 3.1 (*Adjustments to the Annual Energy Target*) and such recalculated Baseload and Slope shall apply until the next Baseload and Slope Review Date.

Adjustments for Qualifying Variations and Joint Operating Protocol

- 3.5 The Annual Energy Target shall also be reviewed following a Qualifying Variation which has, or can reasonably be expected to have, an effect on Energy Consumption.
- 3.6 By no later than the time specified in paragraph 4.1 of this Section F of Part 18 of the Schedule (*Payment Mechanism*), Project Co shall provide to the Board details of any Energy Consumption which has arisen as a result of the factors listed in paragraph 2.1 of Section 4 of Part 33 of the Schedule (*Joint Operating Protocol*) during the Energy Year ending on the Annual Review Date and which

has been raised at the Joint Utilities Management Group during the relevant Energy Year. The parties agree that:

- (a) for the purposes of the Energy Year ending on the Annual Review Date only, the Annual Energy Target shall be increased by the amount of Energy Consumption which has arisen as a result of the factors listed in paragraph 2.1 of Section 4 of Part 33 of the Schedule (*Joint Operating Protocol*) during the Energy Year ending on the Annual Review Date and which has been raised at the Joint Utilities Management Group during the relevant Energy Year (and, for the avoidance of doubt, the Annual Energy Target will not be so adjusted for the next following Energy Year); and
- (b) the Monthly Service Payment shall be adjusted by an amount "IE" in accordance with paragraph 1.1.12 of Section B of Part 18 of the Schedule (*Payment Mechanism*) to account for the cost to Project Co of such increased Energy Consumption.

4. **COMPARING ACTUAL CONSUMPTION OF ENERGY WITH TARGET**

- 4.1 By no later than 10 Business Days after the submission by Project Co of a certificate referred to in paragraph 6 (*Measurement*), in respect of the quarter ending on an Annual Review Date, the parties shall calculate the amount by which Adjusted Energy Consumption for the Energy Year ending on the Annual Review Date is greater than or less than the Annual Energy Target for the same period.
- 4.2 If Adjusted Energy Consumption is not less than 97% and not greater than 103% of the Annual Energy Target for the same period, no adjustment to Monthly Service Payments shall be made.
- 4.3 If Adjusted Energy Consumption is between 97% and 87% of the Annual Energy Target for the same period, a Gainshare Adjustment shall be made to the Monthly Service Payments, calculated in accordance with paragraphs 4.6 (*Comparing Actual Consumption of Energy with Target*) and 4.7 (*Comparing Actual Consumption of Energy with Target*) below.
- 4.4 If Adjusted Energy Consumption is between 103% and 113% of the Annual Energy Target for the same period, a Painshare Adjustment shall be made to the Monthly Service Payments, calculated in accordance with paragraphs 4.8 (*Comparing Actual Consumption of Energy with Target*) and 4.9 (*Comparing Actual Consumption of Energy with Target*) below.
- 4.5 If Adjusted Energy Consumption is identified at any time as less than 87% or greater than 113% of the Annual Energy Target for the same period, then the variance in Energy Consumption shall be regarded as extraordinary and deserving of investigation. An independent expert (being an appropriately qualified representative of CIBSE) shall be commissioned at the joint equal cost

of the Board and Project Co to assess and report on the cause of the variance and assess the responsibility of Project Co and the Board for that element of the Energy Consumption which is less than 87% or greater than 113% of the Annual Energy Target and to apportion (as between the Board and Project Co) the appropriate share which should be borne of any excess costs (including but not limited to the costs of obtaining additional Allowances) or savings arising from such variance being less than 87% or greater than 113% of the Annual Energy Target. The Board and Project Co shall be bound by the findings of the independent expert pursuant to this paragraph 4.5 (*Comparing Actual Consumption of Energy with Target*) and shall use reasonable endeavours to implement any additional recommendations that the independent expert may choose to make. The independent expert may be invited to consider making cost-effective recommendations for improving the efficiency of energy usage and/or minimising carbon emissions but such recommendations shall not be binding on Project Co or the Board.

Calculation of Gainshare Adjustment

4.6 Energy Thresholds shall be established at:

- (a) 97% of the Annual Energy Target, termed Threshold 1a; and
- (b) 87% of the Annual Energy Target, termed Threshold 2a.

4.7 A Gainshare Adjustment shall be calculated in accordance with the following formula:

$$GS = S2a \times AAUC$$

where:

GS is the Gainshare Adjustment;

S2a is 50% of the volume of Energy Consumption that lies between Threshold 1a and Threshold 2a; and

AAUC is the Average Annual Unit Cost.

Calculation of Painshare Adjustment

4.8 Energy Thresholds shall be established at:

- (a) 103% of the Annual Energy Target, termed Threshold 1b; and
- (b) 113% of the Annual Energy Target, termed Threshold 2b.

4.9 A Painshare Adjustment shall be calculated in accordance with the following formula:

$$PS = S2b \times AAUC$$

where:

PS is the Painshare Adjustment;

S2b is 50% of the volume of Energy Consumption that lies between Threshold 1b and Threshold 2b; and

AAUC is the Average Annual Unit Cost.

- 4.10 The Average Unit Cost shall be calculated in accordance with the following formula:

$$AUC = \frac{(SC + US)}{U}$$

where:

AUC means the Average Unit Cost;

SC means the aggregate of all standing charges and other sums invoiced by suppliers in respect of the supply of Units of Energy during the relevant Contract Month, being sums which do not vary solely according to the amount of Units of Energy actually supplied;

US means the aggregate of all sums invoiced by suppliers in respect of the supply of Units of Energy during the relevant Contract Month, being, in respect of each form of Energy, a price per Unit multiplied by the number of Units of that type of Energy actually supplied by and any sums taken into account in "SC" above; and

U means the aggregate number of Units of Energy actually supplied for consumption in respect of the Hospital Facilities in the course of the relevant Contract Month.

- 4.11 Where, pursuant to Clause 17.4 (*Thermal and energy efficiency*) of this Agreement, it is determined that the Facilities have not, as a consequence of the design and construction of the Facilities by Project Co, satisfied the Board's Construction Requirements in respect of thermal and energy efficiency, and the solution determined, pursuant to that clause is the payment of compensation by Project Co in respect of the additional consumption of energy which is expected to result:

4.11.1 the amount of any such payment; and

4.11.2 the equivalent number of Units of Energy which that payment represents, based on the Average Unit Cost,

shall be disregarded for the purposes of calculating if any Gainshare Adjustment or Painshare Adjustment arises pursuant to this paragraph 4 (*Comparing Actual Consumption of Energy with Target*). For the avoidance of doubt, Adjusted Energy Consumption will not be reduced by the relevant number of Units of Energy, the amounts included for SC and US in paragraph 4.10 (*Comparing Actual Consumption of Energy with Target*) will not be reduced by the amount of the relevant payment, and all Units of Energy Consumption shall be taken into account for the purposes of calculating the Average Unit Cost.

- 4.12 Where it is established in accordance with this paragraph 4 (*Comparing Actual Consumption of Energy with Target*) that a Gainshare Adjustment or a Painshare Adjustment arises, the relevant adjustment shall be given effect to in accordance with paragraph 1 (*Monthly Service Payment*) of Section B of this Part 18 of the Schedule (*Payment Mechanism*). In each case the relevant Monthly Service Payment to be adjusted shall be that covered by the Monthly Service Payment Statement issued following the calculation of the adjustment. In the event that a relevant adjustment arises in respect of the final Contract Year the adjustment shall be made to the final Monthly Service Payment.
- 4.13 The making of any Gainshare Adjustment or Painshare Adjustment shall not affect the Annual Service Payment for the purposes of the application of indexation pursuant to this Agreement.

5. USAGE OF DIFFERENT TYPES OF ENERGY

- 5.1 The parties agree that it is important to maintain an appropriate balance between (i) on the one hand, ensuring the efficient use of energy and minimising the level of emissions of greenhouse gases and other noxious substances caused by the use of Energy and (ii) on the other hand, minimising the monetary cost of Energy usage. There are set out in Section 7 of Part 8 of the Schedule (*Thermal and energy efficiency testing procedure*) the agreed proportions for usage of different types of Energy. In managing the usage of Energy at the Hospital Facilities Project Co shall wherever practicable ensure that these agreed proportions are followed.
- 5.2 To the extent that the proportions of different types of Energy actually consumed at the Hospital Facilities differ by more than 1% from the agreed proportions referred to in paragraph 5.1 (*Usage of Different Types of Energy*) above any resultant increase in the cost of purchasing Energy and/or Allowances shall be for Project Co's account and shall take effect by way of an amendment to the calculation of Average Unit Cost to reflect proportions of Energy not more than 1% different from those agreed.
- 5.3 Paragraph 5.2 (*Usage of Different Types of Energy*) above shall not apply to the extent that a change in the proportions of Energy actually consumed results from a Qualifying Variation, or as a result of the factors listed in paragraph 2.1 of Section 4 of Part 33 of the Schedule (*Joint Operating Protocol*) or from an

increase or decrease from time to time in the Board's requirements for usage of a particular type of energy, or has been subject to prior agreement by the Board's Representative, or are as a result of an interrupted supply of utility from a utility provider.

6. MEASUREMENT

- 6.1 Project Co shall measure the amount of Energy Consumption in accordance with Clause 17.3 (*Thermal and energy efficiency*) of this Agreement in respect of each Contract Month following the Phase 1 Actual Completion Date and ending on the expiry or earlier termination of this Agreement. For the avoidance of doubt, for the purposes of this Part 18 of the Schedule (*Payment Mechanism*), all Energy Consumption will be measured and taken into account in all calculations under this Part 18 of the Schedule (including any Energy Consumption which is excluded under Section 7 of Part 8 of the Schedule (*Thermal and Energy Efficiency Testing Procedure*) for the purposes of calculating the Construction Energy Target) unless expressly stated otherwise in this Part 18 of the Schedule (*Payment Mechanism*).
- 6.2 Project Co shall provide to the Board a summary of Energy Consumption in respect of each type of Energy, together with information regarding adjustment for Degree Days at the end of each quarter. The first such quarter shall begin on the first day of the Initial Period.

7. UTILITY COST ADJUSTMENT

- 7.1 The Utility Cost Adjustment shall be calculated in accordance with the following formula:

$$UCA = CA + VA$$

where:

- (a) UCA means the Utility Cost Adjustment;
- (b) CA means the Cost Adjustment per Unit, calculated in accordance with paragraph 7.2; and
- (c) VA means the Volume Adjustment, calculated in accordance with paragraph 7.3 or 7.4, as appropriate.

- 7.2 The Cost Adjustment per Unit shall be calculated in accordance with the following formula:

$$CA = EC \left(AUC - \left(AUC_o \times \frac{RPI_n}{RPI_o} \right) \right)$$

where:

- (a) CA means the Cost Adjustment per Unit;
- (b) EC means the Energy Consumption in the relevant Contract Month;
- (c) AUC means the Average Unit Cost;
- (d) AUCo means the amount set out as the figure for AUCo in Appendix D to this Part 18 of the Schedule (*Payment Mechanism*);
- (e) RPI_n is the value of RPI published or determined with respect to the month of February which most recently precedes the start of the Contract Year in which the relevant Contract Month falls; and
- (f) RPI_o is the value of RPI published or determined with respect to the Indexation Base Month.

7.3 The Volume Adjustment shall be calculated prior to the establishment of an Annual Energy Target in accordance with the following formula:

$$VA = \left(EC - \frac{AET_o}{12} \right) \times AUC_o$$

where:

- (a) VA means the Volume Adjustment, which may be a negative number;
- (b) EC means the Energy Consumption in the relevant Contract Month;
- (c) AET_o means the amount set out as the figure for AET_o in Appendix D to this Part 18 of the Schedule (*Payment Mechanism*); and
- (d) AUCo means the amount set out as the figure for AUCo in Appendix D to this Part 18 of the Schedule (*Payment Mechanism*).

7.4 The Volume Adjustment shall be calculated following the establishment of an Annual Energy Target in accordance with the following formula:

$$VA = (AET - AET_o) \times AUC_o$$

where:

- (a) VA means the Volume Adjustment, which may be a negative number;
- (b) AET means the relevant Annual Energy Target;
- (c) AET_o means the amount set out as the figure for AET_o in Appendix D to this Part 18 of the Schedule (*Payment Mechanism*); and
- (d) AUCo means the amount set out as the figure for AUCo in Appendix D to this Part 18 of the Schedule (*Payment Mechanism*).

8. UTILITY PROCUREMENT

- 8.1 Project Co shall have responsibility for the procurement of Energy, water, sewerage and drainage and shall enter into contracts with relevant suppliers.
- 8.2 Not less than 60 Business Days prior to any Utility Contract Date, Project Co shall inform the Board's Representative of the forthcoming requirement for a utility contract including details of current supply contract arrangements (if any), broad parameters of the requirement including anticipated volumes and security required and any other information as may be reasonably required to obtain a quotation for such supply.
- 8.3 Within 10 Business Days of receiving a notice from Project Co pursuant to paragraph 8.2 (*Utility Procurement*), the Board may provide Project Co with details of a supplier and relevant contract information that it wishes Project Co to include on the tender list for the relevant utility contract.
- 8.4 Not less than 30 Business Days prior to any Utility Contract Date, Project Co shall forward to the Board's Representative quotes from at least three suppliers, to include any supplier nominated by the Board pursuant to paragraph 8.3 (*Utility Procurement*), including a reasoned recommendation as to which quote Project Co views as offering best value for money for Project Co and the Board, taking into account all relevant circumstances, including cost, relative security of supply and the basis and quality of supply.
- 8.5 Within 10 Business Days of receiving a recommendation from Project Co pursuant to paragraph 8.4 (*Utility Procurement*), the Board may object in writing to Project Co's recommended utility contract. Any such objection would be subject to the Dispute Resolution Procedure.
- 8.6 Project Co shall enter into a contract with the supplier and under the terms recommended under paragraph 8.4 (*Utility Procurement*) or with any other supplier or under any other terms as may be determined pursuant to paragraph 8.5 (*Utility Procurement*), prior to the relevant Utility Contract Date.

9. UTILITY CHARGES

Charges in relation to water, sewerage and drainage shall be Pass Through Costs and shall be included in the relevant Monthly Service Payment.

10. RATES

Local authority rates shall be Pass Through Costs and shall be included in the Monthly Service Payment.

11. DISPUTE RESOLUTION

In the event of a dispute arising in relation to the operation of this Section F, the matter shall be determined in a manner agreed between the parties or in such

manner as may be determined in accordance with Part 26 of the Schedule (*Dispute Resolution Procedure*).

PART 18 OF THE SCHEDULE: PAYMENT MECHANISM

Section G: Service Failure Points

1. SERVICE FAILURE POINTS

- 1.1 Service Failure Points shall be awarded for every Performance Failure and every Unavailability Event deemed or actual which occur during the Project Term unless such matters are disregarded pursuant to paragraph 1.3 (*Entitlement to Make Deductions*) or paragraph 4 (*Tolerances for Minor Performance Failures*) of Section C of this Part 18 of the Schedule (*Payment Mechanism*) and further disregarding any Performance Failure or Unavailability Event which is attributable to the occurrence of a Relief Event or an event of Force Majeure.
- 1.2 Subject to paragraph 2.6 of Section C of this Part 18 of the Schedule (*Payment Mechanism*), there shall be no change in the number of Service Failure Points to be awarded during a Bedding-In Period or where the Board elects to use a Functional Part or a room or space within it that is deemed Unavailable.
- 1.3 For the avoidance of doubt when awarding Service Failure Points, where more than one Unavailability Event or Performance Failure is deemed to have occurred in accordance with paragraph 6 (*Rectification*) of Section C of this Part 18 of the Schedule (*Payment Mechanism*), because Rectification is not carried out, the appropriate number of Service Failure Points shall be awarded in respect of each such Unavailability Event or Performance Failure, even though they arise from the same circumstances.
- 1.4 If the same Unavailability Event or Performance Failure affects more than one Functional Unit, the number of Service Failure Points to be awarded in respect of that Unavailability Event shall not change.
- 1.5 **Service Failure Points and Performance Failures**
 - 1.5.1 The number of Service Failure Points which shall be awarded in respect of each Performance Failure shall be the number of Service Failure Points attributable to the Performance Failure Category allocated to the Performance Failure as set out in Appendix A to this Part 18 of the Schedule (*Payment Mechanism*).
 - 1.5.2 Where the Performance Monitoring Period referable to the Performance Failure in question is a period which begins in a Contract Month and expires in another, the Service Failure Points to be awarded in respect of such Performance Failure shall be included in the total number of Service Failure Points for the Contract Month during which the Performance Failure occurred.

- 1.5.3 Where the Performance Monitoring Period referable to the Performance Failure in question is a period which begins and ends on the first and last day of a Contract Month or is a period which is wholly contained within the Contract Month or where no specific Performance Monitoring Period is referable to the Performance Failure in question, the Service Failure Points to be awarded in respect of such Performance Failure shall be included in the total number of Service Failure Points for that Contract Month.

1.6 Total Monthly Service Failure Points

Project Co shall calculate:

- 1.6.1 the total number of Service Failure Points awarded to each Service provided by the individual Service Providers in each Contract Month; and
- 1.6.2 the sum total of all Service Failure Points awarded across all Services provided by all Service Providers in each Contract Month.

1.7 New Service Providers

- 1.7.1 Without prejudice to paragraph 1.5.3 (*Service Failure Points and Performance Failures*) of this Section G Service Failure Points awarded to a Service Provider which has been replaced by a new Service Provider shall not be taken into account in calculating the total number of Service Failure Points of the new Service Provider in any Contract Month pursuant to paragraph 1.6.1 (*Total Monthly Service Failure Points*) of this Section G.
- 1.7.2 Service Failure Points which have been awarded to a Service Provider which has been replaced shall not be deducted from the total number of Service Failure Points awarded in respect of all Services in any relevant Contract Month.

PART 18 OF THE SCHEDULE: PAYMENT MECHANISM

Section H: Greenhouse Gas Emissions

1. APPLICABILITY OF THIS SECTION H

This Section H of Part 18 of the Schedule (*Payment Mechanism*) shall have effect where:

- (a) the GGETS Regulations apply;
- (b) Project Co is responsible for the operation and management of the Installation in accordance with the Service Level Specifications; and
- (c) Project Co or a Project Co Party is the Designated Operator.

2. COMPLIANCE

Irrespective of whether Project Co or one of its Sub-Contractors is the Designated Operator, as between the Board and Project Co, Project Co shall be responsible for all aspects of compliance with the GGETS Regulations in relation to any Installation at the Site, including but not limited to procuring and complying with any Greenhouse Gas Emissions Permit.

3. EMISSIONS BASELOAD

- 3.1 The initial Emissions Baseload has been calculated as at Effective Date using the Methodology and the parties' agreed expectations regarding (i) the likely usage of Energy at the Hospital Facilities and (ii) the mix of different types of Energy that will be used. The Emissions Baseload shall not be adjusted from this initial calculation except in accordance with paragraphs 3.2 (*Emissions Baseload*) or 3.3 (*Emissions Baseload*) below.
- 3.2 In the event of a manifest material error in the calculation of the initial Emissions Baseload (whether by application of the Methodology or otherwise), the parties shall agree what the initial Emissions Baseload ought to have been (or in the absence of such agreement refer the same to an independent expert (being an appropriately qualified representative of CIBSE) for recalculation in accordance with the Methodology). Such agreed or determined figure shall replace the initial Emissions Baseload and shall thereafter be adjusted as set out in paragraph 3.3 (*Emissions Baseload*) below.
- 3.3 The Emissions Baseload shall be adjusted as follows and at the following times:
 - (a) with effect on each anniversary of the Phase 1 Actual Completion Date until the expiry of the Initial Period, to reflect the actual Energy Consumption; and thereafter

- (b) on the expiry of the Initial Period and on each Annual Review Date to reflect:
 - (i) the anticipated use of Energy envisaged by the Annual Energy Target (as adjusted from time to time in accordance with paragraph 3 (*Adjustments to the Annual Energy Target*) of Section F of this Part 18 of the Schedule (*Payment Mechanism*); and
 - (ii) the mix of usage of Energy identified in the data for Energy Consumption used to calculate the Baseload (as adjusted from time to time in accordance with paragraph 3.4 (*Adjustments to the Annual Energy Target*) of Section F of this Part 18 of the Schedule (*Payment Mechanism*) on each Baseload and Slope Review Date);
- (c) following a Qualifying Variation; and/or
- (d) pursuant to paragraph 6.6 (*Emissions Savings and Excess Emissions*); and/or
- (e) on each Annual Review Date for the purposes of the Energy Year ending on the Annual Review Date only, the Emissions Baseload shall be increased by the amount of Energy Consumption which has arisen as a result of the factors listed in paragraph 2.1 of Section 4 of Part 33 of the Schedule (*Joint Operating Protocol*) during the Energy Year ending on the Annual Review Date and which has been raised at the Joint Utilities Management Group during the relevant Energy Year (and, for the avoidance of doubt, the Emissions Baseload will not be so adjusted for the next following Energy Year).

3.4 Any adjustments to the Emissions Baseload (as agreed or determined) shall apply until the next Baseload and Slope Review Date (subject to subsequent adjustments or recalculations pursuant to this paragraph 3 (*Emissions Baseload*)).

4. **ALLOCATED ALLOWANCES AND TRADING**

4.1 If at any time:

- (a) the amount of Allocated Allowances for a Scheme Year or other relevant period is set or reduced below the Emissions Baseload; and
- (b) the Verified Emissions exceed, or the parties agree that they are likely to exceed, the Allocated Allowances,

the cost of procuring additional Allowances to cover any difference between the Allocated Allowances and the lower of the Verified Emissions and the Emissions

Baseload (the "Allowances Variance") shall be borne by the Board in accordance with this paragraph 4 (*Allocated Allowances and Trading*).

- 4.1A If at any time, the Emissions Baseload is increased for the reasons specified in paragraph 3 of this Section H of Part 18 of the Schedule (*Payment Mechanism*), then the Board shall compensate Project Co so that Project Co is in a no better no worse position than it would have been had there been no change in the Emissions Baseload.
- 4.2 Within twenty (20) Business Days of Project Co becoming aware that an Allowances Variance has occurred, or is (in Project Co's reasonable opinion) likely to occur, Project Co shall so notify the Board, together with:
- (a) Project Co's proposals for a strategy to mitigate, to the extent it is reasonably possible to do so, the additional costs that will be incurred as a result. This may include, without limitation, proposals for the forward purchase of Allowances to cover the Allowances Variance or, as appropriate, measures to provide protection against changes in the price of Allowances during the relevant Scheme Year, taking account of the date after which it is not reasonably possible, or does not represent value for money, to purchase adequate protection against the volatility or unpredictability of prices for Allowances; and
 - (b) Project Co's reasonable estimate of the adjustment (upwards or downwards) it believes should be made to the Monthly Service Payment to reflect those costs, on the assumption that costs are mitigated, if possible, in accordance with Project Co's proposed strategy.
- 4.3 The Board shall notify Project Co within ten (10) Business Days of receipt of Project Co's notification pursuant to paragraph 4.2 (*Allocated Allowances and Trading*) if it agrees with Project Co's proposed strategy and estimate of costs and, if it does not agree, the reasons why not. If the parties cannot agree the strategy for mitigating costs and/or the appropriate amount of any adjustment to the Monthly Service Payment, either party may refer the dispute for resolution under Part 26 of the Schedule (*Dispute Resolution Procedure*).
- 4.4 Project Co shall use all reasonable endeavours to implement the strategy agreed or determined in accordance with this paragraph 4 (*Allocated Allowances and Trading*). In selling and purchasing Allowances (or taking other measures in connection with the sale and purchase of Allowances) to cover the difference between the Allocated Allowances and the Verified Emissions, Project Co shall at all times use, and procure that the Designated Operator shall use, reasonable endeavours to maximise the revenue and minimise the cost, provided that this shall not:
- (a) prejudice the Designated Operator's right to enter into reasonable forward purchase agreements or other reasonable measures in order

to mitigate risk, in accordance with the strategy agreed or determined in accordance with this paragraph 4.4 (*Allocated Allowances and Trading*); or

- (b) require the Designated Operator to enter into transactions that are not in accordance with Good Industry Practice or expose it to material credit risk.

4.5 If Project Co notifies the Board that, in its judgement, better terms for the purchase or sale of Allowances (or the taking of measures to mitigate the cost of the purchase or sale of Allowances) are available by participating in arrangements available to NHS organisations, the Board will, if requested to do so by Project Co, use reasonable endeavours to facilitate the use of such arrangements for the purposes of this Agreement.

4.6 For the avoidance of doubt, if as a result of a Qualifying Variation (including but not limited to any renewable energy installations) there is a reduction in the Emissions Baseload or an increase in Allocated Allowances then Project Co shall compensate the Board for any increased income received by Project Co as a result of a reduction to the Emissions Baseload or increase in Allocated Allowances pursuant to such Qualifying Variation, to the extent such increased income arises from the sale of Allocated Allowances.

5. **ADJUSTMENTS TO MONTHLY SERVICE PAYMENT**

5.1 The Monthly Service Payment shall be adjusted by an amount "IEB" to reflect the amount agreed or determined pursuant to paragraph 4.1A (*Allocated Allowances and Trading*), 4.3 (*Allocated Allowances and Trading*) and/or paragraph 4.6 (*Allocated Allowances and Trading*) for the month following the date on which it is agreed or determined that such adjustment should be made in accordance with paragraph 1.1.13 of Section B of this Part 18 of the Schedule (*Payment Mechanism*).

5.2 Within twenty (20) Business Days of the end of any relevant Scheme Year or other relevant period, Project Co shall notify the Board of the actual costs incurred by Project Co or the Designated Operator of implementing the strategy agreed or determined in accordance with paragraph 4 (*Allocated Allowances and Trading*) above, including procuring Allowances to cover the Allowances Variance and/or protecting against the effect of changes in the price of Allowances. A further adjustment shall be made, where appropriate and subject to paragraph 5.3 (*Adjustments to the Annual Service Payment*) below, to reflect any differences between the amount of those actual costs and the anticipated costs that have been reflected in any previous adjustment to the Monthly Service Payment made in accordance with paragraph 5.1 (*Adjustments to Annual Service Payment*).

5.3 When making adjustments to the Monthly Service Payment in accordance with this paragraph 5 (*Adjustments to Annual Service Payment*), the parties shall

have regard to any relevant findings or recommendations made by any independent expert which require to be made pursuant to paragraph 4.5 of Section F of this Part 18 of the Schedule (*Payment Mechanism*).

6. EMISSIONS SAVINGS AND EXCESS EMISSIONS

- 6.1 Without prejudice to paragraphs 4.4 (*Allocated Allowances and Trading*) and 7 (*Additional Allowances*) and subject always to paragraphs 4 (*Allocated Allowances and Trading*) and 6.5 (*Emissions Savings and Excess Emissions*), the parties' respective shares of the difference in any Scheme Year between the Verified Emissions and the Emissions Threshold shall be determined in accordance with this paragraph 6 (*Emissions Savings and Excess Emissions*).
- 6.2 If the amount of Verified Emissions is less than the amount of Allowances available to the Designated Operator (being either Allocated Allowances or Allowances which the Designated Operator has purchased or arranged to purchase in accordance with the strategy determined under paragraph 4 (*Allocated Allowances and Trading*)) the disposal by the Designated Operator of Allowances or rights to purchase Allowances that are in excess of the required number shall give rise to an "Emissions Saving Adjustment", equal to one half of the revenue generated by any such disposal.
- 6.3 If the amount of Verified Emissions is greater than the Emissions Threshold, then to extent that additional Emissions arise by virtue of Energy Consumption exceeding the Annual Energy Target, then, subject to paragraph 6.4 (*Emissions Savings and Excess Emissions*) below, there shall be an "Excess Emissions Adjustment", being one half of the additional cost of purchasing any additional Allowances required and/or the taking of other measures in accordance with the strategy agreed or determined in accordance with paragraph 4 (*Allocated Allowances and Trading*) above.
- 6.4 Notwithstanding paragraphs 6.2 and 6.3 (*Emissions Savings and Excess Emissions*) above, to the extent that the cost of Allowances which Project Co or other Designated Operator is required to dispose of or purchase as a result of the Verified Emissions varying from the Allocated Allowances by more than the sterling equivalent (determined by reference to exchange rates prevailing at the time) of 20 euros (index linked) per tonne of carbon dioxide emissions, the Board shall bear or take the benefit of the excess.
- 6.5 Where, pursuant to Clause 17.4 (*Thermal and energy efficiency*) of this Agreement, it is determined that the Facilities have not, as a consequence of the design and construction of the Facilities by Project Co, satisfied the Board's Construction Requirements in respect of thermal and energy efficiency, and the solution determined pursuant to that clause is the payment of compensation by Project Co in respect of the additional consumption of Energy which is expected to result, the amount of that payment shall reflect the costs of procuring additional Allowances (or of taking measures to mitigate costs in accordance

with the strategy agreed or determined in accordance with paragraph 4 (*Allocated Allowances and Trading*) above) to the extent that any such costs are caused by virtue of increased Energy Consumption which would not have occurred had the design and construction of the Facilities been in accordance with the Board's Construction Requirements in respect of energy and thermal efficiency. Any adjustment to the Annual Service Payment pursuant to paragraph 5 (*Adjustments to Annual Service Payment*) above shall be subject to this paragraph 6.5 (*Emissions Savings and Excess Emissions*).

6.6 If Verified Emissions are identified at any time as more than 13% less than, or more than 13% greater than, the Emissions Threshold, then the variance shall be regarded as extraordinary and deserving of investigation. An independent expert (being an appropriately qualified representative of CIBSE) shall be commissioned at the joint cost of the Board and Project Co with the following remit:

- (a) to assess and report on the cause of the variance and assess the responsibility of Project Co and the Board for that element of the emissions which is more than 13% less than, or more than 13% greater than, the Emissions Threshold, and to apportion (as between the Board and Project Co) the appropriate share of costs or revenue arising from such variance being more than 13% less than, or more than 13% greater than, the Emissions Threshold (subject always to paragraphs 4.1 (*Allocated Allowances and Trading*) and 6.4 (*Emissions Savings and Excess Emissions*)); and
- (b) pursuant to such assessment, to adjust the Emissions Baseload (having regard to the principles set out in paragraph 3.1 (*Emissions Baseload*)) for the year or period in question up to the next Baseload Review Date to the extent he considers the variance arises for reasons beyond Project Co's control.

The Board and Project Co shall be bound by the findings of the independent expert and shall have regard to any additional recommendations that the independent expert may choose to make.

7. **ADDITIONAL ALLOWANCES**

7.1 Project Co shall, on request, consult with the Board to determine whether or not the Designated Operator may be eligible for additional Allowances from the New Entrant Reserve whether by virtue of:

- (a) any facilities or buildings at the Site being deemed to constitute a new or separate part of or an extension to an existing Installation; or
- (b) the inclusion of a combined heat and power facility at the Site.

- 7.2 To the extent the Board, acting reasonably, determines that additional Allowances may be available Project Co shall, and shall procure that the Designated Operator shall, use reasonable endeavours to procure that the Allocated Allowances are increased on this basis.

PART 18 OF THE SCHEDULE: PAYMENT MECHANISM

Appendix A: Service Failure Points

| Category | SFPs |
|----------------------------|-------------|
| Minor Performance Failure | 2 |
| Medium Performance Failure | 6 |
| Major Performance Failure | 20 |
| Unavailability Event | 20 |

PART 18 OF THE SCHEDULE: PAYMENT MECHANISM

Appendix B: Original Annual Prices for Market Tested Services in Base Date prices

| Service | £ |
|--|-----------|
| Ward Housekeeping | 2,633,008 |
| Catering | 2,037,958 |
| patient Catering for use in Section F, paragraph 1.2(a) | 2,122,426 |
| Linen | 92,513 |
| Portering | 1,110,004 |
| Waste | 244,093 |
| Domestic | 2,050,423 |
| Reception | 58,093 |
| Switchboard | 184,502 |

PART 18 OF THE SCHEDULE: PAYMENT MECHANISM

Appendix C: Area Weightings and Unit Weightings

Table 1: Area Weightings

| Functional Area | Weighting |
|-----------------------|-------------|
| Ambulatory Care Areas | 23.2% |
| Front Door | 13.2% |
| Inpatient Areas | 76.2% |
| Radiology | 23.4% |
| Support Areas | 20.1% |
| Theatres | 43.7% |
| Circulation | 0.2% |
| Total | 200% |

PART 18 OF THE SCHEDULE: PAYMENT MECHANISM

Appendix C: Area Weightings and Unit Weightings

Table 2: Unit Weightings

Table 2 is set out in the Agreed Form Document comprising one volume labelled “Unit Weightings”, which shall have effect as if expressly set out in this Appendix C to this Part 18 of the Schedule.

PART 18 OF THE SCHEDULE: PAYMENT MECHANISM

Appendix D

BVC:

BVC = 1,359,077 patient meals per year

BVW

BVW = 632 tonnes per year

AUCo and AETo

AUCo = £9.06 / GJ

AETo = 107,038 GJ

PART 18 OF THE SCHEDULE: PAYMENT MECHANISM

Appendix E: Room List

theatres

sterile laboratories

PART 18 OF THE SCHEDULE: PAYMENT MECHANISM

Appendix F

Example calculation of Annual Energy Target

Calculation of Annual Energy Target - Example

| Month | Published Degree Day Data (Area 13 West Scotland) | Energy Consumption GJ |
|--------|---|-----------------------|
| Jan-04 | 455 | 11065 |
| Feb | 402 | 11099 |
| Mar | 392 | 10745 |
| Apr | 326 | 9265 |
| May | 239 | 8496 |
| Jun | 170 | 7396 |
| Jul | 120 | 6092 |
| Aug | 127 | 5848 |
| Sep | 183 | 5751 |
| Oct | 281 | 8502 |
| Nov | 366 | 8681 |
| Dec | 437 | 8745 |
| Jan-05 | 449 | 8987 |
| Feb | 401 | 8350 |
| Mar | 390 | 8541 |
| Apr | 325 | 7044 |
| May | 237 | 6850 |
| Jun | 170 | 5158 |
| Jul | 122 | 5293 |
| Aug | 127 | 5133 |
| Sep | 182 | 7833 |
| Oct | 282 | 8567 |
| Nov | 365 | 10206 |
| Dec | 436 | 10137 |

Source Data

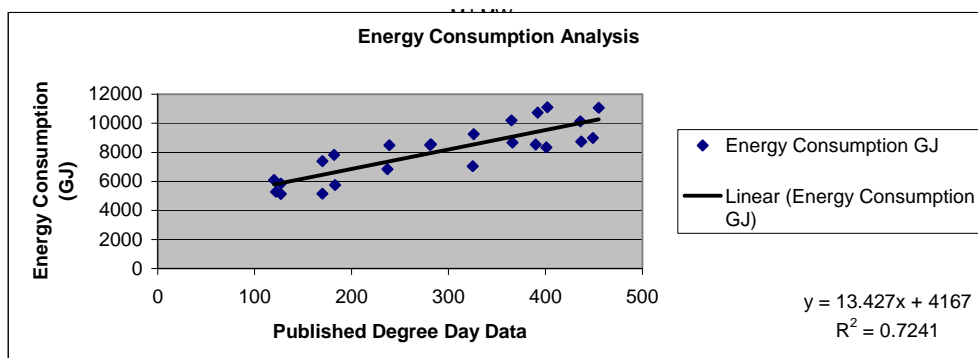
Source Data from West of Scotland Acute Hospital
Source Data for Zone 13 West of Scotland from NHS Forth Valley
Hospital Degree Days 18.5 °C

Example calculations

| | | |
|---|----------|---|
| Aug-04 Published Degree Day Data | 455 Days | |
| Energy Consumption is combined total usage of Gas and Electricity with Units used converted to GigaJoules | | |
| Jan-04 Gas usage | m3 | Conversion To GigaJoules |
| | 215704 | 215704 x Gross Calorific Value(39.8) / 1000 |
| Jan-04 Electricity | Watts | |
| | 926044 | 926044 x Hours in Month/ 1000 x 0.0036 |
| | | 2480 |
| | | 11065 |

Conversion Factors

| | | |
|--|--------|---|
| Gross calorific value Natural gas per m cube | 39.8 | This can vary dependent on quality of gas |
| Kwh - MJ | 3.6 | |
| kwh - GJ | 0.0036 | |



PART 18 OF THE SCHEDULE: PAYMENT MECHANISM

Appendix G

Emissions Baseload

Emissions Baseload = 5,541 tonnes of CO₂ per year

| Fossil Fuels | Annual Energy Consumption kWh | Kg of CO ₂ /kWh | Annual C O ₂ Emission Tonnes |
|--------------|-------------------------------|----------------------------|---|
| Gas | 27,611,980 | 0.1939 | 5,353 |
| Oil | 144,000 | 0.25 | 36 |
| Process | 778,764 | 0.1939 | 151 |
| | | TOTAL | 5,541 |

Allocated Allowances

Allocated Allowances = 12,739 tonnes per year

| | | |
|---|--------|---------------|
| Adjusted Allowance for remaining period of Phase 2 (2008-2012) | 39,336 | Tonnes |
| Days remaining in Phase 2 - Assuming Date for the Start of schedule 1 Activity is 1127 days | 1127 | Days |
| Allocation per Day | 34.90 | Tonnes |
| Allocation per Year (365 days) | 12739 | Tonnes |

New Entrant Calculation Spreadsheet:

Allocation Adjustment

DO NOT OVERTYPE

| | |
|--|----------------------------|
| | Installation name |
| | Site name |
| | Installation Permit Number |
| | NAP ID (if available) |

| Sector | Gross Annual Allocation tCO2 (before sector and commissioning adjustment) | Phase II total allocation adjusted for commissioning tCO2 (covers the remaining period) | Sector Adjustment Factor | Phase II total allocation after commissioning and sector adjustments tCO2 (covers the remaining period) |
|-----------------------------|---|---|--------------------------------|---|
| Electricity Supply | 0 | 0 | 69% | 0 |
| Small Generation Activities | 0 | 0 | 89% | 0 |
| Other Combustion | 14,620 | 44,140 | 89% | 39,336 |
| Integrated Iron and Steel | 0 | 0 | 94% | 0 |
| Electric Arc Furnaces | 0 | 0 | 94% | 0 |
| Refineries | 0 | 0 | 94% | 0 |
| Paper | 0 | 0 | 94% | 0 |
| Lime | 0 | 0 | 94% | 0 |
| Petrochemicals | 0 | 0 | 94% | 0 |
| Gypsum | 0 | 0 | 94% | 0 |
| Onshore Compressors | 0 | 0 | 94% | 0 |
| Cement | 0 | 0 | 94% | 0 |
| Onshore LNG Import | 0 | 0 | 94% | 0 |
| Onshore Terminals | 0 | 0 | 94% | 0 |
| Onshore Gas Storage | 0 | 0 | 94% | 0 |
| Offshore | 0 | 0 | 94% | 0 |
| CHP | 0 | 0 | 100% | 0 |
| Glass | 0 | 0 | 94% | 0 |
| Ceramics | 0 | 0 | 94% | 0 |

Sheet to calculate allocations to benchmarked Other Combustion installations

[Go to "Applications details" sheet](#)

| Legend | |
|--------|-----------------------------------|
| xxx | Cell to be filled in by applicant |
| xxx | Calculation cell |
| xxx | Input assumption cell |
| xxx | Final output cell |
| xxx | Cell not used |

| Total annual allocation this sheet |
|------------------------------------|
| Allowances |
| 14,620 |

| (a) Enter the name of each other combustion unit | (b) Enter rated thermal output MWth | (c) Select the purpose of the boiler/heater | (d) Top-up or back-up heat/steam generation for CHP? |
|--|--|---|--|
| Boiler 1 | 7 | Space heating | Other (not top-up or back-up for CHP) |
| Boiler 2 | 7 | Space heating | Other (not top-up or back-up for CHP) |
| Boiler 3 | 7 | Space heating | Other (not top-up or back-up for CHP) |

| Unit | Load Factors % | Fuel Consumed MWh/annum |
|----------|-------------------|----------------------------|
| Boiler 1 | 35% | 23,084 |
| Boiler 2 | 35% | 23,084 |
| Boiler 3 | 35% | 23,084 |

| Unit | CO ₂ emission per unit fuel input (LHV) tCO ₂ /MWh | Annual Other Combustion Unit Allowances (tonnes CO ₂) |
|--------------|---|--|
| Boiler 1 | 0.21 | 4,873 |
| Boiler 2 | 0.21 | 4,873 |
| Boiler 3 | 0.21 | 4,873 |
| | | |
| Total | | 14,620 |

PART 19 OF THE SCHEDULE: FINANCIAL MODEL

The Financial Model is set out in the Agreed Form document comprising one volume labelled "Financial Model", which shall have effect as if expressly set out in this Part 19 of the Schedule.

PART 20 OF THE SCHEDULE: NOT USED

PART 21 OF THE SCHEDULE: INSURANCE REQUIREMENTS

Section 1 : Policies to be taken out by Project Co from the Effective Date until the Finishing Works Actual Completion Date

1. Contractors' 'All Risks' Insurance

Insured

The Board

Project Co

The Contractor

The Service Provider

The Funder

Sub-Contractors of any tier to Project Co, the Contractor or the Service Provider

Consultants to all of the above for site risks only

each for their respective rights and interests in the Project.

Insured Property

(a) The permanent and temporary Works materials (including but not limited to equipment supplied by the Board), goods, plant and equipment for incorporation in the Works (other than constructional plant, tools, hutting and equipment belonging to or the responsibility of the Contractor or the Contractor's Sub-Contractors) and other property used or for use in connection with the Works.

(b) The Board's Big Ticket Equipment.

Coverage

"All risks" of physical loss or damage unless otherwise excluded.

Sum Insured

(a) At all times an amount not less than the full reinstatement or replacement value of the Insured Property a) above, but not less than the value specified in the building contract plus provision to include Principal Extensions as appropriate.

(b) In relation to the Insured Property b) above, £5,870,000

Territorial Limits

United Kingdom including offsite storage and whilst in inland transit.

Period of Insurance

From the Effective Date until the Finishing Works Actual Completion Date and thereafter in respect of defects liability until expiry of the 12 months defects liability period.

Principal Extensions and Conditions

Professional fees clause (including Board advisers' fees incurred during any period of reinstatement).

Debris removal clause.

72 hour clause.

Free issue materials clause.

115% increase clause.

Additional costs of completion clause.

European Union local authorities clause.

Automatic reinstatement of sum insured clause.

Inflation on incomplete works (20% co-insurance).

Testing/commissioning period clause.

Plans and documents clause.

Munitions of war clause.

Loss minimisation.

Expediting expenses.

Temporary repairs.

Taken into use.

Advance payments.

Full value terrorism.

Cash option in the event of contractual non-reinstatement

Piling conditions

Principal Exclusions

War and related perils (UK market agreed wording).

Nuclear/radioactive risks (UK market agreed wording).

Pressure waves caused by aircraft and other aerial devices travelling at sonic or supersonic speeds.

Wear, tear and gradual deterioration.

Unexplained shortages.

Consequential financial losses.

Cyber risks.

Toxic mould

Faulty design, workmanship and materials (LEG3)

Maximum Deductible

Not to exceed £150,000 each and every claim for defective design, materials and workmanship (LEG3), £50,000 for defective design consequences only, £50,000 additional cost of construction, £50,000 for storm, tempest, water, subsidence and collapse and in respect of all other claims £25,000.

2. Third Party Public and Products Liability Insurance

Insured

The Board

Project Co

The Contractor

The Service Provider

The Funder

Sub-Contractors of any tier to Project Co, the Contractor or the Service Provider

Consultants to all of the above for site risks only

each for their respective rights and interests in the Project.

Interest

To indemnify the Insured in respect of all sums that they may become legally liable to pay consequent upon death or personal injury to any persons and loss or damage to property arising from or in connection with the Project during the period of and in connection with any Works.

Limit of Indemnity

Not less than £100,000,000 in respect of any one occurrence, the number of occurrences being unlimited, but in the aggregate in respect of pollution and products liability.

Territorial Limits

United Kingdom including non manual visits worldwide excluding USA/Canada/Australia.

Jurisdiction

Worldwide.

Period of Insurance

From the Effective Date until the Finishing Works Actual Completion Date and thereafter in respect of defects liability until expiry of the 12 months' defects liability period.

Principal Extensions and Conditions

Contractual Liability.

Personal injury to include false imprisonment, wrongful arrest, eviction or any like cause.

Obstruction, trespass, nuisance, loss of amenities, interference with easements or any like cause.

Defence costs in addition to Limit of Indemnity (other than North America which are inclusive of the indemnity limit).

Health & Safety at Work Act(s) defence clause.

Defective Premises Act clause.

Data Protection Act clause.

Cross liability clause.

Food Safety Act clause.

Consumer Protection Act clause.

Contingent motor liability.

Employees and directors.

Principal Exclusions

Liability for death, illness, disease or bodily injury sustained by employees of the insured.

Liability arising out of the use of mechanically propelled vehicles whilst required to be compulsorily insured by legislation in respect of such vehicles.

Liability in respect of predetermined penalties or liquidated damages imposed under any contract entered into by the insured.

Liability in respect of loss or damage to property in the care, custody and control of the Insured but this exclusion is not to apply to all property belonging to the Board which is in the care, custody and control of another Insured Party.

Liability arising out of technical or professional advice other than in respect of death or bodily injury to persons or damage to third party property.

Liability arising from the ownership, possession or use of any aircraft or marine vessel.

Liability arising from seepage and pollution unless caused by a sudden, unintended and unexpected occurrence.

Nuclear/radioactive risks (UK market agreed wording).

War and related perils (UK market agreed wording).

Asbestos.

Toxic mould.

Cyber risks.

Deductible

Not to exceed £10,000 each occurrence in respect of loss or damage to third party property.

3. **Delay in Start Up Insurance**

Insured

Project Co

The Funders

each for their respective rights and interests in the Project.

Indemnity

In respect of:

- (a) loss of Revenue of Project Co anticipated during the Indemnity Period arising from a delay in completion as a result of physical loss or damage covered under the Contractors' 'All Risks' Insurance effected in accordance with paragraph 1 (Contractors' 'All Risks' Insurance) of Section 1 of this Part 21 of the Schedule (Insurance Requirements), including physical loss or damage which would have been indemnifiable but for the application of any waiting period;
- (b) the additional expenditure necessarily and reasonably incurred for the purpose of avoiding or reducing the loss of fixed costs and debt service costs of Project Co which without such expenditure would have taken place during the Indemnity Period.

Sum Insured

An amount sufficient to cover the sums the subject of the Indemnity for the Minimum Indemnity Period.

Minimum Indemnity Period

Phase 1: 36 months

Phase 2: 44 months

Phase 3: 48 months

Period of Insurance

As per the Contractors' "All Risks" Insurance, excluding the defects liability period.

Principal Extensions

Denial of access.

Waiver of rights of subrogation against the Contractor, the Board and specified Board Parties and the Service Provider.

Terrorism to full value sum insured.

Automatic reinstatement of sum insured

Specified suppliers' premises.

Utilities.

Professional fees

Payment on account

Contractors plant and equipment

No deduction for liquidated and ascertained damages subject to contractual reimbursement of the same.

Principal Exclusions

To follow the Contractors' 'All Risks' Insurance, other than for consequential losses.

Delayed response by public body

Waiting Period

45 days waiting period in the aggregate.

PART 21 OF THE SCHEDULE: INSURANCE REQUIREMENTS

Section 1a : Policies to be taken out by Project Co and maintained from the Phase 1 Actual Completion Date to the Actual Completion Date.

1. Property Damage Insurance

Insured

1. The Board
2. Project Co
3. The Contractor (up to the end of the defects liability period)
4. The Service Provider
5. The Funder
6. Sub-contractors of any tier to Project Co, the Contractor (up to the end of the defects liability period) or the Service Provider all to the extent required by contract.
7. Consultants to all of the above for site risks only

each for their respective rights and interests in the Project.

Insured Property

The Project assets which are the property of Project Co or for which the Project Co may be responsible including but not limited to the new Facilities.

Coverage

"All risks" of physical loss or damage unless otherwise excluded and 'all risks' of physical loss or damage including machinery breakdown in respect of appropriate equipment.

Sum Insured

At all times an amount not less than the total reinstatement or replacement value of the Insured Property plus provision to include other Principal Extensions as appropriate.

Territorial Limits

United Kingdom including whilst in inland transit

Period of Insurance

From the relevant Phase Actual Completion Date until the Actual Completion Date or as otherwise specified in the Agreement.

Principal Extensions and Conditions

1. Theft damage to buildings.
2. Automatic reinstatement of sum insured.
3. Including pollution and contamination to the Insured Property arising from an event which itself is not otherwise excluded. To include pollution or contamination resulting from accidental damage.
4. Capital additions clause.
5. 72 hour clause.
6. European union local authorities clause.
7. Goods temporarily removed.
8. Replacement of computer records.
9. Day one reinstatement – 15% uplift.
10. Professional fees.
11. Debris removal.
12. Full value terrorism cover
13. Cash option in the event of contractual non-reinstatement

Principal Exclusions

1. War and related perils (UK market agreed wording).
2. Nuclear/radioactive risks (UK market agreed wording).
3. Pressure waves caused by aircraft and other aerial devices travelling at sonic or supersonic speeds.
4. Wear, tear and gradual deterioration.
5. Unexplained shortages.
6. Consequential financial losses.

7. Cyber risks
8. Latent defects
9. Toxic mould

Deductible

Not to exceed £25,000 (index-linked) each and every claim

2. **Third Party Public and Products Liability Insurance**

Insured

1. The Board
2. Project Co
3. The Contractor (up to the end of the defects liability period)
4. The Service Provider
5. The Funder
6. Sub-contractors of any tier to Project Co, the Contractor (up to the end of the defects liability period) or the Service Provider all to the extent required by contract.
7. Consultants to all of the above for site risks only

each for their respective rights and interests in the Project.

Interest

To indemnify the Insured in respect of all sums that they may become legally liable to pay consequent upon death, personal injury, disease or mental anguish to any persons and loss or damage to property arising from or in connection with the Project and the provision of the agreed services.

Limit of Indemnity

Not less than £100,000,000 in respect of any one occurrence, the number of occurrences being unlimited, but in the aggregate in respect of pollution and products liability.

Territorial Limits

UK and elsewhere in the world in respect of non-manual visits excluding USA/Canada/Australia

Jurisdiction

Worldwide

Period of Insurance

From the relevant Phase Actual Completion Date until the Actual Completion Date or as otherwise specified in the Agreement

Principal Extensions and Conditions

1. Full contractual liability.
2. Personal injury to include false imprisonment, wrongful arrest, eviction or any like cause.
3. Obstruction, trespass, nuisance, loss of amenities, interference with easements or any like cause.
4. Health & safety at work act(s) defence costs.
5. Defective premises act clause
6. Data protection act clause.
7. Cross liability clause.
8. Contingent motor liability
9. Consumer protection act legal defence costs
10. Food safety act defence costs
11. Directors and employees
12. Legal costs in addition to the Limit of Indemnity (other than for North America, which shall be inclusive of the indemnity limit)
13. Legionella

Principal Exclusions

1. Liability for death, illness, disease or bodily injury sustained by employees of the insured.
2. Liability arising out of the use of mechanically propelled vehicles whilst required to be compulsorily insured by legislation in respect of such vehicles.

3. Liability in respect of predetermined penalties or liquidated damages imposed under any contract entered into by the insured.
4. Liability in respect of loss or damage to property in the care, custody and control of the insured but this exclusion is not to apply to all property belonging to the Board which is in the care, custody and control of another Insured Party.
5. Liability arising out of technical or professional advice other than in respect of death or bodily injury to persons or damage to third party property.
6. Liability arising from the ownership, possession or use of any aircraft or marine vessel.
7. Liability arising from seepage and pollution unless caused by a sudden, unintended and unexpected occurrence.
8. Nuclear/radioactive risks (UK market agreed wording).
9. War and related perils (UK market agreed wording).
10. Asbestos
11. Toxic mould
12. Cyber risks
13. Clinical or medical malpractice

Deductible

Not to exceed £10,000 (index-linked) each occurrence in respect of loss or damage to third party property.

3. **Business Interruption**

Insured

1. Project Co
2. The Funders

each for their respective rights and interests in the Project.

Indemnity

In respect of:

1. loss of Revenue of Project Co anticipated during the Indemnity Period arising from an interruption or interference in the operation of the Project as a result of loss or damage covered under property damage insurance effected in accordance with Item 1 of Part 1a of this Schedule including physical loss or damage which would be indemnifiable but for the application of any deductible,
2. the additional expenditure necessarily and reasonably incurred for the purpose of avoiding or reducing the loss of unavoidable fixed costs and debt service costs of Project Co which without such expenditure would have taken place, during the Indemnity Period.

Sum Insured

An amount sufficient to cover the sums the subject of the Indemnity for the Minimum Indemnity Period.

Minimum Indemnity Period

Phase 1: 36 months

Phase 2: 44 months

Phase 3: 48 months

Deductible

£25,000 (indexed) each and every loss

Period of Insurance

From the relevant Phase Actual Completion Date until the Actual Completion Date or as otherwise specified in the Agreement

Principal Extensions

Denial of access

Waiver of rights of subrogation against the Contractor, the Board and specified Board Parties and the Service Provider.

Terrorism to full value sum insured.

Automatic reinstatement of sum insured

Accountants clause

Utilities (Fire, lightning, explosion and aircraft perils only)

Specified suppliers premises

Infectious diseases

PART 21 OF THE SCHEDULE: INSURANCE REQUIREMENTS

Section 2: Policies to be taken out by Project Co and maintained from the Actual Completion Date until the end of the Operational Term.

1. Property Damage Insurance

Insured

The Board

Project Co

The Contractor (up to the end of the defects liability period)

The Service Provider

The Funder

Sub-Contractors of any tier to Project Co, the Contractor (up to the end of the defects liability period) or Service Provider all to the extent required by contract

each for their respective rights and interests in the Project.

Insured Property

The project assets which are the property of Project Co or for which Project Co may be responsible including but not limited to the new Facilities

Coverage

"All risks" of physical loss or damage unless otherwise excluded including machinery breakdown in respect of appropriate equipment

Sum Insured

At all times an amount not less than the total reinstatement or replacement value of the Insured Property plus provision to include other Principal Extensions as appropriate.

Territorial Limits

United Kingdom including whilst in inland transit.

Period of Insurance

From the Actual Completion Date until the end of the Project Term and renewable on an annual basis unless agreed otherwise by the Parties.

Principal Extensions and Conditions

Theft damage to buildings.

Automatic reinstatement of sum insured.

Including pollution and contamination to the Insured Property arising from an event which itself is not otherwise excluded. To include pollution or contamination resulting from accidental damage.

Capital additions clause.

72 hour clause.

European Union local authorities clause.

Goods temporarily removed.

Replacement of computer records.

Day one reinstatement – 15% uplift.

Professional fees.

Debris removal.

Full value terrorism cover.

Cash option in the event of contractual non-reinstatement

Principal Exclusions

War and related perils (UK market agreed wording).

Nuclear/radioactive risks (UK market agreed wording).

Pressure waves caused by aircraft and other aerial devices travelling at sonic or supersonic speeds.

Wear, tear and gradual deterioration.

Unexplained shortages.

Consequential financial losses.

Cyber risks.

Latent defects.

Toxic mould.

Deductible

Not to exceed £25,000 (index-linked) each and every claim

2. **Third Party Public and Products Liability Insurance**

Insured

The Board

Project Co

The Contractor (up to the end of the defects liability period)

The Service Provider

The Funder

Sub-contractors of any tier to Project Co, the Contractor (up to the end of the defects liability period) or the Service Provider all to the extent required by contract

each for their respective rights and interests in the Project.

Interest

To indemnify the Insured in respect of all sums that they may become legally liable to pay consequent upon death, personal injury, disease or mental anguish to any persons and loss or damage to property arising from or in connection with the Project and the provision of the Services.

Limit of Indemnity

Not less than £100,000,000 (index linked) in respect of any one occurrence, the number of occurrences being unlimited, but in the annual aggregate in respect of pollution and products liability.

Territorial Limits

UK and elsewhere in the world in respect of non-manual visits excluding USA/Canada/Australia.

Jurisdiction

Worldwide

Period of Insurance

From the Actual Completion Date until the end of the Project Term and renewable on an annual basis unless agreed otherwise by the Parties.

Principal Extensions and Conditions

Contractual liability.

Personal injury to include false imprisonment, wrongful arrest, eviction or any like cause.

Obstruction, trespass, nuisance, loss of amenities, interference with easements or any like cause.

Health & Safety at Work Act(s) defence costs.

Defective Premises Act clause.

Data Protection Act clause.

Cross liability clause.

Contingent motor liability.

Consumer Protection Act legal defence costs.

Food Safety Act defence costs.

Legal costs in addition to the limit of indemnity (other than for North America which are inclusive of the indemnity limit).

Directors and employees.

Legionella

Principal Exclusions

Liability for death, illness, disease or bodily injury sustained by employees of the insured.

Liability arising out of the use of mechanically propelled vehicles whilst required to be compulsorily insured by legislation in respect of such vehicles.

Liability in respect of predetermined penalties or liquidated damages imposed under any contract entered into by the insured.

Liability in respect of loss or damage to property in the care, custody and control of the insured but this exclusion is not to apply to all property belonging to the Board which is in the care, custody and control of another Insured Party.

Liability arising out of technical or professional advice other than in respect of death or bodily injury to persons or damage to third party property.

Liability arising from the ownership, possession or use of any aircraft or marine vessel.

Liability arising from seepage and pollution unless caused by a sudden, unintended and unexpected occurrence.

Nuclear/radioactive risks (UK market agreed wording).

War and related perils (UK market agreed wording).

Asbestos.

Toxic mould.

Cyber risks.

Clinical and medical malpractice.

Deductible

Not to exceed £10,000 (index-linked) each occurrence in respect of loss or damage to third party property.

3. Business Interruption

Insured

Project Co

The Funders

each for their respective rights and interests in the Project.

Indemnity

In respect of:

- (a) loss of Revenue of Project Co anticipated during the Indemnity Period arising from an interruption or interference in the operation of the Project as a result of loss or damage covered under Property Damage Insurance effected in accordance with Paragraph 4 of Section 2 of this

Schedule including physical loss or damage which would be indemnifiable but for the application of any deductible;

- (b) the additional expenditure necessarily and reasonably incurred for the purpose of avoiding or reducing the loss of Revenue of Project Co which without such expenditure would have taken place

during the Indemnity Period.

Sum Insured

An amount sufficient to cover the sums the subject of the Indemnity for the Minimum Indemnity Period.

Minimum Indemnity Period

Phase 1: 36 months

Phase 2: 44 months

Phase 3: 48 months

Deductible

£25,000 (indexed) each and every loss.

Period of Insurance

From the Actual Completion Date until the end of the Project Term, and renewable on an annual basis unless agreed otherwise by the Parties.

Principal Extensions

Denial of access.

Waiver of rights of subrogation against the Contractor, the Board and specified Board Parties and the Service Provider.

Terrorism to full value sum insured.

Automatic reinstatement of sum insured.

Accountants clause

Utilities (fire, lightning, explosion, aircraft perils)

Specified suppliers premises

Infectious diseases

PART 21 OF THE SCHEDULE: INSURANCE REQUIREMENTS

Section 3 : Insurance Cost Sharing

Definitions

For the purposes of this Section 3 of Part 21 of the Schedule (*Insurance Requirements*), the following words and expressions shall bear the following meanings:

"Actual Relevant Insurance Cost" means the aggregate of the annual insurance premiums reasonably incurred by Project Co to maintain the Relevant Insurance during the Insurance Review Period but excluding insurance premium tax and all brokers' fees and commissions;

"Base Cost" means:

- (a) for the year beginning on the Phase 1 Actual Completion Date: £415,000;
- (b) for the year beginning on the first anniversary of the Phase 1 Actual Completion Date and each year thereafter: £623,000;

being the amount as agreed at the Bid Date and set out in the Financial Model which represents the insurance costs (which excludes amounts in respect of insurance premium tax and all brokers' fees and commissions) which are proposed to be incurred to maintain the Relevant Insurance in each year following the Phase 1 Actual Completion Date, expressed in real terms as at the Bid Date;

"Bid Date" means 11 July 2006;

"Base Relevant Insurance Cost" means, the aggregate of the Base Costs which were (at Bid Date) projected to be incurred to maintain the Relevant Insurance during the Insurance Review Period indexed by actual RPI from the Bid Date up to the dates on which the Relevant Insurance was placed or renewed either immediately before or during the

Insurance Review Period (as applicable in respect of the year in question) less any Base Relevant Insurance Reduction;

“Base Relevant Insurance Reduction”

means the reduction to be made to the Base Relevant Insurance Cost in respect of a risk which has become Uninsurable or a term or condition which is no longer available and shall be an amount that is either:

- (a) the amount by which the Base Relevant Insurance Cost would have been a lesser amount had such a risk been Uninsurable or such a term or condition been unavailable at the Bid Date (which amount, for the avoidance of doubt, can be £0); or
- (b) if it is impossible to determine an amount pursuant to paragraph (a) above, an amount that is reasonable to be deducted from the Base Relevant Insurance Cost having due regard to:
 - (i) the amount by which the Actual Relevant Insurance Cost is less than it would have been as a result of the risk becoming Uninsurable, or the term or condition becoming unavailable (the “Actual Reduction”);
 - (ii) the size of the Actual Reduction as a percentage of the Actual Relevant Insurance Cost immediately prior to the risk becoming Uninsurable, or the term or condition becoming unavailable; and
 - (iii) the effects of the RPI since the Bid Date;

| | |
|---------------------------------|--|
| "Business Interruption Cover" | means the insurance cover specified in paragraph 3 (<i>Business Interruption</i>) of Section 1a and paragraph 3 of Section 2 of this Part 21 of the Schedule (<i>Insurance Requirements</i>); |
| "Construction Period Insurance" | means the Required Insurances specified in Section 1 of this Part 21 of the Schedule (<i>Insurance Requirements</i>); |
| "Exceptional Cost" | means, for an Insurance Review Period, the extent to which there is an Insurance Cost Increase which exceeds in amount 30% of the Base Relevant Insurance Cost for that Insurance Review Period; |
| "Exceptional Saving" | means, for an Insurance Review Period, the extent to which there is an Insurance Cost Decrease which exceeds in amount 30% of the Base Relevant Insurance Cost for that Insurance Review Period; |
| "First Insurance Review Date" | means the first Business Day following the first anniversary of the Relevant Insurance Inception Date; |
| "Insurance Cost Decrease" | means the Insurance Cost Differential if the value thereof is less than zero, multiplied by minus one; |
| "Insurance Cost Differential" | <p>shall, subject to the Insurance Review Procedure, be determined as follows:</p> $\text{Insurance Cost Differential} = (\text{ARIC} - \text{BRIC}) - (\pm \text{PIC})$ <p>where:</p> <p>ARIC is the Actual Relevant Insurance Cost;</p> <p>BRIC is the Base Relevant Insurance Cost; and</p> <p>PIC is any Project Insurance Change;</p> |
| "Insurance Cost Increase" | means the Insurance Cost Differential if the value thereof is greater than zero; |

| | |
|-------------------------------|--|
| "Insurance Cost Index" | means any index introduced by the United Kingdom Government or the Office of National Statistics after the Effective Date and which is anticipated to be published annually to provide an independent and objective measure of changes in prevailing market insurance costs; |
| "Insurance Review Date" | means the First Insurance Review Date and, thereafter, each date falling on the second anniversary of the previous Insurance Review Date, except where such date lies beyond the end of the Project Term, in which case the Insurance Review Date shall be the last renewal date of the Relevant Insurance prior to the end of the Project Term; |
| "Insurance Review Procedure" | means the procedure set out in paragraph 1 of this Section 3 of this Part 21 of the Schedule (<i>Insurance Requirements</i>); |
| "Insurance Review Period" | means the period from the Relevant Insurance Inception Date to the First Insurance Review Date and each subsequent period commencing on an Insurance Review Date and ending on the following Insurance Review Date except where the end of such period lies beyond the end of the Project Term, in which case the Insurance Review Period shall be the period from the end of the penultimate Insurance Review Period to the last day of the Project Term; |
| "Joint Insurance Cost Report" | shall bear the meaning ascribed to it in paragraph 2.2 of this Section 3 of this Part 21 of the Schedule (<i>Insurance Requirements</i>); |
| "Portfolio Cost Saving" | means any insurance cost saving which arises from the Contractor changing the placement of the Required Insurances from being on a stand-alone project-specific basis assumed at Financial Close and reflected in the Base Cost, to being on the basis of a policy (or policies) also covering risks on other projects or other matters which are outside the scope of the Project so as to benefit from portfolio savings. |

A Portfolio Cost Saving is defined to be a positive sum and cannot be less than zero;

"PPP"

means public private partnership;

"Project Insurance Change"

means any net increase or net decrease in the Actual Relevant Insurance Cost relative to the Base Relevant Insurance Cost, arising from:

- (a) the claims history or re-rating of Project Co or any Project Co Party;
- (b) the effect of any change in deductible unless the following applies:
 - (i) such change is attributable to circumstances generally prevailing in the Relevant Insurance Market; and
 - (ii) the deductible, further to such change, is either greater than or equal to the maximum in Sections 1 or 2 of this Part 21 of the Schedule (*Insurance Requirements*);
- (c) any other issue or factor other than circumstances generally prevailing in the Relevant Insurance Market, except for any Portfolio Cost Saving,

and for the purpose of determining the Insurance Cost Differential, in the event that there is a net increase, the Project Insurance Change shall have a positive value and in the event that there is a net decrease the Project Insurance Change shall have a negative value;

"Relevant Insurance"

means the Required Insurances and any other insurances as may be required by law other than:

- (a) Construction Period Insurance; and

- (b) Business Interruption Cover except to the extent that it relates to loss of Revenue;

"Relevant Insurance Inception Date" means the date on which the Relevant Insurance is first providing active insurance cover to Project Co, being a date no earlier than the Phase 1 Actual Completion Date;

"Relevant Insurance Market" means the insurance market which insures the majority of all PFI projects across all of the PFI sectors (as determined by the number of PFI projects) (and as at the Effective Date, the Relevant Insurance Market is in the United Kingdom); and

"Required Insurances" means all Insurances.

1. Insurance Review Procedure

1.1 This procedure shall be used to determine whether the Board shall bear any increase or benefit from any decrease in Relevant Insurance costs.

1.2 Project Co's insurance broker shall prepare a report on behalf of both Project Co and The Board (the Joint Insurance Cost Report). The report is to be prepared at Project Co's expense and should, as a minimum, contain the following information for the relevant Insurance Review Period:

1.2.1 A full breakdown of the Actual Relevant Insurance Cost;

1.2.2 A full breakdown of the Base Relevant Insurance Cost;

1.2.3 A spreadsheet (the Insurance Summary Sheet) detailing separately:

1.2.3.1 the sum(s) insured / limit of indemnity (ie rateable factor) for each of the Relevant Insurances;

1.2.3.2 the premium rate for each of the Relevant insurances;

1.2.3.3 the net premium paid (or to be paid) for each of the Relevant Insurances (ie excluding both insurance premium tax and brokers fees and commissions);

1.2.3.4 the deductible(s) for each Relevant Insurance;

- 1.2.3.5 details of any claims (paid or reserved) (including incident date, type and quantum) in excess of £100,000, being the amount stated in Clause 36.17 (Risk Management);
 - 1.2.4 An assessment and quantification of each Project Insurance Change together with the reasons therefor;
 - 1.2.5 Full details of any Portfolio Cost Saving;
 - 1.2.6 Any other reasons that Project Co believes may have caused a change (by way of increase or decrease relative to the Base Relevant Insurance Costs) in the Actual Relevant Insurance Cost;
 - 1.2.7 The opinion of the Project Co's insurance broker as to the reasons why the Actual Relevant Insurance Cost has varied from the Base Relevant Insurance Cost, specifying the impact of each of the factors and quantifying the amount attributable to each factor specified above;
 - 1.2.8 The calculation of the Insurance Cost Differential and any Exceptional Cost or Exceptional Saving arising from this calculation;
 - 1.2.9 Evidence satisfactory to the Board (acting reasonably) of any changes to circumstances generally prevailing in the Relevant Insurance Market that are claimed to account for the Insurance Cost Differential; and
 - 1.2.10 Details of movements in the CBS Private Capital non marine index plus, if available from other appropriate sources, details of changes in insurance cost across the PFI market as a whole.
- 1.3 Project Co shall procure that its insurance broker, no later than the date which is ten (10) Business Days after the Insurance Review Date, delivers to the Board, at the same time as it delivers to Project Co, at least two copies of the Joint Insurance Cost Report. Following receipt of the Joint Insurance Cost Report, the Board shall notify Project Co in writing within fifteen (15) Business Days whether or not it accepts the Joint Insurance Cost Report including full details of any disagreement. If the Board does not provide such notification and/or details of any disagreement to Project Co within fifteen (15) Business Days, the Board shall be deemed to have accepted the Joint Insurance Cost Report. If the Board disagrees with any item in the Joint Insurance Cost Report, the Parties shall use their respective reasonable endeavours acting in good faith to agree the contents of the Joint Insurance Cost Report. If the Parties fail to agree the contents of the Joint Insurance Cost Report within thirty five (35) Business Days from the date it was delivered to the Board, the matter shall be resolved pursuant to Schedule 9 (Dispute Resolution Procedure), provided always that references in that Schedule to an expert shall be construed as references to an independent insurance expert

agreed by the Parties or, in the absence of agreement, appointed by the President for the time being of the Chartered Institute of Arbitrators.

- 1.4 The Board may make the Joint Insurance Cost Report available to any of its agents or advisers.

2. Sharing of Exceptional Cost and Exceptional Saving

- 2.1 If, following the completion of the Insurance Review Procedure, it is agreed or determined that there is an Exceptional Cost, the Board shall within thirty (30) days of completion of the Insurance Review Procedure make a one-off lump-sum payment to Project Co equal to 85% of the Exceptional Cost.
- 2.2 If, following the completion of the Insurance Review Procedure, it is agreed or determined that there is an Exceptional Saving, Project Co shall within thirty (30) days of completion of the Insurance Review Procedure make a one-off lump-sum payment to the Authority equal to 85% of the Exceptional Saving.
- 2.3 Following the completion of the Insurance Review Procedure, if it is agreed or determined that there is neither an Exceptional Cost nor an Exceptional Saving, any Insurance Cost Differential shall be borne by or benefit Project Co.

3. Insurance Cost Index

If at any time an Insurance Cost Index is published and intended for use in PFI contracts of a similar nature to this Agreement, the Parties shall meet with a view to agreeing (a) its application to the Project, and (b) how a Portfolio Cost Saving may be accounted for when the index is in use.

Appendix 1 : Form of Broker's Letter of Undertaking

To: Forth Valley Health Board

[date]

Dear Sirs,

Forth Valley Acute Hospital PFI (the "Project")

We confirm in our capacity as insurance brokers to Project Co that the insurances specified in Sections 1 to 2 of Part 21 of the Schedule (the "Insurances") of the Project Agreement (the "Project Agreement") dated [] between the Board and Forth Health Limited ("Project Co") are, as at today's date, in effect on and in respect of the risks as set out in the attached cover notes and, that any premiums due as at the date of this letter, in respect of the Insurances, have been paid in full.

We also confirm that, as at the date of this letter, the relevant endorsements set out in the appendix to this letter are in full force and effect in respect of the Insurances. Terms defined in the Project Agreement shall have the same meaning in this letter.

Pursuant to instructions received from Project Co and in consideration of your approving our appointment or continuing appointment as brokers in connection with the Insurances, we hereby undertake the following in respect of the interests of the Board and the other insured parties in the Insurances, as referred to in the attached cover notes:

1. to use our reasonable endeavours to endorse, on each and every policy evidencing the Insurances when the same is issued, endorsements substantially in the form set out in the appendix to this letter;
2. to pay all proceeds from the Insurances received by us in accordance with the relevant loss payable clauses set out in Endorsement 3 in the appendix to this letter;
3. to notify you upon being informed of (and wherever possible in advance of) any change to the terms of, lapse, non-renewal and/or cancellation of the policies which those of our employees, directly involved in the placement or administration of the policies, believe to be material to the terms of the Insurances. The employees shall exercise any such decision regarding materiality in accordance with applicable Good Industry Practice;
4. promptly upon written request, to supply to you and/or your insurance advisers (or your or their authorised representatives) copies of all placing slips relating to the Insurances;

5. promptly upon written request, to make available to you copies of the original certificates of insurance, cover notes, renewal receipts and confirmations of renewal and payment of premiums and all relevant policy documents in respect of the Insurances;
6. subject always to our obtaining Project Co's consent, to disclose to the insurers any fact, change of circumstance or occurrence, advised to us by the Named Insured and which we are required to disclose to insurers promptly upon our receipt of such notification from the Named Insured and, where Project Co declines to give such consent, to advise you as soon as reasonably practicable of such fact;
7. to treat as confidential all information marked as or otherwise stated to be confidential and supplied to us by any person for the purposes of disclosure to the insurers under the Insurances and not to disclose, without the prior written consent of that person, such information to any third party other than the insurers under the Insurances in satisfaction of our undertaking in paragraph 6 above or, as may be required by law or regulation; and
8. to notify you as soon as reasonably practicable after giving or receiving notice of termination of our appointment as brokers in relation to the Insurances.

The above undertakings are given:

- (a) subject to any insurers right of cancellation following default, in excess of 30 business days, in payment of premiums due and owing in respect of the Insurances, but, we undertake to seek insurers' agreement to allow you a reasonable opportunity of paying such premiums before such cancellation becomes effective; and
- (b) subject to our continuing appointment for the time being as insurance brokers to Project Co and, following termination of our appointment, our immediate release from all our obligations set out in this letter.

For the avoidance of doubt all undertakings and other confirmations given in this letter relate solely to the Insurances. They do not apply to any other insurances and nothing in this letter should be taken as providing any undertakings or confirmations in relation to any insurance that ought to have been placed or may at some future date be placed by ourselves or by other brokers.

Our aggregate liability to any persons companies or organisations who act on reliance of this letter, or on any other broker's letter of undertaking issued by us to you in respect of the Insurances for this project, for any or all matters arising from them and the contents thereof shall in any and all events be limited to £5,000,000 even if we are negligent. We do not limit our liability for our fraud

This letter is given by us on the instructions of Project Co and with Project Co's full knowledge and consent as to its terms as evidenced by Project Co's signature below.

This letter shall be governed by and construed in accordance with the laws of Scotland.

Yours faithfully,

.....

For and on behalf of Aon Ltd

.....

For and on behalf of Forth Health Limited

Appendix 2 *Irene Marsh Fiona Mackenzie*

Unless the context otherwise requires defined terms set out in the following endorsements shall have the meaning set out in the Agreement.

Endorsement 1

Cancellation

This policy shall not be cancelled or terminated before the original expiry date is to take effect except in respect of non-payment of premium.

The insurer shall by written notice advise the Board:

- (a) at least thirty (30) Business Days before any such cancellation or termination is to take effect;
- (b) at least thirty (30) Business Days before any reduction in limits or coverage or any increase in deductibles is to take effect; and
- (c) of any act or omission or any event of which the insurer has knowledge and which might invalidate or render unenforceable in whole or in part this policy.

Endorsement 2

Multiple Insured/Non-Vitiation Clause

Each of the parties comprising the insured shall for the purpose of this policy be considered a separate co-insured entity, insured on a composite basis, with the words "the insured" applying to each as if they were separately and individually insured provided that the total liability of the insurers under each section of this policy to the insured collectively shall not (unless the policy specifically permits otherwise) exceed the limit of indemnity or amount stated to be insured under that section or policy. Accordingly, the liability of the insurers under this policy to any one insured shall not be conditional upon the due observance and fulfilment by any other insured party of the terms and conditions of this policy or of any duties imposed upon that insured party relating thereto, and shall not be affected by any failure in such observance or fulfilment by any such other insured party.

It is understood and agreed that any payment or payments by insurers to any one or more of the insureds shall reduce, to the extent of that payment, insurers' liability to all such parties arising from any one event giving rise to a claim under this policy and (if applicable) in the aggregate.

Insurers shall be entitled to avoid liability to or (as may be appropriate) claim damages from any insured party in circumstances of fraud misrepresentation non-disclosure or material breach of warranty or condition of this policy (each referred to in this clause as a

"Vitiating Act") committed by that insured party save where such misrepresentation non-disclosure or breach of warranty or condition was committed innocently and in good faith.

For the avoidance of doubt it is however agreed that a Vitiating Act committed by one insured party shall not prejudice the right to indemnity of any other insured who has an insurable interest and who has not committed the Vitiating Act.

Insurers hereby agree to waive all rights of subrogation and/or recourse which they may have or acquire against any insured party (together with their employees and agents) except where the rights of subrogation or recourse are acquired in consequence of a Vitiating Act in which circumstances insurers may enforce such rights against the insured responsible for the Vitiating Act notwithstanding the continuing or former status of the vitiating party as an insured.

Notwithstanding any other provision of this policy or any other document or any act and/or omission by any insured party insurers agree that:

- (1) no party other than the Board has any authority to make any warranty, disclosure or representation in connection with this policy on behalf of the Board;
- (2) where any warranty, disclosure or representation is required from the Board in connection with this policy insurers will contact the Board in writing (in accordance with Endorsement 3 to the Board) and set out expressly the warranty, disclosure and/or representation required within a reasonable period of time from the Board (regarding itself); and
- (3) save as set out in a request from insurers to the Board in accordance with (2) above, the Board shall have no duty to disclose any fact or matter to insurers in connection with this policy save to the extent that for the Board not to disclose a fact or matter would constitute fraudulent misrepresentation and/or fraudulent non-disclosure.

Endorsement 3

Communications

All notices or other communications under or in connection with this policy shall be given to each insured (and the Board) in writing or by facsimile. Any such notice will be deemed to be given as follows:

- (a) if in writing, when delivered;
- (b) if by facsimile, when transmitted but only if, immediately after transmission, the sender's facsimile machine records a successful transmission has occurred.

The address and facsimile number of the Board for all notices under or in connection with this policy are those notified from time to time by the Board for this purpose to the

Project Co at the relevant time. The initial address and facsimile number of the Board is as follows:

NHS Forth Valley (NHS Board)

Carseview Business Park, Castle Business Park, Stirling, FK9 4SW

Facsimile Number: 01786 451474

Attention: The Chief Operating Officer

It is further agreed that a notice of claim given by the Board or any other insured shall in the absence of any manifest error be accepted by the insurer as a valid notification of a claim on behalf of all insureds.

Endorsement 4

Loss Payee (applicable only to the Physical Damage Policies)

Subject to the provisions of Clause 36.22(b) of the Agreement, all proceeds of this policy shall be payable without deduction or set-off to the Joint Insurance Account.

Endorsement 5

Primary Insurance

It is expressly understood and agreed that this policy provides primary cover for the insured parties and that in the event of loss destruction damage or liability covered by this policy which is covered either in whole or in part under any other policy or policies of insurance effected by or on behalf of any of the insured parties the insurers will indemnify the insured parties as if such other policy or policies of insurance were not in force and the insurers waive their rights of recourse if any against the insurers of such other policy or policies of insurance.

Endorsement 6

Ringfencing

The level of any indemnity available to an insured party under this policy in relation to any claim(s) concerning the Project shall not be affected and/or reduced by any claim(s) unrelated to the Project.

Endorsement 7

Notwithstanding the definition in Part 1 of the Schedule (*Definitions and Interpretations*) to this Agreement, it is agreed by the Board and Project Co that for the purposes of Clause 36.6(a) of this Agreement the reference to Board Parties shall mean the following specified parties:

All NHS health care providers and any non-profit making charitable or voluntary organisation

PART 22 OF THE SCHEDULE: VARIATION PROCEDURE

Section 1A: Interpretation

For the purposes of this Agreement, and in particular this Part 22 of the Schedule (*Variation Procedure*), unless the context requires otherwise:

| | |
|------------------------------------|---|
| "Board Additional Works Enquiry" | means a Variation Enquiry issued by the Board's Representative pursuant to paragraph 2.1(c)(ii) of Section 1 of this Part 22 of the Schedule (<i>Variation Procedure</i>); |
| "Board Additional Works Item" | <p>means an item of works affecting the Facilities (being any work of alteration, addition, demolition or extension or any variation in the quality or function of the Facilities) which:</p> <p>(a) is not Maintenance Works or Small Works or work otherwise required to ensure that Project Co complies with its duties under this Agreement; and</p> <p>(b) is to be carried out after the relevant Phase Actual Completion Date,</p> <p>and which is required to comply with a Board Additional Works Variation;</p> |
| "Board Additional Works Variation" | means additional Works initiated by the Board in accordance with this Part 22 of the Schedule (<i>Variation Procedure</i>); |
| "Board Service Variation" | means a Service Variation initiated by the Board in accordance with this Part 22 of the Schedule (<i>Variation Procedure</i>); |
| "Board Service Variation Enquiry" | means a Variation Enquiry issued by the Board's Representative pursuant to paragraph 2.1(c)(iii) of Section 1 of this Part 22 of the Schedule (<i>Variation</i> |

| | |
|--------------------------------------|--|
| | <i>Procedure</i>); |
| "Board Works Variation" | means a variation to the Works initiated by the Board in accordance with this Part 22 of the Schedule (<i>Variation Procedure</i>); |
| "Board Works Variation Confirmation" | means a Variation Confirmation pursuant to paragraph 4.5 of Section 1 of this Part 22 of the Schedule (<i>Variation Procedure</i>) in respect of a Board Works Variation; |
| "Board Works Variation Enquiry" | means a Variation Enquiry issued by the Board's Representative pursuant to paragraph 2.1(c)(i) of Section 1 of this Part 22 of the Schedule (<i>Variation Procedure</i>); |
| "Capital Expenditure" | means capital expenditure (as such term is interpreted in accordance with generally accepted accounting principles in the United Kingdom from time to time); |
| "Commencement Date" | means the Effective Date; |
| "Directive" | means the Acquired Rights Directive EC 77/187; |
| "Executive" | has the meaning given to it in the Construction (Design and Management) Regulations 1994 and the Construction (Design and Management) Regulations 2007, as referred to at Section 2 of Part 8 of the Schedule (<i>Construction Matters</i>); |
| "Funding Shortfall" | has the meaning given in paragraph 2.1 of Section 2 of this Part 22 of the Schedule (<i>Variation Procedure</i>); |
| "General Procedure" | has the meaning given in paragraph 1 of Section 3 of this Part 22 of the Schedule (<i>Variation Procedure</i>); |
| "IRR" | means the real internal rate of return on Shareholders' equity and subordinated debt which shall be that rate of return calculated in accordance with the Financial Model at |

| | |
|---------------------------------|--|
| | the Commencement Date; |
| "Qualifying Variation" | means a Variation (other than any revision to or substitution for the Method Statements pursuant to Clause 27.3 (<i>Project Co Services Changes</i>)) for which a Variation Confirmation has been issued and the supplementary agreement referred to in paragraph 4.5 of Section 1 of this Part 22 of the Schedule (<i>Variation Procedure</i>) has become unconditional in all respects; |
| "Room Data Sheets" | means the room data sheets set out in the Agreed Form bundle labelled "Room Data Sheets" and such room data sheets as are agreed or determined between the parties, following the Effective Date, in accordance with Section 6 of Part 8 of the Schedule (<i>Construction Matters</i>) and Part 10 of the Schedule (<i>Review Procedure</i>); |
| "Schedule of Small Works Rates" | means the schedule of labour rates for Small Works, referred to in and to be agreed or determined annually in accordance with paragraph 2 of Section 4 of this Part 22 of the Schedule (<i>Variation Procedure</i>); |
| "Service Variation" | means a variation to a Service in accordance with this Part 22 of the Schedule (<i>Variation Procedure</i>); |
| "Small Works" | means works of a minor nature that are requested by the Board to be carried out having an individual cost not exceeding £5,000.00 (index linked), or as otherwise agreed from time to time, but excluding any operation or work which will increase the likelihood of the Facilities not complying with the requirements described in Section 5 of each of the Service Level Specifications, will increase the cost to Project Co of performing the Project Operations or will materially hinder Project |

| | |
|---------------------------------|--|
| | Co in the performance of the Services; |
| "Variation" | means a Board Works Variation, a Board Additional Works Variation and/or a Board Service Variation (as the case may be); |
| "Variation Confirmation" | has the meaning given in paragraph 4.5 of Section 1 of this Part 22 of the Schedule (<i>Variation Procedure</i>); |
| "Variation Enquiry" | has the meaning given in paragraph 2.1 of Section 1 of this Part 22 of the Schedule (<i>Variation Procedure</i>); |
| "Works Variation Capital Limit" | means £20,000,000; and |
| "Works Variation Delay Limit" | means a period of twelve (12) months. |

PART 22 OF THE SCHEDULE: VARIATION PROCEDURE

Section 1: Variations

1. General

Subject to receiving the Variation Confirmation issued in accordance with the terms of this Part 22 of the Schedule (*Variation Procedure*) and to any Consent which must be obtained or modified being so obtained or modified and subject to the other provisions of this Part 22 of the Schedule (*Variation Procedure*), Project Co shall be under a duty to implement a Variation. Project Co will not be entitled to any payment or compensation for or in respect of a Variation save as provided in accordance with this Part 22 of the Schedule (*Variation Procedure*).

2. Variation Enquiries

2.1 A Variation Enquiry shall be a document issued by the Board's Representative which:

- (a) states on its face that it is a Variation Enquiry;
- (b) states, in the case of a Board Works Variation or a Board Additional Works Item, whether it is the intention of the Board that the Board will pay a capital sum in respect of the Variation in accordance with paragraph 3 of Section 2 of this Part 22 of the Schedule (*Variation Procedure*) or whether it is the intention of the Board that Project Co should seek to obtain finance in accordance with paragraph 1 of Section 2 of this Part 22 of the Schedule (*Variation Procedure*); and
- (c) in the case of:
 - (i) a Board Works Variation, specifies the nature of the Board Works Variation and which of the provisions of the Board's Construction Requirements and/or Project Co's Proposals are required to be amended to accommodate the relevant Board Works Variation; or
 - (ii) a Board Additional Works Variation, specifies:
 - (aa) the nature and scope of the relevant Board Additional Works Item to the same level of detail as set out in Project Co's Proposals and/or the Board's Construction Requirements; and
 - (bb) the times at or by which the Board wishes the work at the Facilities to implement the relevant

Board Additional Works Item to be commenced and completed; or

- (iii) a Board Service Variation, specifies the nature of the Board Service Variation and is accompanied by a marked up or amended version of the relevant section(s) of the Method Statements and/or Service Level Specifications.

2.2 The Board's Representative may not issue a Variation Enquiry other than in accordance with the provisions of this Section 1.

3. **Project Co Response to Variation Enquiry**

Preliminary Indicative Information

3.1 Prior to giving a notice referred to in paragraph 3.2 of this Section 1:

- (a) Project Co may at its option within ten (10) Business Days of receipt of a Variation Enquiry:
 - (i) give to the Board in good faith a preliminary non-binding indication of the estimated cost of implementing the Variation and provide such other information about the Variation as is available to Project Co and which it believes is useful to the Board; and
 - (ii) in the case of a Board Works Variation, such information shall include in particular Project Co's estimated effect on the date when the Actual Completion Date will occur;
- (b) if Project Co provides an indication referred to in paragraph 3.1(a)(ii), the Board shall within a further five (5) Business Days of its receipt confirm whether or not it wishes Project Co to proceed to respond to the Variation Enquiry in accordance with provisions of paragraph 3.2; and
- (c) in the case of a Variation Enquiry for a Board Works Variation or a Board Additional Works Item where the Board has stated an intention that Project Co should obtain finance, Project Co will, if so required in the Variation Enquiry, use reasonable endeavours to obtain an initial non-binding response from the Funders as to availability of finance for the Variation in advance of performing its obligations under Section 2 of this Part 22 of the Schedule (*Variation Procedure*).

Project Co Response

3.2 Within one (1) month of receipt of a Variation Enquiry or (if the provisions of paragraph 3.1(b) apply) within one (1) month of the Board confirming that it wishes Project Co to proceed with responding to the Variation Enquiry or in either case such longer period as may be agreed by the parties or determined in accordance with Part 26 of the Schedule (*Dispute Resolution Procedure*) as reasonable given the nature of the Variation Enquiry and all other relevant considerations, Project Co shall either:

- (a) give notice to the Board's Representative that it objects to the Variation Enquiry stating the grounds of the objection. Project Co may only object to a Variation Enquiry on one or more of the following grounds:
 - (i) that implementation of the Variation would materially and adversely affect the health and safety of any person; or
 - (ii) that implementation of the Variation would:
 - (aa) infringe any Law; or
 - (bb) cause any existing Consent (which is not reasonably likely, on a balance of probabilities, to be capable of modification) to be revoked; or
 - (cc) require a new Consent which will not (using all reasonable endeavours) be obtainable; or
 - (dd) have a material and adverse effect on the performance of the Project Operations (except those Project Operations which have been specified as requiring to be amended in the Variation Enquiry) in a manner not compensated pursuant to this Part 22 of the Schedule (*Variation Procedure*); or
 - (ee) be a departure from Good Industry Practice; or
 - (iii) that the Board does not have the legal power or capacity to require the Variation to be implemented or to do anything envisaged by this Part 22 of the Schedule (*Variation Procedure*) in respect of, or in connection with, the Variation; or
 - (iv) in the case of a Variation Enquiry where the Board has stated an intention that Project Co should obtain finance,

either that Project Co has performed its obligations under paragraphs 1.1 and 1.2 of Section 2 of this Part 22 of the Schedule (*Variation Procedure*) and that finance is not available at the date of such notice to Project Co to implement the Variation, or that Project Co has not yet performed such obligations in which case the provisions of paragraph 3.3 of Section 1 shall apply; or

- (v) that the Variation would, if implemented, result in a change in the essential nature of the Hospital; or
- (vi) that the Variation Enquiry does not comply with paragraph 2 of this Section 1; or
- (vii) in the case of:
 - (aa) a Board Works Variation, that the Capital Expenditure required in respect of the Board Works Variation, when taken together with the Capital Expenditure in respect of other Board Works Variations which are Qualifying Variations, exceeds the Works Variation Capital Limit; or
 - (bb) a Board Works Variation, that the delay to the dates on which the affected Phase Completion Dates and/or Finishing Works Completion Date will occur caused by the Board Works Variation, when taken together with the delays caused by other Board Works Variations which are Qualifying Variations, will exceed the Works Variation Delay Limit; or
 - (cc) a Board Additional Works Item, that the time specified for commencement and/or completion of the Board Additional Works Item cannot reasonably be achieved by Project Co; or
 - (dd) a Board Service Variation, that the time (if any) specified for implementation of the Board Service Variation cannot reasonably be achieved by Project Co; or
- (viii) that the information contained in the Variation Enquiry is inadequate to enable Project Co to respond in accordance with paragraph 3.2(b) below (on the assumption, whether

or not the case, that it has no objection under paragraphs 3.2(a)(i) to 3.2(a)(vii)); or

- (b) give notice to the Board's Representative stating:
 - (i) the steps which Project Co proposes to take to implement the Variation giving such level of detail as is reasonable and appropriate in all the circumstances;
 - (ii) Project Co's estimated out of pocket expenditure or estimated savings in respect of the Variation having regard to all relevant facts and matters, including:
 - (aa) any costs (by line item) incurred or to be incurred under paragraph 5 of this Section 1;
 - (bb) in the case of a Board Works Variation, the provisions governing the valuation of variations (however described) in the Construction Contract and any capitalised interest or other costs which may be incurred by Project Co as a result of any delay to achievement of any Phase Actual Completion Date, Actual Completion Date and/or the Finishing Works Actual Completion Date by reason of such Board Works Variation; and
 - (cc) in the case of a Board Service Variation, any Capital Expenditure or other lump sum expenditure likely to be incurred in the course of the implementation of the Board Service Variation;
 - (iii) in the case of a Board Works Variation, whether, in the view of Project Co, implementing the Board Works Variation Enquiry would be likely to prevent the Actual Completion Date from occurring at the Completion Date, any Phase Actual Completion Date from occurring by the relevant Phase Completion Date or the Finishing Works Actual Completion Date occurring by the Finishing Works Completion Date (prior to any adjustment being made to the Completion Date, the relevant Phase Completion Date or the Finishing Works Completion Date by reason of the implementation or proposed implementation of the Board Works Variation) and, if so, giving an estimate of the extension of time likely to be required (subject to any further time required to obtain or amend any Consent);

- (iv) any Consent which must be obtained or amended for the Variation to be implemented and the latest date by which Project Co must receive a Variation Confirmation and any such Consent must be obtained or modified for the matters set out in paragraphs 3.2(b)(i) to 3.2(b)(iii) above to remain valid, such date being a reasonable period of time after service of the notice by Project Co under this paragraph 3.2(b) to enable the Board's Representative to consider any matter under paragraph 4.1(c) below;
- (v) whether Project Co considers that a Service Variation, including, in the case of a Variation Enquiry for a Service Variation, another Service Variation (which for the purpose of this paragraph 3.2(b)(v), shall include a change in the cost to Project Co of performing periodic or life cycle maintenance) shall be required as a consequence of the Variation specified in the Variation Enquiry and, if so, stating the matters specified in this paragraph 3.2 in respect of such Service Variation;
- (vi) such amendments to the provisions of the Payment Mechanism and the Performance Monitoring Programme and other associated provisions of this Agreement which are necessary as a consequence of the Variation, the objective of such amendments being to ensure that (save for the obligation of the Board to make payments or altered payments in respect of the Variation or any other adverse consequences for the Board arising from the Variation itself) the parties are in no better and no worse position in relation to the Project than they would have been in if such Variation had not been implemented; and
- (vii) whether, in the view of Project Co, implementing the Service Variation or the Board Additional Works Item, would cause Unavailability (as defined in Part 18 of the Schedule (*Payment Mechanism*)) of all or any part of the Facilities and/or cause the issue of any Service Failure Point, giving an estimate in each case of relief from any Service Failure Points required to put the parties in no better and no worse position in relation to the Project than they would have been in if such Variation had not been implemented.

- 3.3 If Project Co shall give notice pursuant to paragraph 3.2(a)(iv) and it has not performed its obligations under paragraphs 1.1 and 1.2 of Section 2 of this Part 22 of the Schedule (*Variation Procedure*) then it shall, as soon as reasonably practicable, perform such obligations. In the case of a Board Works Variation, if Project Co cannot obtain finance from the sources referred to in paragraph 1 of Section 2 of this Part 22 of the Schedule (*Variation Procedure*), the timetable set out in this Section 1 for implementation of the Variation shall be suspended until the Board either instructs Project Co to proceed with, or withdraws, the Variation as contemplated in paragraph 1.3 of Section 2 of this Part 22 of the Schedule (*Variation Procedure*) (which the Board shall decide and notify Project Co within twenty (20) Business Days of the notification from Project Co to the Board in accordance with paragraph 1.3 of Section 2). If the operation of those provisions results in finance being available then, as soon as practicable after such finance becomes available, Project Co shall, unless it has other objections falling within paragraphs 3.2(a)(i) to 3.2(a)(iii) or 3.2(a)(v) to 3.2(a)(viii) (inclusive), give a notice pursuant to paragraph 3.2(b) of this Section 1 and the other provisions of this Section 1 shall come into operation accordingly.

4. Resolution of Disputes and Variation Confirmation

- 4.1 Within ten (10) Business Days of receipt of the notice referred to in paragraph 3.2 of this Section 1:
- (a) if Project Co has served a notice under paragraph 3.2(a) but the Board's Representative does not accept that Project Co is entitled to object to the Variation Enquiry, the matter may be referred for resolution in accordance with Part 26 of the Schedule (*Dispute Resolution Procedure*) and if the Dispute is resolved in favour of the Board then Project Co shall forthwith give the notice referred to in paragraph 3.2(b);
 - (b) if the contents of the notice under paragraph 3.2(b) shall be to the satisfaction of the Board's Representative he shall so inform Project Co and the parties shall proceed to agree or determine all the matters referred to in paragraph 4.3 of this Section 1; or
 - (c) if he wishes to consider further any matter, the Board's Representative may give notice to that effect to Project Co provided that if no response is given under paragraph 4.1(b) prior to the date referred to in paragraph 3.2(b)(iv), the Variation Enquiry shall be deemed to have been withdrawn; or
 - (d) if any aspect of a notice under paragraph 3.2(b) shall not be to the Board's Representative's satisfaction he shall so notify Project Co and

shall specify the alterations to the notice which he would require in order to be so satisfied.

- 4.2 If the Board's Representative has given a notice referred to in paragraph 4.1(d) of this Section 1 then, unless agreement has been reached with Project Co within a further ten (10) Business Days from the date of issue of that notice (in which case the Board's Representative shall proceed pursuant to paragraph 4.1(b) of this Section 1) or the Board's Representative withdraws the Variation Enquiry, the outstanding Dispute shall be referred for resolution in accordance with Part 26 of the Schedule (*Dispute Resolution Procedure*) to be determined (if the Board's Representative so requires it) concurrently with any matter referred to in paragraph 4.3 of this Section 1. In seeking to reach agreement and/or in so determining a Dispute pursuant to this paragraph 4.2 or paragraph 4.3, the criterion to be applied to resolve any such dispute (except where another criterion or other criteria are expressly or by implication stated in this Part 22 of the Schedule (*Variation Procedure*)) shall be that Project Co shall be in no worse position in relation to the Project and the Works after the Variation is implemented than it would have been in had the Variation not been implemented.
- 4.3 The parties shall meet and seek to agree the matters referred to in paragraphs 4.3(a) and 4.3(b) in relation to the Variation, failing which agreement being reached in a reasonable period of time, either party may refer any matter for resolution in accordance with Part 26 of the Schedule (*Dispute Resolution Procedure*). The matters to be agreed or determined are:
- (a) in relation to the terms of the Variation:
 - (i) any alteration to the Completion Date, any Phase Completion Date and/or the Finishing Works Completion Date;
 - (ii) the Capital Expenditure required to implement the Variation or saved by such implementation and any costs or expenditure recoverable by Project Co and/or any out of pocket costs or expenditure to be met by the Board under this Part 22 of the Schedule (*Variation Procedure*) in connection with or as a consequence of the Variation and the timing and method of payment thereof (including, where applicable, payment pursuant to paragraph 3 of Section 2 of this Part 22 of the Schedule (*Variation Procedure*));
 - (iii) the specification of any Service Variation (including any further Service Variation) required in connection with the

Variation and whether Project Co has any right to object to such Service Variation under the provisions of this Part 22 of the Schedule (*Variation Procedure*);

- (iv) any alteration to the Annual Service Payment pursuant to the provisions of Section 3 of this Part 22 of the Schedule (*Variation Procedure*) and the other results of the operation of Section 3 in accordance with the provisions of that Section;
- (v) any amendment to the provisions of this Agreement which is referred to in paragraph 3.2(b)(vi); and
- (vi) any relief to be granted to Project Co in respect of any Unavailability or Service Failure Points as referred to in paragraph 3.2(b)(vii),

in each case occasioned by the Variation; and

(b) the terms of a supplementary agreement under which:

- (i) as required to give effect to the Variation in each case:
 - (aa) the Board's Construction Requirements and/or Project Co's Proposals are amended (in respect of any Board Works Variation or Board Additional Works Item);and/or
 - (bb) provision is made for the amendment of the as-built drawings and specifications, including Room Data Sheets and other records, drawings, operating and maintenance manuals, the asset register, the health and safety file (all on completion of a Board Additional Works Item); and/or
 - (cc) the Method Statements or Service Level Specifications are amended in respect of any Service Variation; and
- (ii) the matters referred to in this paragraph 4.3 of this Section 1 are fully recorded and given effect as amendments to and/or other variations to the provisions of this Agreement and/or such other documentation as is necessary.

Board Funding Information

4.4 The Board shall upon request from Project Co provide information to Project Co to show how the Annual Service Payments (as altered in accordance with Section 3 of this Part 22 of the Schedule (*Variation Procedure*)) and any capital sum payable in accordance with paragraph 3 of Section 2 of this Part 22 of the Schedule (*Variation Procedure*) will be funded by the Board, including, to the extent that the Board is required to obtain the same, in accordance with the procedures applicable to the Board or the NHS (or any successor of it):

- (a) written approval to the proposed Variation (and the financial consequences for the Board) by each of the Scottish Executive Health Department Private Finance and Capital Unit and by the Scottish Ministers and giving satisfactory comfort to Project Co regarding affordability and the legal capacity of the Board to require and implement the variation, in the manner contemplated by the Variation Enquiry; and
- (b) letters from the principal purchasers or commissioners of healthcare services from the Board (or their equivalent) confirming how the Variation is to be funded and, where required by such procedures, confirming their approval of the Variation,

and, where so requested, Project Co's satisfaction (acting reasonably and without delay) with the information referred to in this paragraph 4.4 shall be a condition of the Variation Confirmation becoming effective.

4.5 Upon the agreement or determination of all the matters referred to in paragraph 4.3, and upon any Consent having been modified or obtained, in accordance with paragraph 5 in terms reasonably satisfactory to Project Co and the Board, and upon the provision by Project Co to the Board of evidence reasonably satisfactory to the Board of the availability of committed funding for the Variation (subject only to any condition relating to the issue of the Variation Confirmation pursuant to this paragraph), the Board's representative shall, by notice (a "Variation Confirmation") confirm the Variation. Upon the issue of the Variation Confirmation, the parties shall enter into the supplementary agreement referred to in paragraph 4.3(b), subject to and conditional upon any relevant funding procured by Project Co becoming unconditionally available for drawdown to Project Co.

4.6 Upon the Variation Confirmation being issued and the supplementary agreement referred to in paragraph 4.5 becoming unconditional in all respects:

- (a) the relevant Variation shall be a Qualifying Variation; and

- (b) the rights and liabilities of the parties under this Agreement shall be construed accordingly.

5. Consent and Variations

- 5.1 If it shall be necessary to obtain or amend any Consent in respect of any Variation then Project Co shall use all reasonable endeavours to obtain and, where the co-operation and involvement of both parties is required, the Board shall use all reasonable endeavours to assist and co-operate in obtaining, such Consent. The provisions of Clause 16 (*Consents and Planning Approval*) shall apply in relation to Planning Permissions, save that the time taken to obtain such Consent shall be taken into account for the purposes of determining any extension of time and any other amounts payable by the Board to Project Co under this Part 22 of the Schedule (*Variation Procedure*).
- 5.2 If it shall not be possible to obtain any such Consent as is referred to in paragraph 5.1 above by the latest date when a Variation Confirmation could be given with regard to the Variation in question in accordance with the notice by Project Co pursuant to paragraph 3.2(b) of this Section 1 of Part 22 of the Schedule (*Variation Procedure*), the Variation Enquiry shall be deemed to be withdrawn and the provisions of paragraph 7 of this Section 1 of Part 22 of the Schedule (*Variation Procedure*) shall apply accordingly.

6. Valuation of Variations

Board Works Variations

- 6.1 The General Procedure shall be operated in respect of Board Works Variations so that, subject to the other provisions of this Agreement providing for the adjustment of any amount payable under this Agreement, the Capital Expenditure used to assess the effect of the Qualifying Variation in respect of the Board Works Variation shall be:
 - (a) the proposed amount of Capital Expenditure in respect of the Board Works Variation specified in Project Co's notice under paragraph 3.2(b) of this Section 1 of Part 22 of the Schedule; or
 - (b) (if that sum was not agreed by the Board's Representative) the corresponding sum in respect of that Board Works Variation which was agreed by the Board's Representative and Project Co or determined in accordance with Part 26 of the Schedule (*Dispute Resolution Procedure*).

Board Additional Works Items

- 6.2 The General Procedure shall be operated in respect of Board Additional Works Items, subject to paragraph 8 of this Section 1 of Part 22 of the Schedule.

Board Service Variations

- 6.3 The General Procedure shall be operated in respect of Board Service Variations so that the variation in Project Co's costs used to assess the effect of the Qualifying Variation under the General Procedure shall be the actual variation in costs which Project Co and the relevant Service Provider will incur in order to implement the Service Variation (whilst preserving (but not increasing) any margin charged by Project Co and the Service Provider on their respective costs). Project Co shall obtain from the relevant Service Provider and disclose to the Board's Representative the costs of providing the Service to which the Board Service Variation relates for the period from and including the last preceding Market Testing Date (if any) or the Payment Commencement Date (as the case may be) together with the Service Provider's computation of the variation in its costs resulting from the Board Service Variation, taking into account:
- (a) existing labour rates applying to providers of services which correspond to the Service to which the Board Service Variation relates, in the open market;
 - (b) resulting changes in the Service Providers' workforce including costs and provisions associated with the Transfer Regulations and/or the Directive;
 - (c) the changes in the Method Statements and Service Level Specifications and any other Variations to this Agreement arising out of the Board Service Variation;
 - (d) any change in risk transfer; and
 - (e) changes in working methods including associated capital investment (and the costs of providing such capital) reasonably required to be made by Project Co or the relevant Service Provider other than Variations in the Facilities which fall to be dealt with under Sections 1 or 2 of this Part 22 of the Schedule (*Variation Procedure*).
- 6.4 If the Board Service Variation will result in any employees of Project Co and/or the relevant Service Provider becoming redundant, the costs of any redundancy payments which require to be paid to each such employee under the Employment Rights Act 1996 and the terms and conditions of their employment shall be paid by the Board to Project Co in the Contract Month in which redundancy occurs save to the extent that such redundancy payments have

been increased by reason of any failure by the relevant employer to act reasonably so as to minimise such payments (including any failure to take reasonable efforts to redeploy such employees within the business of Project Co and/or the relevant Service Provider).

7. Withdrawal

The Board's Representative may withdraw a Variation Enquiry at any time prior to the issue of a Variation Confirmation, or, in the case of a Variation which requires the obtaining of, or an amendment to any Consent, the date when the last such Consent is granted, whichever shall be later. In the case of a withdrawal or deemed withdrawal the Board shall pay Project Co all out of pocket expenses reasonably and properly incurred by Project Co in connection with the Variation Enquiry.

8. Particular provisions in respect of the implementation of Board Additional Works Items

8.1 Where Project Co does not intend to use its own resources to execute any Board Additional Works Items it shall comply with Good Industry Practice with the objective of ensuring that it obtains good value for money (taking into account all relevant circumstances including, in particular, the requirement that Project Co should be no worse off as a result of the implementation of the Board Additional Works Enquiry) when procuring any work, services, supplies, materials or equipment required for the Board Additional Works Items. To avoid doubt, where the Capital Expenditure in respect of the Board Additional Works Item is expected to exceed the threshold for public service contracts set by the European Commission as updated from time to time Project Co's obligations under this paragraph shall (unless otherwise agreed) include an obligation to seek and evaluate competitive tenders.

8.2 Where the implementation of any Board Additional Works Item by Project Co is subject to the CDM Regulations, the following provisions shall apply:

- (a) Project Co shall timeously serve on the Executive a declaration pursuant to CDM Regulation 4 in respect of the proposed Board Additional Works Item and shall act as "the client" in relation to the relevant Board Additional Works Item for all the purposes of the CDM Regulations;
- (b) Project Co shall comply with all of the obligations incumbent on the client under the CDM Regulations in relation to the relevant Board Additional Works Item; and
- (c) Project Co shall, as soon as reasonably practicable following the completion of the relevant Board Additional Works Item, issue to the

Board three copies of either the health and safety file prepared in relation to the relevant Board Additional Works Item (where prior to the implementation of the relevant Board Additional Works Item no health and safety file existed in respect of the structure or structures affected by the relevant Board Additional Works Item) or the relevant page or pages to be added to (or substituted for existing pages in) any existing health and safety file affected by the implementation of such Board Additional Works Item.

- 8.3 Notwithstanding any other express provision of this Agreement, where the Board considers, in its sole discretion (acting reasonably and having taken appropriate legal and technical advice), that the procurement of any Board Additional Works Item would be governed by any element of the Procurement Legislation with the result that the Board itself is under a duty competitively to tender any contract in relation to such Board Additional Works Item in accordance with such Procurement Legislation, the Board shall not be obliged to issue a Variation Enquiry to Project Co in relation to such Board Additional Works Item and shall be free to procure such Board Additional Works Item by any means it sees fit (which, to avoid doubt, may include awarding a contract to a third party in relation to such work).
- 8.4 Where the Board exercises its right under paragraph 8.3, the parties shall (as soon as possible following the decision of the Board so to exercise) meet and seek to agree such course of action (which may include, where relevant, changes to the terms of the Agreement, granting relief from liability or the payment of compensation) as is necessary to leave Project Co (as far as is possible) in no better and no worse a position following the Board exercising such right than it would have been had the Board not exercised the right and had not sought to procure the Board Additional Works Item. If the parties shall fail to agree on the necessary course of action, not less than thirty (30) Business Days prior to the award by the Board of any contract in relation to the Board Additional Works Item, the issue of what course of action is so necessary may be referred for determination in accordance with Part 26 of the Schedule (*Dispute Resolution Procedure*).
- 8.5 Notwithstanding any other express provision of this Agreement, as between the Board and Project Co, the taking of and the consequences of any action by the Board in accordance with paragraph 8.3 shall not give rise to any rights for Project Co or any liability for the Board (whether in contract, delict or otherwise) other than as may be agreed or determined in accordance with paragraph 8.4.

9. Deemed Service Variations

- 9.1 Where there is a change to the Board Policies (subject to Clause 32.7 (*Board Policies*)) or a change of use or occupancy of, or operational hours or activities

carried on within the whole or any part of the Facilities by the Board or any Board Party, either party shall be entitled to advise the other party by notice in writing that it considers that a Service Variation has arisen or will arise by operation of the change provided that it does so within three (3) months of the date when it became aware, or ought reasonably to have become aware, of the relevant change. Any notice so served shall describe in as much detail as practicable the nature of the Service Variation which is likely to be required as a result of the change and the date by which the relevant Service Variation must be implemented.

- 9.2 The Board (in the case of a notice under paragraph 9.1 from Project Co) or Project Co (in the case of a notice under paragraph 9.1 from the Board) shall within fifteen (15) Business Days of receipt of the notice under paragraph 9.1 set out its response to the matters set out in such notice. Any dispute as to the nature of the relevant change or as to its effect shall be referred for resolution in accordance with Part 26 of the Schedule (*Dispute Resolution Procedure*).
- 9.3 Within fifteen (15) Business Days of agreement or determination pursuant to paragraph 9.2 above that a relevant change has occurred which requires a Service Variation to be implemented, the provisions of this Section 1 shall apply to the definition and implementation of the Service Variation as if it were a Board Service Variation and as if the notice referred to in paragraph 9.1 of this Section 1 was a Board Service Variation Confirmation given at the end of such period of fifteen (15) Business Days.

PART 22 OF THE SCHEDULE: VARIATION PROCEDURE

Section 2: Finance for Capital Expenditure in respect of Variations

1. General Principle

- 1.1 Project Co shall use reasonable endeavours to obtain finance for any Capital Expenditure required in respect of a Qualifying Variation (which term, when used in this Section 2, shall include reference to a proposed Variation which will be a Qualifying Variation when all matters in respect of it have been agreed or determined pursuant to this Agreement) in accordance with the other Sections of this Part 22 of the Schedule (*Variation Procedure*) from any funds specifically available to it for this purpose under the Funding Agreements in force from time to time.
- 1.2 In particular, Project Co shall use reasonable endeavours to utilise (subject to their terms) any available stand-by facility or "head room" in the loan facilities (however described) (so far as not committed or reserved to fund cost overruns on the Works or otherwise) which is or becomes available to finance Qualifying Variations during the period up to the Actual Completion Date.
- 1.3 In the case of a Board Works Variation, Project Co shall not be required to take any steps to obtain finance beyond those contemplated in paragraphs 1.1 and 1.2. If within fifteen (15) Business Days (or such longer period as Project Co may decide which shall not, in any event, exceed forty (40) Business Days) of Project Co initiating discussions with the Funders, confirmation has not been obtained from the Funders that they are prepared to enter into their respective credit processes with a view to obtaining credit approval to finance the Board Works Variation, Project Co shall notify the Board's Representative reporting on the response received from the Funders. Within twenty (20) Business Days after receiving such notice the Board shall:
 - (a) subject to the provisions of Section 1 of this Part 22 of the Schedule (*Variation Procedure*), instruct Project Co to proceed with development of the Board Works Variation on the basis that the Board will make payment to Project Co in accordance with paragraph 3 of this Section 2 of Part 22 of the Schedule (*Variation Procedure*) in respect of the expenditure incurred and any increased cost of funding due to any delay to the Completion Date agreed or determined pursuant to Section 1 of this Part 22 of the Schedule (*Variation Procedure*), on a current basis in accordance with the provisions of Section 1 of this Part 22 of the Schedule (*Variation Procedure*); or

- (b) withdraw the requirement for Project Co to implement the Board Works Variation in accordance with the provisions of Section 1 of this Part 22 of the Schedule.

2. Funding Shortfalls

- 2.1 If Project Co cannot obtain finance for all or any part of Capital Expenditure required in respect of a Qualifying Variation (other than a Board Works Variation in relation to which Project Co shall have no obligations pursuant to this paragraph 2) (the "Funding Shortfall") from the sources referred to in paragraph 1 and such Capital Expenditure exceeds £1,000,000 (index linked) then, at the Board's request, Project Co shall use all reasonable endeavours to procure such finance on such reasonable terms as are available to it. The use of reasonable endeavours shall include the preparation of an appropriate business plan in respect of the business of Project Co as affected by the Qualifying Variation to demonstrate the ability of Project Co successfully to implement the relevant financing strategy in respect of the Funding Shortfall.
- 2.2 If having used reasonable endeavours for a period of no less than sixty (60) Business Days (or such shorter period as may be reasonable in all the circumstances) after the determination of the amount of the Funding Shortfall, Project Co cannot obtain such finance on terms reasonably satisfactory to Project Co and the Board then it shall notify the Board's Representative reporting on the activities seeking finance. Within twenty (20) Business Days after receiving such notice the Board shall:
 - (a) subject to the provisions of Sections 2 and 3 (as applicable) of this Part 22 of the Schedule (*Variation Procedure*) instruct Project Co to proceed with development of the relevant Qualifying Variation on the basis that the Board will make payments to Project Co in respect of the Funding Shortfall in accordance with paragraph 3 of this Section 2 of Part 22 of the Schedule (*Variation Procedure*); or
 - (b) where the Qualifying Variation is a Board Service Variation or Board Additional Works Item ordered by the Board, withdraw the requirement for Project Co to implement the relevant Qualifying Variation in accordance with the provisions of Section 1 of this Part 22 of the Schedule (*Variation Procedure*).

3. Payment of capital sum by the Board

- 3.1 Where pursuant to any provision of this Part 22 of the Schedule (*Variation Procedure*) the Board is to pay a capital sum in respect of a Qualifying Variation:
 - (a) the Board and Project Co shall agree:

- (i) a payment schedule in respect of the payment of such sum reflecting the amount and timing of the costs to be incurred by Project Co in carrying out the Qualifying Variation to the extent borne by the Board; and
- (ii) where payment for part of the Qualifying Variation reflects the carrying out of, or specific progress towards, an element within the Qualifying Variation, an objective means of providing evidence confirming that the part of the Qualifying Variation corresponding to each occasion when payment is due under the payment schedule appears to have been duly carried out,

(such payment schedule and evidence to be determined in accordance with Part 26 of the Schedule (*Dispute Resolution Procedure*) in the event of the Board and Project Co failing to agree as to its terms) provided that where all or any part of the Qualifying Variation is being carried out by a third party under a contract with Project Co, subject to the terms of any contract between Project Co and that third party in relation to the implementation of the Qualifying Variation having been approved by the Board (such approval not to be unreasonably withheld), the process under Part 26 of the Schedule (*Dispute Resolution Procedure*) shall not determine a payment schedule or evidence which would not enable Project Co to be funded by the Board in time to make payments to that third party in accordance with its contract with Project Co;

- (b) the Board shall make payment to Project Co within fifteen (15) Business Days of receipt by the Board of invoices presented to the Board (in all material respects) in accordance with the agreed payment schedule (as the case may be, varied by agreement from time to time) accompanied by the relevant evidence (where applicable) that the relevant part of the Qualifying Variation has been carried out; and
- (c) if payment is not made in accordance with paragraph 3.1(b) above, the Board shall pay interest to Project Co on the amount unpaid from the date fifteen (15) Business Days after receipt of the relevant invoice until paid at the Default Interest Rate.

PART 22 OF THE SCHEDULE: VARIATION PROCEDURE

Section 3: General Procedure

1. General

The procedure described in this Section 3 of Part 22 of the Schedule ("the General Procedure") shall apply where required to determine the effect on payments of a Qualifying Variation.

2. Objective of the General Procedure

2.1 The objective of the General Procedure shall be to adjust the values of entries used in the calculation of the Annual Service Payment in Part 18 of the Schedule (*Payment Mechanism*) after making the relevant changes to the input costs in the Financial Model for the Project, taking into account all relevant matters including:

- (a) the effect of the Qualifying Variation (including, to avoid doubt, the method of financing the Qualifying Variation, the impact of the Qualifying Variation on the project economics as reflected in the Financial Model, taxation and the commercial income earned by Project Co through its participation in the Project);
- (b) any adjustments pursuant to paragraph 2.3 of this Section 3 of Part 22 of the Schedule (*Variation Procedure*);
- (c) the effect of indexation to date and forecast inflation as it would affect the Project; and
- (d) when any adjustment to the Annual Service Payment takes effect,

so that comparison of the output from the Financial Model before such adjustments and changes in costs and after such adjustments and changes in costs shows that:

- (i) the nominal internal rate of return from the expected date of implementation of the Qualifying Variation to the expiry of the Project Term in respect of the equity and subordinated debt originally expected to be invested in the Project (as shown in the Financial Model) shall be unchanged before and after modelling the effects of the Qualifying Variation;
- (ii) the nominal internal rate of return from the expected date of implementation of the Qualifying Variation to the expiry

of the Project Term in respect of any other equity and subordinated debt (which term when used in this Section 3 of Part 22 of the Schedule (*Variation Procedure*) in connection with further subordinated debt supplied in connection with funding Qualifying Variations shall include other methods used by equity investors to provide capital to companies whether subordinated to senior lenders or not, other than subscribing for equity in those companies) (in addition to that referred to in paragraph 2.1(i) above) invested in the Project as a consequence of any other Qualifying Variation (as shown in the Financial Model as adjusted at the time for the investment of such other equity and subordinated debt) shall be unchanged before and after modelling the effects of the Qualifying Variation,

and so that the output from the Financial Model after such adjustments and changes in costs shows that:

- (aa) Project Co would not, by reason of the effect of the Qualifying Variation and the consequential variation in cashflow during the remainder of the Project Term as shown in the Financial Model after such adjustments have been made, be placed in breach of its obligations under the Funding Agreements and there would be no event of default, acceleration event, limitation on drawdown, deterioration in all cover ratios over the period of repayment of the amounts due under the Funding Agreements or other adverse effect (whatever called or however described) (compared to the position if such adjustments were not made) under the Funding Agreements; and
- (bb) the agreed IRR on any additional equity and subordinated debt to be invested in the Project as a consequence of the Qualifying Variation is achieved.

- 2.2 The output from the operation of the General Procedure shall be the prices and other terms referred to below and such other terms as may be required to give effect to the application of the General Procedure, having taken into account actual indexation as applied pursuant to this Agreement to determine the Annual Service Payment in respect of the Contract Year following that in which the General Procedure was brought into operation by substituting a new value for ASP_0 as defined in paragraph 2.1.2 of Section B of Part 18 of the Schedule (*Payment Mechanism*) for the value in force immediately prior to the operation of the General Procedure, in each such case for such period (not exceeding the

remaining term of the Project Term) as shall be appropriate to give effect to the objective of the General Procedure.

2.3 Subject to the other Parts of the Schedule, adjustments shall be made to the Financial Model in accordance with this paragraph to achieve the objectives set out in paragraph 2.1 and produce outputs reflecting the results required by paragraph 2.2 by entering into the model the revised or additional costs incurred by Project Co as a result of the Qualifying Variation, and, where necessary, incorporating the consequences of any funding obtained or used by Project Co to implement the Qualifying Variation. The following guidelines shall be followed to the maximum extent possible when making the adjustment:

- (a) wherever possible, the adjustment shall be carried out without altering the logic and formulae incorporated in the Financial Model in any way whatsoever, and only data such as costs incurred by Project Co and the timing and amount of drawdowns of funding shall be changed;
- (b) where it is necessary to amend any logic or formulae incorporated in the Financial Model to permit the adjustments to be made, this shall be done to the minimum extent necessary;
- (c) where any amendment is made to the logic or formulae incorporated in the Financial Model, the Financial Model, as amended, shall first be run with the data included in the Financial Model prior to amendment to ensure that the outputs from the Financial Model as amended correspond to the outputs prior to amendment; and
- (d) any amendments to the logic or formulae incorporated in the Financial Model shall be fully recorded and shall be such that the manner in which the revised prices are calculated can be readily verified.

2.4 Without prejudice to paragraph 2.2, in relation to Qualifying Variations, the adjustments to the Financial Model shall only take place as follows:

- (a) when the expenditure or savings in connection with one or more Qualifying Variations in respect of which no adjustment has been made to the Financial Model exceeds (in either case) £250,000 (index linked) in aggregate;
- (b) on each anniversary of the Effective Date falling prior to the Actual Completion Date;
- (c) on the Actual Completion Date; and
- (d) at the end of a Contract Year.

3. **Financing costs where lump sum payment**

If payment is to be made pursuant to paragraph 3 of Section 2 of this Part 22 of the Schedule (*Variation Procedure*) which fully finances the Qualifying Variation, then no account shall be taken of the need to finance any Capital Expenditure in connection with the Qualifying Variation save to the extent that such financing is actually required between implementation of the Qualifying Variation and the payment of the lump sum.

4. **Updating the Financial Model**

Following the adjustment to calculate the new prices following a Qualifying Variation the Financial Model as adjusted in accordance with paragraph 2 of this Section 3 of Part 22 of the Schedule (*Variation Procedure*) shall be the Financial Model for the purposes of this Agreement.

5. **Not Used**

PART 22 OF THE SCHEDULE: VARIATION PROCEDURE

Section 4: Small Works

1. After each Phase Actual Completion Date, Project Co shall carry out Small Works which have been requested by the Board in respect of that Phase. If there shall be any dispute as to whether an item of work requested by the Board constitutes Small Works either party may refer it for resolution under the Dispute Resolution Procedure.
2. Not later than twenty (20) Business Days prior to the Phase 1 Actual Completion Date and not later than twenty (20) Business Days prior to the commencement of each subsequent Contract Year Project Co shall propose a Schedule of Small Works Rates for that Contract Year for the purposes of the same being agreed by the Liaison Committee pursuant to the provisions of Clause 12 (*Liaison*). The value of any such Small Works shall be calculated as follows:
 - (a) the labour element shall be calculated in accordance with the Schedule of Small Works Rates or, where such rates are not applicable, in accordance with analogous rates, failing which rates which are fair and reasonable; and
 - (b) the materials element shall be charged at the cost of the materials to Project Co or to the contractor carrying out the work (net of all discounts) plus 7.5%.
3. Project Co shall notify the Board's Representative of the estimated duration of any Small Works so that the Board's Representative and Project Co can agree a convenient time for carrying out the same (so as to minimise inconvenience to the Board). Project Co shall take all reasonable steps to minimise the duration of any Small Works.
4. Any dispute as to the cost of Small Works shall be referred for resolution in accordance with Part 26 of the Schedule (*Dispute Resolution Procedure*). In the event of failure on the part of the Liaison Committee to agree in advance of any Contract Year the Schedule of Small Works Rates, the said rates shall be determined in accordance with Part 26 of the Schedule (*Dispute Resolution Procedure*).

PART 23 OF THE SCHEDULE: COMPENSATION ON TERMINATION

Section A: Compensation on Termination for Board Default and Voluntary Termination

1. Compensation on Termination for Board Default and Voluntary Termination

1.1 If Project Co terminates this Agreement pursuant to Clause 45 (*Board Events of Default*) or the Board terminates this Agreement pursuant to Clause 46.2 (*Voluntary Termination*) the Board shall pay to Project Co the "Board Default Termination Sum" as set out in paragraph 1.2.

1.2 Subject to paragraphs 1.4 to 1.6 the Board Default Termination Sum shall be an amount equal to the aggregate of:

- (a) the Base Senior Debt Amount;
- (b) Redundancy Payments and Sub-Contractor Losses; and
- (c) the amount for which the share capital of Project Co and the Junior Debt could have been sold on an open market basis based on the Relevant Assumptions;

less, to the extent it is a positive amount, the aggregate of without double counting in relation to the calculation of the Base Senior Debt Amount or the amounts below:

- (d) all credit balances on any bank accounts held by or on behalf of Project Co on the Termination Date and the value of any right of Project Co to receive insurance proceeds (save where such insurance proceeds are held in the Insurance Proceeds Account and are to be applied in accordance with Clauses 36.18 (*Application of Proceeds*), 36.19 (*Application of Proceeds*) and 36.22 (*Reinstatement*) of this Agreement in reinstatement, restoration or replacement or, in the case of any third party legal liability or employer's liability, in satisfaction of the claim, demand, proceeding or liability) or sums due and payable from third parties (but only when received from third parties) but excluding any claims under any Sub-Contracts or claims against other third parties which have not been determined or have been determined but not yet paid provided that in such case Project Co shall assign any such rights and claims under the Sub-Contracts or claims against other third parties to the Board and give the Board reasonable assistance in prosecuting such claims;

- (e) to the extent realised before the Invoice Date the market value of any other assets and rights of Project Co (other than those transferred to the Board pursuant to this Agreement) less liabilities of Project Co properly incurred in carrying out its obligations under this Agreement as at the Termination Date provided that no account should be taken of any liabilities and obligations of Project Co arising out of:
 - (i) agreements or arrangements entered into by Project Co to the extent that such agreements or arrangements were not entered into in connection with Project Co's obligations in relation to the Project; or
 - (ii) agreements or arrangements entered into by Project Co to the extent that such agreements or arrangements were not entered into in the ordinary course of business and on commercial arm's length terms; and
 - (f) amounts which the Board is entitled to set off pursuant to Clause 48.12 (*Rights of Set-Off*) of this Agreement.
- 1.3 To the extent that such assets and rights referred to in paragraph 1.2(e) above are not realised and applied by the Invoice Date, Project Co shall on payment of the Board Default Termination Sum assign such assets and rights to the Board.
- 1.4 If the aggregate of the amounts referred to in paragraphs 1.2(a) and 1.2(c) is less than the Revised Senior Debt Termination Amount, then the Board Default Termination Sum shall be increased so that it is equal to the aggregate of the Revised Senior Debt Termination Amount and the amount referred to in paragraph 1.2(b) provided always that:
- (a) the amount referred to in paragraph 1.2(b) shall only be paid to the extent that Project Co has demonstrated to the reasonable satisfaction of the Board that the amount will not be applied (in whole or in part) in payment of any Distribution; and
 - (b) if, at the time of termination, there are any Additional Permitted Borrowings outstanding, no Sub-Contractor Losses shall be paid in respect of any Sub Contract in circumstances where there is an event of default under such Sub-Contract which would entitle Project Co to terminate such Sub-Contract.
- 1.5 If a Distribution is made whilst any Additional Permitted Borrowing is outstanding and Project Co has wilfully, or through gross negligence failed to comply with its obligations under Clause 10.4.4.1 (*Miscellaneous*) of the Funders' Direct Agreement then in addition to the deduction of the Distribution made pursuant to paragraph (iv) of the definition of Revised Senior Debt Termination Amount,

the Board shall be entitled to set off the value of that Distribution a second time against the Board Default Termination Sum, provided that the amount of the Board Default Termination Sum shall never be less than the Revised Senior Debt Termination Amount.

- 1.6 If Project Co has wilfully or through gross negligence failed to comply with its obligations under Clause 10.4.4.2 (*Miscellaneous*) of the Funders' Direct Agreement and there has been an overstatement of the cash balances by Project Co as at that Date which has caused the Board to reasonably believe that it would be required to pay a lesser sum at the Termination Date than it actually is required to pay under the terms of this Section A, then the Board Default Termination Sum shall be reduced by the amount of such overstatement (to the extent such overstatement is still applicable at the Termination Date), provided that the amount of the Board Default Termination Sum will never be less than the Revised Senior Debt Termination Amount.
- 1.7 The Board Default Termination Sum shall be payable in accordance with Section E of this Part 23 of the Schedule (*Compensation on Termination*).

PART 23 OF THE SCHEDULE: COMPENSATION ON TERMINATION

Section B: Compensation for Project Co Default

1. Compensation for Project Co Default

If the Board terminates this Agreement pursuant to Clause 44 (*Project Co Events of Default*) with the exception of termination pursuant to Clause 44.1(c)(ii) (*Default*) the Board shall pay to Project Co such sum as is calculated according to this Section B of this Part 23 of the Schedule (*Compensation on Termination*).

Retendering

2. Retendering Election

The Board shall be entitled to retender the provision of the Project Operations in accordance with paragraph 3 (*Retendering Procedure*) and the provisions of paragraph 3 (*Retendering Procedure*) shall apply if:

- (a) the Board notifies Project Co on or before the date falling twenty (20) Business Days after the Termination Date; and
- (b) there is a Liquid Market; and either
- (c) the Security Trustee has not exercised its rights to step-in under Clause 6 (*Representative*) of the Funders' Direct Agreement; or
- (d) Project Co or the Security Trustee have not procured the transfer of Project Co's rights and liabilities under this Agreement to a Suitable Substitute Contractor and have failed to use all reasonable efforts to do so

but otherwise the Board shall require a determination in accordance with paragraph 4 (*No Retendering Procedure*) and the provisions of that paragraph shall apply.

3. Retendering Procedure

- 3.1 The objective of the Tender Process shall be to enter into a New Agreement with a Compliant Tenderer.
- 3.2 The Board shall use all reasonable endeavours to complete the Tender Process as soon as practicable.
- 3.3 The Board shall as soon as reasonably practicable notify Project Co of the Qualification Criteria and the other requirements and terms of the Tender

Process, including the timing of the Tender Process and shall act reasonably in setting such requirements and terms.

- 3.4 Project Co authorises the release of any information by the Board under the Tender Process which would otherwise be prevented under Clause 52 (*Confidentiality*) that is reasonably required as part of the Tender Process.
- 3.5 For all or any part of a month, falling within the period from the Termination Date to the Compensation Date, the Board shall pay to Project Co:
- (a) the Post Termination Service Amount for each completed month, on or before the date falling ten (10) Business Days after the end of that month; and
 - (b) the Post Termination Service Amount for the period from the end of the last completed month until the Compensation Date, on or before the date falling twenty (20) Business Days after the Compensation Date.
- 3.6 Project Co may, at its own cost, appoint a person to monitor the Tender Process for the purpose of monitoring and reporting to Project Co and the Senior Funders on the Board's compliance with the Tender Process.
- 3.7 The Tender Process Monitor shall enter into a confidentiality agreement with the Board in a form acceptable to the Board and shall be entitled to attend all meetings relating to the Tender Process, inspect copies of all the tender documentation and bids and make representations to the Board as to compliance with the Tender Process. The Board shall not be bound to consider or act upon such representations but acknowledges that such representations may be put to the Expert in the event of a disagreement as to the Adjusted Highest Compliant Tender Price. The Tender Process Monitor will not disclose confidential information to Project Co or the Senior Funders but shall be entitled to advise Project Co and the Senior Funders on whether it considers that the Board has acted in accordance with the Tender Process and correctly determined the Adjusted Highest Compliant Tender Price.
- 3.8 If any Post Termination Service Amount is less than zero then it may be carried forward and may be set off against any future positive Post Termination Service Amounts.
- 3.9 As soon as practicable after tenders have been received, the Board shall (acting reasonably) review and assess the Compliant Tenders and shall notify Project Co of the Adjusted Highest Compliant Tender Price.
- 3.10 If Project Co refers a dispute relating to the Adjusted Highest Compliant Tender Price to dispute resolution in accordance with Clause 56 (*Dispute Resolution*)

Procedure), the Board shall irrespective of such dispute be entitled to enter into a New Agreement.

- 3.11 The Adjusted Highest Compliant Tender Price shall be paid in accordance with Section E of this Part 23 of the Schedule (*Compensation on Termination*).
- 3.12 Subject to paragraph 1.6 of Section E and paragraph 3.14 (*Retendering Procedure*) below, if the Board has not paid an amount equal to the Adjusted Highest Compliant Tender Price to Project Co on or before the date falling two years after the Termination Date then the following provisions of this paragraph 3 (*Retendering Procedure*) shall not apply to that termination and the provisions of paragraph 4 (*No Retendering Procedure*) shall apply instead.
- 3.13 The Board may elect at any time prior to the receipt of a Compliant Tender to follow the no retendering procedure under paragraph 4 (*No Retendering Procedure*) by notifying Project Co that this election has been made.
- 3.14 If the Board has received all bids from bidders under the Tender Process and has received a Compliant Tender but decides not to complete the Tender Process, it shall notify Project Co of this decision and pay to Project Co an amount equal to the Adjusted Highest Compliant Tender Price within 20 Business Days of such notification.

4. No Retendering Procedure

- 4.1 Subject to paragraph 4.2 (*No Retendering Procedure*), if the provisions of this paragraph 4 (*No Retendering Procedure*) apply Project Co shall not be entitled to receive any Post Termination Service Amount.
- 4.2 If the Board elects to require a determination in accordance with this paragraph 4 (*No Retendering Procedure*) after it has elected to follow the procedure under paragraph 3 (*Retendering Procedure*), then the Board shall continue to pay to Project Co each Post Termination Service Amount until the Compensation Date, in accordance with paragraph 3 (*Retendering Procedure*).
- 4.3 In agreeing or determining the Estimated Fair Value of the Agreement the parties shall be obliged to follow the principles set out below:
 - (a) all forecast amounts of revenues and costs should be calculated in nominal terms at current prices, recognising the adjustment for indexation in respect of forecast inflation between the date of calculation and the forecast payment date(s) as set out in this Agreement;

- (b) the total of all payments of the full Monthly Service Payments forecast to be made from the Termination Date to the Expiry Date shall be calculated and discounted at the Discount Rate;
- (c) the total of all costs reasonably forecast to be incurred by the Board as a result of termination shall be calculated and discounted at the Discount Rate and deducted from the payment calculated pursuant to paragraph 4.3(b) above, such costs to include (without double counting):
 - (i) a reasonable risk assessment of any cost overruns that will arise, whether or not forecast in the relevant base case;
 - (ii) the costs of providing the Services reasonably forecast to be incurred by the Board from the Termination Date to the Expiry Date to the standard required; and
 - (iii) any rectification costs required to deliver the Project Operations to the standard required (including any costs reasonably forecast to be incurred by the Board to complete the Works) and additional operating costs required to restore operating services standards less (to the extent that such sums are included in any calculation of rectification costs for the purposes of this paragraph) the aggregate of:
 - (aa) any insurance proceeds received (or held in the Insurance Proceeds Account) or which will be received pursuant to policies maintained in accordance with Clause 36 (*Insurance*) or which would be payable by the Board pursuant to Clause 36.14 (*Uninsurable Risks*); and
 - (bb) amounts payable by the Board in respect of Capital Expenditure under this Agreement which have not been paid,

in each case such costs to be forecast at a level that will deliver the Services to the standards required by this Agreement.

- 4.4 If the parties cannot agree on the Estimated Fair Value of the Agreement on or before the date falling twenty (20) Business Days after the date on which the Board elected or was obliged to require an expert determination in accordance with this paragraph 4 (*No Retendering Procedure*), then the Estimated Fair Value

of the Agreement shall be determined in accordance with Clause 56 (*Dispute Resolution Procedure*).

- 4.5 The Adjusted Estimated Fair Value of the Agreement shall be paid in accordance with Section E of this Part 23 of the Schedule (*Compensation on Termination*).

PART 23 OF THE SCHEDULE: COMPENSATION ON TERMINATION

Section C: Consequences of Termination for Force Majeure

1. Consequences of Termination for Force Majeure

1.1 If Project Co or the Board terminates this Agreement pursuant to Clause 46.1 (*Force Majeure*) the Board shall pay to Project Co the "Force Majeure Termination Sum" as set out in paragraph 1.2.

1.2 Subject to paragraphs 1.4 to 1.6 the Force Majeure Termination Sum shall be an amount equal to the aggregate of:

- (a) the Base Senior Debt Amount;
- (b) Redundancy Payments and Sub-Contractor Losses (but excluding there from any claims for loss of profit);
- (c) an amount equal to the Junior Debt less an amount equal to the aggregate of payments of interest paid on the Junior Debt provided that where such figure is a negative number it shall be instead fixed at zero; and
- (d) an amount equal to all amounts paid to Project Co by way of subscription for shares in the capital of Project Co less dividends and other distributions paid to the shareholders of Project Co provided that where such figure is a negative number it shall be instead fixed at zero;

less, to the extent it is a positive amount, the aggregate of (without double counting) in relation to the calculation of the Base Senior Debt Amount or the amounts below:

- (e) all credit balances on any bank accounts held by or on behalf of Project Co on the Termination Date and the value of any right of Project Co to receive insurance proceeds (save where such insurance proceeds are held in the Insurance Proceeds Account and are to be applied in accordance with Clauses 36.18 (*Application of Proceeds*), 36.19 (*Application of Proceeds*) and 36.22 (*Reinstatement*) of this Agreement in reinstatement, restoration or replacement, or in the case of third party legal liability or employer's liability, in satisfaction of the claim, demand, proceeding or liability) or sums due and payable from third parties (but only when received from third parties) but excluding any claims under any Sub-Contracts or claims against other third parties which have not been determined or have been determined but not yet

paid provided that in such case Project Co shall assign any such rights and claims under the Sub-Contracts or claims against other third parties to the Board and give the Board reasonable assistance in prosecuting such claims;

- (f) to the extent realised before the Invoice Date, the market value of any other assets and rights of Project Co (other than those transferred to the Board pursuant to this Agreement) less liabilities of Project Co properly incurred in carrying out its obligations under this Agreement as at the Termination Date, provided that no account should be taken of any liabilities and obligations of Project Co arising out of:
 - (i) agreements or arrangements entered into by Project Co to the extent that such agreements or arrangements were not entered into in connection with Project Co's obligations in relation to the Project; and
 - (ii) agreements or arrangements entered into by Project Co to the extent that such agreements or arrangements were not entered into in the ordinary course of business and on commercial arm's length terms; and
- (g) amounts which the Board is entitled to set off pursuant to Clause 48.12 (*Rights of Set-Off*) of this Agreement.

1.3 To the extent that such assets and rights referred to in paragraph 1.2(f) above are not realised and applied pursuant to that paragraph Project Co shall on payment of the Force Majeure Termination Sum assign such assets and rights to the Board.

1.4 If the aggregate of the amounts referred to in paragraphs 1.2(a), 1.2(c) and 1.2(d) is less than the Revised Senior Debt Termination Amount, then the Force Majeure Termination Sum shall be increased so that it is equal to the aggregate of the Revised Senior Debt Termination Amount and the amount referred to in paragraph 1.2(b) provided always that:

- (a) the amount referred to in paragraph 1.2(b) shall only be paid to the extent that Project Co has demonstrated to the reasonable satisfaction of the Board that the amount will not be paid (in whole or in part) in payment of any Distribution; and
- (b) if, at the time of termination, there are any Additional Permitted Borrowings outstanding, no Sub-Contractor Losses shall be paid in respect of any Sub Contract in circumstances where there is an event of default under such Sub-Contract which would entitle Project-Co to terminate such Sub-Contract.

- 1.5 If a Distribution is made whilst any Additional Permitted Borrowing is outstanding and Project Co has wilfully, or through gross negligence failed to comply with its obligations under Clause 10.4.4.1 (*Miscellaneous*) of the Funders' Direct Agreement then in addition to the deduction of the Distribution made pursuant to paragraph (iv) of the definition of Revised Senior Debt Termination Amount, the Board shall be entitled to set off the value of that Distribution a second time against the Force Majeure Termination Sum, provided that the amount of the Force Majeure Termination Sum shall never be less than the Revised Senior Debt Termination Amount.
- 1.6 If Project Co has wilfully or through gross negligence failed to comply with its obligations under Clause 10.4.4.2 (*Miscellaneous*) of the Funders' Direct Agreement and there has been an overstatement of the cash balances by Project Co as at that date which has caused the Board to reasonably believe that it would be required to pay a lesser sum at the Termination Date than it actually is required to pay under the terms of this Section C, then the Force Majeure Termination Sum shall be reduced by the amount of such overstatement (to the extent such overstatement is still applicable at the Termination Date), provided that the amount of the Force Majeure Termination Sum will never be less than the Revised Senior Debt Termination Amount.
- 1.7 The Force Majeure Termination Sum shall be paid in accordance with Section E of this Part 23 of the Schedule (*Compensation on Termination*).

PART 23 OF THE SCHEDULE: COMPENSATION ON TERMINATION

Section D: Corrupt Gifts and Fraud

1. Consequences of Termination for Corrupt Gifts and Fraud

1.1 If the Board terminates this Agreement pursuant to Clause 54.3 (*Remedies*) or Clause 44.1(c)(ii) (*Default*) the Board shall pay to Project Co the "Corrupt Gifts Termination Sum" as set out in paragraph 1.2.

1.2 The Corrupt Gifts Termination Sum shall be:

(a) an amount equal to the Revised Senior Debt Termination Amount;

less, to the extent it is a positive number, the aggregate of (without double counting):

(b) all credit balances on any bank accounts held by or on behalf of Project Co on the Termination Date and the value of any right to receive insurance proceeds (save where such insurance proceeds are held in the Insurance Proceeds Account and are to be applied in accordance with Clauses 36.18 (*Application of Proceeds*), 36.19 (*Application of Proceeds*) and 36.22 (*Reinstatement*) of this Agreement in reinstatement, restoration or replacement or, in the case of third party legal liability or employer's liability, in satisfaction of the claim, demand, proceeding or liability) or sums due and payable from third parties (but only when received from third parties) but excluding any claims under any Sub-Contracts or claims against other third parties which have not been determined or which have been determined but not paid provided that in such case Project Co shall assign any such rights and claims under the Sub-Contracts or claims against other third parties to the Board and give the Board reasonable assistance in prosecuting such claims; and

(c) to the extent realised before the Invoice Date, the market value of any other assets and rights of Project Co (other than those transferred to the Board pursuant to this Agreement) less liabilities of Project Co properly incurred in carrying out its obligations under this Agreement as at the Termination Date, provided that no account should be taken of any liabilities and obligations of Project Co arising out of:

(i) agreements or arrangements entered into by Project Co to the extent that such agreements or arrangements were not entered into in connection with Project Co's obligations in relation to the Project; and

- (ii) agreements or arrangements entered into by Project Co to the extent that such agreements or arrangements were not entered into in the ordinary course of business and on commercial arm's length terms.

1.3 To the extent that such assets and rights referred to in paragraph 1.2(c) above are not realised and applied pursuant to that paragraph, Project Co shall on payment of the Corrupt Gifts Termination Sum assign such assets and rights to the Board.

1.4 The Corrupt Gifts Termination Sum shall be paid in accordance with Section E of this Part 23 of the Schedule (*Compensation on Termination*).

PART 23 OF THE SCHEDULE: COMPENSATION ON TERMINATION

Section E: General

1. Payment and Interest

Following termination for Board Default, Force Majeure or Corrupt Gifts or Fraud

- 1.1 In respect of the termination payments to be made pursuant to any of Sections A, C or D of this Part 23 of the Schedule (*Compensation on Termination*), as soon as practicable after, and in any event within twenty (20) Business Days of, the Termination Date Project Co shall give to the Board an invoice for the relevant termination sum and sufficient supporting evidence, reasonably satisfactory to the Board, justifying the amount of the relevant termination sum including a breakdown of each of the individual elements of such sum.
- 1.2 Subject to paragraph 1.3 below, the Board shall pay to Project Co:
- (a) the relevant termination sum within forty (40) Business Days of the Invoice Date; and
 - (b) interest on the relevant termination sum (or any part of such sum that remains outstanding) from the Termination Date until the date of payment:
 - (i) at the No Default Interest Rate for the period from (but excluding) the Termination Date to (and including) the date which is forty (40) Business Days after the Invoice Date; and
 - (ii) thereafter, at the Default Interest Rate.
- 1.3 The Board shall be entitled to pay the Force Majeure Termination Sum in four (4) equal instalments by serving notice on Project Co within thirty (30) Business Days of the Invoice Date, in which case the provisions of paragraph 1.4 shall apply.
- 1.4 In the event that the Board elects to pay the Force Majeure Termination Sum in instalments pursuant to paragraph 1.3 then:
- (a) the first such instalment (together with interest therein calculated pursuant to paragraph 1.4(b) below) shall be due on the first Business Day occurring six (6) months after the date of the Board's notice served pursuant to paragraph 1.3 above and the remaining instalments (together with interest therein calculated pursuant to paragraph 1.4(b) below) shall be due, respectively, on the first Business Day occurring

twelve (12), eighteen (18) and twenty-four (24) months after the date of such notice; and

- (b) the Board shall pay interest on the Force Majeure Termination Sum (or any part of such sum that remains outstanding) from the Termination Date until the date of payment at the No Default Interest Rate.

If the Board fails to make a payment under paragraphs 1.4(a) or 1.4(b) above in full within ten (10) Business Days of the due date for payment, or an Adverse Law or a Proposal for an Adverse Law is made then the outstanding amount of the Force Majeure Termination Sum shall be immediately due and payable and, thereafter, the Board shall pay interest on such sum at the Default Interest Rate.

Following Retendering

- 1.5 Subject to paragraph 1.6, following a retendering exercise under Section B of this Part 23 of the Schedule (*Compensation on Termination*) the Board shall pay to Project Co an amount equal to the Adjusted Highest Compliant Tender Price no later than the date falling twenty (20) Business Days after the later of:

- (a) the date on which the Board receives the Market Value of the Agreement from the New Project Co; and
- (b) if Project Co has referred a dispute relating to the Adjusted Highest Compliant Tender Price to dispute resolution pursuant to paragraph 3.10 of Section B of this Part 23 of the Schedule (*Compensation on Termination*), the date on which the dispute is finally determined in accordance with Clause 56 (*Dispute Resolution Procedure*),

provided that, to avoid doubt, if the dispute referred by Project Co to dispute resolution (pursuant to paragraph 1.5(b) above) concerns only a proportion of the Adjusted Highest Compliant Tender Price then the Board shall pay the undisputed proportion of such sum no later than 20 Business Days after the date referred to in paragraph 1.5(a) above (the "Undisputed Payment Date") and the Board shall pay interest to Project Co on any amount of the Adjusted Highest Compliant Tender Price which has been withheld, from the Undisputed Payment Date until the date on which payment is made under paragraph 1.5(b) above at the No Default Interest Rate.

- 1.6 If the Adjusted Highest Compliant Tender Price is zero or a negative number then, on entering into the New Agreement with the New Project Co, the Board shall have no obligation to make any payment to Project Co and (if a negative number) an amount equal to the Adjusted Highest Compliant Tender Price shall be due and payable by Project Co to the Board on the date of the New Agreement.

Following no retendering

1.7 If the Board follows the no retendering procedure set out in paragraph 4 of Section B of this Part 23 of the Schedule (*Compensation on Termination*) then, subject to paragraph 1.8, the Board shall pay to Project Co an amount equal to the Adjusted Estimated Fair Value of the Agreement no later than the date falling twenty (20) Business Days after the Compensation Date together with interest on such amount calculated in accordance with paragraph 1.2(b) above unless the Board has paid Post Termination Service Amounts pursuant to paragraph 3.5 of Section B above.

1.8 To the extent that the Adjusted Estimated Fair Value of the Agreement is less than zero, then an amount equal to the Adjusted Estimated Fair Value of the Agreement shall be due and payable by Project Co to the Board on the Compensation Date.

2. Full and Final Settlement

2.1 Any and all sums irrevocably paid by the Board to Project Co under this Part 23 of the Schedule (*Compensation on Termination*) will be in full and final settlement of each party's rights and claims against the other for breaches and /or termination of this Agreement and any other Project Document whether under contract, delict, restitution or otherwise but without prejudice to:

- (a) any antecedent liability of Project Co to the Board which the Board has been unable to set off pursuant to Clause 48.12 (*Rights of Set-Off*) of this Agreement;
- (b) any antecedent liability of either party to the other that arose prior to the Termination Date (but not from the termination itself) to the extent such liability has not already been taken into account in determining or agreeing the Board Default Termination Sum, Adjusted Highest Compliant Tender Price, Adjusted Estimated Fair Value of the Agreement, the Force Majeure Termination Sum or the Corrupt Gifts Termination Sum as the case may be; and
- (c) any liabilities arising in respect of any breach by either party of their obligations under Clause 47.9 (*Continuing Obligations*) of this Agreement which arises or continues after the Termination Date.

2.2 If either the Adjusted Highest Compliant Tender Price or (as the case may be) the Adjusted Estimated Fair Value of the Agreement is zero or a negative number the Board shall be released from all liability to Project Co for breaches and/or termination of this Agreement and any other Project Document whether under contract, delict, restitution or otherwise save for:

- (a) any antecedent liability of the Board which arose prior to the Termination Date (but not from the termination itself) to the extent such liability has not already been taken into account in determining the Adjusted Highest Compliant Tender Price or the Adjusted Estimated Fair Value of the Agreement (as the case may be); and
- (b) any liabilities arising in respect of any breach by either party of their obligations under Clause 47.9 (*Continuing Obligations*) of the Agreement which continues after the Termination Date.

3. **Costs**

The costs and/or expenses to be taken into account in the calculation of all termination sums due pursuant to this Part 23 of the Schedule (*Compensation on Termination*) shall only be such costs and/or expenses to the extent that they are reasonable and proper in quantum and shall have been or will be reasonably and properly incurred and shall only be counted once.

4. **Undisputed Amounts**

If the calculation of any termination amount is disputed then any undisputed element of that amount shall be paid in accordance with this Section E of this Part 23 of the Schedule (*Compensation on Termination*) and the disputed element shall be dealt with in accordance with Part 26 of the Schedule (*Dispute Resolution Procedure*).

5. **Outstanding Senior Debt Amount**

- 5.1 The Board shall be entitled to rely on the certificate of the Security Trustee as conclusive as to the amount of the Senior Debt Amount outstanding at any relevant time.
- 5.2 The receipt of the Security Trustee shall discharge the Board's obligation to pay any element of compensation due to Project Co that is equal to the Senior Debt Amount (and where appropriate any accrued interest or breakage costs as certified in accordance with paragraph 5.1 above).

PART 23 OF THE SCHEDULE: COMPENSATION ON TERMINATION

Section F: Definitions

For the purposes of this Part 23 of the Schedule (*Compensation on Termination*), unless the context otherwise requires:

"Adjusted Estimated Fair Value of the Agreement" means the Estimated Fair Value of the Agreement adjusted as follows:

- (a) where in respect of any month or part of a month from the Termination Date to the Compensation Date the Post Termination Service Amount is a negative number, the aggregate of all such negative Post Termination Service Amounts shall be set against and shall reduce the Estimated Fair Value of the Agreement (whether or not such amounts have been set-off by the Board pursuant to paragraph 3.8 of Section B of this Part 23 of the Schedule (*Compensation on Termination*));

the aggregate of the following amounts shall be deducted from the Estimated Fair Value of the Agreement;

- (b) the Post Termination Service Amounts actually paid by the Board to Project Co prior to the Compensation Date;
- (c) the Tender Costs; and
- (d) amounts that the Board is entitled to set off or deduct

the aggregate of the following amounts shall be added to the Estimated Fair Value of the Agreement:

- (e) all credit balances on any bank accounts held by or on behalf of Project Co on the date that the Estimated Fair Value is calculated; and
- (f) any insurance proceeds and other amounts owing to Project Co (and which Project Co is entitled to retain), to the extent not included in (e);

to the extent that:

- (i) (e) and (f) have not been directly taken into account in calculating the Estimated Fair Value of the Agreement; and
- (ii) the Board has received such amounts in accordance with this Agreement or such amounts are standing to the credit of the Insurance Proceeds Account;

"Adjusted Highest
Compliant Tender Price"

means the price offered by the Compliant Tenderer (if any) with the highest tender price and, if no Compliant Tenders are received, zero, adjusted as follows:

- (a) where in respect of any month or part of a month from the Termination Date to the Compensation Date the Post Termination Service Amount is a negative number, the aggregate of all such negative Post Termination Service Amounts shall be set against and shall reduce such highest tender price (whether or not such amounts have been set-off by the Board pursuant to paragraph 3.8 of Section B of this Part 23 of the Schedule (*Compensation on Termination*));

the aggregate of the following amounts shall be deducted from such highest tender price:

- (b) the Post Termination Service Amounts actually paid by the Board to Project Co prior to the Compensation Date;
- (c) the Tender Costs; and
- (d) amounts that the Board is entitled to set off or deduct,

the aggregate of the following amounts shall be added to such highest tender price:

- (e) all credit balances on any bank accounts held by or on behalf of Project Co on the date that the highest priced Compliant Tender is received; and
- (f) any insurance proceeds and other amounts owing to Project Co (and which Project Co is entitled to

retain), to the extent not included in (e);

to the extent that:

- (i) (e) and (f) have not been directly taken into account in that Compliant Tender; and
- (ii) the Board has received such amounts in accordance with this Agreement or such amounts are standing to the credit of the Insurance Proceeds Account;

“Base Senior Debt Amount” means:

- (a) all amounts outstanding at the Termination Date, including interest and Default Interest accrued as at that date, from Project Co to the Senior Funders and in respect of Permitted Borrowings (other than in respect of Additional Permitted Borrowings); and
- (b) all amounts including costs of early termination of interest rate and RPI hedging arrangements and other breakage costs (including for the avoidance of doubt any EIB Prepayment Amount), payable by Project Co to the Senior Funders as a result of a prepayment in respect of Permitted Borrowings (other than in respect of Additional Permitted Borrowings), subject to Project Co and the Senior Funders mitigating all such costs to the extent reasonably possible (save in respect of the EIB Finance Contract, pursuant to which the amount or the formula for determining the amount of such costs are fixed in advance),

less

- (i) any amounts claimable on or after the Termination Date in respect of Contingent Funding Liabilities;
- (ii) all amounts, including costs of early termination of interest rate hedging arrangements and other breakage costs, payable by the Senior Funders to Project

Co as a result of prepayment of amounts outstanding and in respect of Permitted Borrowings (other than in respect of Additional Permitted Borrowings); and

- (iii) all other amounts received by the Senior Funders on or after the Termination Date and before the date on which any compensation is payable by the Board to Project Co as a result of enforcing any other rights they may have;

“Compensation Date”

means either:

- (a) if paragraph 3 (*Retendering Procedure*) of Section B of this Part 23 of the Schedule (*Compensation on Termination*) applies, the earlier of:
 - (i) the date that the New Agreement is entered into; and
 - (ii) the date on which the Board pays the Adjusted Highest Compliant Tender Price to Project Co, or
- (b) if paragraph 4 (*No Retendering Procedure*) of Section B of this Part 23 of the Schedule (*Compensation on Termination*) applies, the date that the Adjusted Estimated Fair Value of the Agreement has been agreed or determined;

“Compliant Tender”

means a tender that meets all of the Qualification Criteria;

“Compliant Tenderer”

means a tenderer who submits a Compliant Tender;

“Contingent Funding Liabilities”

means any contingent liabilities of the Shareholders in respect of financial obligations owed to Project Co, HoldCo and/or the Senior Funders under the Funding Agreements which are triggered as a result of or in relation to, termination of this Agreement, including guarantees or letters of credit in respect of deferred equity or loan note commitments, but excluding any guarantees or letters of credit in support of Sub-Contractors’ obligations under the relevant Sub-Contracts;

| | |
|------------------------|--|
| "Credit Agreement" | means the agreement with that title among Project Co, HoldCo and The Governor and Company of the Bank of Scotland, as dated on or around the date hereof; |
| "Deemed New Agreement" | <p>means an agreement on the same terms and conditions as this Agreement, as at the Termination Date, but with the following amendments:</p> <ul style="list-style-type: none"> (a) if this Agreement is terminated prior to the Actual Completion Date, then Longstop Date shall be extended by a period to allow a New Project Co (had one been appointed) to achieve the Actual Completion Date prior to the Longstop Date; (b) any accrued Service Failure Points shall be cancelled; and (c) the term of such agreement shall be for a period equal to the term from the Termination Date to the Expiry Date; |
| "Discount Rate" | <p>means a discount rate expressed as:</p> $(1 + \text{real base case project IRR} + \text{Gilt B} - \text{Gilt A}) * (1 + i) - 1$ <p>where:</p> <p>"real base case project IRR" is the real pre-tax Project IRR as set out in the Base Case at Financial Close;</p> <p>"i" is the agreed assumed forecast rate of increase in RPI;</p> <p>"Gilt A" is the real yield to maturity on a benchmark government Gilt instrument of the same maturity as the average life of the outstanding Senior Debt as shown in the Financial Model at Financial Close; and</p> <p>"Gilt B" is the real yield to maturity on a benchmark government Gilt instrument of the same maturity as the average life of the outstanding Senior Debt as shown in the Financial Model as on the date of Termination;</p> |
| "EIB Finance Contract" | means the agreement with that title among Project Co, HoldCo and European Investment Bank, dated on or around the date hereof; |

| | |
|--|---|
| "EIB Prepayment Amount" | means the "Prepayment Breakage Cost" (as defined in the EIB Finance Contract) and payable pursuant to the EIB Finance Contract; |
| "Estimated Fair Value of the Agreement" | means the amount determined in accordance with paragraph 4 (<i>No Retendering Procedure</i>) of Section B of this Part 23 of the Schedule (<i>Compensation on Termination</i>) that a third party would pay to the Board as the market value of the Deemed New Agreement; |
| "Invoice Date" | means, in respect of the Board Default Termination Sum, the Force Majeure Termination Sum or the Corrupt Gifts Termination Sum (as appropriate), the date that is the later of: <ul style="list-style-type: none"> (a) the date on which the Board receives an invoice from Project Co for the relevant termination sum; and (b) the date on which the Board receives the supporting evidence required pursuant to paragraph 1.1 of Section E of this Part 23 of the Schedule (<i>Compensation on Termination</i>); |
| "Junior Debt" | means the amount of principal outstanding under the Subordinated Funding Agreements; |
| "Longstop Date" | means the date referred to in Clause 44.1(b) (<i>Long stop</i>); |
| "Market Value Availability Deduction Amount" | means for any month or part of a month, an amount equal to the availability deduction that was made to the Monthly Service Payment under Section B of Part 18 of the Schedule (<i>Payment Mechanism</i>) in the month immediately preceding the Termination Date, less an amount equal to any availability deduction that was made for a Functional Part which was unavailable at the Termination Date but which has subsequently become available whether as a result of the Board incurring Rectification Costs or otherwise; |
| "Market Value of the Agreement" | means the value of the consideration payable by the New Project Co to the Board in consideration for the entering into of the New Agreement; |
| "Maximum Service" | means the Monthly Service Payment payable at any time before any deductions under Section B of Part 18 of the |

| | |
|-----------------------------------|--|
| Payment" | Schedule (<i>Payment Mechanism</i>) but allowing for indexation under paragraph 2.1 of Section B of Part 18 of the Schedule (<i>Payment Mechanism</i>); |
| "New Agreement" | <p>means an agreement on the same terms and conditions as this Agreement at the Termination Date, but with the following amendments:</p> <ul style="list-style-type: none"> (a) if this Agreement is terminated prior to the Actual Completion Date, then the Longstop Date shall be extended by a period to allow a New Project Co to achieve the Actual Completion Date prior to the Longstop Date; (b) any accrued Service Failure Points and Warning Notices shall be cancelled; (c) the term of such agreement shall be equal to the term from the Termination Date until the Expiry Date; and (d) any other amendments which do not adversely affect the Project Co; |
| "New Project Co" | means the person who has entered or who will enter into the New Agreement with the Board; |
| "No Default Interest Rate" | <p>means:</p> <ul style="list-style-type: none"> (a) in relation to any sum which is comprised in the Senior Debt Amount and is calculated by reference to the EIB Finance Contract, the interest rate (not being the default rate) that applies under the EIB Finance Contract; and (b) in relation to any other parts of the Senior Debt Amount and any other sums, the interest rate (not being the default rate) that applies under the Credit Agreement; |
| "Post Termination Service Amount" | means for the purposes of paragraph 3 (<i>Retendering Procedure</i>) of Section B of this Part 23 of the Schedule (<i>Compensation on Termination</i>), for the whole or any part of a month for the period from the Termination Date to the Compensation Date, an amount equal to the Maximum Service Payment which would have been payable under |

this Agreement had this Agreement not been terminated, less an amount equal to the aggregate of (without double counting):

- (a) the reasonable and proper cost to the Board of procuring the Services;
- (b) the Market Value Availability Deduction Amount for that month; and
- (c) the Rectification Costs incurred by the Board in that month;

“Qualification Criteria”

means the criteria that the Board requires tenderers to meet as part of the Tender Process, which (subject to the compliance with procurement regulations) shall be:

- (a) the New Agreement terms;
- (b) tenderers should have the financial ability to pay the capital sum tendered for the New Agreement and the financial ability to deliver the Works and/or the Services (as appropriate) for the price tendered;
- (c) the tenderers may only bid on the basis of a single capital payment to be made on the date of the New Agreement;
- (d) the tenderer is experienced in providing the Services or similar services
- (e) the technical solution proposed by the tenderers is capable of delivery and the tenderer is technically capable of delivery of the Services; and
- (f) any other tender criteria agreed by the Board and the Project Co;

“Rectification Costs”

means, for the purposes of any Termination Date that occurs after the Actual Completion Date, an amount equal to the reasonable and proper costs incurred by the Board in a particular month or part of a month in ensuring that the Services are available;

“Redundancy Payments”

means redundancy payments and other termination payments which are required under Law to be made to

employees of Project Co reasonably and properly incurred by Project Co arising as a direct result of terminating this Agreement (provided that Project Co shall use all reasonable endeavours to mitigate its loss) and provided that in calculating such amount no account should be taken of any liabilities and obligations of Project Co arising out of:

- (a) contracts of employment or other agreements or arrangements entered into by Project Co to the extent that such contracts of employment agreements or arrangements were not entered into in connection with the Project; and/or
- (b) contracts of employment or other agreements or arrangements entered into by Project Co to the extent that such contracts of employment agreements or arrangements were not entered into in the ordinary course of business and on commercial arm's length terms;

"Relevant Assumptions"

means the assumptions that the sale of Project Co is on the basis that there is no default by the Board or Planning Challenge subsisting, that the sale is on a going concern basis, that no restrictions exist on the transfer of share capital, that no Additional Permitted Borrowing has taken place and therefore that the effect of the Additional Permitted Borrowing on the calculation of such amount is disregarded but that otherwise the actual state of affairs of Project Co and the Project is taken into account;

"Revised Senior Debt Termination Amount"

means, subject to Clause 4.3 (*Changes to Funding Agreements and Refinancing*):

- (a) all amounts outstanding at the Termination Date, including interest and (other than in respect of Additional Permitted Borrowing) Default Interest accrued as at that date, from Project Co to the Senior Funders in respect of Permitted Borrowings; and
- (b) all amounts including costs of early termination of interest rate and RPI hedging arrangements and other breakage costs (including for the avoidance of doubt any EIB Prepayment Amount), payable

by Project Co to the Senior Funders as a result of a prepayment in respect of Permitted Borrowings, subject to Project Co and the Senior Funders mitigating all such costs to the extent reasonably possible (save in respect of the EIB Finance Contract, pursuant to which the amount or the formula for determining the amount of such costs are fixed in advance),

less, to the extent it is a positive amount, the aggregate of (without double counting in relation to the calculation of the Revised Senior Debt Termination Amount or the amounts below):

- (i) all credit balances on any bank accounts (but excluding the Insurance Proceeds Account held by or behalf of Project Co) on the Termination Date;
- (ii) any amounts claimable on or after the Termination Date in respect of Contingent Funding Liabilities;
- (iii) all amounts, including costs of early termination of interest rate hedging arrangements and other breakage costs, payable by the Senior Funders to Project Co as a result of prepayment of amounts outstanding in respect of Permitted Borrowings;
- (iv) all other amounts received by the Senior Funders on or after the Termination Date and before the date on which any compensation is payable by the Board to Project Co as a result of enforcing any other rights they may have; and
- (v) all APB Distributions;

“Security Trustee”

has the meaning given in Part 1 of the Schedule (*Definitions and Interpretations*);

“Senior Debt”

means the financing provided by the Senior Funders under the Senior Funders Agreements;

| | |
|-----------------------------|---|
| "Senior Debt Amount" | means the Revised Senior Debt Termination Amount or the Base Senior Debt Amount as relevant; |
| "Senior Funders Agreements" | means as at the Effective Date or as amended with the prior written approval of the Board pursuant to Clause 4.3(a) (<i>Changes to Funding Agreements and Refinancing</i>), each of the agreements listed in Section 2 of Part 37 of the Schedule (<i>Funding Agreements</i>); |
| "Sub-Contractor Losses" | <p>means:</p> <ul style="list-style-type: none"> <li data-bbox="598 616 1418 907">(a) the amount reasonably and properly payable by Project Co to the Construction Contractor under the terms of the Construction Contract as a direct result of the termination of this Agreement provided that such amount shall be reduced to the extent that Project Co fails to use all reasonable endeavours to mitigate such amount; and <li data-bbox="598 940 1418 1272">(b) the amount reasonably and properly payable by Project Co to the Service Providers under their respective contracts with Project Co (as the case may be) as a direct result of the termination of this Agreement provided that such amount shall be reduced to the extent that Project Co fails to use all reasonable endeavours to mitigate such amount; <p>provided that in both cases no account should be taken of any liabilities and obligation of Project Co to the Sub-Contractors arising out of:</p> <ul style="list-style-type: none"> <li data-bbox="710 1467 1418 1758">(i) agreements or arrangements entered into by Project Co and/or the sub-Contractors to the extent that such agreements or arrangements were not entered into in connection with those parties obligations in relation to the Project; and/or <li data-bbox="710 1792 1418 1995">(ii) agreements or arrangements entered into by Project Co and/or the Sub-Contractors to the extent that such agreements or arrangements were not entered into in the ordinary course of |

business and on commercial arm's length terms;

| | |
|-----------------------------------|---|
| "Subordinated Funding Agreements" | means those of the Funding Agreements entered into on or prior to Financial Close, as set out in Section 3 of part 37 of the Schedule (<i>Funding Agreements</i>); |
| "Suitable Substitute Contractor" | has the meaning given in the Funders' Direct Agreement |
| "Tender Costs" | means the reasonable and proper costs of the Board incurred in carrying out the Tender Process and/or in connection with any calculation of the Estimated Fair Value of the Agreement; |
| "Tender Process" | means the process by which the Board requests tenders from any parties interested in entering into a New Agreement, evaluates the responses from those interested parties and enters into a New Agreement with a new service provider, in accordance with paragraph 3 (<i>Retendering Procedure</i>) of Section B of this Part 23 of the Schedule (<i>Compensation on Termination</i>); and |
| "Tender Process Monitor" | means the person appointed under paragraph 3.6 of Section B of this Part 23 of the Schedule (<i>Compensation on Termination</i>). |

PART 24 OF THE SCHEDULE: HANDBACK PROCEDURE

1.
 - 1.1 On the Expiry Date, each element of the Facilities shall be in a condition which is:
 - 1.1.1 consistent with due performance by Project Co of the Service Level Specifications and Method Statements for the Services, such that each element of the Facilities meets Condition B (as defined in Estatecode); and
 - 1.1.2 consistent with the Facilities and each of the elements of them having been designed and constructed in accordance with the applicable design life requirements set out in paragraph 5.1.7 of the Board's Construction Requirements,together referred to as (the "Handback Requirements").
 - 1.2 Not less than two years prior to the Expiry Date, Project Co and the Board's Representative shall conduct a joint inspection of the Facilities.
 - 1.3 Within twenty (20) Business Days after the completion of the inspection, if it is found that any element of the Facilities is not in a condition consistent with the Handback Requirements, Project Co shall forthwith provide to the Board Representative in accordance with Part 10 of the Schedule (*Review Procedure*):
 - 1.3.1 Project Co's proposal as to the maintenance works (if any) (the "Handback Works") required to be carried out in respect of the Facilities in order to procure that they will, on the Expiry Date, satisfy the Handback Requirements;
 - 1.3.2 Project Co's proposal as to the programme (the "Handback Programme") for the carrying out of the Handback Works over the remainder of the Project Term, such programme shall describe the total works to be carried out and the method of carrying out such works during the overall period in which the Handback Works are to be executed; and
 - 1.3.3 Project Co's estimate of the cost of carrying out the Handback Works (the "Handback Amount").
2. The Board's Representative may, within fifteen (15) Business Days after receipt of the details set out in paragraph 1 from Project Co, raise comments in accordance with paragraph 3 of Part 10 of the Schedule (*Review Procedure*) on Project Co's proposals and estimate referred to in paragraph 1 above.

3.

- 3.1 On agreement, or determination in accordance with Part 26 of the Schedule (*Dispute Resolution Procedure*), of the Handback Works, the Handback Programme and/or the Handback Amount (as the case may be), Project Co shall procure that the Handback Works are carried out in accordance with the Handback Programme. Project Co shall carry out the Handback Works at its own cost notwithstanding that the actual cost of the Handback Works may be higher than the Handback Amount.
- 3.2 Project Co shall within ten (10) Business Days of the agreement (or determination in accordance with Part 26 of the Schedule (*Dispute Resolution Procedure*)) envisaged in paragraph 3.1, procure the provision of a bond (the "Handback Bond") in favour of the Board for an amount equal to the Handback Amount from a bank or insurance company authorised to carry out business in the United Kingdom.
- 3.3 Project Co shall carry out the Handback Works to the satisfaction of the Board's Representative in accordance with Good Industry Practice and in accordance with the Handback Programme so as to meet the Handback Requirements.
- 3.4 Notwithstanding:
- (a) the agreement of the Board's Representative to any Handback Works, the Handback Programme or the Handback Amount;
 - (b) the participation of the Board's Representative in any inspection under this Schedule; and/or
 - (c) the complete or partial carrying out of the Handback Works,

Project Co shall not be relieved or absolved from any obligation to conduct any other inspection or to perform any other works in accordance with the Service Level Specifications and Method Statements for the Services.

4.

- 4.1 Not later than thirty (30) Business Days before the Expiry Date, Project Co and the Board's Representative shall conduct a joint inspection of the Facilities. Such inspection shall confirm whether or not the condition of the Facilities is in accordance with paragraph 1 above.
- 4.2 On, or within twenty (20) Business Days after, the Expiry Date, the Board's Representative shall either:
- (a) issue to Project Co a Handback Certificate and return the Handback Bond to Project Co; or

- (b) notify Project Co of its decision not to issue the Handback Certificate stating the reasons for such decision.
- 4.3 Any notice given by the Board's Representative in accordance with paragraph 4.2(b) shall set out each respect in which the Handback Works have not been completed or the Facilities do not comply with the Handback Requirements and shall state the Board Representative's estimate of the cost of procuring that the Facilities comply in all respects with the Handback Requirements.
- 4.4 Project Co may, within five (5) Business Days after receipt of the notice given in accordance with paragraph (b) by notice to the Board's Representative, object to any matter set out in the Board Representative's notice. The notice from Project Co shall give details of the grounds of such objection and shall set out Project Co's proposals in respect of such matters.
- 4.5 If no agreement is reached between Project Co and the Board's Representative as to any matter referred to in Project Co's notice given in accordance with paragraph 4.4 within five (5) Business Days of receipt of that notice by the Board's Representative, then either Project Co or the Board's Representative may refer the matter for determination in accordance with Part 26 of the Schedule (*Dispute Resolution Procedure*) as to:
 - (a) whether the Facilities comply in all respects with the Handback Requirements; and
 - (b) the estimated cost of procuring that the Facilities comply in all respects with the Handback Requirements, where the Facilities do not comply in all respects with the Handback Requirements.
- 5. If it is agreed or determined in accordance with Part 26 of the Schedule (*Dispute Resolution Procedure*) that the Facilities did not, at the Expiry Date, comply in all respects with the Handback Requirements, Project Co shall pay to the Board an amount equal to the estimated cost of completing such Handback Works or procuring that the Facilities comply in all respects with the Handback Requirements. Such payment shall be made not later than five (5) Business Days after the estimated cost has been agreed or determined and, upon such payment being received by the Board, the Board's Representative shall issue the Handback Certificate and return the Handback Bond to Project Co.

PART 25 OF THE SCHEDULE: RECORD PROVISIONS

Section 1: General Requirements

1. Project Co shall retain and maintain all the records (including superseded records) referred to in Section 2 of this Part 25 of the Schedule (*Record Provisions*) in accordance with this Section 1 of this Part 25 of the Schedule (*Record Provisions*), the requirements of Good Industry Practice, in chronological order, in a form that is capable of audit and at its own expense. Project Co shall make such records available for inspection to the Board where it has reasonable cause for requiring such records, on giving reasonable notice.
2. Wherever practical, original records shall be retained and maintained in hard copy form. True copies of the original records may be kept by Project Co where it is not practicable to retain original records.
3. Those records relating to the Project Operations (including the design, construction, development, enhancement and maintenance of the Facilities) shall be retained for the duration of the Agreement.
4. Financial and other records (including without limitation all information provided in support of any Variation) shall be retained and maintained by Project Co for a period of at least six (6) years after the end of the Project Term in sufficient detail, in appropriate categories and generally in such a manner to enable Project Co to comply with its obligations under Clause 38.1 (*Information and Audit Access*) and where appropriate to enable the data in such records to be entered into the Financial Model so that the output from the Financial Model (on the basis of such data) can be directly compared with the actual financial cashflow and performance of Project Co.
5. Where Project Co wishes to dispose of any records maintained as provided in this Part of this Schedule which are more than fifteen (15) years old, or in respect of which the required period for their retention has expired, then Project Co shall notify the Board and if, within forty (40) Business Days of such notice, the Board elects to receive certain of those records, then Project Co shall deliver up such records to the Board in the manner and at the location as the Board shall reasonably specify, and the costs of retaining those records in safe storage and delivering up the same shall be borne by Project Co.
6. Subject to paragraph 5, for a period of not more than six (6) years following the termination for whatever reason of this Agreement, Project Co shall retain in safe storage all such records as are referred to in Section 2 of this Part 25 of the Schedule (*Record Provisions*) which were in existence at the date of termination of this Agreement. On the expiry of such period or at the earlier request of the Board, Project Co shall deliver up all those records (or where those records are

required by statute to remain with Project Co or a Contracting Associate of Project Co, copies thereof) to the Board in the manner and at the location as the Board shall reasonably specify. The Board shall make available to Project Co all the records Project Co delivers up pursuant to this paragraph subject to reasonable notice. The costs of retaining those records in safe storage and delivering up the same shall be borne:

- (a) by Project Co where the termination arises as a result of a Project Co Event of Default; and
- (b) by the Board where the termination arises for any other cause.

7. Without prejudice to the foregoing, Project Co shall provide the Board:

- (a) as soon as they may be available and in any event within sixty (60) Business Days after the end of the first six (6) months of each financial year of Project Co which falls during the Project Term, a copy, certified as a true copy by an officer of Project Co, of its unaudited interim accounts and, if appropriate, of consolidated unaudited interim accounts of Project Co, its Subsidiaries and Holding Company (if any) which would (if Project Co were listed on the London Stock Exchange whether or not it is) be required to be sent to shareholders as at the end of and for each such six (6) month period; and
- (b) as soon as they shall have been sent to its shareholders in order to be laid before an annual general meeting of Project Co but not later than one hundred and thirty (130) Business Days after the end of each accounting reference period of Project Co part or all of which falls in a Contract Year, a copy of Project Co's audited accounts and if appropriate, of the consolidated audited accounts of Project Co and, its Associated Companies (if any), in respect of that period, prepared in accordance with the Companies Act 1985 and generally accepted accounting principles and bases in Scotland, consistently applied together with copies of all related directors' and auditors' reports and all other notices/circulars to shareholders.

8. Any drawings required to be made or supplied pursuant to this Agreement shall be of a size appropriate to show the detail to be depicted clearly without magnifying aids and shall conform to British Standards 1192 or 308 or equivalent as appropriate. Where by prior agreement the Board has agreed to accept microfilm, microfiche or other storage media (which must include secure back up facilities), drawings and other documents shall be made or supplied in such form as has been agreed.

PART 25 OF THE SCHEDULE: RECORD PROVISIONS

Section 2: Records to be kept

1. The Project Agreement, its Schedule and the Project Documents including all amendments to such agreements.
2. All other documents, software or other information expressly referred to in this Agreement.
3. Records relating to the appointment and supersession of the Board's Representative and Project Co's Representative.
4. Project Data.
5. Documents, drawings, design data or submissions raised in accordance with Part 10 of the Schedule (*Review Procedure*).
6. Documents relating to planning applications, consents, refusals and appeals.
7. Records relating to any specialist or statutory inspections of the Facilities, including any roadways.
8. Notices, reports, results and certificates relating to completion of the Works and completion of the commissioning activities.
9. All operation and maintenance manuals.
10. Documents relating to events of Force Majeure, Delay Events and Relief Events and the consequences of the same.
11. All formal notices, reports or submissions made to or received from the Board's Representative in connection with the provision of Services, the Performance Monitoring Programme or the Unavailability (as defined in Part 18 of the Schedule (*Payment Mechanism*)) of the Facilities which for the avoidance of doubt shall include all records made and/or held by the Helpdesk (as defined in Part 18 of the Schedule (*Payment Mechanism*)).
12. All certificates, licences, registrations or warranties related to the provision of Services.
13. Documents in support of claims for Monthly Service Payments.
14. Documents submitted in accordance with Part 22 of the Schedule (*Variation Procedure*) and all documents provided in support.
15. Documents related to referrals to the Dispute Resolution Procedure.

16. Documents related to change in ownership or any interest in any or all of the shares in Project Co and/or HoldCo.
17. Documents relating to the rescheduling of the indebtedness of Project Co or refinancing of the Project.
18. Tax invoices and records related to Value Added Tax.
19. Financial records, including audited and unaudited accounts of HoldCo and Project Co and related reports.
20. Documents relating to any Benchmarking Exercise (as defined in Part 17 of the Schedule (*Benchmarking and Market Testing Procedure*)) and Market Testing.
21. Records required by Law (including in relation to health and safety matters and health and safety files prepared pursuant to CDM Regulations) and all Consents.
22. Documents relating to insurance and insurance claims.
23. All other records, notices or certificates required to be produced and/or maintained by Project Co pursuant to this Agreement or any Project Document.
24. Records of all persons employed by Project Co or its sub-contractors and who are wholly or mainly engaged in the delivery of the Services, including information equivalent to that referred to in Section 1 of Part 30 of the Schedule (*Employee Information and Proposed Workforce Information*) and identifying any person who is a Pensionable Board Employee.

PART 26 OF THE SCHEDULE: DISPUTE RESOLUTION PROCEDURE

1. The procedure set out in this Part 26 of the Schedule (*Dispute Resolution Procedure*) (the "Dispute Resolution Procedure") shall apply to any dispute, claim or difference arising out of or relating to this Agreement ("Dispute") except where it has been excluded from this procedure by an express term of this Agreement.
2. This Dispute Resolution Procedure shall not impose any pre-condition on any party or otherwise prevent or delay any party from commencing proceedings in any court of competent jurisdiction in relation to any Dispute in which that party requires either:
 - 2.1 an order (whether interlocutory or final) restraining the other party from doing any act or compelling the other party to do any act; or
 - 2.2 a decree for a liquidated sum to which there is no stateable defence.

3. *Liaison Committee*

Subject to paragraphs 2 and 5 of this Part 26 of the Schedule (*Dispute Resolution Procedure*), all Disputes shall first be referred to the Liaison Committee for resolution. Either party may seek a recommendation from the Liaison Committee in respect of any Dispute by convening a meeting of the Liaison Committee in accordance with the procedure in Clause 12 (*Liaison*) of this Agreement. The party seeking the recommendation shall at least 5 Business Days (or such lesser period as the parties may agree) in advance of the meeting provide the Liaison Committee with written details, copied to the other party, setting out such information as is required to enable the Liaison Committee and the other party to consider the matter. Any recommendation of the Liaison Committee (if any recommendation can be provided) shall be provided within 5 Business Days of the meeting of the Liaison Committee and shall be final and binding if recorded in writing and signed by the parties.

4. *Mediation*

- 4.1 Subject to paragraphs 2 and 5 of this Part 26 of the Schedule (*Dispute Resolution Procedure*), if the parties have been unable to resolve the Dispute following a recommendation of the Liaison Committee pursuant to paragraph 3, they may refer the Dispute to mediation on such conditions as may be agreed between the parties, and in the absence of agreement between the parties on such conditions as directed by the mediator. Any mediation shall be completed as soon as reasonably practicable following such referral and any agreement arising therefrom (if agreement can be reached) shall be recorded in writing and

signed by the parties, and shall be final and binding to the extent set out in such agreement.

- 4.2 If the parties are unable to agree on the appointment of a mediator, then either party may apply to CEDR for the nomination and appointment of a suitably qualified mediator.

5. *Adjudication*

- 5.1 Any Dispute may, notwithstanding that other dispute resolution procedures are running concurrently, be referred to an Adjudicator for adjudication and shall be adjudicated in accordance with this paragraph 5.
- 5.2 This paragraph 5 meets the requirements of adjudication procedure as set out in Section 108 of the Housing Grants, Construction and Regeneration Act 1996; Part I of the Scheme for Construction Contracts (Scotland) Regulations 1998 shall thus not apply.

Commencement

- 5.3 This paragraph 5 shall apply upon either party to the Agreement giving written notice ("Notice of Adjudication") to the other party identifying in sufficiently full terms the Dispute in respect of which adjudication is required and the relief or remedy sought ("Adjudication"). The Notice of Adjudication shall be served in accordance with the provisions of Clause 57 (*Notices*).
- 5.4 The party giving Notice of Adjudication shall, within 7 days of the date of service of the Notice of Adjudication, refer the Dispute to the Adjudicator (appointed pursuant to paragraph 5.7 or paragraph 5.8) by serving a referral notice ("Referral Notice") which shall set out each element of the referring party's claim and the relief or remedy sought in sufficient detail so as to enable the responding party to understand and where appropriate respond to the claim. The Referral Notice shall be served so as to be received by the Adjudicator within 7 days of the date of the Notice of Adjudication. If an Adjudicator has not been appointed within 7 days of the date of the Notice of Adjudication, the referring party shall serve the Referral Notice as soon as reasonably practicable after his appointment. The date of the referral of the Dispute shall be the date when the Adjudicator receives the Referral Notice. The Adjudicator shall notify the parties immediately of the date he receives the Referral Notice. The Referral Notice shall be accompanied by copies of, or relevant extracts from, this Agreement and such other documents as the referring party intends to rely upon. The referring party shall simultaneously send copies of the Referral Notice and such documents to every other party to the Dispute.
- 5.5 Notice of Adjudication may be given at any time and notwithstanding that legal proceedings have been commenced in respect of such Dispute.

Appointment

- 5.6 More than one Notice of Adjudication may be given arising out of this Agreement.
- 5.7 Once a Dispute has crystallised, the parties may at any time up to the service of the Notice of Adjudication, seek to agree upon the appointment of an adjudicator from a discipline appropriate to the Dispute. Where the parties have agreed upon the identity of an adjudicator (including an adjudicator pursuant to paragraph 5.35.2) and the proposed adjudicator, within 2 days of receiving a request to act as adjudicator, confirms his acceptance of that request, then that person shall be the Adjudicator.
- 5.8 Where the parties have been unable to agree the appointment of an adjudicator pursuant to paragraph 5.7, or where such person has not confirmed his willingness to act, the referring party shall at the same time as serving the Notice of Adjudication seek the nomination and appointment of an adjudicator from a discipline appropriate to the Dispute by making an application (the "Nomination Application") to either the Chairman, Vice-Chairman, President or Vice President of either the Institute of Chartered Accountants of Scotland, the Royal Institute of Architects in Scotland, the Law Society of Scotland, the Royal Institution of Chartered Surveyors in Scotland, the Chartered Institute of Arbitrators (Scottish Branch) or the British Institute of Facilities Management (each a "Nominating Body"). The following procedure shall apply:
- 5.8.1 The Nomination Application shall be in writing (and made on the relevant Nominating Body's standard application form if appropriate) and shall be accompanied by a copy of the Notice of Adjudication and a copy of this Agreement (or relevant extracts thereof) or other evidence of the agreement of the parties that this paragraph 5 should apply.
- 5.8.2 The Nominating Body shall use its best endeavours to nominate an adjudicator within 5 days of receiving the Nomination Application.
- 5.8.3 Where the adjudicator nominated by the Nominating Body confirms his acceptance of the appointment to both parties within 2 days of receiving the nomination from the Nominating Body, then that person shall be the Adjudicator.
- 5.8.4 The referring party shall serve the Referral Notice within 7 days of the date of the Notice of Adjudication, or if the Adjudicator has not been appointed within 7 days of the date of the Notice of Adjudication, the referring party shall serve the Referral Notice immediately upon appointment.

- 5.9 Where an Adjudicator has already been appointed in relation to another dispute arising out of this Agreement, the Nominating Body may appoint either the same or a different person as Adjudicator.

Agreement

- 5.10 An agreement to adjudicate in accordance with this paragraph 5 shall be treated as an offer made by each of the parties to the Nominating Body and to any Adjudicator to abide by this paragraph 5, which offer may be accepted by conduct by appointing an Adjudicator or embarking upon the Adjudication as the case may be. Without prejudice to the generality of the preceding sentence, it shall be a condition of any appointment of an Adjudicator that if he is so required the Adjudicator will act as adjudicator in any adjudication under a Related Contract (but always subject to the provisions of paragraph 5.22.4).

Scope of the Adjudication

- 5.11 The scope of the Adjudication shall be the matters identified in the Notice of Adjudication, together with any further matters which both parties agree in writing should be within the scope of the Adjudication.

- 5.12 The Adjudicator may rule upon his own substantive jurisdiction.

The purpose of the Adjudication and the Role of the Adjudicator

- 5.13 The underlying purpose of the Adjudication is to resolve disputes between the parties that are within the scope of the Adjudication as rapidly and economically as is reasonably possible.
- 5.14 The decisions of the Adjudicator shall be binding until the Dispute is finally determined by Court proceedings, or by an agreement in writing between the parties.
- 5.15 The decision of the Adjudicator shall reflect the legal entitlements and obligations of the parties.
- 5.16 The Adjudicator shall have the like power to open up and review any certificates, or other things issued or made pursuant to this Agreement as would a Court or arbiter given such powers and shall have the power to award damages.
- 5.17 The Adjudicator shall act fairly and impartially, but shall not be obliged or empowered to act as though he were an arbiter.

Conduct of the Adjudication

- 5.18 The Adjudicator shall establish the procedure and timetable for the Adjudication.

- 5.19 Without prejudice to the generality of paragraph 5.18 the Adjudicator may if he thinks fit:
- 5.19.1 require the delivery of written statements relating to matters in issue in the Dispute;
 - 5.19.2 require either party to produce a bundle of key documents, whether helpful or otherwise to that party's case, and to draw such inference as may seem proper from such bundle that may become apparent;
 - 5.19.3 require the delivery to him and/or the other party of copies of any documents other than documents that would be privileged from production to a court;
 - 5.19.4 limit the length of any written or oral submission;
 - 5.19.5 require the attendance before him for questioning of either party or employee or agent of either party (but not for the avoidance of doubt of any party in the absence of the other party);
 - 5.19.6 make site visits (subject to any reasonable conditions or requirements of the Board);
 - 5.19.7 make use of his own specialist knowledge;
 - 5.19.8 obtain advice from specialist advisers or consultants, provided that at least one of the parties so requests or consents;
 - 5.19.9 subject to paragraph 5.22.2, meet and otherwise communicate with either party (subject to the rules of natural justice);
 - 5.19.10 review and revise any of his own previous directions; and
 - 5.19.11 conduct the Adjudication in an inquisitorial manner, and take the initiative in ascertaining the facts and the law.
- 5.20 The Adjudicator may reach his decision with or without the holding of an oral hearing.
- 5.21 The Adjudicator shall exercise such powers fairly and impartially, giving each party a reasonable opportunity, in light of the timetable, of putting his case and dealing with that of his opponent.
- 5.22 The Adjudicator may not:
- 5.22.1 require any advance payment of or security for his fees;

- 5.22.2 receive any written or oral submissions from one party that are not also made available or made to the other;
- 5.22.3 refuse any party the right at any hearing or meeting to be represented by a representative of that party's choosing who is present; and / or
- 5.22.4 act or continue to act in the face of a conflict of interest.

5.23

- 5.23.1 The Adjudicator shall reach a decision within 28 days of the date of referral of the Dispute or such longer period as is agreed by the parties after the Dispute has been referred to him. The Adjudicator shall be entitled to extend the said period of 28 days by up to 14 days with the consent of the referring party. As soon as possible after he has reached a decision, the Adjudicator shall deliver a copy of the decision to each of the parties.
- 5.23.2 Upon becoming aware that the Dispute is the same or substantially the same as a Dispute which has previously been referred to Adjudication under this Agreement and a decision has been issued in that Adjudication, the Adjudicator shall immediately resign.

Adjudicator's Fees and Expenses

- 5.24 The parties shall be jointly responsible for the Adjudicator's fees and expenses (including those of any specialist consultant appointed by the Adjudicator of which notice has been given to the parties at the time of such appointment). ("Costs of Adjudication"), and the Adjudicator shall have the discretion to make directions regarding the apportionment of the Costs of Adjudication. If no such directions are made, the parties shall bear the Costs of Adjudication in equal shares.
- 5.25 The Adjudicator's fees shall not exceed the rate of £1,250 index linked per day, plus expenses and VAT.
- 5.26 For the avoidance of doubt, each party shall bear its own legal or other costs of the adjudication.

Decisions

- 5.27 The Adjudicator may in any decision direct the payment of such compound or simple interest as may be permitted in accordance with this Agreement.
- 5.28 All decisions shall be in writing and the Adjudicator shall provide reasons for such decisions.

Enforcement

- 5.29 Every decision of the Adjudicator shall be implemented without delay. The parties shall be entitled to such relief and remedies as are set out in the decision, and shall be entitled to enforcement thereof.

Immunity, Confidentiality and Non-Compellability

- 5.30 Neither the Nominating Body, nor the Adjudicator nor any employee or agent of any of them shall be liable for anything done or not done in the discharge or purported discharge of their functions, whether in negligence or otherwise, unless the act or omission is in bad faith.
- 5.31 The Adjudication and all matters arising in the course thereof are and will be kept confidential by the parties except insofar as necessary to implement or enforce any decision of the Adjudicator or as may be required for the purpose of any subsequent proceedings, save in all cases so far as required by law.
- 5.32 In the event that either party seeks to challenge or review any decision of the Adjudicator in any subsequent legal proceedings, the Adjudicator shall not be joined as a party to, nor shall be cited or otherwise required to give evidence or provide his notes in such legal proceedings except where required by law.
- 5.33 Neither party shall, save in case of bad faith on the part of the Adjudicator, make any application to the courts whatsoever in relation to the conduct of the Adjudication or the decision of the Adjudicator until such time as the Adjudicator has made his decision, refused to make a decision or failed to make a decision within the required timescale.
- 5.34 All information, data or documentation disclosed or delivered by a party to the Adjudicator in consequence of or in connection with his appointment hereunder shall be treated as confidential by the Adjudicator and each party to the Adjudication (save as otherwise agreed between the parties) or as is necessary to allow either party to instruct legal or technical advisers.

Consolidation of Disputes

- 5.35 If any Dispute raises issues which in the opinion of Project Co relates to a dispute or difference (the "Related Dispute") between Project Co and the Contractor and/or the Service Provider (the "Related Party") arising under, out of, or in connection with the Construction Contract, the Service Contract or the Interface Agreement (as defined in the Construction Contract) (the "Related Contract") which Related Contract contains a dispute resolution procedure (the "Related Procedure") then Project Co shall if it so decides adopt the procedures laid out in paragraphs 5.35.1 and/or 5.35.2:

5.35.1 if:

- (a) an Adjudicator has been appointed under this Agreement in relation to a Dispute ("the Dispute Adjudicator"); and
- (b) no adjudicator has been appointed in relation to a Related Dispute under the Related Contract or any such adjudicator ("the Related Adjudicator") has resigned pursuant to the Related Procedure,

then Project Co may appoint the Dispute Adjudicator as Related Adjudicator under the Related Procedure, so that the same person shall act as Adjudicator and shall determine the Dispute and shall separately act as the Related Adjudicator and shall determine the Related Dispute under the Related Contract (whether or not the Dispute has been determined by the Adjudicator before commencement of the adjudication to determine the Related Dispute);

5.35.2 if:

- (a) an Adjudicator has not been appointed under this Agreement in relation to a Dispute; and
- (b) a Related Adjudicator has been appointed in respect of a Related Dispute under the Related Contract (and whether or not the Related Dispute has been determined before commencement of the Adjudication to determine the Dispute),

then if Project Co provides notice in writing to the Board the name, address, telephone and fax numbers and professional qualifications of the Related Adjudicator at the same time it gives a Notice of Adjudication to the Board, the parties shall appoint the Related Adjudicator to act as Adjudicator to determine both the Dispute under this Agreement and the Related Dispute.

5.36 If any Dispute arising under this Agreement raises issues which relate to:

- 5.36.1 any dispute between Project Co and the Contractor arising under the Construction Contract or otherwise affects the relationship or rights of Project Co and/or the Contractor under the Construction Contract (the "Construction Contract Dispute"); or
- 5.36.2 any dispute between Project Co and the Service Provider arising under the relevant Service Contract or otherwise affects the relationship or

rights of Project Co and/or the Service Provider under a Service Contract (the "Service Contract Dispute");

then, subject to paragraph 5.37, Project Co may include as part of its submissions made to the Adjudicator submissions made by the Construction Contractor or the Service Provider as appropriate.

5.37 Any submissions made by the Construction Contractor or the Service Provider shall:

5.37.1 not have the effect of extending the time limits applicable to the delivery of submissions by Project Co as directed by the Adjudicator pursuant to paragraph 5.18; and

5.37.2 concern only those matters which relate to the Dispute between the Board and Project Co arising out of this Agreement or in connection therewith.

6. *Board cross claims and savings*

In any Dispute regarding a Sub-Contract Derived Benefit in which:

(a) the Board raises any defences and/or cross claims against Project Co which are not attributable to an act or omission of the relevant Sub-Contractor; and/or

(b) the Project Co's entitlements are reduced or discounted by Savings,

Project Co shall be entitled to take such steps as are reasonably practicable (but only if such steps are permissible or practical in accordance with any relevant law or procedural rules, whether in the context of adjudication, court or otherwise) to ensure that, insofar as is reasonably possible and without causing undue delay (but without prejudicing the position of Project Co in any way whatsoever) any recommendation, agreement, decision, award or judgment granted pursuant to this Part 26 of the Schedule (*Dispute Resolution Procedure*) shall clearly identify and distinguish in relation to the Sub-Contract Derived Benefit the benefit, relief and/or remedy to which Project Co is entitled, disregarding all such defences, cross claims and/or Savings.

For the purposes of this paragraph 6 the following definitions shall apply:

"Sub-Contract Derived Benefit" means a benefit, relief or remedy of Project Co under this Agreement arising out of circumstances in respect of which circumstances there is a corresponding benefit, relief or remedy of a Sub-Contractor apparent under the relevant Sub-Contract; and

“Savings” means in relation to a Sub-Contract Derived Benefit a benefit that Project Co derives through savings in Project Co’s finance costs relating to the Project and/or savings in the cost to Project Co of carrying out the Project Operations that are not the responsibility of the relevant Sub-Contractor and which benefit to Project Co is taken into account in ascertaining Project Co entitlement under this Agreement.

7. *Court Proceedings*

Subject to paragraph 3, and save where the parties have agreed in writing that the recommendation of the Liaison Committee, an agreement reached following mediation pursuant to paragraph 4 or a decision of an Adjudicator is to be final and binding, either party may, issue Court proceedings in relation to a Dispute. The parties agree that where the nature of the dispute so allows, the Dispute shall be referred to the Court of Session. This paragraph 7 shall not preclude either of the parties from commencing Court proceedings to enforce any recommendation of the Liaison Committee or an agreement reached following mediation pursuant to paragraph 4 which have been agreed between the parties to be final and binding, or from enforcing a decision of an Adjudicator (or Related Adjudicator) pursuant to paragraph 5.29.

PART 27 OF THE SCHEDULE: PROJECT CO INFORMATION

Section 1: Project Co Information

1. Name: Forth Health Limited
2. Date of Incorporation: 2 November 2006
3. Registered number: 05986479
4. Registered office: Allington House, 150 Victoria Street, London, SW1E 5LB
5. Directors:

| Name | Address |
|---------------------------------------|---|
| David Michael Hardy (as Alternate) | 53 Lyncombe Hill, Bath, Somerset, England, BA2 4EQ |
| Joseph Mark Linney | 140 Carmunnock Road, Glasgow, Scotland, G44 5AG |
| Irene Mary Marsh | Raith Cottage, Trinity Gask, by Crieff, Tayside, Scotland, PH7 3RJ |
| Steven Lowry | 8a Broomfield Road, Kew, Richmond, Surrey, England, TW9 3HR |
| Paul Cuttance | 47 Burlington Avenue, Richmond, Surrey, England, TW9 5DG |

6. Secretary: Peter Geoffrey Shell
7. Subsidiary undertakings at the Effective Date: None
8. Authorised and issued share capital at the Effective Date:

| Name and address of registered holder | Number and class held | Amount paid up |
|--|--------------------------------------|----------------|
| Forth Health Holdings Limited | 27,000 ordinary shares of £1 each | £27,000 |

9. Loan Stock at the Effective Date issued as follows:

| Name and address of registered holder | Nominal value of Loan stock |
|--|---|
| Forth Health Holdings Limited (registered number 05986955), whose registered office is at Allington House, 150 Victoria Street, London, SW1E 5LB | As set out in the Shareholders Agreements |

10. Loan Stock Provisions: As set out in the Shareholders Agreements

PART 27 OF THE SCHEDULE: PROJECT CO INFORMATION

Section 2: HoldCo Information

1. Name: Forth Health Holdings Limited
2. Date of Incorporation: 2 November 2006
3. Registered number: 05986955
4. Registered office: Allington House, 150 Victoria Street, London, SW1E 5LB
5. Directors:

| Name | Address |
|---------------------------------------|---|
| David Michael Hardy (as Alternate) | 53 Lyncombe Hill, Bath, Somerset, England, BA2 4EQ |
| Joseph Mark Linney | 140 Carmunnock Road, Glasgow, Scotland, G44 5AG |
| Irene Mary Marsh | Raith Cottage, Trinity Gask, by Crieff, Tayside, Scotland, PH7 3RJ |
| Steven Lowry | 8a Broomfield Road, Kew, Richmond, Surrey, England, TW9 3HR |
| Paul Cuttance | 47 Burlington Avenue, Richmond, Surrey, England, TW9 5DG |

6. Secretary: Peter Geoffrey Shell
7. Subsidiary undertakings at the Effective Date: Forth Health Limited
8. Authorised and issued share capital at the Effective Date:

| Name and address of registered holder | Number and class held | Amount paid up |
|--|-----------------------------------|----------------|
| Forth Valley Investment Company Limited (registered number 95957) whose registered office is at 26 New Street, St Helier, Jersey, Channel Islands, JE4 8PP | 13,500 ordinary shares of £1 each | £13,500 |

| Name and address of registered holder | Number and class held | Amount paid up |
|---|-----------------------------------|-----------------------|
| John Laing Social Infrastructure Limited (registered number 03576132), whose registered office is at Allington House, 150 Victoria Street, London, SW1E 5LB | 13,500 ordinary shares of £1 each | £13,500 |

9. Loan Stock at the Effective Date issued as follows:

| Name and address of registered holder | Nominal value of Loan stock |
|---|---|
| Forth Valley Investment Company Limited (registered number 95957) whose registered office is at 26 New Street, St Helier, Jersey, Channel Islands, JE4 8PP | As set out in the Shareholders Agreements |
| John Laing Social Infrastructure Limited (registered number 03576132), whose registered office is at Allington House, 150 Victoria Street, London, SW1E 5LB | As set out in the Shareholders Agreements |

10. Loan Stock Provisions: As set out in the Shareholders Agreements

PART 28 OF THE SCHEDULE: CERTIFICATES

Handback Certificate

Issued by: Board's Representative

Address: Carseview House, Castle Business Park, Stirling, FK9 4SW

Board: Forth Valley Health Board

Issued to:

Project Co: Forth Health Limited

Address: Allington House, 150 Victoria Street, London, SW1E 5LB

Issue date:

Works:

Situated at:

Project Agreement dated:

I/we certify that the condition of the Facilities is in accordance with paragraph 1 of Part 24 of the Schedule (*Handback Procedure*) of above mentioned Project Agreement.

To be signed by or for the issuer named above.

Signed
FORTH VALLEY HEALTH BOARD

Certificate of Practical Completion

Issued by: Independent Tester - Currie & Brown UK Limited

Address: 140 London Wall, London, EC2Y 5DN

Issued to:

(1) Project Co: Forth Health Limited

Address: Allington House, 150 Victoria Street, London, SW1E 5LB

(2) Board: Forth Valley Health Board

Address: Carseview House, Castle Business Park, Stirling, FK9 4SW

(3) Contractor: Laing O'Rourke Construction North Limited (company number 04309402)

Address: Bridge Place, Anchor Boulevard, Admirals Park Crossways, Dartford, Kent, DA2 6SN

Issue date:

Phase:

Works:

Situated at:

Project Agreement dated:

Under the terms of the above-mentioned Project Agreement, I/we certify that the [Phase 1 Actual Completion Date] [Phase 2 Actual Completion Date] [Phase 3 Actual Completion Date and Actual Completion Date]* of the Works was achieved on [].

*Delete as appropriate

To be signed by or for the issuer named above.

Signed

Independent Tester

Finishing Works Completion Certificate

Issued by: Independent Tester - Currie & Brown UK Limited

Address: 140 London Wall, London, EC2Y 5DN

Issued to:

(1) Project Co: Forth Health Limited

Address: Allington House, 150 Victoria Street, London, SW1E 5LB

(2) Board: Forth Valley Health Board

Address: Carseview House, Castle Business Park, Stirling, FK9 4SW

(3) Contractor: Laing O'Rourke Construction North Limited (company number 04309402)

Address: Bridge Place, Anchor Boulevard, Admirals Park Crossways, Dartford, Kent, DA2 6SN

Issue date:

Finishing Works:

Situated at:

Project Agreement dated:

Under the terms of the above-mentioned Project Agreement, I/we certify that the Finishing Works Actual Completion Date for the Finishing Works was achieved on [].

To be signed by or for the issuer named above.

Signed

Independent Tester

PART 29 OF THE SCHEDULE: REFINANCING

1. Project Co shall obtain the Board's prior written consent to any Qualifying Refinancing and both the Board and Project Co shall at all times act in good faith with respect to any Refinancing.
2. The Board shall be entitled to receive a 50% share of any Refinancing Gain arising from a Qualifying Refinancing.
3. The Board shall not withhold or delay its consent to a Qualifying Refinancing to obtain a greater than 50% share of the Refinancing Gain.
4. Project Co shall promptly provide the Board with full details of any proposed Qualifying Refinancing, including a copy of the proposed financial model relating to it (if any) and the basis for the assumptions used in the proposed financial model. The Board shall (before, during and at any time after any Refinancing) have unrestricted rights of audit over any financial model and documentation (including any aspect of the calculation of the Refinancing Gain) used in connection with the Refinancing whether that Refinancing is a Qualifying Refinancing or not).
5. The Board shall have the right to elect to receive its share of any Refinancing Gain as:
 - (a) a single payment in an amount less than or equal to any Distribution made on or about the date of the Refinancing;
 - (b) a reduction in the Monthly Service Payments over the remaining term of this Agreement; or
 - (c) a combination of any of the above.
6. The Board and Project Co will negotiate in good faith to agree the basis and method of calculation of the Refinancing Gain and payment of the Board's share of the Refinancing Gain (taking into account how the Board has elected to receive its share of the Refinancing Gain under paragraph 5 above). If the parties fail to agree the basis and method of calculation of the Refinancing Gain or the payment of the Board's share, the dispute shall be determined in accordance with Part 26 of the Schedule (*Dispute Resolution Procedure*).
7. The Refinancing Gain shall be calculated after taking into account the reasonable and proper professional costs that each party directly incurs in relation to the Qualifying Refinancing and on the basis that all reasonable and proper professional costs incurred by the Board will be paid to the Board by Project Co within 28 days of any Qualifying Refinancing.

8. For the purposes of this Part 29 of the Schedule (*Refinancing*), unless the context otherwise requires:

"Accounts" has the meaning given to it in the Common Terms Agreement;

"Distribution" means:

- (a) whether in cash or in kind, any:
 - (i) dividend or other distribution in respect of share capital;
 - (ii) reduction of capital, redemption or purchase of shares or any other reorganisation or variation to share capital;
 - (iii) payments under the Subordinated Funding Agreements (whether of principal, interest, breakage costs or otherwise);
 - (iv) payment, loan, contractual arrangement or transfer of assets or rights to the extent (in each case) it was put in place after Financial Close and was neither in the ordinary course of business nor on reasonable commercial terms;
 - (v) the receipt of any other benefit which is not received in the ordinary course of business and on reasonable commercial terms, or
- (b) the early release of any Contingent Funding Liabilities, the amount of such release being deemed to be a gain for the purposes of any calculation of

Refinancing Gain;

“EEA”

means from time to time the European Economic Area as created by The Agreement on the European Economic Area 1992 or any successor or replacement body, association, entity or organisation which has assumed either or both the function and responsibilities of the European Economic Area;

“Equity IRR”

means the projected blended rate of return to the Relevant Persons over the full term of this Agreement, having regard to Distributions made and projected to be made;

“Exempt Refinancing”

means:

- (a) any Refinancing that was fully taken into account in the calculation of the Service Payments;
- (b) a change in taxation or change in accounting treatment;
- (c) exercise of rights, waivers, consents and similar actions which relate to day to day administrative and supervisory matters, and which are in respect of:
 - (i) breach of representations and warranties or undertakings;
 - (ii) movement of monies between the Accounts in accordance with the terms of the Senior Funders Agreements as at Financial Close;
 - (iii) late or non-provision of information, consents or licences;
 - (iv) amendments to Sub-

Contracts;

- (v) approval of revised technical and economic assumptions for financial model runs (to the extent required for forecasts under the Senior Funders Agreements);
- (vi) restrictions imposed by the Senior Funders on the dates at which the Senior Debt can be advanced to Project Co under the Senior Funders Agreements and/or amounts released from the Proceeds Account during the Availability Period, each as defined in the Senior Funders Agreements and which are given as a result of any failure by Project Co to ensure that the construction work is performed in accordance with the agreed construction programme and which is notified in writing by Project Co or the Senior Funders to the Board prior to being given;
- (vii) changes to milestones for drawdown and/or amounts released from the Proceeds Account during the Availability Period set out in the Senior Funders Agreements and which are given as a result of any failure by Project Co to ensure that construction work is performed in accordance with the agreed construction programme and which is notified in writing by

Project Co or the Senior Funders to the Board prior to being given;

- (viii) failure by Project Co to obtain any consent by statutory bodies required by the Senior Funders Agreements; or
 - (ix) voting by the Senior Funders and the voting arrangements between the Senior Funders in respect of the levels of approval required by them under the Senior Funders Agreements;
- (d) any amendment, variation or supplement of any agreement (other than any Subordinated Funding Agreement) approved by the Board as part of any Qualifying Variation under this Agreement;
 - (e) any sale of shares in Project Co or HoldCo by the shareholders or securitisation of the existing rights and/or interests attaching to shares in Project Co or HoldCo, provided that this paragraph (e) shall, in respect of shares in HoldCo, only apply for as long as HoldCo holds 100% of the issued share capital of Project Co;
 - (f) any sale or transfer of the Subordinated Funders' existing rights and/or interests under the Subordinated Funding Agreements or securitisation of the Subordinated Funders' existing rights and/or interests under the Subordinated Funding Agreements; or

| | |
|-------------------------------|--|
| | (g) any Qualifying Bank Transaction; |
| "Insurance Undertaking" | has the meaning given in the rules from time to time of the Financial Services Authority; |
| "Net Present Value" | means the aggregate of the discounted values, calculated as of the estimated dates of the Refinancing, of each of the relevant projected Distributions, in each case discounted using the Threshold Equity IRR; |
| "Pre-Refinancing Equity IRR" | means the nominal post-tax (ie post Project Co tax pre Shareholder tax for Project Co but pre-tax for the Shareholders) Equity IRR calculated immediately prior to the Refinancing; |
| "Qualifying Bank Transaction" | means: <ul style="list-style-type: none"> (a) the syndication by a Senior Funder, in the ordinary course of its business, of any of its rights or interests in the Senior Funders Agreements; (b) the grant by a Senior Funder of any rights of participation, or the disposition by a Senior Funder of any of its rights or interests (other than as specified in paragraph (a) above), in respect of the Senior Funders Agreements in favour of: <ul style="list-style-type: none"> (i) any other Senior Funder; (ii) any institution which is recognised or permitted under the law of any member state of the EEA to carry on the business of a credit institution pursuant to Council Directive 2001/12/EC relating to the taking up and pursuit of the business of credit institutions or which is otherwise permitted to accept deposits in the United Kingdom or any other EU |

- member state;
 - (iii) a local authority or public authority;
 - (iv) a trustee of a charitable trust which has (or has had at any time during the previous two years) assets of at least £10 million (or its equivalent in any other currency at the relevant time);
 - (v) a trustee of an occupational pension scheme or stakeholder pension scheme where the Board has (or has had at any time during the previous two years) at least 50 members and assets under management of at least £10 million (or its equivalent in any other currency at the relevant time);
 - (vi) an EEA or Swiss Insurance Undertaking;
 - (vii) a Regulated Collective Investment Scheme; or
 - (viii) any other institution in respect of which the prior written consent of the Board has been given;
- (c) the grant by a Senior Funder of any other form of benefit or interest in either the Senior Funders Agreements or the revenues or assets of Project Co or HoldCo, whether by way of security or otherwise, in favour of:
- (i) any other Senior Funder;

- (ii) any institution specified in paragraphs (b)(ii) to (vii) above; or
- (iii) any other institution in respect of which the prior written consent of the Board has been given;

“Qualifying Refinancing” means any Refinancing that will give rise to a Refinancing Gain greater than zero that is not an Exempt Refinancing;

“Refinancing” means:

- (a) any amendment, variation, novation, supplement or replacement of any Senior Funders Agreement;
- (b) the exercise of any right, or the grant of any waiver or consent, under any Senior Funders Agreement;
- (c) the disposition of any rights or interests in, or the creation of any rights of participation in respect of, the Senior Funders Agreements or the creation or granting of any other form of benefit or interest in either the Senior Funders Agreements or the contracts, revenues or assets of Project Co whether by way of security or otherwise; or
- (d) any other arrangement put in place by Project Co or another person which has an effect which is similar to any of paragraphs (a) to (c) above or which has the effect of limiting Project Co’s ability to carry out any of paragraphs (a) to (c) above;

“Refinancing Gain” means an amount equal to the greater of zero and $[(A - B) - C]$, where:

A = the Net Present Value of the

Distributions projected immediately prior to the Refinancing (taking into account the effect of the Refinancing using the Financial Model as updated (including as to the performance of the Project) so as to be current immediately prior to the Refinancing) to be made to each Relevant Person over the remaining term of this Agreement following the Refinancing;

B = the Net Present Value of the Distributions projected immediately prior to the Refinancing (but without taking into account the effect of the Refinancing and using the Financial Model as updated (including as to the performance of the Project) so as to be current immediately prior to the Refinancing) to be made to each Relevant Person over the remaining term of this Agreement following the Refinancing; and

C = any adjustment required to raise the Pre-Refinancing Equity IRR to the Threshold Equity IRR;

| | |
|--|--|
| "Regulated Collective Investment Scheme" | has the meaning given in the rules from time to time of the Financial Services Authority; |
| "Relevant Person" | means a Shareholder and any of its Associated Companies; |
| "Shareholder" | means any person from time to time holding share capital in Project Co or HoldCo; |
| "Subordinated Funder" | means a person providing finance under a Subordinated Funding Agreement; |
| "Subordinated Funding Agreements" | means those of the Funding Agreements entered into on or prior to Financial Close, as set out in Section 3 of Part 37 of the Schedule (<i>Funding Agreements</i>); and |

“Threshold Equity IRR”

means the percentage figure set out in the Financial Supplement.

**PART 30 OF THE SCHEDULE: EMPLOYEE INFORMATION AND PROPOSED
WORKFORCE INFORMATION**

Section 1: Employee Information

The Employee Information is set out in the Agreed Form document comprising one volume labelled "Employee Information", which shall have effect as if expressly set out in this Section 1 of Part 30 of the Schedule.

PART 30 OF THE SCHEDULE: EMPLOYEE INFORMATION AND PROPOSED WORKFORCE INFORMATION

Section 2: Proposed Workforce Information

Proposed Workforce

The Proposed Workforce Information is set out in the Agreed Form document comprising one volume labelled "Proposed Workforce Information", which shall have effect as if expressly set out in this Section 2 of Part 30 of the Schedule.

Reorganisation Costs

Project Co and the Service Provider have allowed for zero (0) Reorganisation Costs in respect of Transferring Employees pursuant to the transitional arrangements set out in paragraphs 3 and 4 of Part 38 of the Schedule (*Transitional Arrangements*). Project Co is responsible for Reorganisation Costs relating to recruitment and training of new employees who are not Transferring Employees.

PART 30 OF THE SCHEDULE: EMPLOYEE INFORMATION AND PROPOSED WORKFORCE INFORMATION

Section 3: Proposed Workforce Information

Any adjustment to the Annual Service Payment made pursuant to Clause 30.12 (*Provision of Information and Employment Costs*) shall be calculated by Project Co and the Service Provider on an open book basis, following a detailed methodology to be proposed by Project Co at the time, according to the following principles and agreed baselines:

- (a) In respect of any Transferring Employee any adjustment shall be made once only, effective from the Transfer Date and based on the costs arising from employing the relevant Employee at that date.
- (b) Adjustments are intended to be a fair and reasonable calculation based on any difference in the costs arising from employing Transferring Employees at any Transfer Date compared to that derived from the First Employee List. Such adjustment will include, but not be limited to, changes in the number of Transferring Employees, salary and holiday entitlement. For the avoidance of doubt this shall include any additional cost incurred by Project Co or any Service Provider in delivering the operational hours in the Proposed Workforce arising as a result of changes to the terms and conditions of employment of any Transferring Employee from those in place at the time of the First Employee List.
- (c) Adjustments shall be calculated for all Transferring Employees that have passed through the matching process in each of the three grades "manager", "supervisor" and "operative" for each Service in the Proposed Workforce.
- (d) Project Co has calculated the average cost of each of the three grades of Employee for each Service based on the First Employee List taking into account salary, employers national insurance contributions, allowances (including but not limited to those for bonuses, shift, foul linen, maintenance, night duty and pay protection) and pensions cost (based on the pertaining proportion of pension uptake) and applied these average costs to the Proposed Workforce to give the staff costing for each Service in the Financial Model.
- (e) The assumed employer contribution rate for the Service Provider's pension scheme is 27% and this should remain the assumption as at the Transfer Date whatever contributions may be required at that time.
- (f) The First Employee List is based at 2005/2006 prices and Project Co was required to uplift all costs by 2.5% to reach the Base Date of the Financial Model.

- (g) The Financial Model allows for inflation of all staff costs at 000000% from Base Date to after the Transfer Dates.
- (h) Any temporary travel allowances payable as a result of changes to Employees base location shall be excluded from this Annual Service Payment adjustment and paid separately to Project Co by the Board on a monthly basis as Ad Hoc Payments on production of relevant supporting information.
- (i) At each Transfer Date, Project Co and the Service Provider shall be responsible for re-calculating the actual cost arising from the Transferring Employees in each of the three grades of Employee for each Service as at the Transfer Date taking into account salary, employers national insurance contributions, allowances (including but not limited to those for bonuses, shift, foul linen, maintenance, night duty and pay protection) and pensions cost (based on the actual proportion of pension uptake).
- (j) The actual cost of the Transferring Employees shall be calculated in accordance with this Section 3, and deflated to the Base Date in accordance with paragraph (g). The product of this less the costs from paragraph (d) calculated across all grades and Services shall then be priced in accordance with paragraph (g) and the Service Provider and Project Co Financial Model as at the Base Date. The product of this will then determine the Annual Service Payment adjustments as at Base Date required for each Employee Transfer which will be indexed in line with the Indexation provisions in this Agreement.
- (k) The Monthly Service Payments made to Project Co for Contract Months between Payment Commencement Date 1 and Payment Commencement Date 3 are factored by a Phase Percentage and one twelfth of the Annual Service Payment. Any adjustment to the Annual Service Payment will need to include consideration of the Phase Percentage such that the calculation applies appropriately to the Monthly Service Payment and any adjustment in paragraph (j) is paid as computed from the relevant transfer Date and not factored by the Phase Percentage.

PART 30 OF THE SCHEDULE: EMPLOYEE INFORMATION AND PROPOSED WORKFORCE INFORMATION

Section 4

| Staff TUPE Hours | Transition: | Phase 1 Actual Completion | Phase 1 Actual Completion | Phase 1 Actual Completion | | 20 business days prior to Patient Services Phase 1 | 20 business days prior to Patient Services Phase 1 | 20 business days prior to Patient Services Phase 1 |
|---------------------------------|--------------------|--|--|--|--|---|---|---|
| | | 1A MGR | 1A SUP | 1A OPE | | 1B MGR | 1B SUP | 1B OPE |
| CAR | Car Parking | - | - | - | | - | - | - |
| DOM | Domestics | 75.0 | - | - | | - | - | - |
| EST | Estates | 111.0 | 333.0 | 1,036.0 | | - | - | - |
| GRO | Grounds | - | - | - | | - | - | - |
| HEL | Help Desk | - | - | - | | - | - | - |
| HOU | Housekeeping | 37.5 | - | - | | - | - | - |
| LIN | Linen | - | - | - | | - | - | - |
| | | | | | | | | |
| GS2 | General services | 375.0 | 112.5 | 75.0 | | - | - | - |
| DDG | Direct Del'd Goods | - | - | - | | - | - | - |
| PES | Pest Control | - | - | - | | - | - | - |
| POR | Porters | 37.5 | - | - | | - | - | - |
| REC | Reception | - | - | - | | - | - | - |
| SEC | Security | - | - | - | | - | - | - |
| SWI | Switchboard | - | - | - | | - | - | - |
| UTI | Utilities | - | - | - | | - | - | - |
| WAS | Waste | - | - | - | | - | - | - |
| CAT | Catering | 112.5 | - | - | | - | - | - |

| Staff TUPE Hours | Transition: | 3 business days prior to Patient Services Phase 1 | 3 business days prior to Patient Services Phase 1 | 3 business days prior to Patient Services Phase 1 | | Phase 1 Patient Services | Phase 1 Patient Services | Phase 1 Patient Services |
|------------------------|--------------------|---|---|---|--|--------------------------------|--------------------------------|--------------------------------|
| | | 1C MGR | 1C SUP | 1C OPE | | 1D MGR | 1D SUP | 1D OPE |
| CAR | Car Parking | - | - | - | | - | - | 84.0 |
| DOM | Domestics | - | - | - | | - | 186.0 | 2,653.5 |
| EST | Estates | - | - | - | | - | - | - |
| GRO | Grounds | - | - | - | | - | - | - |
| HEL | Help Desk | - | - | - | | - | 37.5 | 200.0 |
| HOU | Housekeeping | - | - | - | | - | 150.0 | 1,533.5 |
| LIN | Linen | - | - | - | | - | - | 105.0 |
| | | | | | | | | |
| GS2 | General services | - | - | - | | - | - | - |
| DDG | Direct Del'd Goods | - | - | - | | - | - | - |
| PES | Pest Control | - | - | - | | - | - | - |
| POR | Porters | - | - | - | | - | 195.0 | 797.5 |
| REC | Reception | - | - | - | | - | - | 91.0 |
| SEC | Security | - | - | - | | - | 37.5 | 525.0 |
| SWI | Switchboard | - | - | - | | - | - | 215.5 |
| UTI | Utilities | - | - | - | | - | - | - |
| WAS | Waste | - | - | - | | - | - | 52.5 |
| CAT | Catering | - | - | - | | - | 517.5 | 856.0 |
| | | | | | | | | |

| Staff TUPE Hours | | Transition: | Phase 2 Actual Completion | Phase 2 Actual Completion | Phase 2 Actual Completion | | Phase 2 Patient Services | Phase 2 Patient Services | Phase 2 Patient Services |
|------------------------|--------------------|-------------|------------------------------|------------------------------|---------------------------------|--|--------------------------------|--------------------------------|--------------------------------|
| | | | 2A MGR | 2A SUP | 2A OPE | | 2B MGR | 2B SUP | 2B OPE |
| CAR | Car Parking | | - | - | - | | - | - | - |
| DOM | Domestics | | - | - | - | | - | 24.0 | 37.5 |
| EST | Estates | | - | - | - | | - | - | - |
| GRO | Grounds | | - | - | - | | - | - | - |
| HEL | Help Desk | | - | - | - | | - | - | - |
| HOU | Housekeeping | | - | - | - | | - | - | 727.0 |
| LIN | Linen | | - | - | - | | - | - | - |
| | | | | | | | | | |
| GS2 | General services | | - | - | - | | - | - | - |
| DDG | Direct Del'd Goods | | - | - | - | | - | - | - |
| PES | Pest Control | | - | - | - | | - | - | - |
| POR | Porters | | - | - | - | | - | - | 37.5 |
| REC | Reception | | - | - | - | | - | - | - |
| SEC | Security | | - | - | - | | - | - | - |
| SWI | Switchboard | | - | - | - | | - | - | - |
| UTI | Utilities | | - | - | - | | - | - | - |
| WAS | Waste | | - | - | - | | - | - | - |
| CAT | Catering | | - | - | - | | - | - | 98.0 |
| | | | | | | | | | |

| Staff TUPE Hours | | Transition: | Phase 3 Actual Completion 3A MGR | Phase 3 Actual Completion 3A SUP | Phase 3 Actual Completion 3A OPE | | Phase 3 Patient Services 3B MGR | Phase 3 Patient Services 3B SUP | Phase 3 Patient Services 3B OPE |
|------------------|--------------------|-------------|-------------------------------------|-------------------------------------|-------------------------------------|--|------------------------------------|------------------------------------|------------------------------------|
| CAR | Car Parking | | - | - | - | | - | - | 60.0 |
| DOM | Domestics | | - | - | - | | - | 49.0 | 806.5 |
| EST | Estates | | - | - | - | | - | - | - |
| GRO | Grounds | | - | - | - | | - | - | - |
| HEL | Help Desk | | - | - | - | | - | - | 72.0 |
| HOU | Housekeeping | | - | - | - | | - | 50.0 | 2,353.0 |
| LIN | Linen | | - | - | - | | - | - | 52.5 |
| | | | | | | | | | |
| GS2 | General services | | - | - | - | | - | - | - |
| DDG | Direct Del'd Goods | | - | - | - | | - | - | - |
| PES | Pest Control | | - | - | - | | - | - | - |
| POR | Porters | | - | - | - | | - | - | 678.5 |
| REC | Reception | | - | - | - | | - | - | - |
| SEC | Security | | - | - | - | | - | - | - |
| SWI | Switchboard | | - | - | - | | - | - | 75.0 |
| UTI | Utilities | | - | - | - | | - | - | - |
| WAS | Waste | | - | - | - | | - | - | - |
| CAT | Catering | | - | - | - | | - | 54.5 | 438.5 |
| | | | | | | | | | |

Staff Transition: TUPE
Headcount

| | | Phase 1 Actual Completion 1A MGR | Phase 1 Actual Completion 1A SUP | Phase 1 Actual Completion 1A OPE | | 20 business days prior to Patient Services Phase 1 IB MGR | 20 business days prior to Patient Services Phase 1 IB SUP | 20 business days prior to Patient Services Phase 1 IB OPE |
|------------|--------------|--|--|--|--|---|--|--|
| CAR | Car Parking | - | - | - | | - | - | - |
| DOM | Domestics | 2 | - | - | | - | - | - |
| EST | Estates | 3 | 9 | 28 | | - | - | - |
| GRO | Grounds | | - | - | | | - | - |
| HEL | Help Desk | - | - | - | | - | - | - |
| HOU | Housekeeping | 1 | - | | | | | |
| | | | | | | | | |
| | | | | | | | | |
| | | | | | | | | |
| | | | | | | | | |
| | | | | | | | | |
| | | | | | | | | |
| | | | | | | | | |
| | | | | | | | | |
| | | | | | | | | |
| | | | | | | | | |
| | | | | | | | | |
| | | | | | | | | |
| | | | | | | | | |
| | | | | | | | | |

Headcount

[illegible]

Headcount

[illegible]

Headcount

[illegible]

PART 31 OF THE SCHEDULE: BULK TRANSFER ASSUMPTIONS

Section A: GAD Initial Bulk Transfer Terms

Letter dated 28 April 2006 from Jon Spain of the Government Actuary's Department to Christopher Sheppard of Mercer Human Resource Consulting including "Note by the Government Actuary's Department on the Basis for the Transfer of Accrued Pension Rights" dated 28 April 2006.

The letter is set out in the Agreed Form document labelled "Pensions Documents", which shall have effect as if expressly set out in this Part 31 of the Schedule.

Section B: Serco Initial Bulk Transfer Terms

"Note by the Trustees of the Serco Pension & Life Assurance Scheme on the Basis for the Transfer of Accrued Pension Rights into that Scheme" dated 9 May 2006

The note is set out in the Agreed Form document labelled "Pensions Documents", which shall have effect as if expressly set out in this Part 31 of the Schedule.

PART 32 OF THE SCHEDULE: NOT USED

PART 33 OF THE SCHEDULE: JOINT OPERATING PROTOCOL

Section 1

1. Definitions

1.1 For the purposes of this Agreement, and in particular this Part 33 of the Schedule (*Joint Operating Protocol*), unless the context requires otherwise:

"Annual Energy Target" has the meaning given to it in Part 18 of the Schedule (*Payment Mechanism*);

"Construction Areas" means the areas of the Works Site where Works are being carried out, and exclusive access to those areas is required by Project Co for health and safety reasons, being the Phase 1 Areas, Phase 2 Areas, Phase 3 Areas and Finishing Works Area, as appropriate;

"Construction Phase Period" means:

- (a) in relation to the Phase 1 Areas, the period from the Effective Date until the Phase 1 Actual Completion Date (or if earlier the Termination Date);
- (b) in relation to the Phase 2 Areas, the period from the Effective Date until the Phase 2 Actual Completion Date (or if earlier the Termination Date);
- (c) in relation to the Phase 3 Areas, the period from the Effective Date until the Phase 3 Actual Completion Date (or if earlier the Termination Date); and
- (d) in relation to the Finishing Works Area, the period from the Effective Date until the Finishing Works Actual Completion Date;

"Finishing Works Area" means the area shaded yellow on the Phase Plans;

"Joint Utilities Management" has the meaning given to it in the Payment

| | |
|----------------------------|--|
| Group" | Mechanism; |
| "Joint Operating Protocol" | means the joint operating protocol set out in Sections 1 to 4 of this Part 33 of the Schedule (<i>Joint Operating Protocol</i>); |
| "Phase 1 Areas" | means the areas shaded red, green, blue and yellow on the Phase Plans; |
| "Phase 2 Areas" | means the areas shaded green, blue and yellow on the Phase Plans; |
| "Phase 3 Areas" | means the areas shaded blue and yellow on the Phase Plans; and |
| "Phase Plans" | means the plans attached at Attachment F of this Agreement. |

2. **Compliance with Joint Operating Protocol**

- 2.1 Both parties acknowledge that the purpose of the Joint Operating Protocol is to establish a structure and ongoing process that facilitates joint working and co-operation, pursuant to Clauses 5.4 and 5.5 of the Agreement. In particular, in relation to certain specific Project Operations that involve a high level of interface between the Board and Project Co in the carrying out of such Project Operations and Clinical Services at the Site and Works Site.
- 2.2 The parties agree that if there is any conflict, ambiguity, inconsistency or uncertainty in respect of the rights and/or obligations contained in the Joint Operating Protocol with those contained in any other provisions of the Agreement, such rights and obligations shall be additional to and not in substitution for those contained in the Agreement and those contained in the Agreement shall as far as necessary prevail over those contained in the Joint Operating Protocol.

3. **Monitoring Arrangements**

The parties acknowledge and agree that the functions of the Liaison Committee set out in Clause 12.2 of the Agreement include discussion of the effectiveness of the Joint Operating Protocol and any variations proposed by either party.

4. **Dispute Resolution**

Any disagreement relating to each party's rights or obligations under the Joint Operating Protocol shall be referred for resolution in accordance with Part 26 of the Schedule (*Dispute Resolution Procedure*).

PART 33 OF THE SCHEDULE: JOINT OPERATING PROTOCOL

Section 2: Construction Phase

1. Access

The Board acknowledges and agrees that Project Co shall have the right to occupy the Construction Areas, for the Construction Phase Period, on an exclusive basis pursuant and subject to Clause 2.3 of the Licence. The Board (including the Board Parties and Board's Representative) shall not (save as referred to in Clause 2.3 of the Licence) be entitled to enter or remain on any of the Construction Areas during the Construction Phase Period, without the prior consent of Project Co. Subject to Clause 2.3 of the Licence, Project Co's rights of access to such Construction Areas for the Construction Phase Period shall, for the purposes of carrying out the Works, entitle Project Co to enjoy such access without interference from or cohabitation with any other person or entity (except persons or entities invited by Project Co) and the Board acknowledges that Project Co shall be entitled, to restrict and prevent access to such Construction Areas by other persons and/or entities and to construct security measures to ensure such prevention and/or restriction as is necessary to carry out the Works in Project Co's opinion.

2. Board Works and Commissioning

2.1 If the Board proposes to exercise its rights pursuant to Clause 2.3 of the Licence in respect of the carrying out of the Cable Diversion Works and/or the Board Access Works, it shall give Project Co 20 Business Days' prior notice, setting out the information required by paragraph 2.2, provided that Project Co acknowledges that the Board intends to exercise its rights pursuant to Clause 2.3 of the Licence in respect of the Cable Diversion Works within 20 Business Days of Financial Close and accordingly shall be relieved of its obligation to give prior notice to Project Co pursuant to this paragraph 2.1 in respect of those works to the extent that they are commenced within such 20 Business Day period.

2.2 The notice to be issued by the Board's Representative pursuant to paragraph 2.1 above shall state (acting reasonably):

2.2.1 the date upon which the Board and Board Parties require access to carry out the Cable Diversion Works and/or Board Access Works (as appropriate);

2.2.2 the Board Parties that will require access to carry out the Cable Diversion Works and/or Board Access Works (as appropriate).

- 2.3 The Board and Board Parties notified pursuant to paragraph 2.2.2 shall be permitted to exercise the rights referred to in Clause 2.6 of the Licence in respect of the Cable Diversion Works and/or the Board Access Works from the date notified pursuant to paragraph 2.2.1 until the Board notifies Project Co that it considers such works to be complete in accordance with Clauses 5.3(h) (*Board's Undertaking*) or 5.3(e) (*Board's Undertaking*) (as applicable).
- 2.4 The Board shall be permitted access to the Works Site to carry out the Board's Commissioning in accordance with Clause 22.9 (*Pre Completion Commissioning*).
3. **Board Permitted Access**
- 3.1 If, in relation to any Construction Areas during the Construction Phase Period, the Board or any Board Party or the Board's Representative is permitted access to such Construction Area(s); the Board, Board Party or Board's Representative (as the case may be) shall comply with all relevant safety procedures for the construction or refurbishment of the Works, the Contractor's Site Rules and any reasonable directions with regard to site safety, traffic management and security that may be issued by Project Co or the Contractor from time to time to ensure a safe interface between Project Co (or any Project Co Party) and all other Hospital users (and any policy required to comply with Legislation shall be reasonable).
- 3.2 The provisions of this Section 2 of Part 33 of the Schedule (*Joint Operating Protocol*) are without prejudice to Project Co's rights pursuant to Clause 14 (*Nature of Land Interests*) and to the parties' rights and obligations under Clauses 5.4, 5.8 and 5.9 (*Co-Operation*).
- 3.3 In carrying out the Cable Diversion Works and Board Access Works and Board's Commissioning, the Board shall be obliged to observe the terms set out in Appendix A to this Part 33 of the Schedule (*Joint Operating Protocol*).

PART 33 OF THE SCHEDULE: JOINT OPERATING PROTOCOL

Section 3: Not Used

PART 33 OF THE SCHEDULE: JOINT OPERATING PROTOCOL

Section 4: Energy Management

1. Project Co Responsibility & Calculation of Energy Targets

- 1.1 Project Co shall comply with its obligations under Section 1, Sub-Section C.03 of Part 14 of the Schedule (*Service Requirements*) in relation to energy management and shall monitor and test Energy Consumption and provide reports in accordance with Section 7 of Part 8 of the Schedule (*Construction Matters*).
- 1.2 Project Co shall calculate whether the Construction Energy Target has been met in accordance with paragraphs 6 and 7 of Section 7 of Part 8 of the Schedule (*Construction Matters*).
- 1.3 Project Co shall calculate the Annual Energy Target in accordance with paragraphs 2, 3 and 6 of Section F of Part 18 of the Schedule (*Payment Mechanism*) and paragraph 2 of this Section 4 of Part 33 of the Schedule (*Joint Operating Protocol*).

2. Calculation of Annual Energy Target

- 2.1 Without prejudice to the generality of the foregoing, Project Co and the Board agree that on each Annual Review Date the Annual Energy Target and the Emissions Baseload shall be increased in accordance with paragraph 3.6 of Section F and paragraph 3 of Section H of Part 18 of the Schedule, where Energy Consumption arises in the Energy Year ending on the Annual Review Date from the following factors:
 - 2.1.1 change in the calorific value of natural gas or detrimental supply voltage variance, as stated in Appendix 1 to Section 7 of Part 8 of the Schedule (*Construction Matters*), supplied to the Hospital Facility;
 - 2.1.2 failure by the Board to adopt and comply with the energy policies and initiatives implemented by Project Co (in agreement with the Board (pursuant to paragraph 3.2.1 of this section 4 of Part 33 of Schedule (*Joint Operating Protocol*)), aimed at conserving energy, reducing fuel costs and failure to incorporate what could reasonably be considered to be good housekeeping techniques in the use of the Facilities and the carrying out of Clinical Services;
 - 2.1.3 unreasonable propping open of external doors;
 - 2.1.4 windows being opened by the Board and/or Board Parties in a room where heating is operating unless the room is not within the

environmental conditions required by the Room Data Sheets or such opening is required to disperse odours or fumes not reasonably within the capacity of the air handling provisions;

- 2.1.5 windows being closed by the Board and/or Board Parties when opened by Project Co to provide natural ventilation and comfort conditions during summer conditions unless required for the Prescribed Health Function or Prescribed Operation Function of the room;
- 2.1.6 without prejudice to paragraph 9 of Section 1 of Part 22 of the Schedule (*Variation Procedure*), any changes in the use of a room that has an adverse effect on energy consumption;
- 2.1.7 interference by the Board and/or Board Parties with the thermostatic radiator valves or such other equivalent equipment or settings unless undertaken reasonably within the Prescribed Health Function or Prescribed Operational Function of a room;
- 2.1.8 other than in relation to equipment which is required to be operational on a 24 hour basis for clinical reasons, failure by the Board and/or Board Parties (acting reasonably) to switch off energy consuming equipment and devices when not in use;
- 2.1.9 use by the Board, Board Parties or Hospital users of energy consuming equipment which is not PAT tested and not authorised for use by Project Co. Such authorisation will not be unreasonably withheld;
- 2.1.10 failure by the Board and/or Board Parties to ensure that all Board or Board Party Energy consuming equipment is maintained in accordance with Good Industry Practice and manufacturers recommendations;
- 2.1.11 medical equipment in excess of that specified in the Room Data Sheets;
- 2.1.12 without prejudice to paragraph 9 of Section 1 of Part 22 of the Schedule (*Variation Procedure*), use of energy consuming equipment and operation of the Hospital Facility outwith the hours of use for that area set out in paragraph 6.6 of Section 7 of Part 8 of the Schedule (*Thermal and energy efficiency testing procedure*);
- 2.1.13 Energy Consumption arising directly from the occurrence of any Excusing Cause, Relief Event or Force Majeure; and
- 2.1.14 Adjustment by the Board or Board Parties of commissioning set-points which have been established by Project Co and accepted by the

Independent Tester as part of Project Co's Pre Completion
Commissioning

such that Project Co would be in a no better or worse position than it would have been had the events listed in paragraphs 2.1.1 to 2.1.14 of this Section 4 of Part 33 of the Schedule (*Joint Operating Protocol*) not occurred.

- 2.2 For the avoidance of doubt and without prejudice to paragraph 3.5 of Section F of Part 18 of the Schedule (*Payment Mechanism*), Qualifying Variations shall all be taken into account in the calculation of the adjustment to the Annual Energy Target, in the terms set out in this Agreement so that Project Co would be in a no better no worse position than it would have been had the Qualifying Variation not have occurred.
- 2.3 For the avoidance of doubt, in the event that Clause 17.4(b) (*Thermal and energy efficiency*) is the solution selected by the Board in relation to a failure to meet the Construction Energy Target as a result of the design and construction of the Facilities pursuant to Clause 17.4 (*Thermal and energy efficiency*), the Board's sole remedy shall be Clause 17.4(b) (*Thermal and energy efficiency*) and Project Co shall not be subject to any double counting in the calculation of any Painshare Adjustment or Gainshare Adjustment during the remainder of the Project Term.

3. Joint Utilities Management Group

- 3.1 In accordance with Section C.03 of Sub-Section C of Section 1 of Part 14 of the Schedule (*Service Requirements*), the Board and Project Co shall establish the Joint Utilities Management Group.
- 3.2 The functions of the Joint Utilities Management Group may include:
- 3.2.1 to provide a means for the development and agreement of energy management policies and initiatives proposed by Project Co;
 - 3.2.2 to provide a means for the joint review of issues relating to day to day energy management and the implementation and compliance with policies and procedures;
 - 3.2.3 to ensure building users are familiar with any energy management practices and policies agreed and implemented by the Board and Project Co; and
 - 3.2.4 to motivate staff and building users to reduce Energy Consumption.

PART 33 OF THE SCHEDULE: JOINT OPERATING PROTOCOL

Appendix A

Joint Operating Protocol – “Method Statement”

1. Construction Design and Management (CDM) Regulations 2007

The parties agree that any works required to be carried out on the Works Site by any party other than the Contractor, such as Cable Diversion Works, installation of equipment, demolitions, public utility interfaces must also comply with the Construction Design and Management (CDM) Regulations 2007 and Project Co's specific site rules, inductions, method statement and risk assessment approvals procedures.

2. Cable Diversion Works

Without prejudice to Clause 5.4, the Cable Diversion Works will be carried out within the areas of the Works Site designated by Project Co (acting reasonably) in relation to the requirement to allow the termination of the service, the isolation of the existing cable removal of the substation and the reserved land required to install the new sub station and to move between these points will require to be approved by Project Co (all as more particularly described in Part 40 of the Schedule (Cable Diversion Works Specification)). There will be no general access outwith these defined boundaries.

3. Board's Access Works

The Board shall or shall procure that its sub-contractor shall comply with provisions, approved by the Planning Authority, pursuant to the discharge of condition 2 of the Planning Approval.

Without prejudice to Clause 5.4, the Board Access Works shall only be permitted to be carried out within the Works Site within the areas designated by Project Co (acting reasonably and having due regard to the Board's obligations to carry out such works under this Agreement).

4. Public Utility Installations

There will be a requirement for the Public Utility works contractors to coordinate and agree, with the Contractor, access routes and works areas to complete their installations.

5. Obligations in relation to the "Turret" water main

The Turret main will be visibly defined within the site boundary and no works or interface will be permitted on or around this main without prior agreement and permission from the Contractor. Any 'crossing points' will be designed by the principal contractor and all vehicle movements will be constrained to those locations.

6. Installation of Equipment by the Board

In accordance with Part 13 of the Schedule (Equipment) there is a requirement for Board Equipment installers, to be provided access to the Work Site in a pre-agreed manner. These installers are to co-ordinate with the Contractor and comply with the site Safety procedures. These will include but not be limited to: submission and approval of safety method statements / risk assessments 4 weeks in advance of the planned commencement of the works, attendance of all staff at site safety inductions and the requirement to comply with the site rules.

7. Project Co access to completed Phases

Project Co will co-ordinate and comply with the operational requirements of the management n regards to access and Works in completed operational areas and will comply with access and permit procedures to be agreed under the Joint Operating Protocol.

PART 34 OF THE SCHEDULE: COMMERCIALLY SENSITIVE INFORMATION

Section 1: Commercially Sensitive Contractual Provisions

Terms defined in this Part 34 of the Schedule (*Commercially Sensitive Information*) shall have the following meanings, unless the context otherwise requires:

"Project Co Bid" means the bid documents by Project Co to the Board in response to the ITN dates 16 May 2005;

"Preferred Bidder" means Project Co; and

"Preferred Bidder Letter" means the letter from the Board to Equion Limited, as project sponsors to Project Co, dated 11 July 2006.

| Column 1 - Commercially Sensitive Contractual Provisions | Column 2 - For period ending on date below: |
|---|---|
| The following information contained or referred to in this Agreement: | |
| The Ancillary Documents in their entirety | The later of the Project Term or 10 years from the Effective Date |
| The Financial Model (including but not limited to lifecycle costs) | The later of the Project Term or 10 years from the Effective Date |
| Schedule of Small Works Rates | The later of the Project Term or 10 years from the Effective Date |
| Project Co bank account information | The later of the Project Term or 10 years from the Effective Date |
| Threshold Equity IRR | The later of the Project Term or 10 years from the Effective Date |
| Project Co's Proposals (Agreed Form document) | The later of the Project Term or 10 years from the Effective Date |
| Method Statements | The later of the Project Term or 10 years from the Effective Date |
| Services Quality Plan (Agreed Form document) | The later of the Project Term or 10 years from the Effective Date |
| Performance Monitoring Reports, the 5 Year | Seven years from the issue of the relevant |

| Column 1 - Commercially Sensitive Contractual Provisions | Column 2 - For period ending on date below: |
|--|---|
| Maintenance Plan and Estimated Increased Maintenance Costs and all information provided in relation to the Performance Monitoring Reports, the 5 Year Maintenance Plan and Estimated Increased Maintenance Costs pursuant to Clause 28 (<i>Maintenance</i>). | report, plan or notice |
| Information relating to any notices (including any information contained in any such notices) issued by the Board pursuant to Clause 29 (<i>Monitoring of Performance</i>). | Seven years from the issue of the notice |
| Information set out in the tables contained in Clause 29.4 (<i>Warning Notices</i>) and 29.6 (<i>Board's Remedial Rights</i>). | The later of the Project Term or 10 years from the Effective Date |
| Limits on liability (including any caps) set out in this Agreement. | The later of the Project Term or 10 years from the Effective Date |
| Pricing, payment terms and other financial information contained within or provided pursuant to Clauses 35 (<i>Payment Terms</i>) (excluding Pass Through Costs), 36 (<i>Insurance</i>), 39 (<i>Changes in Law</i>) and 48 (<i>Compensation on Termination</i>) and Parts 18 (<i>Payment Mechanism</i>) and 19 (<i>Financial Model</i>) of the Schedule. | The later of the Project Term or 10 years from the Effective Date |
| Insurance premiums and deductible levels | The later of the Project Term or 10 years from the Effective Date |
| Any amounts payable in respect of Schedule 23 (<i>Compensation on Termination</i>) | The later of the Project Term or 10 years from the Effective Date |
| Definition of "Phase Percentage" and the following provisions in Part 18 of the Schedule (<i>Payment Mechanism</i>): Paragraph 2.1.2 of Section B; paragraphs 2, 3, 4, 5.1.6, 7.1, 8, 10 and 12.10 of Section C; Section E in its entirety; paragraph 4 and | The later of the Project Term or 10 years from the Effective Date |

| Column 1 - Commercially Sensitive Contractual Provisions | Column 2 - For period ending on date below: |
|--|--|
| information provided pursuant to paragraphs 5 and 9 of Section F, paragraphs 1.6 and 1.7 of Section G and all Appendices attached thereto. | |
| Any of the above documents or provisions to the extent repeated in any Project Document other than the relevant document stated above | The time period relative to the document or provision stated above |

PART 34 OF THE SCHEDULE: COMMERCIALLY SENSITIVE INFORMATION

Section 2: Commercially Sensitive Material

| Column 1 - Commercially Sensitive Material | Column 2 - For period ending on date below: |
|---|--|
| The Ancillary Documents in their entirety | The later of the Project Term or 10 years from the Effective Date. |
| Information contained in Section 2 of Part 30 of the Schedule and Part 31 of the Schedule and any information contained in this Agreement relating to staff rosters together with the Agreed Form document entitled "Proposed Workforce Information" | The later of the Project Term or 10 years from the Effective Date. |
| Information about Project Co's processes methodologies, working methods and information relating to the development of new processes and methodologies which amounts to a trade secret or the disclosure of which could reasonably be considered a commercial advantage to Project Co's competitors | The later of the Project Term or 10 years from the Effective Date. |
| Any financial models provided by Project Co in relation to the Agreement, including those provided prior to Financial Close | The later of the Project Term or 10 years from the Effective Date. |
| The breakdown of prices within the overall contract price (but not the overall contract price) wherever contained | The later of the Project Term or 10 years from the Effective Date. |
| Information on Project Co's costing mechanisms including information obtained from Project Co relating to project risks and pricing of the same and cost information relating to third party contractors and the Sub-contractors | The later of the Project Term or 10 years from the Effective Date |
| Financial term sheets and related funding information including any funder pricing | The later of the Project Term or 10 years from the Effective Date |
| Information relating to the Preferred Bidder | The later of the Project Term or 10 years |

| Column 1 - Commercially Sensitive Material | Column 2 - For period ending on date below: |
|--|--|
| appointment, including the Preferred Bidder Letter and correspondence, meeting minutes and e-mails relating to the same | from the Effective Date |
| All pricing, cost, method statement and other financial information contained within or relating to Project Co's Bid documentation | The later of the Project Term or 10 years from the Effective Date |
| Information relating to the negotiation of this Agreement and the Funding Agreements including inter alia, correspondence meeting minutes, e-mails, presentation materials, commercial papers and/or drafts. | The later of the Project Term or 10 years from the Effective Date |
| Information relating to any Benchmarking Exercise and/or Market Testing (as applicable) to the extent that it relates to information obtained by Project Co from third parties which it is reasonable to conclude is commercially sensitive. | Ten years from the conclusion of the relevant Benchmarking Exercise and/or Market Testing (as applicable). |
| The terms of any Funding Agreement (other than the Funder's Direct Agreement) | The later of the Project Term or 10 years from the Effective Date |
| FM reports, financial reports management reports and any other reports produced by Project Co or the Service Provider in accordance with this Agreement or the Sub-contracts or the relevant Funding Agreement. | Seven years from the issue of the relevant report. |
| Financial and health and safety audits. | The later of the Project Term or 10 years from the Effective Date |
| Site security reports and methodologies, whether during the Construction Phase or the Operational Term. | For a period of five years from the issue of the relevant report. |
| Any of the above documents or provisions to the extent repeated in any Project Document other than the relevant | The time period relative to the document or provision stated above. |

| Column 1 - Commercially Sensitive Material | Column 2 - For period ending on date below: |
|--|---|
| document stated above. | |

PART 35 OF THE SCHEDULE: PLANNING CONDITION RESPONSIBILITIES

| Ref | Condition | Responsibility | | Parties' Supporting Obligations |
|-------|--|----------------|------------|--|
| | | Board | Project Co | |
| 1. | The development shall commence within 5 years from the date of this planning permission. | | ✓ | |
| 2. | Prior to the commencement of the upfilling works within the east pasture the following information shall be submitted to and approved in writing by the Planning Authority:- | | | |
| (i) | details of the mitigation measures to be employed during these works in order to minimise noise and dust nuisance to adjacent residential properties; | | ✓ | Board to comply with the approved measures in relation to the Board Access Works. Project Co to comply with the approved measures in relation to the Works. |
| (ii) | details of the proposed surface waterdrainage arrangements to be employed during and following completion of these works in order to minimise standing water and potential impacts on adjacent residential properties; and | | ✓ | Board to comply with the approved measures in relation to the Board Access Works. Project Co to comply with the approved measures in relation to the Works. |
| (iii) | details of the treatment and maintenance of this area following completion of | | ✓ | Board to provide such information as may be reasonably required by Project |

| Ref | Condition | Responsibility | | Parties' Supporting Obligations |
|-----|---|--|---|---|
| | | Board | Project Co | |
| | upfilling works. | | | <p>Co in order to provide such details to the planning authority.</p> <p>Board to comply with the approved measures in relation to the Board Access Works.</p> <p>Project Co to comply with the approved measures in relation to the Works.</p> |
| | In the event that materials require to be transported from the development site for disposal full details of the volumes, transport arrangements and timescales shall be approved in writing by the Planning Authority in advance of such disposal occurring. | <p>✓</p> <p>(in respect of the Board Access Works)</p> | <p>✓</p> <p>(in respect of the Works)</p> | |
| 3. | Within 3 months from the commencement of works on site a strategy to mitigate the impacts of the construction phase of the development related to traffic and associated staff movements to/from the site and noise impacts shall be submitted to and approved in writing by the Planning Authority. The strategy shall fully consider access and operational | | ✓ | |

| Ref | Condition | Responsibility | | Parties' Supporting Obligations |
|-----|--|----------------|------------|--|
| | | Board | Project Co | |
| | matters in order to minimise the generation of traffic to/from the site and therefore to mitigate the impact of the construction phase on the local roads network and adjacent residential areas. Park and ride facilities, shuttle buses and the like should be utilised to this end. Defined parking facilities within the site and the provision for vehicle wheel cleaning facilities at the site egress should also be clearly identified. Once approved, the construction phase of the development shall be operated in accordance with these details. | | | |
| 4. | Prior to the commencement of development or not later than 31 December 2007, whichever is the later, the following information shall be submitted for the written approval of the Planning Authority. This shall include:- | | | |
| (a) | A Travel Plan outlining proposals to facilitate access to the hospital site for staff, patients and visitors from the full extent of the indicated catchment area by a choice of means of transport, including public transport, cycling and walking, in order that the mode share targets outlined | ✓ | | Project Co to provide such information and assistance as may be reasonably required by the Board insofar as the Travel Plan is affected by the carrying out of the Project Co Operations and |

| Ref | Condition | Responsibility | | Parties' Supporting Obligations |
|-----|---|----------------|------------|---|
| | | Board | Project Co | |
| | <p>within the submitted Transport Assessment can be achieved and the peak vehicle trip generation estimates within this document will not be exceeded. The Travel Plan shall fully address those matters contained within Part 4 of the Schedule annexed to the legal agreement between Falkirk Council and The Scottish Ministers under Section 75 of the Town and Country Planning (Scotland) Act 1997 related to this planning permission. The Travel Plan shall be fully operational for the life of the hospital development. In the event that the hospital catchment alters during its operational life then a revised travel plan in accordance with Part 4 of the Schedule annexed to the legal agreement between Falkirk Council and NHSFV under Section 75 of the Town and Country Planning (Scotland) Act 1997 related to this planning permission addressing the extent of the new catchment shall be submitted in advance for the prior written approval of this planning authority and implemented immediately thereafter;</p> | | | <p>Permitted Project Co Operations.</p> <p>The Board shall use reasonable endeavours to ensure that the terms of the Travel Plan approved have due regard to the fact that traffic associated with the Works may need to be dealt with specifically (including the fact that the Works are to be carried out in Phases). The Board will have due regard to any representations made by Project Co in relation to the terms of the Travel Plan insofar as they relate to construction related traffic.</p> |

| Ref | Condition | Responsibility | | Parties' Supporting Obligations |
|-----|---|--|---|---|
| | | Board | Project Co | |
| (b) | Fully detailed design of all required off-site road works identified within the submitted Transport Assessment. This shall include junction upgrading works including the signalisation of the Camelon Junction and the provision of 2 traffic light controlled "Toucan" crossings on Stirling Road, the precise location of which shall be agreed in writing by the planning authority in advance of installation; | ✓ | | |
| (c) | A management strategy covering all car and motorcycle parking areas within the development; | ✓ | | Project Co to provide such information and assistance as may be reasonably required by the Board. |
| (d) | Protection measures for all key habitat areas identified within and adjacent to the site boundary and key habitat areas likely to be affected by off-site works; | ✓ (in respect of key habitat areas likely to be affected by off site works) | ✓ (other than in respect of key habitat areas likely to be affected by off site works) | |
| (e) | Surface water drainage proposals in accordance with the CIRIA Manual "Sustainable urban drainage systems - design manual for Scotland and Northern | | ✓ | |

| Ref | Condition | Responsibility | | Parties' Supporting Obligations |
|-----|---|----------------|------------|--|
| | | Board | Project Co | |
| | Ireland" including provision for on-site storage. A safety audit of all above ground facilities shall accompany the submitted details; | | | |
| (f) | An assessment of off-site walking and cycle networks to the site within the catchment areas identified within the Transport Assessment including proposals for additional provision, and the upgrading and repair of existing routes. This network shall include, in addition to other links, a cycle route along Stirling Road between Larbert Cross and Bellsdyke Road. Provision for crossing facilities and any required improvements to street lighting, surfacing, signing, etc shall also be included; | ✓ | | <p>Project Co to provide such information and assistance as may be reasonably required by the Board in connection with the location of walking and cycle networks on the Site.</p> <p>Without prejudice to the generality, the Board shall co-operate with Project Co in the discharge of this Condition 4(f) of the Planning Approval, in accordance with Clause 5.4, in order to facilitate the timely discharge of Project Co's obligations under Condition 4(g) of this Planning Approval.</p> |
| (g) | Additional provision of footpath/cycle routes within the application site in addition to those outlined on the submitted layout drawings in order to fully address the requirements for such | | ✓ | <p>Without prejudice to the generality, Project Co shall co-operate with Board in the discharge of this Condition 4(g) of the Planning Approval, in</p> |

| Ref | Condition | Responsibility | | Parties' Supporting Obligations |
|-----|--|----------------|------------|--|
| | | Board | Project Co | |
| | movements within the site and linking to off-site provision; | | | accordance with Clause 5.4, in order to facilitate the timely discharge of the Board's obligations under Condition 4(f) of this Planning Approval. |
| (h) | Details of enclosed/covered waiting areas (including seating) for bus passengers at the bus terminuses, such provision being suitable for use at all times of the year. The level of enclosed/covered waiting areas to be provided should reflect peak use/demand for public transport services serving the development. Seating facilities external to the waiting areas should also be provided; | | ✓ | |
| (i) | details of covered and secure cycle parking facilities and the precise location of these facilities within the site; | | ✓ | |
| (j) | Details of access arrangements and infrastructure provision for the other remaining development sites identified within the "Development Framework for the Former RSNH Site" prepared by Falkirk Council (December | ✓ | | Project Co to provide such information and assistance as may be reasonably required by the Board, including in connection with links to infrastructure provision provided as |

| Ref | Condition | Responsibility | | Parties' Supporting Obligations |
|-----|--|----------------|------------|---------------------------------|
| | | Board | Project Co | |
| | 2004); | | | part of the Works. |
| (k) | Details of proposed traffic management measures for the public streets surrounding the proposed hospital development; | ✓ | | |
| (l) | Details of the re-use of Larbert House, including measures to arrest any further decline in its condition prior to its re-use. This will require the submission of a condition survey complete with mitigation measures; | ✓ | | |
| (m) | The location and specification of the re-located bus shelter on Stirling Road. The shelter shall be integrated with the proposed TOUCAN crossing and the 3m wide shared cycle/footway connecting to the planning application site; | ✓ | | |
| (n) | The management of patient transport vehicles in front of the main entrance to the hospital; | ✓ | | |
| (o) | Details of the construction of all roads, car parks, footpath/cycleways and footpaths within the development. This will include lighting details. For the avoidance of doubt the footpath / cycleways and footpaths shall not exceed a | | ✓ | |

| Ref | Condition | Responsibility | | Parties' Supporting Obligations |
|-----|---|----------------|------------|---------------------------------|
| | | Board | Project Co | |
| | gradient of 8% at any point; | | | |
| (p) | Details of automatic vehicle monitoring equipment to be installed and maintained between the two access roundabouts, to provide continuous vehicle monitoring for the life of the hospital; | ✓ | | |
| (q) | Details of the phasing of new planting works and the associated maintenance details for all landscape areas including woodland management; | | ✓ | |
| (r) | Details at a scale of 1 to 50 or 1 to 100 of all external building elevations, including the pedestrian canopies at the entrances to the hospital building; | | ✓ | |
| (s) | Details of all external finishing materials for the exterior of the buildings and the hard landscaped areas; | | ✓ | |
| (t) | Details of the barrier to be installed adjacent to the site access from Old Denny Road; | | ✓ | |
| (u) | Details of all boundary enclosures, means of enclosure and retaining structures within the site; | | ✓ | |
| (v) | Protection measures for retained trees within the site, such measures to be | | ✓ | |

| Ref | Condition | Responsibility | | Parties' Supporting Obligations |
|-----|---|----------------|------------|---|
| | | Board | Project Co | |
| | implemented prior to works taking place within any tree canopies; | | | |
| (w) | Details of measures to be incorporated within the development site in order to address the requirements of the Flood Risk Assessment Addendum (WSP February 2007) and to ensure that the hospital and associated essential infrastructure is protected from flood events up to and including the 1000 year flood event. This shall include full details of the flood washway, inlets / outlets / overflows (including levels), compensatory storage, and ground levels, and shall further address/specify the maintenance of these facilities in perpetuity (including the arrangements for such maintenance) in order to ensure that these measures are fully functional at all times. | | ✓ | |
| (x) | Proposals for the reuse within the development of the stone entrance gate piers at the existing site access on Stirling Road; | ✓ | | Project Co to set aside and preserve the stone entrance gate piers during the Works, and to provide such information and assistance as may be reasonably required by the Board in |

| Ref | Condition | Responsibility | | Parties' Supporting Obligations |
|-----|--|----------------|------------|--|
| | | Board | Project Co | |
| | | | | relation to the feasibility of the proposals to be made by the Board. |
| (y) | Road signing and road markings on Stirling Road; | ✓ | | |
| (z) | Details of the replacement of existing vehicle monitoring equipment on Stirling Road in the event that this requires to be replaced due to the construction of the entrance roundabout. | ✓ | | |
| 5. | No part of the hospital development approved by virtue of this planning permission shall be operational prior to all of the information required by condition 4 being approved in writing by the Planning Authority and, unless otherwise agreed in writing by the Planning Authority, the following:- | | | Each party acknowledges and accepts that the requirement to discharge its obligations pursuant to this Condition 5 by the "operational" date shall relate to the Phase 1 Actual Completion Date, unless otherwise agreed with the planning authority in relation to subsequent Phases. |
| | The Travel Plan being fully operational in accordance with the approved details; | ✓ | | Each party to comply with the provisions of the approved Travel Plan insofar as they relate to its respective |

| Ref | Condition | Responsibility | | Parties' Supporting Obligations |
|-----|---|--|--|---------------------------------|
| | | Board | Project Co | |
| | | | | operations. |
| (a) | All off-site road works being completed in accordance with the details approved by the Council in respect of conditions 4(b) and 4(f); | ✓ | | |
| (b) | The roundabouts, loop road, parking facilities, cycle and pedestrian facilities (including all paths and secure parking facilities), and public transport facilities (including the waiting areas) and services being provided in accordance with the approved details; | ✓ (in respect of the Board Access Works only) | ✓ (other than in respect of the Board Access Works) | |
| (c) | Demonstration that the proposed re-use of Larbert House is fully committed within a timescale agreed with this planning authority; | ✓ | | |
| (d) | Completion of the flood washway and the SUDs scheme; | | ✓ | |
| (e) | The automatic vehicle monitoring equipment required by virtue of condition 4(p) and 4(z). | ✓ | | |
| | All other requirements outlined within condition 4 shall be implemented within 12 months from any part of the hospital becoming operational. | ✓ (See above) | ✓ (See above) | |
| 6. | The development hereby | ✓ | ✓ | |

| Ref | Condition | Responsibility | | Parties' Supporting Obligations |
|-----|--|---|---|---------------------------------|
| | | Board | Project Co | |
| | approved shall be carried out in accordance with the plans hereby approved and docketed and in accordance with the other details approved by the planning authority relative to the discharge of and/or requirements of the stated planning condition. For the avoidance of doubt the site layout shall be as detailed on the Development Control Plan unless otherwise required by a condition of this planning permission. | (in respect of the Board Access Works only) | (other than in respect of the Board Access Works) | |
| 7. | Notwithstanding the terms of the Town and Country Planning (General Permitted Development) (Scotland) Order 1992 no development within of Class 14 of this Order in addition to that specified within the submitted planning application shall occur within the application site or land adjoining that land without the prior written consent of the Planning Authority. | ✓ | ✓ | |
| 8. | Construction access (excluding vehicles transporting operatives) to the site shall only be taken from Stirling Road unless otherwise agreed in writing by the Planning Authority. | | ✓ | |

| Ref | Condition | Responsibility | | Parties' Supporting Obligations |
|-----|--|---|---|---------------------------------|
| | | Board | Project Co | |
| 9. | Notwithstanding the details shown on the approved plans, the proposed roundabout access on Stirling Road, the internal roundabout within the site and the link between these features shall be designed and constructed in accordance with the Design Manual for Roads and Bridges (DMRB) and with Falkirk Council's Design Guidelines & Construction Standards for Roads in the Falkirk Council area. | ✓ | | |
| 10. | Visibility splays at the emergency "Blue Light" access on Stirling Road shall be 4.5 metres by 120 metres to the north and 4.5 metres x 70 metres to the south. No obstruction exceeding 1 metre above the adjoining road channel level shall be located within these areas. The existing wall affected by these splays shall be reconstructed at the rear of the splays. | ✓ | | |
| 11. | Construction works which will be audible at or beyond the site boundary shall be restricted to the following times unless otherwise agreed in writing in advance by the Planning Authority: - Monday to Friday (inclusive) | ✓ (in respect of the Cable Diversion Works and/or the Board Access | ✓ (other than in respect of the Cable Diversion Works and/or the Board | |

| Ref | Condition | Responsibility | | Parties' Supporting Obligations |
|-----|--|----------------|---------------|---------------------------------|
| | | Board | Project Co | |
| | 08:00 to 20:00 hours; and Saturday 09:00 to 18:00 hours. | Works) | Access Works) | |
| 12. | All plant and machinery installed or vented externally shall be installed, maintained and operated in such a manner that the Rating Noise Level (as defined in BS4142:1997) does not exceed the measured Background Noise Level at the site boundary. This noise level may be relaxed by up to 10dB(A) for emergency equipment in operation or routine daytime testing of emergency equipment. | | ✓ | |
| 13. | On days when tree felling is being undertaken (on trees with potential to support bat roosts identified in the Ecological Survey of Revised Application Site Boundary (October 2006) and Ecological Impact Assessment (November 2005) both produced by Heritage Environmental Ltd in support of the outline planning application F/2005/0299) there must be an inspection of the trees carried out by a licensed bat specialist or where appropriate (where holes are high up in the tree) by a tree surgeon under the | | ✓ | |

| Ref | Condition | Responsibility | | Parties' Supporting Obligations |
|-----|---|----------------|------------|---------------------------------|
| | | Board | Project Co | |
| | supervision of the bat specialist. At all times bats must only be handled by a licensed bat worker. (Note: a license may be required from the Scottish Executive in the event that impacts on protected species are likely to occur). | | | |
| 14. | Should a bat roost be encountered during the operations, all work must cease in the area immediately and specialist advice sought to determine any mitigation requirements. | | ✓ | |
| 15. | During felling works trees should be sectioned around each crevice/hole, where safe to do so, to ensure that these are not cut through. These sections should then be roped to the ground. It may be necessary to wedge open any cracks/splits before removing large limbs as bats may be inside cracks held open by the weight of a branch. A licensed bat specialist must then carefully inspect each limb on the ground. | | ✓ | |
| 16. | Any bat house to be erected as mitigation for the loss of roosting sites must be agreed in advance with the Planning Authority and should conform to the design produced by | ✓ | | |

| Ref | Condition | Responsibility | | Parties' Supporting Obligations |
|-----|---|----------------|------------|---------------------------------|
| | | Board | Project Co | |
| | Heritage Environmental Ltd submitted in support of the outline planning application (F/2005/0299). | | | |
| 17. | <p>Prior to the commencement of works on site a survey shall be carried out along the stretch of the River Carron to be affected by the construction of the SUDS outfall and 250 metres upstream and downstream of this area. The purpose of this survey is to check for the presence of otter resting up sites that may be affected by the works to install the outfall. If signs of an otter resting up site are found during this survey, an assessment shall be made of the impact of the proposed works on otters. Details of the survey shall be submitted to and approved in writing by the Planning Authority. Where otters are likely to be affected by the proposed development, suitable mitigation measures should be developed to prevent or reduce any impact otters. (Note: a license may be required from the Scottish Executive in the event that impacts on protected species are likely to occur).</p> | | ✓ | |

| Ref | Condition | Responsibility | | Parties' Supporting Obligations |
|-----|--|----------------|------------|---------------------------------|
| | | Board | Project Co | |
| 18. | During the construction of the SUDS pipeline it must be ensured that any open pipes are covered at the end of each day and no trenches are left open overnight unless suitable ramps are within the trench to allow otters to escape. This must be implemented irrespective of the results of the pre-construction otter survey. | | ✓ | |
| 19. | A pre-construction survey shall be carried out between the B905 and the River Carron in order to ensure that there has been no change to on-site badger activity. The findings of this survey must be submitted to and approved in writing by the Planning Authority. (Note: A licence will be required from SNH for any works that are likely to disturb a badger sett during the construction of the development). | | ✓ | |
| 20. | During the construction of the SUDs outfall pipeline it must be ensured that any open pipes are covered at the end of each day and no trenches are left open overnight unless suitable ramps are within the trench to allow badgers to escape. | | ✓ | |

| Ref | Condition | Responsibility | | Parties' Supporting Obligations |
|-----|---|--|---|--|
| | | Board | Project Co | |
| 21. | No felling of trees, removal of scrub or top soil stripping should be undertaken during the bird breeding season between March and July inclusive, unless prior checks are undertaken by suitably qualified ecologists to identify nest sites. Should a nest be found then a buffer zone should be set up to allow an adequate disturbance free zone around the nesting sites. | ✓ (in respect of the Cable Diversion Works and/or the Board Access Works) | ✓ (other than in respect of the Cable Diversion Works and/or the Board Access Works) | |
| 22. | An emergency procedure must be devised for site workers to follow in the event that an active bird nest is found within the development site. The key to the procedure should be that all work be stopped in the area and specialist advice sought to determine suitable set back zones. Details of this emergency procedure shall be submitted to and approved in writing by the Planning Authority. (Note: the setback requirements would vary from species to species, and SNH and the Scottish Executive may need to be consulted). | ✓ (in respect of the Cable Diversion Works and/or the Board Access Works) | ✓ (other than in respect of the Cable Diversion Works and/or the Board Access Works) | On request by the Board, Project Co to provide details of its emergency procedure, which may then form the basis of the emergency procedure to be used by the Board in connection with the Cable Diversion Works and the Board Access Works. |
| 23. | The General Site Environmental Management Procedures outlined in section 3.1 of the Heritage Environmental Ltd - Ecological Summary Report - Proposed | | ✓ | |

| Ref | Condition | Responsibility | | Parties' Supporting Obligations |
|-----|---|----------------|------------|---------------------------------|
| | | Board | Project Co | |
| | New Acute Hospital at Former Royal Scottish National Hospital - Larbert, Falkirk (October 2006) as submitted in support of the outline planning application (F/2005/0299) shall be fully implemented during the construction phase of the proposed development. | | | |

PART 36 OF THE SCHEDULE: ICT SCHEDULE

1. Each party shall, at its own cost, be responsible for carrying out such element of the design, construction, installation, maintenance and refreshment of IT and Equipment, as is specified as being that party's responsibility in the responsibilities matrix set out at Table A of this Part 36 of the Schedule (*ICT Schedule*).
2. For the purposes of this Part 36 of the Schedule (*ICT Schedule*), unless the context otherwise requires:
 - "Board (Pre)" means such activity shall be carried out by the Board as part of the Board's Commissioning activities, in accordance with Part 12 of the Schedule (*Outline Commissioning Programme*);
 - "Board (Post)" means such activity shall be carried out by the Board as part of the Board's Post Completion Commissioning activities, in accordance with Part 12 of the Schedule (*Outline Commissioning Programme*);
 - "Project Co (Post)" means such activity shall be carried out by Project Co as part of Project Co's Post Completion Commissioning activities in accordance with Part 12 of the Schedule (*Outline Commissioning Programme*);
3. This Part 36 of the Schedule (*ICT Schedule*) shall be interpreted according to the following provisions:
 - 3.1 References to "Project Co to Board approval" shall mean approval by the Board pursuant to Part 10 of the Schedule (*Review Procedure*).
 - 3.2 Allocations of responsibility in relation to items of Equipment, are as set out in Part 13 of the Schedule (*Equipment*).
 - 3.3 Project Co's obligations to design, construct, install, maintain and/or refresh IT and equipment shall be to design, construct, install, maintain and/or refresh the relevant item of IT or equipment in accordance with the detailed requirements set out in the Board's Construction Requirements, Project Co's Proposals, the Service Level Specifications and the Method Statements, as appropriate.
4. The Board shall carry out:
 - 4.1 its lifecycle obligations relative to the wireless network at item 1.9 of Table A below in accordance with Good Industry Practice and current widely supported standard for wireless implementation at the time of system replacement (and

the replacement system shall be manufactured by a reputable manufacturer agreed with Project Co (such as Cisco)), and, for the avoidance of doubt, the WiFi System shall be replaced no later than when the system is 7 years old;

- 4.2 its maintenance, management and lifecycle obligations relative to items 1.11, 1.12, 2.11 and 6.1.9 of Table A below;
- 4.3 its management, maintenance and lifecycle obligations relative to external utility services (data and voice) at item 2.12 of Table A below, and

all in accordance with Good Industry Practice (having due regard to the carrying out of the Project Operations by Project Co at the Site) and in such a manner that does not materially impede, disrupt or delay Project Co in the carrying out of the Project Operations;

- 5. In the event of any inconsistency between the provisions of this Part 36 of the Schedule (*ICT Schedule*) and the provisions of Part 13 of the Schedule (*Equipment*), the provisions of this Part 36 of the Schedule (*ICT Schedule*) will prevail.

Table A – Responsibilities Matrix

| Service/Technology | | Responsibility | | | | |
|--------------------|--|------------------------------|---|---|------------|---|
| | | System Design | Construction/ Installation /Provision | Testing & Commissioning | Management | Maintenance/ Lifecycle Replacement |
| 1. | Information Technology (IT) | | | | | |
| 1.1 | System management | N/A | N/A | N/A | Board | Board |
| 1.2 | System cabling architecture. | Project Co to Board approval | Project Co | Project Co | Board | N/A |
| 1.3 | Hardware (inc. PCs, printers) | Board | Board (Post) | Board (Post) | Board | Board |
| 1.4 | Hubs, servers/switches | Board | Board (Pre) | Board (Pre) | Board | Board |
| 1.5 | Computer rooms (Infrastructure only) (see telephony below) | Project Co to Board approval | Project Co | Project Co | Project Co | Project Co |
| 1.6 | Containment | Project Co to Board approval | Project Co | Project Co | Project Co | Project Co |
| 1.7 | Cabling and faceplates | Project Co to Board approval | Project Co | Project Co | Project Co | Project Co |
| 1.8 | Wireless Network Cabling Infrastructure | Project Co | Project Co | Project Co | Project Co | Project Co |
| 1.9 | Wireless Network (Access Points, LAN Controllers, Firewall appliances and security). Inclusive of Wireless surveys, design and implementation. Exclusive of Board user account management. | Project Co to Board approval | Project Co | Project Co (Post) | Project Co | Lifecycle – Board Maintenance – Project Co |
| 1.10 | Commissioning / labelling / testing | N/A | All passive infrastructures commissioned, tested and labelled by Project Co | All passive infrastructures commissioned, tested and labelled by Project Co | N/A | Project Co |

| Service/Technology | | Responsibility | | | | |
|--------------------|--|--|--|---|---|---|
| | | System Design | Construction/ Installation /Provision | Testing & Commissioning | Management | Maintenance/ Lifecycle Replacement |
| | | | (with Board in attendance) with all active equipment commissioned, tested and labelled by the Board (Pre) | (with the Board in attendance), with all active equipment commissioned, tested and labelled by the Board (Pre) | | |
| 1.11 | UPS dedicated (including wireless network hardware) | Project Co (power cabling infrastructure only) Board (UPS hardware) | Project Co (power cabling infrastructure only) Board (Pre) (UPS hardware) | Project Co (power cabling infrastructure only) Board (Pre) (UPS hardware) | Board | Board |
| 1.12 | Final connections to hardware, hubs, UPS, external links and other equipment | N/A | Board (Pre) | Board (Pre) | Board | Board |
| 1.13 | Facilities for seminar rooms, presentation spaces, reception areas, offices | Project Co (containment and cabling infrastructure only), to Board approval | Project Co (containment and cabling infrastructure only) | Project Co (containment and cabling infrastructure only) | Board supply all software and hardware and install in commissioned infrastructure | Board (equipment) / Project Co (containment and cabling infrastructure) |
| 1.14 | Links to Other Organisations | Project Co (infrastructure within hospital only) to Board approval | Project Co (infrastructure – cabling and containment within hospital only) | Project Co (infrastructure within hospital only) | Project Co (infrastructure within hospital only) | Project Co (infrastructure within hospital only) |
| 1.15 | Video link facilities – external, internal | Project Co (internal hospital cabling infrastructure only), to Board RDS requirements and approval | Project Co (internal cabling hospital infrastructure only) Board (Pre) | Project Co (internal hospital infrastructure only) Board (Pre) (equipment) | Board (equipment) / Project Co (internal hospital cabling infrastructure) | Board (equipment) / Project Co (internal hospital infrastructure) |

| Service/Technology | | Responsibility | | | | |
|--------------------|--|--|--|--|------------|--|
| | | System Design | Construction/ Installation /Provision | Testing & Commissioning | Management | Maintenance/ Lifecycle Replacement |
| | | | (equipment) | | | |
| 2 | Telecommunications | | | | | |
| 2.1 | System management | Project Co | N/A | N/A | Project Co | N/A |
| 2.2 | System architecture/design | Project Co to Board approval | Project Co | Project Co | N/A | N/A |
| 2.3 | Hand sets | Project Co to Board approval | Project Co | Project Co | Project Co | Project Co |
| 2.4 | Pager / Staff location system | Project Co to Board approval | Project Co | Project Co | Project Co | Project Co |
| 2.5 | Switches/ Routers/ Voice Gateways/ Servers/ Application Software/ Licences | Project Co to Board approval | Project Co | Project Co | Project Co | Project Co |
| 2.6 | Comms and hub room(s) | Project Co | Project Co | Project Co | Project Co | Project Co |
| 2.7 | Containment | Project Co | Project Co | Project Co | Project Co | Project Co |
| 2.8 | Cabling and faceplates | Project Co | Project Co | Project Co | Project Co | Project Co |
| 2.9 | Commissioning / labelling | N/A | Project Co | Project Co | Project Co | Project Co |
| 2.10 | Final connections to hardware/hubs | N/A | Project Co | Project Co | Project Co | Project Co |
| 2.11 | Dedicated UPS (utilising the Boards ICT UPS) | Project Co (power cabling infrastructure only) | Project Co (power cabling infrastructure only) | Project Co (power cabling infrastructure only) | Board | Board |

| Service/Technology | | Responsibility | | | | |
|--------------------|--|--|--|--|--------------------------------------|--|
| | | System Design | Construction/ Installation /Provision | Testing & Commissioning | Management | Maintenance/ Lifecycle Replacement |
| | | Board (UPS hardware) (Pre) | Board (Pre) (UPS hardware) | Board (Pre) (UPS hardware) | | |
| 2.12 | External utility services - data and voice | Project Co – containment infrastructure only from comms rooms to site boundary to boards requirements. Board – Fibre and copper cabling into comms rooms and final connections to comms equipment (Pre) | Project Co – containment infrastructure only from comms rooms to site boundary Board (Pre) – Fibre and copper cabling into comms rooms and final connections to comms equipment | Project Co – containment system testing only. Board (Pre) – incoming infrastructure | Board | Project Co – containment infrastructure only from comms rooms to site boundary. Board – cabling into comms rooms and final connections to comms equipment |
| 3 | Bedhead Services | | | | | |
| 3.1 | System management | Project Co | N/A | N/A | Project Co | Project Co |
| 3.2 | Nurse Call | Project Co | Project Co | Project Co | Project Co | Project Co |
| 3.3 | Medical gasses (Excluding VIE) | Project Co | Project Co | Project Co(with purity verification by the Board) | Board | Project Co |
| 3.4 | Electrical supply | Project Co | Project Co | Project Co | Project Co | Project Co |
| 3.5 | Bed lighting | Project Co | Project Co | Project Co | Project Co | Project Co |
| 3.6 | Entertainment system (excluding TV) | Project Co - Infrastructure cabling and containment only as per RDS Board(equipment) | Project Co - Infrastructure cabling and containment only as per RDS Board (Post) (equipment) | Project Co Infrastructure cabling and containment only Board (Post) (equipment) | Project Co in liaison with the Board | Project Co - Infrastructure and cabling containment only Board (equipment) |
| 3.7 | TV system | Project Co - Infrastructure cabling and containment only | Project Co - Infrastructure cabling and containment only | Project Co Infrastructure cabling and | Board | Project Co - Infrastructure and cabling containment |

| Service/Technology | | Responsibility | | | | |
|--------------------|---|--|--|--|------------|---|
| | | System Design | Construction/ Installation /Provision | Testing & Commissioning | Management | Maintenance/ Lifecycle Replacement |
| | | as per RDS Board – equipment and software | as per RDS Board (Post) – equipment, software and licences | containment only | | only Board – equipment, software and licences |
| 3.8 | ICT outlets | Project Co - Infrastructure cabling and containment | Project Co - Infrastructure cabling and containment | Project Co - Infrastructure cabling and containment | Board | Project Co - Infrastructure cabling and containment |
| 3.9 | Telephony points | Project Co | Project Co | Project Co | Project Co | Project Co |
| 4 | Nurse Call | | | | | |
| 4.1 | Nurse Call System (see personal safety alarms below) | Project Co | Project Co | Project Co | Project Co | Project Co |
| 5 | Fixed Induction Loops | | | | | |
| 5.1 | System management | Project Co | Project Co | Project Co | Project Co | Project Co |
| 5.2 | Installation | Project Co | Project Co | Project Co | Project Co | Project Co |
| 6. | Security Systems | | | | | |
| 6.1 | CCTV | Project Co to Board approval | Project Co | Project Co | Project Co | Project Co |
| 6.1.1 | System management | N/A | N/A | N/A | Project Co | N/A |
| 6.1.2 | System architecture / design | Project Co | Project Co | Project Co | N/A | N/A |
| 6.1.3 | Hardware – CCTV cameras, detectors, scanners, access units | Project Co | Project Co | Project Co | Project Co | Project Co |

| Service/Technology | | Responsibility | | | | |
|--------------------|--|--|---|---|------------|--|
| | | System Design | Construction/ Installation /Provision | Testing & Commissioning | Management | Maintenance/ Lifecycle Replacement |
| 6.1.4 | Hardware – monitors, multiplexes, recording equipment, servers | Project Co | Project Co | Project Co | Project Co | Project Co |
| 6.1.5 | Control rooms / equipment / hardware rooms | Project Co | Project Co | Project Co | Project Co | Project Co |
| 6.1.6 | Containment and cabling | Project Co | Project Co | Project Co | Project Co | Project Co |
| 6.1.7 | Commissioning / labelling | Project Co | Project Co | Project Co | Project Co | Project Co |
| 6.1.8 | Final connections to hardware | Project Co | Project Co | Project Co | Project Co | Project Co |
| 6.1.9 | Dedicated UPS | Project Co (power cabling infrastructure only) Board (UPS hardware) | Project Co (power cabling infrastructure only) Board (Post) (UPS hardware) | Project Co (power cabling infrastructure only) Board (Post) (UPS hardware) | Board | Board |
| 6.2 | Access systems (to be integrated with alarm system) | | | | | |
| 6.2.1 | Doors and restricted areas | Project Co | Project Co | Project Co | Project Co | Project Co |
| 6.2.2 | Fire door hold open devices | Project Co | Project Co | Project Co | Project Co | Project Co |
| 6.3 | Alarms (to be integrated with access control system) | | | | | |
| 6.3.1 | Intruder | Project Co | Project Co | Project Co | Project Co | Project Co |
| 6.3.2 | Personal safety alarms | Project Co | Project Co | Project Co | Project Co | Project Co |
| 6.3.3 | Link alarms, link to on-site security room | Project Co | Project Co | Project Co | Project Co | Project Co |
| 6.4 | Others | | | | | |

| Service/Technology | | Responsibility | | | | |
|--------------------|------------------|----------------|---|----------------------------|------------|--|
| | | System Design | Construction/ Installation /Provision | Testing & Commissioning | Management | Maintenance/ Lifecycle Replacement |
| 6.4 | Fixed Pay Phones | Project Co | Project Co | Project Co | Project Co | Project Co |

6. Each party shall, at its own cost, be responsible for carrying out such element of the design, construction, installation, maintenance and refreshment of IT and equipment, as set out in Appendix A of this Part 36 of the Schedule (ICT).

Appendix A

**Project Co
FM Wireless Network Proposal**

Forth Valley Acute Hospital PFI

PART 37 OF THE SCHEDULE: FUNDING AGREEMENTS

Section 1: Initial Funding Agreements

| Item | Document | Parties |
|------|---|--|
| 1. | Common Terms Agreement | Project Co, Senior Funders and HoldCo |
| 2. | EIB Finance Contract | European Investment Bank, Project Co and HoldCo |
| 3. | Accounts Agreement | The Governor and Company of the Bank of Scotland (as Account Bank, Security Trustee and Senior Funder), Project Co, HoldCo and European Investment Bank (as Senior Funder) |
| 4. | Credit Agreement | Project Co, HoldCo and The Governor and Company of the Bank of Scotland |
| 5. | Construction Contractor Direct Agreement | Project Co, Contractor, Security Trustee and Laing O'Rourke plc |
| 6. | Service Contractor Direct Agreement | Project Co, Security Trustee, Service Provider and Serco Group plc |
| 7. | Project Co Assignment of Contracts | Project Co and the Security Trustee |
| 8. | Project Co Debenture | Project Co and the Security Trustee |
| 9. | Project Co Bond and Floating Charge | Project Co and the Security Trustee |
| 10. | Hedging Agreement including, for the avoidance of doubt, confirmations in relation to the interest rate and RPI hedging transactions. | HBOS Treasury Services plc (as Original Hedge Provider) and Project Co |
| 11. | Funders' Direct Agreement | Security Trustee, Project Co and the Board |
| 12. | HoldCo Debenture | HoldCo and the Security Trustee |

| Item | Document | Parties |
|-------------|---|--|
| 13. | Security Trust and Intercreditor Deed | Project Co, HoldCo, Senior Funders and Shareholders |
| 14. | Insurance Proceeds Account Agreement | The Governor and Company of the Bank of Scotland, Project Co, the Board and the Security Trustee |
| 15. | Arrangement Fee Letter | The Governor and Company of the Bank of Scotland and Project Co |
| 16. | Agency Fee Letter | The Governor and Company of the Bank of Scotland and Project Co |
| 17. | Equity and Loan Note Subscription Agreement | HoldCo, Project Co, the Shareholders and the Security Trustee |
| 18. | Subscription and Shareholders Agreement | Project Co, HoldCo and the Shareholders |
| 19. | HoldCo Loan Note Instrument | HoldCo |
| 20. | Project Co Loan Note Instrument | Project Co |

PART 37 OF THE SCHEDULE: FUNDING AGREEMENTS

Section 2: Senior Funding Agreements

| Item | Document | Parties |
|------|---|--|
| 1. | Common Terms Agreement | Project Co, Senior Funders and HoldCo |
| 2. | EIB Finance Contract | European Investment Bank, Project Co and HoldCo |
| 3. | Accounts Agreement | The Governor and Company of the Bank of Scotland (as Account Bank, Security Trustee and Senior Funder), Project Co, HoldCo and European Investment Bank (as Senior Funder) |
| 4. | Credit Agreement | Project Co, HoldCo and The Governor and Company of the Bank of Scotland |
| 5. | Construction Contractor Direct Agreement | Project Co, Contractor, Security Trustee and Laing O'Rourke plc |
| 6. | Service Contractor Direct Agreement | Project Co, Security Trustee, Service Provider and Serco Group plc |
| 7. | Project Co Assignment of Contracts | Project Co and the Security Trustee |
| 8. | Project Co Debenture | Project Co and the Security Trustee |
| 9. | Project Co Bond and Floating Charge | Project Co and the Security Trustee |
| 10. | Hedging Agreement including, for the avoidance of doubt, confirmations in relation to the interest rate and RPI hedging transactions. | HBOS Treasury Services plc (as Original Hedge Provider) and Project Co |
| 11. | Funders' Direct Agreement | Security Trustee, Project Co and the Board |
| 12. | HoldCo Debenture | HoldCo and the Security Trustee |

| Item | Document | Parties |
|-------------|---------------------------------------|--|
| 13. | Security Trust and Intercreditor Deed | Project Co, HoldCo, Senior Funders and Shareholders |
| 14. | Insurance Proceeds Account Agreement | The Governor and Company of the Bank of Scotland, Project Co, the Board and the Security Trustee |
| 15. | Arrangement Fee Letter | The Governor and Company of the Bank of Scotland and Project Co |
| 16. | Agency Fee Letter | The Governor and Company of the Bank of Scotland and Project Co |

PART 37 OF THE SCHEDULE: FUNDING AGREEMENTS

Section 3: Subordinated Funding Agreements

| Item | Document | Parties |
|-------------|---|---|
| 1. | Equity and Loan Note Subscription Agreement | HoldCo, Project Co, the Shareholders and the Security Trustee |
| 2. | Subscription and Shareholders Agreement | Project Co, Hold Co and the Shareholders |
| 3. | HoldCo Loan Note Instrument | HoldCo |
| 4. | Project Co Loan Note Instrument | Project Co |

PART 38 OF THE SCHEDULE: TRANSITIONAL ARRANGEMENTS

1. TUPE

- 1.1 The Board and Project Co agree that the Transfer Regulations shall apply to the transfer to the relevant Service Provider of all Transferring Employees on the Relevant Service Transfer Date for such Transferring Employees.
- 1.2 The Transferring Employees will transfer to the relevant Service Provider under the Transfer Regulations at 00.01 hours on the Relevant Service Transfer Date.

2. Employee Transfer Principles

- 2.1 The parties shall observe the following key principles (the "Employee Transfer Principles") in working together to transform the workforce at NHS Forth Valley from its current structure and posts (as detailed in the First Employee List) to the Proposed Workforce during the period from Financial Close until each Relevant Service Transfer Date (the "Workforce Planning Process"):
 - 2.1.1 The Board and Project Co shall, and Project Co shall procure that the relevant Service Provider shall, work together in partnership to manage the Workforce Planning Process.
 - 2.1.2 At least two weeks prior to each Relevant Service Transfer Date, Project Co shall or shall procure that the relevant Service Provider shall issue a letter to each relevant Transferring Employee confirming the transfer of their employment to the relevant Service provider and confirming details including but not limited to the change in identity of employer, the fact that previous service with the Board will be deemed continuous under the terms of the Transfer Regulations and details in relation to pensions provision.
 - 2.1.3 As soon as practical after Financial Close and no later than 18 months prior to the first Relevant Service Transfer Date the Board shall provide access to suitable accommodation on both existing Acute sites to enable Project Co/the relevant Service Provider (as appropriate) to conduct 1:1 meetings with Transferring Employees during each such Transferring Employee's normal working hours. The purpose of such 1:1 meetings will be to discuss the transfer of employment of the Transferring Employees to the relevant Service Provider under the Transfer Regulations, to confirm their continuity of employment and terms and conditions and also to ascertain certain personal information and advise the Transferring Employees of new job opportunities (all as reasonably requested by Project Co/the relevant Service Provider and in such manner as to ensure that there is no material adverse effect on

the operations of the Board as a result of the same). Transferring Employees may be accompanied at 1:1 meetings by a staff side representative.

2.1.4 The Board and Project Co have agreed the terms of the relevant Service Provider's Mobilisation Plan, a copy of which is annexed at Appendix E to this Part 38 of the Schedule. The Board shall procure that meetings of a sub-group of the Area Partnership Forum shall be arranged and conducted on at least a monthly basis with effect from the Effective Date to review the implementation by Project Co and/or the relevant Service Provider of the Mobilisation Plan. To avoid doubt:

2.1.4.1 the timing of such meetings shall be agreed between the Board's Representative and Project Co and/or the relevant Service Provider;

2.1.4.2 the Board shall procure that there shall be produced minutes of such meetings;

2.1.4.3 Project Co's Representative shall be entitled to make reasonable comments on the minutes referred to in clause 2.1.4.2 and the Board shall accept any such reasonable comments and incorporate such comments into a revised version of such minutes.

2.1.5 Without prejudice to the provisions of Paragraph 2.1.4.3 the content of the relevant Service Provider's Mobilisation Plan shall be revised at such times and in such manner:

(1) as is necessary to ensure that it is at all times consistent with the Outline Commissioning Programme and the Final Commissioning Programme; and

(2) as Project Co and/or the relevant Service Provider and the Board's Representative shall agree.

To avoid doubt:

2.1.5.1 any revisions to the relevant Service Provider's Mobilisation Plan shall fully comply with the provisions of the Board's Organisational Change and Redeployment Policies;

2.1.5.2 the parties shall, and (as appropriate) Project Co shall procure that the relevant Service Provider shall, consult with the relevant subgroup of the Area Partnership Forum

on any revisions to the relevant Service Provider's Mobilisation Plan where required by the Board that shall have been proposed by Project Co and/or (as appropriate) the relevant Service Provider and/or the Board's Representative.

3. Achieving the Proposed Workforce

3.1 The parties have developed and agree to observe (and Project Co shall procure that the relevant Service Provider shall observe) the following process for matching the posts currently occupied by Transferring Employees (as detailed in the First Employee List) to posts within Project Co's Proposed Workforce (such process to be referred to as the "Matching Process"). The Matching Process will be implemented in accordance with the relevant Service Provider's Mobilisation Plan.

3.1.1 Project Co shall provide or shall procure the provision of all detailed job descriptions within three months of Financial Close for posts within the Proposed Workforce in the format required for job evaluation. Within six months of receiving the job descriptions, the Board will evaluate all managerial and non-managerial posts within the Proposed Workforce under the Agenda for Change Job Evaluation system. To avoid doubt, such job descriptions shall not differ materially from the job descriptions detailed at Appendix B.

STAGE 1 - Confirmation of management posts within the Proposed Workforce

3.1.2 With the exception of the post of Contract Director, all managerial posts (including Supervisor and Team Leader posts) within the Proposed Workforce will be ringfenced for appropriate Transferring Employees. If the relevant Transferring Employee fulfils the requirements of the job description for the relevant post and is a match for the relevant post (having regard to the Matching Principles detailed below at paragraph 3.2) the relevant Transferring Employee will be offered such post.

3.1.3 To avoid doubt, the following Stage 2 and Stage 3 processes will be carried out in parallel.

STAGE 2 - New posts within the Proposed Workforce

3.1.4 All new posts within the Proposed Workforce (including but not limited to Ward Housekeepers, Security, Helpdesk and Car Parking) not currently provided by the Board at the existing hospitals in Falkirk and Stirling ("New Posts") will be allocated in the following way:

- 3.1.4.1 The Board will undertake an evaluation of such New Posts using the agreed Agenda for Change Job Evaluation Scheme to determine the appropriate banding for such posts and advise Project Co of the results of this exercise.
- 3.1.4.2 With the exception of the post of Contract Director, all New Posts in the Proposed Workforce will be ringfenced for Transferring Employees until the conclusion of the Matching Process.
- 3.1.4.3 If the relevant Transferring Employee fulfils the requirements of the job description for the relevant New Post such Transferring Employee will be confirmed in this post. Where there are more eligible Transferring Employees for the relevant New Post, such that there is competition for the relevant New Posts, the Transferring Employees will be invited to attend limited competition interviews.
- 3.1.4.4 The cost of training Transferring Employees who are confirmed in New Posts within the Proposed Workforce to an agreed standard will be borne by the Board in accordance with the provisions of paragraph 7 of this Part 38.

STAGE 3 - Matching of Transferring Employees to posts within the Proposed Workforce

- 3.1.5 Where posts within the Proposed Workforce are identical or substantially similar to those currently occupied by Transferring Employees (including but not limited to the posts of Domestic Assistant, Catering Assistant, Chef and Porter) in line with existing shifts and where there are sufficient such posts within the Proposed Workforce, the relevant Transferring Employees will be offered such posts on their existing shift patterns, as far as is practical.
- 3.1.6 Where there are more eligible Transferring Employees for the relevant post, such that there is competition for the relevant Posts, the Transferring Employees will be invited to attend limited competition interviews.
- 3.1.7 Where there are insufficient posts within the Proposed Workforce at a particular grade for the number of Transferring Employees occupying corresponding posts within the current workforce, the provisions of paragraph 4 of this Part 38 shall apply.

STAGE 4 - Temporary Staff

- 3.1.8 Any temporary staff who fulfil the requirements of the job description for the relevant post within the Proposed Workforce will be able to apply for any vacant posts within the Proposed Workforce prior to any advertisement for such post pursuant to paragraph 3.1.9 below. Priority will be given to temporary employees with one year's service or more.

Future Appointments

- 3.1.9 Any posts within the Proposed Workforce that remain unfilled by Transferring Employees at a particular grade immediately after conclusion of the Matching Process will be advertised in accordance with Project Co's and the Board's recruitment and selection policies. For the avoidance of doubt, all costs of recruitment and training of new employees will be borne by Project Co.

Appeals

- 3.1.10 Transferring Employees who wish to appeal against the application to them of the Matching Process or any New Post offered to them will be able to appeal to the Project Co HR Manager preferably in writing within 10 Business Days of an offer of a matched or New Post having been made. All such appeals will be dealt with by Project Co and outcomes will be made available to the relevant sub-group of the Area Partnership Forum.
- 3.1.11 The provisions of this Paragraph 3.1 shall be revised at such times and in such manner as Project Co and/or the relevant Service Provider and the Board's Representative shall agree, having due regard to the principles in paragraph 3.2.

- 3.2 In carrying out the Matching Process, the parties agree to observe (and Project Co shall procure that the relevant Service Provider shall observe) the following principles:

- 3.2.1 Project Co will work in partnership with the Board and NHS Forth Valley staff side representatives in carrying out the Matching Process.
- 3.2.2 Transferring Employees will be consulted with by Project Co/the relevant Service Provider on an individual 1:1 basis throughout the Matching Process and may be accompanied at 1:1 meetings by a staff side representative.
- 3.2.3 The Matching Process will be fair, equitable and transparent.

- 3.2.4 The primary aim of the Matching Process will be to accommodate as many Transferring Employees as possible in equivalent/suitable posts within the Proposed Workforce. All posts will be considered for Transferring Employees with the exception of the position of "Contract Director", which post has absolute responsibility for direction and leadership and promoting the ethos of the relevant Service Provider.
- 3.2.5 In carrying out the Matching Process, the parties will work together to ensure (and Project Co shall procure that the relevant Service Provider shall work with the Board to ensure) that any requirement for Transferring Employees to participate in a competitive process to be matched to appropriate posts in the Proposed Workforce will be kept to a minimum.
- 3.2.6 The Matching Process will provide an opportunity for Transferring Employees to indicate preferences for posts within the Proposed Workforce and such preferences will be accommodated wherever practicable.
- 3.2.7 Opportunities for Transferring Employees to apply for New Posts within the Proposed Workforce where the number and/or configuration of such New Posts is insufficient to accommodate all existing Transferring Employees will be carried out against predetermined criteria (to be consulted upon with the relevant employee representatives of the Transferring Employees and agreed between the parties) on a ringfenced basis. To avoid doubt the Transferring Employee appointed to a New Post shall be the Transferring Employee who in the reasonable opinion of the parties is the most suitable and meritorious candidate.
- 3.2.8 The Matching Process and the filling of New Posts in the Proposed Workforce will be approached hierarchically, wherever possible, with the most senior posts in the Proposed Workforce being filled first. Allocation of New Posts in the Proposed Workforce will be carried out in parallel with the Matching Process.
- 3.2.9 Following confirmation of posts within the Proposed Workforce for all Transferring Employees, temporary staff will be considered for any remaining posts based on the agreed criteria.
- 3.2.10 No Transferring Employee will have an automatic right to be matched to higher banded posts in the Proposed Workforce than the post that such Transferring Employee substantively occupies as at the Relevant Service Transfer Date.

- 3.2.11 The Board undertakes to release any Transferring Employee for training and subsequent formal assumption of duties pursuant to the staff transfer requirements identified by Project Co in accordance with the provisions of paragraph 7 of Part 38 of the Schedule.
- 3.2.12 Where by agreement between the parties a Transferring Employee is not able to be matched to a post (including for these purposes a New Post) within the Proposed Workforce ringfenced interviews will be undertaken to select the most appropriate Transferring Employee to be matched to the relevant post in the Proposed Workforce. Project Co and the Board and/or the sub-group of the Area Partnership Forum shall agree the factors to be taken into account in selecting the most appropriate candidate, having due regard to the Employee Transfer Principles.
- 3.2.13 To minimise anxiety and aid continuity of service delivery Transferring Employees will in the first instance and if possible be offered posts within the Proposed Workforce which are located within their current work area although, as at present, they may be required to work in all operation areas of the new hospital.
- 3.2.14 In determining whether a Transferring Employee is a suitable match for a post within the Proposed Workforce, Project Co shall, and shall procure that the relevant Service Provider shall, have regard to existing rostering arrangements currently in operation at the hospitals in Falkirk and Stirling. Where such existing rostering arrangements for Transferring Employees differ from the proposed rostering arrangements in the Proposed Workforce, Project Co shall, and shall procure that the relevant Service Provider shall, wherever possible, review and if necessary amend its proposed rostering arrangements to ensure that as many Transferring Employees as possible can be matched to posts within the Proposed Workforce.

4. Displaced Employees

- 4.1 For the purposes of this Part 38 the term "Displaced Employee" shall refer to any Transferring Employee who pursuant to the Matching Process:
 - 4.1.1 by agreement between the parties is not able to be matched to a post or allocated a New Post within the Proposed Workforce;
 - 4.1.2 by agreement between the parties is matched to a post or allocated a New Post within the Proposed Workforce but who refuses to accept such post at any stage up to the Relevant Service Transfer Date;

- 4.1.3 by agreement between the parties has a right, whether statutory or pursuant to the Board's Organisational Change and/or Redeployment Policy, to a trial period in a new role and who declines such new role within the relevant trial period.
- 4.2 Following conclusion of the Matching Process, the parties shall, and Project Co shall procure that the relevant Service Provider shall, consult with any Displaced Employee (or any Transferring Employee who is potentially a Displaced Employee) and their representative in advance of the Relevant Service Transfer Date with a view to obtaining the agreement of such Displaced Employee to commencing a position of alternative employment within the Proposed Workforce on the Relevant Service Transfer Date.
- 4.3 Project Co shall procure that the relevant Service Provider shall in the first instance offer Displaced Employees any vacant alternative positions of employment within the Proposed Workforce which in the reasonable opinion of the parties shall constitute a suitable alternative position of employment for such Displaced Employee having due regard to the Board's Organisational Change and Redeployment Policies.
- 4.4 Where no suitable alternative positions of employment within the Proposed Workforce are available for Displaced Employees, Project Co shall procure that the relevant Service Provider shall offer to such Displaced Employees positions of alternative employment within the Proposed Workforce which in the reasonable opinion of the parties a Displaced Employee is competent to undertake or could be trained to undertake within a reasonable period of time.
- 4.5 Where the Matching Process has been completed and a position of alternative employment in the Proposed Workforce has not been found for a Displaced Employee or a Displaced Employee has rejected such position of alternative employment and the Board, Project Co and the relevant Service Provider have co-operated with a view to avoiding the dismissal by reason of redundancy of such Displaced Employee by reference to the Board's Organisational Change and Redeployment Policies, then after the Relevant Service Transfer Date in respect of the Displaced Employee the Board shall be entitled to (and shall upon being reasonably requested to do so by Project Co) instruct Project Co to procure that:
- 4.5.1 the Displaced Employee remains employed by the relevant Service Provider at the Board's cost until such time as suitable alternative employment becomes available for such Displaced Employee or as otherwise stipulated by the Board; or
- 4.5.2 the Displaced Employee's employment is terminated by the relevant Service Provider as redundant for an ETO Reason in which case the

Board shall be responsible for payment of any Redundancy Costs that are payable in respect of such Displaced Employee; and

4.5.3 to the extent that an adjustment to the Annual Service Payment is not made to compensate for the associated costs in accordance with Clauses 30.12 and 30.13 of this Agreement, the Board shall indemnify Project Co (for itself and for the benefit of each relevant Service Provider) in respect of all Direct Losses (including the costs of employing the Displaced Employee, Redundancy Costs, pension payments due to such Displaced Employee under the relevant Service Provider's pension scheme in which such Displaced Employee participates at the time of dismissal by reason of redundancy together with any strain on the relevant pension fund which is directly attributable to the dismissal by reason of redundancy of such Displaced Employee, claims in connection with unfair dismissal) suffered as a result of the employment or termination of employment of any Displaced Employee on and after the Relevant Service Transfer Date, save that this indemnity shall not apply where such Direct Losses are attributable to Project Co's or the relevant Service Provider's failure to comply with the provisions of the Board's Organisational Change and Redeployment Policies when implementing any dismissal on the instruction of the Board in accordance with paragraph 4.5.2 (and the provisions of Clause 30.33 of this Agreement shall not apply in respect of any such Displaced Employee).

4.6 Project Co acknowledges that if, following the Matching Process, there are too few Transferring Employees at the Relevant Service Transfer Date for any role within the Proposed Workforce then Project Co shall, or shall procure that the relevant Service Provider shall, recruit and train additional staff at its own expense.

4.7 The parties acknowledge and agree that where Transferring Employees are matched to posts within the Proposed Workforce or have accepted a New Post within the Proposed Workforce after any relevant trial period (whether statutory or under the Board's Organisational Change and/or Redeployment Policy) (whether or not such post involves additional training or reskilling) but fail to train to the required standard, then any costs associated with the failure of such Transferring Employee to train to the required standard shall be for Project Co and the provisions of Clauses 30.12 and 30.13 of this Agreement and paragraph 4.5 of this Part 38 of the Schedule will not apply in such circumstances.

5. Loan Staff

In order for Project Co and the relevant Service Provider to prepare for the provision of the Services it is necessary for 'Key Staff' to provide support to the

relevant Service Provider prior to the Phase 1 Actual Completion Date. It is therefore agreed by the Board that the 'key staff' listed in Table 1 of this Part 38 of the Schedule (Transitional Arrangements) will be made available to Project Co, at no cost, for the duration of the specified periods until the Relevant Service Transfer Date and the parties will enter into a loan agreement in the form annexed at Appendix C to effect such loan arrangement.

Table 1: Key Staff

| Post | Hours | Head Count | Date |
|--------------------------|--------------|-------------------|---|
| Maintenance Manager | 37.5 | 1 | 10 months prior to Phase 1 Actual Completion Date |
| Maintenance Supervisor | 37.5 | 1 | 10 months prior to Phase 1 Actual Completion Date |
| FOH Manager | 37.5 | 1 | 4 months prior to Phase 1 Actual Completion Date |
| Central Support Manager | 37.5 | 1 | 4 months prior to Phase 1 Actual Completion Date |
| Customer Support Manager | 75 | 2 | 4 months prior to Phase 1 Actual Completion Date |
| Portering Manager | 37.5 | 1 | 4 months prior to Phase 1 Actual Completion Date |
| Executive Chef | 37.5 | 1 | 4 months prior to Phase 1 Actual Completion Date |
| Commercial Manager | 37.5 | 1 | 4 months prior to Phase 1 Actual Completion Date |

In order for Project Co and the relevant Service Provider to provide the Transitional Services it is necessary for staff to provide support to the relevant Service Provider prior to their Transfer Date. It is therefore agreed by the Board that the posts listed in Table 2 of this Part 38 of the Schedule (Transitional Arrangements) will be made available to Project Co, at no cost, for the duration of the specified periods until their Relevant Service Transfer Date and the parties will enter into a loan agreement in the form annexed at Appendix C to effect such loan arrangement.

Table 2: Staff on Loan to Service Provider during Phase period

| Post | Hours | Head Count | Date |
|--------------------|--------------|-------------------|--|
| Car Parking (OPE) | 144 | 6 | Phase 1 Actual Completion |
| Domestics (OPE) | 304.5 | 15 | Phase 1 Actual Completion |
| Helpdesk (OPE) | 105 | 4 | Phase 1 Actual Completion |
| Porter (OPE) | 150 | 4 | Phase 1 Actual Completion |
| Security (OPE) | 525 | 14 | Phase 1 Actual Completion |
| Waste (OPE) | 52.5 | 2 | Phase 1 Actual Completion |
| Domestics (SUP) | 98.5 | 3 | Phase 1 Actual Completion |
| Helpdesk (SUP) | 37.5 | 1 | Phase 1 Actual Completion |
| Housekeeping (SUP) | 150 | 7 | Phase 1 Actual Completion |
| Security | 37.5 | 1 | Phase 1 Actual Completion |
| Porters (SUP) | 195 | 6 | 20 Business Days Prior to Phase 1 Commissioning End Date |
| Catering (SUP) | 262.5 | 7 | 20 Business Days Prior to Phase 1 Commissioning End Date |
| Switchboard (OPS) | 75 | 2 | 20 Business Days Prior to Phase 1 Commissioning End Date |
| Catering (OPS) | 856 | 38 | 20 Business Days Prior to Phase 1 Commissioning End Date |
| Helpdesk (OPS) | 95 | 3 | 3 Business Days Prior to Phase 1 Commissioning End Date |
| Housekeeping (OPS) | 1620.5 | 64 | 3 Business Days Prior to Phase 1 Commissioning End Date |

| Post | Hours | Head Count | Date |
|--------------------|--------------|-------------------|---|
| | | | Date |
| Linen (OPS) | 37.5 | 1 | 3 Business Days Prior to Phase 1 Commissioning End Date |
| Reception (OPS) | 52.5 | 2 | 3 Business Days Prior to Phase 1 Commissioning End Date |
| Estates (SUP) | 37.5 | 1 | Phase 1 Commissioning End Date |
| Estates (OPS) | 148.0 | 4 | Phase 1 Commissioning End Date |
| Domestics (SUP) | 24 | 1 | Phase 2 Actual Completion |
| Housekeeping (OPS) | 67.5 | 3 | Phase 2 Actual Completion |
| Domestics (OPS) | 227 | 13 | Phase 3 Actual Completion |
| Domestics (OPS) | 287 | 10 | Phase 3 Commissioning End Date |
| Estates (OPS) | 222 | 6 | Phase 3 Commissioning End Date |
| Housekeeping (OPS) | 37 | 16 | Phase 3 Commissioning End Date |

The parties agree that it is necessary for Estates staff to provide support to the Board after their Relevant Service Transfer Date. It is therefore agreed by Project Co that it will procure that the posts listed in Table 3 of this Part 38 of the Schedule (Transitional Arrangements) will be made available to the Board by the relevant Service Provider, at no cost, for the duration of the specified periods and the parties will enter into a loan agreement in the form annexed at Appendix D to effect such loan arrangement

Table 3: Staff to be loaned to the Board immediately following Phase 1 Actual Completion

| Post | Hours | Head Count | Date of Return to relevant Service Provider |
|--------------------|-------|------------|---|
| Estates Supervisor | 37 | 1 | Phase 3 Commissioning End Date |
| Estates Staff | 37 | 5 | Phase 3 Actual Completion |
| Estates Staff | 37 | 5 | Phase 3 Commissioning End Date |

6. Transfer

Project Co shall procure the cooperation of the relevant Service Provider throughout the course of the process outlined in this Part 38 of the Schedule (Transitional Arrangements) with a view to achieving the Proposed Workforce and a smooth transition of service provision on each Relevant Service Transfer Date.

7. Training

- 7.1 It is acknowledged and agreed by both parties that Project Co shall provide Transferring Employees with training (including manufacturer's training, induction training and building familiarisation training) as part of Project Co's Pre-Completion Commissioning and Project Co's Post Completion Commissioning obligations, pursuant to Part 12 of the Schedule (Outline Commissioning Programme).
- 7.2 It is acknowledged and agreed by both parties that the Board shall ensure that all Transferring Employees are appropriately trained to effectively deliver the Services and have received the Core Competence Training. To this end Appendix A below outlines the agreed core competencies required for each staff group.
- 7.3 Following Financial Close the Board and Project Co will jointly undertake a training analysis of each Transferring Employee to analyse training needs. Where there is no evidence in relation to relevant training in an agreed core competency this will by agreement between the parties be identified as a need and the Board may instruct Project Co to procure such training. The Board will be responsible for funding the provision of this training but for the avoidance of doubt where Project Co/the relevant Service Provider procures the provision of such training from an external training provider any such training will be invoiced to the Board at cost. This will apply to employees transferring within their existing job role or undertaking a new job role in the Project Co's Proposed

Workforce. The Board undertake to make suitable arrangements to release staff for this purpose subject to the proviso that there will be no material adverse effect on the operations of the Board as a result of the same.

PART 38 OF THE SCHEDULE: TRANSITIONAL ARRANGEMENTS

Appendix A: Training Release Schedule

Core Competencies

This training shall only be required should staff not be trained to the required standard following the job role matching pursuant to paragraph 7 of this Part 38 of the Schedule (*Transitional Arrangements*).

Table 1: Soft Services Core Competencies – Staff

| | ADMIN ASST | CAR PARKING ASST | HELPER OPERATOR | RECEPTIONIST | WASTE MANAGEMENT ASST | LINEN ROOM ASST | SWITCHBOARD OPERATOR | SECURITY OFFICER | DOMESTIC ASST | PORTER | WARD HOUSEKEEPER | EXECUTIVE CHEF | CHEF (DIET) | CHEF | STORES OPERATIVE | GENERAL CATERING ASST |
|---------------------------------------|------------|------------------|-----------------|--------------|-----------------------|-----------------|----------------------|------------------|---------------|--------|------------------|----------------|-------------|-------|------------------|-----------------------|
| Moving and Handling Training | ½ day | ½ day | ½ day | ½ day | ½ day | ½ day | ½ day | ½ day | ½ day | | ½ day | ½ day | ½ day | ½ day | ½ day | ½ day |
| Violence and Aggression Training | | 3-5 day | | | | | | 3 -5 day | | 0 | | | | | | |
| Patient Movement Training | | | | | | | | | | 1 day | | | | | | |
| Customer Care | ½ day | ½ day | ½ day | ½ day | ½ day | ½ day | ½ day | ½ day | ½ day | ½ day | ½ day | ½ day | ½ day | ½ day | ½ day | ½ day |
| Basic Food Hygiene Certificate | | | | | | | | | 1 day | | 1 day | | | | 1 day | 1 day |
| Intermediate Food Hygiene Certificate | | | | | | | | | | | | | 4 day | 4 day | | |

| | GENERAL CATERING ASST | STORES OPERATIVE | CHEF | CHEF (DIET) | EXECUTIVE CHEF | WARD HOUSEKEEPER | PORTER | DOMESTIC ASST | SECURITY OFFICER | SWITCHBOAR D OPERATOR | LINEN ROOM ASST | WASTE MANAGEMENT ASST | RECEPTIONIST | HELPPDESK OPERATOR | CAR PARKING ASST | ADMIN ASST |
|--|-----------------------------|---------------------|----------|-------------|-------------------|---------------------|----------|------------------|---------------------|--------------------------|--------------------|-----------------------------|--------------|-----------------------|---------------------|------------|
| Advanced Food Hygiene Certificate | | | | | 6 day | | | | | | | | | | | |
| HACCP (Hazard Analysis Critical Control Point) | 0 | 0 | 2 day | 2 day | 2 day | 0 | | | | | | | | | | |
| Equipment Specific Training | 1-3 days | 1-3 days | 1-3 days | 1-3 days | 1-3 days | 1-3 days | 1-3 days | 1-3 days | 1-3 days | 1-3 days | 1-3 days | 1-3 days | 1-3 days | 1-3 days | 1-3 days | 1-3 days |
| COSHH | ½ day | ½ day | ½ day | ½ day | ½ day | ½ day | | ½ day | ½ day | | | ½ day | | | | |
| First Aid Training | | | | | | | | | 5 days | | | | | | 5 days | |
| Microsoft Windows/Office Training | | | | | 1-3 days | | | | 1-3 days | 1-3 days | | | 1-3 days | 1-3 days | 1-3 days | 1-3 days |
| Transportation of Gas Cylinders | | | | | | | ½ day | | | | | | | | | |
| De-escalation Training | | | | | | | 3 days | | 0 | | | | 3 days | | 0 | |
| SIA Licensing | | | | | | | | | 5 days | | | | | | 5 days | |
| Infection Control | ½ day | | | | | ½ day | ½ day | ½ day | ½ day | | ½ day | ½ day | | | ½ day | |
| Disclosure Scotland | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ✓ |

| | |
|-----------------------|-------------------------|
| ADMIN ASST | |
| CAR PARKING ASST | |
| HELPEDESK OPERATOR | |
| RECEPTIONIST | |
| WASTE MANAGEMENT ASST | |
| LINEN ROOM ASST | |
| SWITCHBOARD OPERATOR | |
| SECURITY OFFICER | |
| DOMESTIC ASST | |
| PORTER | ½ day |
| WARD HOUSEKEEPER | |
| EXECUTIVE CHEF | |
| CHEF (DIET) | |
| CHEF | |
| STORES OPERATIVE | |
| GENERAL CATERING ASST | |
| | Safe Specimens Transfer |

Table 2: Core Competencies - Hard Services

| | Course identification number | | INTERNAL/ EXTERNAL/ PROVIDER | MANAGERS | SUPERVISORS | TECHNICIANS | ELECTRICAL CRAFTSPERSONS | MECHANICAL CRAFTSPERSONS | BUILDING CRAFTSPERSONS | MAINTENANCE ASSISTANTS | STORES OPERATIVE | ADMINISTRATORS |
|--|------------------------------|--|------------------------------------|----------|-------------|-------------|-----------------------------|-----------------------------|---------------------------|---------------------------|------------------|----------------|
| Violence and Aggression Awareness | N/A | | I | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Health and Safety Awareness Training | N/A | | I | 1day | 1day | 1day | 1day | 1day | 1day | 1day | 1day | 1day |
| Risk Assessment | N/A | | I | 2day | 2day | 2day | 2day | 2day | 2day | 2day | 1day | 1/2da |
| COSHH awareness | N/A | | I | 2day | 2day | 2day | 2day | 2day | 2day | 2day | 2day | 1/2da |
| First Aid 3days for AP/CP 1/2 day for others | | | E | | | 3day | 1/2-3day | 1/2-3day | 1/2day | 1/2day | | |
| Dual Fuel Boilers LTHW | ME17 | | E | | 10 days | 10 days | | 10 days | | | | |
| Confined Spaces AP | AP17 | | E/I | 1x5 | 2x5 | | | | | | | |
| Confined Spaces CP | SKP6 | | E/I | | | 3 days | 3 days | 3 days | 3 | 3 days | | |
| HV AP | AP1 | | E/I | 15 days | 15 days | | | | | | | |
| HV CP | ME19 | | E/I | | | 5 days | 5 days | | | | | |
| LV CP | AP5C | | E/I | | | 5 days | 5 days | | | | | |
| Management of Water Systems AP | BS 1+2 | | E | 2days | 2 days | | | | | | | |
| Management of Water Systems CP | BS2 | | E | | | 2 days | 2 days | 2 days | 2 days | 2 days | | |
| Medical Gas AP | EMGM | | E/I | 1x10 | 2x10 | | | | | | | |
| Medical Gas CP | EMGC | | E/I | | | 5 days | 5 days | 5 days | | | | |
| Pressure Systems AP | TURNER | | E/I | 1x10 | 2x10 | | | | | | | |
| Passenger Lift evacuation | N/A | | E | 1 day | 1 day | 1 day | 1 day | 1 day | 1 day | | | |
| Recognised trade Apprenticeship | N/A | | | | | ✓ | ✓ | ✓ | ✓ | | | |
| Working at Height / MEWP/ Ladders / Step Ladders | AP23 | | I/E | | | 2 days | 2 days | 2 days | 2 days | 2 days | 2 days | |
| Woodworking Regs | | | E | | | | | | 5days | | | |
| Current IEE wiring Regs / Electricity at Work | EMP-115D | | E | | 3 days | 3 days | 3 days | | | | | |
| Abrasive Wheels | | | E | | | 1 day | 1 day | 1 day | 1 day | 1 day | | |

| | Course identification number | | INTERNAL/ EXTERNAL PROVIDER | MANAGERS | SUPERVISORS | TECHNICIANS | ELECTRICAL CRAFTSPERSON S | MECHANICAL CRAFTSPERSON S | BUILDING CRAFTSPERSON S | MAINTENANCE ASSISTANTS | STORES OPERATIVE | ADMINISTRATORS |
|--|------------------------------------|--|-----------------------------------|----------|-------------|-------------|---------------------------------|---------------------------------|-------------------------------|---------------------------|---------------------|----------------|
| Portable Appliance Testing | EMP-PAT | | E | | | 1 day | 1 day | | | 1 day | | |
| Fixed Appliance Testing (under IEE training) | N/A | | | | ✓ | ✓ | ✓ | | | | | |
| Gas Safety Training Awareness | PERTH | | E | | | 3 days | | 3 days | | | | |
| Manual Handling Lifting Equipment | N/A | | I | | | 1/2 day | 1/2 | 1/2 day | 1/2 | 1/2 day | | |
| Work Equipment | N/A | | I | | ½ day | ½ day | ½ day | 1/2 day | ½ day | ½ day | ½ day | ½ day |
| Grounds Work equipment | N/A | | I/E | | | | | 1 day | | 1 day | | |
| Computer Aided Facilities Management System | N/A | | E | 10 days | 10 days | | | | | | 10 days | 10 |
| Work Related software applications | N/A | | I/E | 2 days | 2 days | 2 days | 2 days | 2 days | 2 days | 2 days | 2 days | 2 days |
| Bedpan Disposal Units | N/A | | I | | | ½ day | ½ day | ½ day | ½ day | 1/2 day | | |
| Ventilation and Air Conditioning in Healthcare | ENVS | | E | | 1 day | 1 day | 1 day | 1 day | | | | |
| Pneumatic Tube System | N/A | | E | 1 day | 1 day | 1 day | 1 day | 1 day | | | | |
| Auto Doors/Barriers | N/A | | E | | | ½ day | ½ day | 1/2 day | ½ day | | | |
| BMS | N/A | | E | 5 days | 5 days | 5 days | | | | | | |
| Boilers MTHW | N/A | | | | 0 | 0 | | 0 | | | | |
| Thermostatic Mixing Valves | N/A | | I | | | ½ day | ½ day | ½ day | ½ day | | | |
| Building Services | N/A | | I | | ½ day | ½ day | ½ day | ½ day | ½ day | ½ day | | |
| Chillers/Local DX Units | N/A | | E | | 1 day | 1 day | 1 day | 1 day | | | | |
| CHP | N/A | | | | 0 | 0 | | | | | | |
| Compressed Air/Vacuum | N/A | | | | 0 | 0 | | 0 | | | | |
| DHW and HTG Systems | N/A | | I | | ½ day | ½ day | ½ day | ½ day | | | | |
| Fire Detection and Alarm Systems | N/A | | E | | 2 days | 2 days | 2 days | 2 days | 2 days | 2 days | | |
| Generators | AP20 | | E | | 5 days | 5 days | | | | | | |
| HVAC Controls | N/A | | I/E | | ½ day | ½ day | ½ day | ½ day | | | | |

| | Course identification number | | INTERNAL/ EXTERNAL PROVIDER | MANAGERS | SUPERVISORS | TECHNICIANS | ELECTRICAL CRAFTSPERSONS | MECHANICAL CRAFTSPERSONS | BUILDING CRAFTSPERSONS | MAINTENANCE ASSISTANTS | STORES OPERATIVE | ADMINISTRATORS |
|---|------------------------------|--|-----------------------------------|----------|-------------|-------------|-----------------------------|-----------------------------|---------------------------|---------------------------|------------------|----------------|
| Hydropool | N/A | | | | | 0 | | 0 | 0 | 0 | | |
| Sanitary / Drainage / Grease Traps | N/A | | I | | | ½ day | | ½ day | ½ day | ½ day | | |
| Kitchen Equipment | N/A | | E | | ½ day | ½ day | ½ day | ½ | | | | |
| Lifts/Hoist/Gantry | N/A | | E | | ½ day | ½ day | ½ day | ½ day | ½ day | ½ day | | |
| Emergency Lighting | N/A | | I | | | | ½ day | | | ½ day | | |
| Medical gases / Air / VIE / AGSS | N/A | | | | 0 | 0 | 0 | 0 | | | | |
| Nurse Call/Bed Unit | N/A | | E | | 1 day | 1 day | 1 day | | | | | |
| Potable/Treated Water | N/A | | | 0 | 0 | 0 | 0 | 0 | | 0 | | |
| Refrigeration | N/A | | E | | 1 day | 1 day | 1 day | 1 day | | | | |
| Security Systems | N/A | | E | | ½ day | ½ day | ½ day | | | | | |
| Switchgear HV | N/A | | | 0 | 0 | 0 | | | | | | |
| Switchgear LV | N/A | | | 0 | 0 | 0 | 0 | | | | | |
| Utilities | N/A | | | | 0 | 0 | 0 | 0 | | 0 | | |
| Un-interruptible Power Supplies | N/A | | E | | ½ day | ½ day | ½ day | | | | | |
| Mechanical / Electrical Conversion Course | ME28 | | E | | | | | 5 days | | | | |
| Electrical / Mechanical Conversion Course | ME12 | | E | | | | 5 days | | | | | |
| Sterilisers / washer disinfectors | N/A | | I | | | 0 | | 0 | | | | |
| Telecommunication Systems | N/A | | E | | | ½ day | ½ day | | | | | |

Table 3: Core Competencies - Managers and Supervisors

| | MANAGERS | SUPERVISORS |
|--|----------|-------------|
| Generic | | |
| H&S Induction | 1/2day | 1/2day |
| Customer Care | 1/2day | 1/2day |
| ILM Introduction to Management – Course Content: Course Induction, Role of the Team Leader, Dealing with Conflict, Dealing with Change, Effective Communication, Planning & Organising Team Work, Motivating the Team Assessment and Associated Tutorial, Remediation/Support. | | 8days |
| Financial Awareness | 2 days | 1 day |
| HR Policy Training – Recruitment & Selection | ½ day | |
| Induction | ½ day | |
| Discipline & Grievance | ½ day | ½ day |
| Managing Sickness Absence | ½ day | ½ day |
| Job Specific | | |
| Interviewing Technique | ½ day | ½ day |

PART 38 OF THE SCHEDULE: TRANSITIONAL ARRANGEMENTS

APPENDIX B: Draft Job Descriptions

Job Title: ***Security Officer***

Responsible to: Team Leader (Security)

Job Description

To administer, enforce and enhance the Security service provided to all users of Forth Valley Larbert Hospital. In providing this service, to always project a professional image in both appearance and attitude.

Area of Responsibility

- Escorting and patrolling (with particular emphasis on 'hot spot' areas within the hospital).
- Ensuring all Security Daily Log Sheets are completed.
- To provide assistance in locating missing patients
- To patrol entire site.
- Ensuring operational procedures for CCTV are carried out.
- Ensuring that the correct uniform and PPE are worn.
- Providing assistance to the Front of House Manager and Security Team Leader.
- Respond to all emergency bleep, pager, alarms and radio calls.
- Provide assistance to the A & E Security team when requested.
- To report any Health and Safety hazards around the site as per the procedure.
- To follow correct procedures for fire alarms, and assist the Fire Service and the Estates Dept where necessary.
- Any other duties as may be reasonably required to meet the needs of the service

Person Specification

- Ability to prioritise tasks.
- Ability to use IT equipment and CCTV equipment.

- Experience in a people environment.
- Good interpersonal and communication skills.
- Able to use own initiative in problem solving on day to day issues.
- Keen to develop both own skills and knowledge and that of others.
- Live within an acceptable travelling time of the Hospital.
- Flexible attitude to working hours

Qualifications

- Fire Safety and procedures
- Basic IT knowledge and skills

Experience

No formal experience is required as all staff will undertake a range of compulsory training courses prior to and during employment to ensure maintenance of high quality standards.

Training

- Health and Safety
- Site Orientation and Corporate Induction
- Customer care
- Quality and customer service
- Project Co Values
- Personnel procedures
- Control and Restraint
- Violence and Aggression Training
- Fire Safety
- Personal Development Plan

Job Title: ***Ward Housekeeper***

Responsible to: Housekeeping Team Leader

Job Description

The Housekeeper will play a pivotal role in ensuring patient satisfaction in the hospital. Component parts of the role will include the delivery of cleaning, catering and housekeeping services to an agreed standard within clinical areas and departments.

Area of Responsibility

- Delivery of housekeeping, cleaning, catering and customer services to an agreed standard within agreed clinical areas and departments.
- Living the "patient plus" values
- Living the 'Serco Health values'
- Complete the housekeeping work methods as trained and instructed.
- Ensuring customer satisfaction.
- Effective communication with all levels of staff.
- Assisting and liaison with Housekeeping Team Leaders and Housekeepers.
- Complying with the Board's policies on Health & Safety, COSHH and other statutory legislation.
- Reporting on the facilities general condition and repair in terms of maintenance reporting and hazard analysis.

Person Specification

- Good communication skills.
- Shows initiative and self motivation.
- Awareness of service image.
- Physically fit for duty.
- Energetic.
- Friendly.
- Reliable.

- Prepared to work unsociable hours.
- Attention to detail.
- Flexible attitude to working times and methods.
- Live within an acceptable travelling time of the Hospital.
- Customer focus

Qualifications

- Numerate/literate.

Experience

No formal experience is required as all staff will undertake a range of compulsory training courses prior to and during employment to ensure maintenance of high quality standards.

Training

- Health and Safety
- Site Orientation and Corporate Induction
- Serco Values and Culture
- Customer care
- Fire Safety
- Personal Development Plan
- Customer Service – ‘ You Make the Difference’ and ‘All Feedback is Good’.

Job Title: ***Housekeeping Team Leader***

Responsible to: Customer Support Manager for Departments and Wards

Job Description

A key member of the Housekeeping Management Team, the Team Leader is a non-working member of staff managing a team of Housekeepers within a geographical zone. Team Leaders report directly to the Customer Support Manager and will deputise for them in their absence.

The Team Leader is responsible for the housekeeping service within the geographical zone and for all staff working within their area. The Team Leaders will interface with service users on a daily basis.

Area of Responsibility

- For the delivery of domestic support services an agreed standard within mainly clinical areas.
- Continuous improvements across domestic services
- Living the Patient Plus™ values
- Living the 'Serco Values'
- Customer satisfaction and relationship building.
- Effective communication with all levels of staff.
- To assist and liaise with Housekeeping Managers and Assistants.
- To control staff and monitor their performance to satisfy the cleaning standards specified.
- To ensure that all staff is aware of their roles and responsibilities.
- Control of absence levels to an acceptable level.
- Staff development and training requirements.
- To have knowledge of all current Hygiene, Health and Safety Legislation and that staff are fully inducted.
- Ensure compliance with the Board policies on Health & Safety, COSHH and other statutory legislation.
- To report on the facilities general condition and repair in terms of maintenance reporting and hazard analysis.

Person Specification

- Good communication skills.
- Awareness of service image.
- Physically fit for duty.
- Energetic.
- Friendly.
- Reliable.
- Accuracy and attention to detail.
- Ability to work to tight deadlines in a demanding environment.
- Knowledge of portering practices.
- Ability to motivate/influence team.
- Live within an acceptable travelling time of the Hospital.
- Customer focus

Qualifications

- BICS Training and Assessor Certificates
- Intermediate Food Hygiene Certification
- Health & Safety awareness training
- Fire Safety and procedures
- Quality and customer service
- Personnel procedures

Experience

- Minimum of 1 year's experience of managing teams of staff.
- Recruitment and selection of staff.
- Direct line management of staff.
- Experience in employment relations issues i.e. Disciplinary procedures, absence control

- Accuracy and attention to detail.
- Ability to work to tight deadlines in a demanding environment.
- Knowledge of cleaning practices.
- Ability to motivate/influence team.

Training

- Health and Safety
- Site Orientation and Corporate Induction
- Serco Values and Culture
- Customer care
- Fire Safety
- Personal Development Plan
- Customer Service – 'You Make the Difference' and 'All Feedback is Good'.

Job Title: ***Car Park Assistant***

Responsible to: Team Leader (Car Parking)

Job Description

To undertake the duties outlined in the car parking service and perform a variety of duties involved in the operation and maintenance of Forth valley Larbert Hospital car parks, related equipment and providing assistance to patient, visitors and staff as required. In providing this service, to always project a professional image in both appearance and attitude.

Area of Responsibility

- Inspect vehicles in parking spaces for appropriate parking permits and prepare parking violation tickets for non-registered or improperly parked vehicles.
- Inform Team Leader of equipment breakdown or adjustments required.
- Maintain work area in a clean and orderly condition; inform supervisor concerning replenishment of required materials and supplies.
- Perform other related duties incidental to the work described herein.
- Oversee the correct use of barrier systems
- Assist patients, visitors and staff of parking and general information requests
- Assist with litter removal in immediate area
- Perform security checks on parking spaces
- Perform parking checks on emergency routes
- Ensuring that the correct uniform and PPE are worn.
- Providing assistance to the Front of House Manager and Team Leader.
- Respond to all emergency bleep, pager, alarms and radio calls.
- Liaise with emergency services as required.
- To follow correct procedures for fire alarms, and assist the Fire Service and the Estates Dept where necessary.
- Any other duties as may be reasonably required to meet the needs of the service

Person Specification

- Helpful, courteous and friendly manner and attitude.
- Understand, enforce and clearly explain local and NHS Forth Valley Parking Policies
- Greet visitors, respond to inquires and give directions
- Follow written and verbal instructions
- Maintain accurate records
- Act in a courteous manner when dealing with the public and with fellow employees
- Able to use own initiative in problem solving on day to day issues.
- Keen to develop both own skills and knowledge and that of others.
- Flexible attitude to working hours

Qualifications

- Basic IT knowledge and skills
- Customer care skills and knowledge

Experience

No formal experience is required as all staff will undertake a range of compulsory training courses prior to and during employment to ensure maintenance of high quality standards.

Training

- Health and Safety
- Site Orientation and Corporate Induction
- Customer care
- Quality and customer service
- Project Co Values
- Personnel procedures
- Emergency procedures

- Fire Safety
- Personal Development Plan

Job Title ***Technician***

Responsible to Maintenance Supervisor

Person Specification

A skilled technical person who will be able to carry out planned maintenance tasks and reactive repairs.

Qualifications

Completion of either a recognised or registered EITB or CITB apprenticeship, or other approved training of at least 4 years duration

Job Summary

To carry out specialist technical and non-technical work as deemed appropriate to the continuing maintenance function of this Unit and its associated properties and to assist the Maintenance Supervisor over the full range of his duties.

JOB DESCRIPTION

- (a) To assist the Maintenance Supervisor in the technical leadership and work co-ordination and to efficiently and effectively organise resources i.e. labour, transport and materials (including requisitions, Supplies, deployment and energy)
- (b) Actively promote co-operation and versatility.
- (c) Ensure acceptable standards of productivity and workmanship in the execution of standards of work.
- (d) Technical Supervision of maintenance and scheme work as required.
- (e) Keep and maintain such plans and records as appropriate.
- (f) Observe statutory and other relevant requirements, in particular, those related to Health and Safety.
- (g) Fulfil requirements relating to the training and instruction of Craftsmen and others as necessary.
- (h) Refer, report to and liaise with immediate supervisor and other disciplines to ensure co-ordination of work.
- (i) Participate in maintaining the on-call system.
- (j) Carry out duties detailed in the N.H.S. Handbook APP.1 Part 1. (copy attached).

- (k) Support Maintenance staff as required with technical assistance and guidance.
- (l) Assist with the updating and implementation of PPM systems in consultation with Estates Officers.
- (m) To 'act up' as Supervisor to control and manage the Works Staff as required to cover holidays, sickness, etc.
- (n) To actively participate in the maintenance of the Building Management System.
- (o) Take specific responsibility for the main boiler house and shift manning (statutory testing, Health and Safety repairs and maintenance).
- (p) Assist in the commissioning and maintenance of the mechanical and electrical services to any new building development to the hospital.
- (q) Be fully conversant with and understand the complete working of the mechanical, electrical and electronic systems in N.H.S building particularly as they relate to this unit i.e. sterilisation, lifts, refrigeration, boiler plant and steam utilisation, air conditioning fire alarm systems, computer systems, control theory, practical and application.

General Notes

The job description is in general terms and the employee is expected to undertake all other tasks as reasonably required by the Contract Manager

Health & Safety

The post holder will be responsible for all appropriate health, safety and welfare matters affecting staff in or attached to their area of work responsibility. This will include safe systems of work, training and safety inspections

Bid Submission Job Descriptions

Central Support Manager – (Central Support Services/ Front of House)

Porter

Portering Team Leader

Portering Manager

General Assistant (kitchen, Retail, Vending, Hospitality)

Team Leader

Chef

Executive Chef

Store Operative

Commercial Manager

Linen Room Assistant

Waste Management Assistant

Portering Team Leader

Security Team Leader

Estates Manager

Customer Support Manager

Housekeeping Team Leader

Domestic Assistant

Security Officer

Domestic Team Leader

Maintenance Manager

Technical Manager

Maintenance Officer

Maintenance Craftsperson Electrical

Maintenance Craftsperson Mechanical

Maintenance Assistant

The Board confirms where Qualifications are identified in the Job Descriptions the Board will only provide training as identified within the Training Matrix. Where Transferring Employees can demonstrate equivalent/relevant experience in agreement with Project Co this can replace qualifications.

Job Title: Central Support Manager – (Central Support Services/ Front of House)

Responsible to: Contract Director

Job Description:

The Central Support Manager will manage the delivery of support services (i.e. domestic, catering, porters and logistics) to an agreed standard. Responsibilities include the development and promotion of integrated working styles. Customer relationship building at all levels is pivotal in this role.

Area of Responsibility:

- Assuming responsibility for the Catering and Domestic Services operations to ensure contract service compliance in accordance with efficient and effective service delivery.
- Managing the budget in line with set expenditure and draw up contingency plans to deal with projected overspends.
- Monitor key performance indicators and agree improvement plans within an agreed timescale where these fall below set standards.
- Producing the annual business plan for Catering and Domestic Services operations identifying new business opportunities within the contract and negotiate the proposals with the NHS Forth Valley authorised officer where additional funding is required.
- Liaising with customers and senior managers of the NHS Forth Valley to ensure the agreed level of service is being delivered to the standards required.
- Ensuring all staff are trained to the required standard to carry out their duties.
- Living the "Serco values".
- Establishing and reviewing working procedures within each area to ensure the requirement of the Health and Safety at Work Regulations 1974 and food hygiene regulations are adhered to.
- Investigating client complaints and providing written reports to the Contract Director and the client with recommendations for remedial action, if required.
- Authorising the purchase and procurement of materials and supplies and ensuring that the cost, quality and wastage of products and materials are monitored on a regular basis.

- Ensuring that arrangements are in place to respond to out of hours service issues reported by the customer in a timely manner.
- Reviewing and amending annual service and personal objectives with Catering and Domestic Services operational managers and ensuring that all staff undergo an annual appraisal.

Person Specification:

- Able to understand and analyse data.
- Excellent interpersonal and communication skills.
- Able to use own initiative in problem solving on day to day issues.
- Receptive to change.
- Self-motivated and ability to motivate others.
- Confident and have a helpful nature
- Flexible attitude to work.
- Confidentiality.
- Be a good team manager and work well as part of that team.
- Keen to develop both own skills and knowledge and that of others.
- Keen to develop new opportunities.
- Ability to empathise with all customers understanding their special needs, and be able to work effectively and positively in an environment that requires a high level of morale and good working atmosphere.
- Live within an acceptable travelling time of the Hospital.
- Able to work additional hours when required in line with Board Policies

Qualifications:

- HND/Degree in catering or retail related subject.
- NVQ Level 2 or 3 in relevant subject of Health and Safety / Manual handling. (lifting)
- Advanced Certificate in Food Hygiene
- Basic Certificate in Health and Safety NVQ Level 2 in supervisory management.

- IT literate – Microsoft Office
- Formal training in Industry
- Knowledge or use of Microsoft Project and PowerPoint

Experience:

- Minimum of three years catering experience preferably in healthcare and /or contract sectors.
- Successful track record of green field site.
- High quality food service, including appropriate controls of financial processes, and the ability to apply very high standards in these areas.
- Understanding of Customer Care and experience of managing the client relationship.
- Two years' practical experience of retail catering.
- Knowledge and understanding of the retail sector.
- Management of a team of 50 staff.
- Demonstrate knowledge of safe use of equipment and systems following guidelines of Hazard Analysis Critical Control Points.
- Practical experience of quality audits in to ensure client / customer satisfaction.
- Experience in a People environment.
- Training:
 - Health and Safety
 - Site Orientation and Corporate Induction
 - Fire Safety
 - Personal Development Plan
 - Customer Service – ' You Make the Difference' and 'All Feedback is Good'.

Job Title: **Porter**

Responsible to: Portering Team Leader

Job Description:

A porter and operative is a dedicated member of staff working within an assigned department or area. The porter and operatives will deliver the operational requirements and is considered to be an integral member of the service user team. They will liaise with service users to maintain the portering, post, logistics and waste collection service to all departments. Porters and operatives report directly to the Team Leaders.

Area of Responsibility:

- Will be expected to multi skill across all logistic services. However we do recognise that some personnel will be better adapted to certain roles and will use the team to their best skills and abilities.
- Living the 'Serco Values'
- Operating and responding to the task system and radios or DECT phones.
- Using the helpdesk system or similar to record service user tasks.
- Supporting the Security team.
- Responding to fire alarm calls.
- Drive electric vehicles after training and certification
- Work as a team member and promote a healthy team spirit
- Will be required to work on own initiative at times
- The transportation of patients and or objects from and to wards and departments.
- The transportation, handling and changing of medical gas cylinders.
- The transportation of deceased patients from the wards and departments to the mortuary.
- The transportation and handling of specimens and blood products to and from wards and departments.
- Delivery and collection of pharmacy charts and products.
- Answering the telephone and recording tasks.

- Receive, sort and deliver all types of products
- Keeping the systems up to date
- Ensuring items ordered by departments are received when required
- Collect and receive, sort and store all types of waste
- Ensure that all waste is disposed of in a safe and correct manner
- Maintain all equipment and report all defects to your line manager
- Wash wheeled bins as required
- Keep a daily pre-shift electric vehicle inspection sheet
- PPE will be issued and must be worn whilst carrying out waste disposal duties
- Work within Health & Safety and the NHS Forth Valleys Waste Policy guidelines

Person Specification:

- Good communication skills.
- Shows initiative and self motivation.
- Awareness of service image.
- Physically fit for role
- Energetic.
- Friendly.
- Reliable.
- Prepared to work unsociable hours.
- Attention to detail.
- Flexible attitude to working times and methods.
- Customer focus

Qualifications:

- Numerate/literate.

Experience:

No formal experience is required as all staff will undertake a range of compulsory training courses prior to and during employment to ensure maintenance of high quality standards.

Training:

- Health and Safety
- Site Orientation and Corporate Induction
- Customer care
- Serco Values
- Fire Safety
- Personal Development Plan
- Customer Service – ‘ You Make the Difference’ and ‘All Feedback is Good’.

Job Title: **Portering Team Leader**

Responsible to: Portering Manager

Job Description:

A key member of the Logistics Services Team and is a working member of staff managing a team of operatives and allocating tasks. Team Leaders report directly to the Portering and Logistics Manager.

Team Leaders will interface with service users on a daily basis.

Area of Responsibility:

- For the delivery of portering support services to an agreed standard and time frames within all departments.
- Customer satisfaction and relationship building.
- Continuous improvements across logistics services
- Living the 'Serco Values'
- Effective communication with all levels of staff.
- To assist and liaise with Portering and Logistic Manager.
- To control staff and monitor their performance to satisfy the portering standards specified.
- To ensure that all staff is aware of their roles and responsibilities.
- Control of absence levels to an acceptable level.
- Staff development and training requirements.
- To have knowledge of all current Hygiene, Health and Safety Legislation and that staff are fully inducted.
- Ensure compliance with the FORTH VALLEY policies on Health & Safety, portering associated procedures and other statutory legislation.

Person Specification:

- Good communication skills.
- Awareness of service image.
- Physically fit for role

- Energetic.
- Friendly.
- Reliable.
- Accuracy and attention to detail.
- Ability to work to tight deadlines in a demanding environment.
- Knowledge of portering practices.
- Ability to motivate/influence team.
- Customer focus

Qualifications:

- Good standard of general education.
- Good understanding of Health and Safety.
- Medical Gas Handling
- E and A current driving licence
- Portering Service Standards
- Patient Privacy and Dignity procedures
- Violence and Aggression Training
- IT literate – Microsoft Word, Excel & Outlook.
- NVQ Level 2 or 3 in relevant subject of Health and Safety/manual handling (lifting).
- Numerate and Literate

Experience:

- Minimum of 1 year's experience of managing teams of staff.
- Recruitment and selection of staff.
- Direct line management of staff.
- Experience in employment relations issues

Training:

- Health and Safety
- Site Orientation and Corporate Induction
- Customer care
- Serco Values
- Fire Safety
- Personal Development Plan
- Customer Service – ‘ You Make the Difference’ and ‘All Feedback is Good’

Job Title: **Portering Manager**

Responsible to: Central Support Manager – Central Support Services

Job Description:

The Portering Manager is responsible for the provision of the portering, waste, post and receipts & distribution services within all departments of the hospital the Portering and Logistics Manager will have devolved budget responsibility and will be accountable for all staff issues within their area. The Portering and Logistics Manager will interface with service users on a regular basis and meet formally with the appropriate NHS Forth Valley personnel at agreed frequencies.

A key member of the Logistics Services Team, the Portering Manager will provide the essential interface to ensure customer needs are met and problems resolved

Area of Responsibility:

- For the delivery of portering and associated services an agreed standard within all areas.
- Customer satisfaction and relationship building.
- Continuous improvements across logistics services
- Living the 'Serco Values'
- To review the service strategy on an ongoing basis.
- To manage, interpret and analyse budgets and exercise cost control.
- Managing a business plan and identifying cost improvements.
- Effective communication with all levels of staff.
- To assist and liaise with Team Leaders.
- To control staff and monitor their performance to satisfy business needs.
- To ensure that all staff is aware of their roles and responsibilities.
- Control of absence levels to an acceptable level.
- Staff development and training requirements.
- Implementation of policies and procedures.
- To be fully conversant with all current Hygiene, Health and Safety Legislation and that staff are fully inducted.

- Ensure compliance with the FORTH VALLEY policies on Health & Safety, portering associated procedures and other statutory legislation.
- Develop systems and procedures to ensure the accurate recording of service issues and prepare customer service reports.

Person Specification:

- Understanding of customer care and experience of managing the client relationship. Preferably including time within a Healthcare environment.
- Demonstrate knowledge of safe use of equipment.
- Experience in a people environment.
- Good interpersonal and communication skills.
- Able to use own initiative in problem solving on day to day issues.
- Self-motivated and ability to motivate others.
- Be a good team leader and work well as part of that team.
- Keen to develop both own skills and knowledge and that of others.
- Flexible attitude to working hours

Qualifications:

- Portering Service Standards
- Risk management
- Health & Safety Training
- Manual Handling
- Patient Privacy and Dignity procedures
- Violence and Aggression Training
- Medical Gas handling
- Fire Safety and procedures

Experience:

- Minimum of 3 years experience within a large complex service organisation.
- Recruitment and selection of staff.

- Direct line management of staff.
- Experience in employment relations issues i.e. Disciplinary procedures, absence control etc.
- Accuracy and attention to detail.
- IT skills.
- Ability to work to tight deadlines in a demanding environment.
- Knowledge of portering practices.
- Effectively interface with Trade Unions.

Training:

- Health and Safety
- Site Orientation and Corporate Induction
- Customer care
- Quality and customer service
- Serco Values
- Personnel procedures
- Fire Safety
- Personal Development Plan
- Customer Service – ‘You Make the Difference’ and ‘All Feedback is Good’.

Job Title: **General Assistant (kitchen, Retail, Vending, Hospitality)**

Responsible to: Appropriate Team Leader

Job Description:

The role of General Assistant will be to assist the Chef and Chef Team Leader in the preparation, production, serving and clean-up of patient catering and the operations varying retail outlets.

Area of Responsibility:

- For the delivery of catering services to an agreed standard within the restaurant.
- Customer satisfaction and relationship building.
- Living the 'Serco Values'
- To assist and liaise with Chefs/ Team Leaders and other General Assistants.
- Implementation of policies and procedures.
- To be fully conversant with all current Hygiene, Health and Safety Legislation and that staff are fully inducted.
- Ensure compliance with the NHS Forth Valley policies on Health & Safety associated procedures and other statutory legislation.

Person Specification:

- Good communication skills.
- Shows initiative and self motivation.
- Awareness of service image.
- Energetic.
- Friendly.
- Reliable.
- Prepared to work unsociable hours.
- Attention to detail.
- Flexible attitude to working times and methods.
- Customer focus

Qualifications:

- NVQ Level 1 or 2 in relevant experience.
- Basic food hygiene certificate desirable

Experience:

No formal experience is required as all staff will undertake a range of compulsory training courses prior to commencing live operations and during employment to ensure maintenance of high quality standards.

Training:

- Basic Food Hygiene Certificate
- BICs Certificate in Cleaning Food Premises.
- Health and Safety
- Site Orientation and Corporate Induction
- Fire Safety
- Personal Development Plan
- Customer Service – ‘You Make the Difference’ and ‘All Feedback is Good’.

Job Title: **Team Leader**

Responsible to: Commercial Manager

Job Description:

The role of the Team Leader will be as an operational supervisory role, ensuring the smooth running of the various retail catering facilities within the catering operation.

Area of Responsibility:

- For the delivery of catering services to an agreed standard within the restaurant.
- Living the 'Serco Values'
- Effective communication with all levels of staff.
- To assist and liaise with other team leaders and General Assistants.
- To control staff and monitor their performance to satisfy business needs.
- To ensure that all staff are aware of their roles and responsibilities.
- Control of absence levels to an acceptable level.
- Staff development and training requirements.
- Implementation of policies and procedures.
- To be aware of current Health and Safety Legislation.

Person Specification:

- Good communication skills.
- Able to undertake basic arithmetical analysis
- Understanding of customer care.
- Experience of their role in managing the client relationship.
- Demonstrate knowledge of safe use of equipment.
- Experience in a people environment.
- Good communication skills.
- Good people manager.
- Leads by example.

- Shows initiative and self-motivation.
- Has the ability to use coaching skills.
- Attention to detail.

Qualifications:

- Good standard of general education.
- Certificate in NEBSM or SNVQ Equivalent
- Intermediate Certificate in Food Hygiene.
- City & Guilds 706/1 & 2, or NVQ Level 2 in craft cookery.
- NVQ Level 2 or 3 in relevant subject of Health and Safety/manual handling (lifting

Experience:

- Five years' experience of catering and/or retail service within a commercial contract
- Management of a team of at least 15 staff.
- Understanding of customer care and experience of managing the client relationship.
- IT literate – Microsoft Word, Excel & Outlook

Training:

- Craft Trainer Award
- Basic Food Hygiene Certificate
- BICs Certificate in Cleaning Food Premises.
- Health and Safety
- Site Orientation and Corporate Induction
- Fire Safety
- Personal Development Plan
- Customer Service – 'You Make the Difference' and 'All Feedback is Good'.

Job Title: **Chef**

Responsible to: Chef Team Leader

Job Description:

The role of the Chef will be to ensure the preparation, production, serving and clean-up of high quality patient catering and operations varying retail outlets.

Area of Responsibility:

- For the preparation, production and serving of high quality catering offerings to both patient catering and retail catering operations.
- Living the 'Serco Values'
- Effective communication with all levels of staff.
- To assist and liaise with other Chefs and General Assistants..
- Implementation of policies and procedures.
- To be aware of Health and Safety Legislation and ensure compliance with the NHS Forth Valley policies.

Person Specification:

- Understanding of customer care and experience of managing the client relationship. Preferably including time within a Healthcare environment.
- Demonstrate knowledge of safe use of equipment.
- Experience in a people environment.
- Good interpersonal and communication skills.
- Able to use own initiative in problem solving on day to day issues.
- Able to understand and analyse cost data.
- Self-motivated and ability to motivate others.
- Confident and have a helpful nature
- Flexible attitude to work.
- Understand the requirement for confidentiality.
- Work well as part of a team.

- Keen to develop both own skills and knowledge and that of others.
- Ability to empathise with all 'customers', understand their special needs, and be able to work effectively and positively in an environment that requires a high level of morale.

Qualifications:

- Good standard of general education.
- Intermediate Certificate in Food Hygiene.
- City & Guilds 706/1 & 2, or NVQ Level 2 in craft cookery.
- NVQ Level 2 or 3 in relevant subject of Health and Safety/manual handling (lifting)

Experience:

- Three years' experience of food production preferably in a healthcare environment
- Understanding of customer care and experience of managing the client relationship.
- Experience in Special Diet Preparation combined with a knowledge & Understanding of Nutrition / Diets.
- IT literate desirable

Training:

- Basic Food Hygiene Certificate
- BICs Certificate in Cleaning Food Premises.
- Health and Safety
- Site Orientation and Corporate Induction
- Fire Safety
- Personal Development Plan
- Customer Service – 'You Make the Difference' and 'All Feedback is Good'.

Job Title: **Executive Chef**

Responsible to: Central Support Manager – Central Support Services

Job Description:

The role of Executive Chef will manage the full range of procurement, production and presentation and delivery of both catering operations throughout the hospital site.

Area of Responsibility:

- Assuming responsibility for the entire Catering Services operation to ensure contract service compliance in accordance with efficient and effective service delivery.
- Responsible for a high quality patient catering operation from procurement to presentation at the patients' bedside.
- Assuming responsibility for food quality within the retail catering environment.
- Managing the budget in line with set expenditure and draw up contingency plans to remedy any projected overspends.
- Monitor key performance indicators within catering and agree improvement plans within an agreed timescale where these fall below set standards.
- In conjunction with the Commercial Manager, producing the annual business plan for Catering Services operations, identifying new business opportunities.
- Liaising with customers and senior managers of the NHS Forth Valley to ensure the agreed level of service is being delivered to the standards required.
- Ensuring all staff are trained to the required standard to carry out their duties.
- Living the "Serco values".
- Establishing and reviewing working procedures within each area to ensure the requirement of the Health and Safety at Work Regulations 1974 and any other relevant legislation and regulations are adhered to.
- Investigating client complaints and providing written reports to the Contract Director and the client with recommendations for remedial action, if required.
- Authorising the purchase and procurement of catering supplies and ensuring that the cost, quality and wastage of products and materials are monitored on a regular basis.

- Ensuring that arrangements are in place to respond to out of hours service issues reported by the customer in a timely manner.
- Reviewing and amending annual service and personal objectives with Catering Services operational managers and ensuring that all staff undergo an annual appraisal.

Person Specification:

- Able to understand and analyse data.
- Excellent interpersonal and communication skills.
- Able to use own initiative in problem solving on day to day issues.
- Receptive to change.
- Self-motivated and ability to motivate others.
- Confident and have a helpful nature
- Flexible attitude to work.
- Understand the requirement for Confidentiality.
- Be a good team manager and work well as part of that team.
- Keen to develop both own skills and knowledge and that of others.
- Keen to develop new opportunities.
- Ability to empathise with all customers understanding their special needs, and be able to work effectively and positively in an environment that requires a high level of morale and good working atmosphere.
- Able to work additional hours when required.

Qualifications:

- HND/Degree or equivalent catering or retail related subject.
- NVQ Level 2 or 3 in relevant subject of Health and Safety / Manual handling. (lifting)
- Advanced Certificate in Food Hygiene

Experience:

- Minimum of three years catering experience preferably in healthcare and /or contract sectors.
- High quality food service, including appropriate controls of financial processes, and the ability to apply very high standards in these areas.
- Understanding of Customer Care and experience of managing the client relationship.
- Two years' practical experience of retail catering with a good knowledge and understanding of the retail sector.
- Management of a team of 50 staff.
- Demonstrate knowledge of safe use of equipment and systems following guidelines of Hazard Analysis Critical Control Points.
- Practical experience of quality audits in to ensure client / customer satisfaction.
- Experience in a People environment.
- IT literate – Microsoft Office and knowledge or use of Microsoft Project and PowerPoint

Job Title: **Store Operative**

Responsible to: Chef Team Leader

Job Description:

The role of the Stores Operative will be to ensure the correct receipt, storage and distribution of the catering supplies.

Area of Responsibility:

- Correct receipt, storage and distribution of all catering supplies.
- Monitoring of all deliveries to ensure temperature, quality and suitability
- Safe handling and storage of fresh and frozen foodstuffs
- Accurate stock record keeping
- Accurate records of ward issues and kitchen/retail supplies
- Cleanliness of the food delivery and storage areas

Person Specification:

- Good communication skills.
- Shows initiative and self motivation.
- Energetic.
- Friendly.
- Reliable.
- Attention to detail.
- Flexible attitude to working times and methods. .
- Customer focus

Qualifications:

- Basic food hygiene certificate desirable

Experience:

No formal experience is required as all staff will undertake a range of compulsory training courses prior to commencing live operations and during employment to ensure maintenance of high quality standards.

Training:

- Basic Food Hygiene Certificate
- BICs Certificate in Cleaning Food Premises.
- Health and Safety
- Site Orientation and Corporate Induction
- Fire Safety
- Personal Development Plan
- Customer Service – ‘ You Make the Difference’ and ‘All Feedback is Good’.

Job Title: **Commercial Manager**

Responsible to: Central Support Manager – Central Support Services

Job Description:

The role of the Commercial Manager will be to establish a well and commercial retail catering operation in line with high-street best practice.

Area of Responsibility:

- Assuming responsibility for Retail Catering Services operation to ensure contract service compliance in accordance with efficient and effective service delivery.
- Assuming responsibility for meeting agreed performance standards within the retail catering environment.
- Managing the budget in line with set expenditure and draw up contingency plans to deal with projected overspends.
- Monitor key performance indicators within catering and agree improvement plans within an agreed timescale where these fall below set standards.
- In conjunction with the Executive Chef, producing the annual business plan for Retail Catering Services operations, identifying new business opportunities.
- Liaising with customers and senior managers of the NHS Forth Valley to ensure the agreed level of service is being delivered to the standards required.
- Ensuring all staff are trained to the required standard to carry out their duties.
- Living the "Serco values".
- Establishing and reviewing working procedures within each area to ensure the requirement of the Health and Safety at Work Regulations 1974 and food hygiene regulations are adhered to.
- Investigating client complaints and providing written reports to the Contract Director and the client with recommendations for remedial action, if required.
- Authorising the purchase and procurement of catering supplies and ensuring that the cost, quality and wastage of products and materials are monitored on a regular basis.
- Ensuring that arrangements are in place to respond to out of hours service issues reported by the customer in a timely manner.

- Reviewing and amending annual service and personal objectives with Catering Services operational managers and ensuring that all staff undergo an annual appraisal.

Person Specification:

- Able to understand and analyse cost data, particularly cost of sales/gross profits.
- Good interpersonal and communication skills.
- Able to use own initiative in problem solving on day to day issues.
- Self-motivated and ability to motivate others.
- Confident and have a helpful nature
- Confidentiality.
- Be a good team manager and work well as part of that team.
- Keen to develop both own skills and knowledge and that of others.
- Keen to develop new opportunities.
- Ability to empathise with all customers understanding their special needs, and be able to work effectively and positively in an environment that requires a high level of morale and good working atmosphere.
- Live within an acceptable travelling time of the Hospital.

Qualifications:

- HND/Degree in catering/ marketing and merchandising or retail related subject.
- Relevant experience in Contract Catering .
- Intermediate Certificate in Food Hygiene.
- IT literate – Microsoft Office
- Formal training in Industry
- Knowledge and understanding of the retail sector.
- Knowledge or use of Microsoft Project and PowerPoint

Experience:

- Minimum of three years catering experience preferably in healthcare and /or contract sectors.
- High quality food service, including appropriate controls of financial processes, and the ability to apply very high standards in these areas.
- Understanding of Customer Care and experience of managing the client relationship. Two years' practical experience of retail catering.
- Knowledge and understanding of the retail sector.
- Management of a team of 50 staff.
- Demonstrate knowledge of safe use of equipment and systems following guidelines of Hazard Analysis Critical Control Points.
- Practical experience of quality audits in to ensure client / customer satisfaction.
- Experience in a People environment.

Training:

- Health and Safety
- Site Orientation and Corporate Induction
- Fire Safety
- Personal Development Plan
- Customer Service – ' You Make the Difference' and 'All Feedback is Good'.

Job Title: **Linen Room Assistant**

Responsible to: Porterage Manager

Job Description:

The role of the Linen Room Assistant will be to prepare bulk deliveries from the linen supplier for delivery to the ward, ensuring quality standards and stock levels are maintained.

Area of Responsibility:

- Living the 'Serco Values'
- To check and sort the delivery of linen from the laundry for quality and repairs before preparing trolleys for delivery by the logistics team.
- To assess the daily linen requirements for all wards/departments in your care to ensure that agreed stock levels are maintained.
- Interface with the linen supplier to ensure that stock levels are maintained at the agreed standard and the logistics department to ensure timeous delivery.
- To complete and maintain accurate paperwork for the wards/departments in your care.
- To ensure emergency linen requests from any ward/department within normal working hours are supplied within 30 minutes.
- Any other duties which may be assigned by the Porterage and Logistics Team Leader

Person Specification:

- Good communication skills.
- Shows initiative and self motivation.
- Awareness of service image.
- Character physically fit for manual work - no back/leg or feet problems.
- Energetic.
- Friendly.
- Reliable.
- Prepared to work unsociable hours.

- Attention to detail.
- Flexible attitude to working times and methods.
- Live within an acceptable travelling time of the Hospital.
- Customer focus

Qualifications:

- Numerate/literate.

Experience:

No formal experience is required as all staff will undertake a range of compulsory training courses prior to and during employment to ensure maintenance of high quality standards.

Training:

- Health and Safety
- Site Orientation and Corporate Induction
- Fire Safety
- Personal Development Plan
- Customer Service – ‘You Make the Difference’ and ‘All Feedback is Good’.

Job Title: **Waste Management Assistant**

Responsible to: Porterage Manager

Job Description:

The role will support the Environmental Manager in providing day to day management of the waste solution on site, ensuring that waste processes are in line with current waste legislation and containers being timeously removed from clinical areas and departments.

Area of Responsibility:

- To liaise with contractors and undertake basic monitoring to be sure of value for money
- To monitor the robotic waste removal solution and ensure that quality standards are being met.
- Running of the waste compound to ensure health and safety requirements are met.
- Power washing of waste containers and cleaning of disposal holds where required.

Person Specification:

- To have a clear understanding of Receiving and Collecting Waste, Sorting and Storing waste, Safe and Correct Disposal to Protect Employee's, Contractor's, the Public and the Environment
- To understand Health and Safety Matters and ensure that all Documentation is Correctly Recorded
- To fully understand the Requirements of The NHS Forth Valleys Waste Policy
- To have an understanding of current Legislation including the Controlled Waste Regulations, The Carriage of Dangerous Goods Act (classification, Packaging and Labelling), D.O.E. Waste Management – Duty of Care Code of Practice
- Will need to have a good IT skills

Qualifications:

- Good communication skills.
- Shows initiative and self motivation.
- Awareness of service image.

- Character
- Physically fit for role
- Energetic.
- Friendly.
- Reliable.
- Prepared to work unsociable hours.
- Attention to detail.
- Flexible attitude to working times and methods.
- Live within an acceptable travelling time of the Hospital.
- Customer Focus

Experience:

No formal experience is required as all staff will undertake a range of compulsory training courses prior to and during employment to ensure maintenance of high quality standards.

Training:

- Health and Safety
- Site Orientation and Corporate Induction
- Fire Safety
- Personal Development Plan
- Customer Service – ‘You Make the Difference’ and ‘All Feedback is Good’.

Job Title: **Portering Team Leader**

Responsible to: Portering Manager

Job Description:

A key member of the Logistics Services Team and is a working member of staff managing a team of operatives and allocating tasks. Team Leaders report directly to the Portering and Logistics Manager.

Team Leaders will interface with service users on a daily basis.

Area of Responsibility:

- For the delivery of portering support services to an agreed standard and time frames within all departments.
- Customer satisfaction and relationship building.
- Continuous improvements across logistics services
- Living the 'Serco Values'
- Effective communication with all levels of staff.
- To assist and liaise with Portering and Logistic Manager.
- To control staff and monitor their performance to satisfy the portering standards specified.
- To ensure that all staff is aware of their roles and responsibilities.
- Control of absence levels to an acceptable level.
- Staff development and training requirements.
- To have knowledge of all current Hygiene, Health and Safety Legislation and that staff are fully inducted.
- Ensure compliance with the FORTH VALLEY policies on Health & Safety, portering associated procedures and other statutory legislation.

Person Specification:

- Good communication skills.
- Awareness of service image.
- Physically fit for role

- Energetic.
- Friendly.
- Reliable.
- Prepared to work unsociable hours.
- Accuracy and attention to detail.
- Ability to work to tight deadlines in a demanding environment.
- Knowledge of portering practices.
- Ability to motivate/influence team.
- Customer focus

Qualifications:

- Good standard of general education.
- Good understanding of Health and Safety.
- Medical Gas Handling
- Current driving licence
- Portering Service Standards
- Patient Privacy and Dignity procedures
- Violence and Aggression Training
- IT literate – Microsoft Word, Excel & Outlook.
- NVQ Level 2 or 3 in relevant subject of Health and Safety/manual handling (lifting).
- Numerate and Literate

Experience:

- Minimum of 1 year's experience of managing teams of staff.
- Recruitment and selection of staff.
- Direct line management of staff.
- Experience in employment relations issues

Training:

- Health and Safety
- Site Orientation and Corporate Induction
- Customer care
- Serco Values
- Fire Safety
- Personal Development Plan
- Customer Service – ‘ You Make the Difference’ and ‘All Feedback is Good’

Job Title: **Security Team Leader**

Responsible to: Security Manager

Job Description:

To manage security operational services. To liaise with all Managers and Team Leaders across the contract. In providing this service, to always project a professional image in both appearance and attitude.

Area of Responsibility:

- Escorting and patrolling (with particular emphasis on 'hot spot' areas within the hospital).
- Issuing work instructions to all Security personnel.
- Managing holidays, sickness, and absence cover, completing timesheets, holiday forms and inputting information into the personnel system.
- Providing the Security Manager with Security monitoring reports.
- To ensure all Security staff are trained.
- Ensuring all Security Daily Log Sheets are completed.
- Ensuring operational procedures for CCTV are carried out.
- Ensuring all staff wear the correct uniform and PPE.
- Providing assistance to the Security Manager.
- Any other duties as may reasonably be required to meet the needs of the service

Person Specification:

- Previous Management and Security experience essential.
- Ability to prioritise tasks against agreed criteria.
- Ability to solve problems, manage staff, manage budget within set guidelines.
- Ability to use IT equipment and CCTV equipment.
- Experience in a people environment.
- Good interpersonal and communication skills.
- Able to use own initiative in problem solving on day to day issues.

- Self-motivated and ability to motivate others.
- Keen to develop both own skills and knowledge and that of others.
- Live within an acceptable travelling time of the Hospital.
- Flexible attitude to working hours

Qualifications:

- Risk management
- Health & Safety Training
- Patient Privacy and Dignity procedures
- Control and Restraint (where appropriate)
- Violence and Aggression Training
- Fire Safety and procedures

Experience:

- Recruitment and selection of staff.
- Direct line management of staff.
- Experience in employment relations issues i.e. Disciplinary procedures, absence control etc.
- Accuracy and attention to detail.
- IT skills.
- Ability to work to tight deadlines in a demanding environment.
- Knowledge of portering practices.
- Effectively interface with Trade Unions.

Training:

- Health and Safety
- Site Orientation and Corporate Induction
- Customer care
- Quality and customer service

- Serco Values
- Personnel procedures
- Fire Safety
- Personal Development Plan
- Customer Service – ‘ You Make the Difference’ and ‘All Feedback is Good’.

Job Title: **Estates Manager**

Responsible to: Contract Director

Job Description:

- Overall responsibility for the delivery of asset services to Serco Health Scottish Portfolio
- Deputising for Contract Director
- Professional Head for Asset Services team

Area of Responsibility:

- NHS Forth Valley new Acute Hospital
- Serco Health Scottish Portfolio
- Responsible for all day to day activities included in maintaining the physical asset in relation to all Engineering Services
- Recruitment and selection of suitably skilled and motivated staff
- The leadership and development of the Asset Services team
- Establishing and directing professional and technical standards
- Budgetary control of Asset Services function

Person Specification:

- The ability to impress and influence
- Practical interpretation and application of strategic planning
- Competence in the control and successful management of business plans
- People skills with emphasis on change management and successful team operations

Qualifications:

- Chartered in a discipline directly relevant to Asset Maintenance desirable
- Recent Senior Authorised Person experience advantageous

Experience:

- Prior experience in managing the Estate of a technical site

- Prior experience of a healthcare or pharmaceutical environment beneficial

Training:

- Further training in business skills would be seen as beneficial, and will be provided where required

Job Title: **Customer Support Manager**

Responsible to: Contract Director

Job Description:

The Central Support Manager will manage the delivery of support services (i.e. domestic, catering, porters and logistics) to an agreed standard. Responsibilities include the development and promotion of integrated working styles. Customer relationship building at all levels is pivotal in this role.

Area of Responsibility:

- Assuming responsibility for the Catering and Domestic Services operations to ensure contract service compliance in accordance with efficient and effective service delivery.
- Managing the budget in line with set expenditure and draw up contingency plans to deal with projected overspends.
- Monitor key performance indicators and agree improvement plans within an agreed timescale where these fall below set standards.
- Producing the annual business plan for Catering and Domestic Services operations identifying new business opportunities within the contract and negotiate the proposals with the Board authorised officer where additional funding is required.
- Liaising with customers and senior managers of the Trust to ensure the agreed level of service is being delivered to the standards required.
- Ensuring all staff are trained to the required standard to carry out their duties.
- Living the "Serco Health values".
- Establishing and reviewing working procedures within each area to ensure the requirement of the Health and Safety at Work Regulations 1974 and food hygiene regulations are adhered to.
- Investigating client complaints and providing written reports to the Contract Director and the client with recommendations for remedial action, if required.
- Authorising the purchase and procurement of materials and supplies and ensuring that the cost, quality and wastage of products and materials are monitored on a regular basis.
- Ensuring that arrangements are in place to respond to out of hours service issues reported by the customer in a timely manner.

- Reviewing and amending annual service and personal objectives with Catering and Domestic Services operational managers and ensuring that all staff undergo an annual appraisal.

Person Specification:

- Able to understand and analyse data.
- Excellent interpersonal and communication skills.
- Able to use own initiative in problem solving on day to day issues.
- Receptive to change.
- Self-motivated and ability to motivate others.
- Confident and have a helpful nature
- Flexible attitude to work.
- Confidentiality.
- Be a good team manager and work well as part of that team.
- Keen to develop both own skills and knowledge and that of others.
- Keen to develop new opportunities.
- Ability to empathise with all customers understanding their special needs, and be able to work effectively and positively in an environment that requires a high level of morale and good working atmosphere.
- Able to work additional hours when required.

Qualifications:

- HND/Degree in catering or retail related subject.
- NVQ Level 2 or 3 in relevant subject of Health and Safety / Manual handling. (lifting)
- Advanced Certificate in Food Hygiene
- Basic Certificate in Health and Safety NVQ Level 2 in supervisory management.
- IT literate – Microsoft Office
- Formal training in Industry

- Knowledge or use of Microsoft Project and PowerPoint

Experience:

- Minimum of three years catering experience preferably in healthcare and /or contract sectors.
- High quality food service, including appropriate controls of financial processes, and the ability to apply very high standards in these areas.
- Understanding of Customer Care and experience of managing the client relationship. Two years' practical experience of catering.
- Knowledge and understanding of the retail sector.
- Management of a team of 50 staff.
- Demonstrate knowledge of safe use of equipment and systems following guidelines of Hazard Analysis Critical Control Points.
- Practical experience of quality audits in to ensure client / customer satisfaction.
- Experience in a People environment.

Training:

- Health and Safety
- Site Orientation and Corporate Induction
- Fire Safety
- Personal Development Plan
- Customer Service – 'You Make the Difference' and 'All Feedback is Good'.

Job Title: Housekeeping Team Leader

Responsible to: Customer Support Manager for Departments and Wards

Job Description:

A key member of the Housekeeping Management Team, the Team Leader is a non-working member of staff managing a team of Housekeepers within a geographical zone. Team Leaders report directly to the Customer Support Manager and will deputise for them in their absence.

The Team Leader is responsible for the housekeeping service within the geographical zone and for all staff working within their area. The Team Leaders will interface with service users on a daily basis.

Area of Responsibility:

- For the delivery of domestic support services an agreed standard within mainly clinical areas.
- Continuous improvements across domestic services
- Living the 'Serco Values'
- Customer satisfaction and relationship building.
- Effective communication with all levels of staff.
- To assist and liaise with Housekeeping Managers and Assistants.
- To control staff and monitor their performance to satisfy the cleaning standards specified.
- To ensure that all staff is aware of their roles and responsibilities.
- Control of absence levels to an acceptable level.
- Staff development and training requirements.
- To have knowledge of all current Hygiene, Health and Safety Legislation and that staff are fully inducted.
- Ensure compliance with the Board policies on Health & Safety, COSHH and other statutory legislation.
- To report on the facilities general condition and repair in terms of maintenance reporting and hazard analysis.

Person Specification:

- Good communication skills.
- Awareness of service image.
- Physically fit for role
- Energetic.
- Friendly.
- Reliable.
- Prepared to work unsociable hours.
- Accuracy and attention to detail.
- Ability to work to tight deadlines in a demanding environment.
- Knowledge of portering practices.
- Ability to motivate/influence team.
- Customer focus

Qualifications:

- BICS Training and Assessor Certificates
- Intermediate Food Hygiene Certification
- Health & Safety awareness training
- Fire Safety and procedures
- Quality and customer service
- Personnel procedures

Experience:

- Minimum of 1 year's experience of managing teams of staff.
- Recruitment and selection of staff.
- Direct line management of staff.
- Experience in employment relations issues i.e. Disciplinary procedures, absence control

- Accuracy and attention to detail.
- Ability to work to tight deadlines in a demanding environment.
- Knowledge of cleaning practices.
- Ability to motivate/influence team.

Training:

- Health and Safety
- Site Orientation and Corporate Induction
- Serco Values and Culture
- Customer care
- Fire Safety
- Personal Development Plan
- Customer Service – ‘You Make the Difference’ and ‘All Feedback is Good’.

Job Title: **Domestic Assistant**

Responsible to: Domestic Team Leader

Job Description:

The Domestic Assistant role is a key component in ensuring the cleanliness standards of the hospital. The post will involve undertaken a range of domestic duties in mainly non-clinical environments to ensure quality standards are maintained.

Area of Responsibility:

- Delivery of domestic services to an agreed standard within non-clinical areas and departments.
- Living the 'Serco Health values'
- Complete the cleaning work methods as trained and instructed.
- Ensuring customer satisfaction.
- Effective communication with all levels of staff.
- Assisting and liaison with Domestic Team Leaders and Domestic Assistants.
- Complying with the Board's policies on Health & Safety, COSHH and other statutory legislation.
- Reporting on the facilities general condition and repair in terms of maintenance reporting and hazard analysis.

Person Specification:

- Good communication skills.
- Shows initiative and self motivation.
- Awareness of service image.
- Physically fit for manual work - no back/leg or feet problems.
- Energetic.
- Friendly.
- Reliable.
- Prepared to work unsociable hours.

- Attention to detail.
- Flexible attitude to working times and methods.
- Customer focus

Qualifications:

- Numerate/literate.

Experience:

No formal experience is required as all staff will undertake a range of compulsory training courses prior to and during employment to ensure maintenance of high quality standards.

Training:

- Training will include BICS training to Operator Proficiency Certificate Level 1 (OPC L1)
- Health and Safety
- Site Orientation and Corporate Induction
- Serco Values and Culture
- Customer care
- Fire Safety
- Personal Development Plan
- Customer Service – ‘You Make the Difference’ and ‘All Feedback is Good’.

Job Title: **Security Officer**

Responsible to: Contract Director

Job Description:

To administer, enforce and enhance the Security service provided to all users of Forth Valley healthcare services. In providing this service, to always project a professional image in both appearance and attitude.

Area of Responsibility:

- Escorting and patrolling (with particular emphasis on 'hot spot' areas within the hospital).
- Ensuring all Security Daily Log Sheets are completed.
- To provide assistance in locating missing patients
- To patrol entire site.
- Ensuring operational procedures for CCTV are carried out.
- Ensuring that the correct uniform and PPE are worn.
- Providing assistance to the Security Manager and Security Team Leaders.
- Respond to all emergency bleep and radio calls.
- Provide assistance to the A & E Security team when requested.
- To report any Health and Safety hazards around the site as per the procedure.
- To follow correct procedures for fire alarms, and assist the Fire Service and the Estates Dept where necessary.
- Any other duties as may be reasonably required to meet the needs of the service

Person Specification:

- Previous Management and Security experience desirable.
- Ability to prioritise tasks against agreed criteria.
- Ability to solve problems, manage staff, manage budget within set guidelines.
- Ability to use IT equipment and CCTV equipment.
- Experience in a people environment.

- Good interpersonal and communication skills.
- Able to use own initiative in problem solving on day to day issues.
- Self-motivated and ability to motivate others.
- Flexible attitude to working hours

Qualifications:

- Risk management
- Health & Safety Training
- Patient Privacy and Dignity procedures
- Able to complete and hold SIA Licence
- Fire Safety and procedures

Experience:

No formal experience is required as all staff will undertake a range of compulsory training courses prior to and during employment to ensure maintenance of high quality standards.

Training:

- Health and Safety
- Site Orientation and Corporate Induction
- Customer care
- Quality and customer service
- Serco Values
- Personnel procedures
- Control and Restraint (where legal)
- Violence and Aggression Training
- Fire Safety
- Personal Development Plan
- Customer Service – ‘You Make the Difference’ and ‘All Feedback is Good’.

Job Title: **Domestic Team Leader**

Responsible to: Customer Support Manager for Departments and Wards

Job Description:

A key member of the Domestic Management Team, the Team Leader is a non-working member of staff managing a team of Domestic Assistants within a geographical zone. Team Leaders report directly to the Customer Support Manager and will deputise for them in their absence.

The Team Leader is responsible for the domestic service within the geographical zone and for all staff working within their area. The Team Leaders will interface with service users on a daily basis.

Area of Responsibility:

- For the delivery of domestic support services an agreed standard within mainly non-clinical areas.
- Continuous improvements across domestic services
- Living the 'Serco Values'
- Customer satisfaction and relationship building.
- Effective communication with all levels of staff.
- To assist and liaise with Customer Support Manager and Assistants.
- To control staff and monitor their performance to satisfy the cleaning standards specified.
- To ensure that all staff is aware of their roles and responsibilities.
- Control of absence levels to an acceptable level.
- Staff development and training requirements.
- To have knowledge of all current Hygiene, Health and Safety Legislation and that staff are fully inducted.
- Ensure compliance with the Board policies on Health & Safety, COSHH and other statutory legislation.
- To report on the facilities general condition and repair in terms of maintenance reporting and hazard analysis.

Person Specification:

- Good communication skills.
- Awareness of service image.
- Physically fit for role
- Energetic.
- Friendly.
- Reliable.
- Prepared to work unsociable hours.
- Accuracy and attention to detail.
- Ability to work to tight deadlines in a demanding environment.
- Knowledge of portering practices.
- Ability to motivate/influence team.
- Live within an acceptable travelling time of the Hospital.
- Customer focus

Qualifications:

- BICS Training and Assessor Certificates
- Health & Safety awareness training
- Fire Safety and procedures
- Quality and customer service
- Personnel procedures

Experience:

- Minimum of 1 year's experience of managing teams of staff.
- Recruitment and selection of staff.
- Direct line management of staff.
- Experience in employment relations issues i.e. Disciplinary procedures, absence control

- Accuracy and attention to detail.
- Ability to work to tight deadlines in a demanding environment.
- Knowledge of cleaning practices.
- Ability to motivate/influence team.

Training:

- Training will include BICS training to Operator Proficiency Certificate Level 1 (OPC L1)
- Health and Safety
- Site Orientation and Corporate Induction
- Serco Values and Culture
- Customer care
- Fire Safety
- Personal Development Plan
- Customer Service – ‘ You Make the Difference’ and ‘All Feedback is Good’.

Job Title: **Maintenance Manager**

Responsible to: Estates Manager

Job Description:

The Maintenance Manager shall be responsible for managing a multi disciplinary team to achieve a high stand of performance across the four services of estates, grounds and gardens, utilities and pest control.

Areas of Responsibility:

- To be responsible for the update of existing, and production of new policies and procedures associated with the maintenance and operation of the hospital
- To support the Maintenance activities of Serco, by providing specialist engineering knowledge and advice, associated with the full range of hospital building services.
- To monitor and review maintenance activities such that strategic development of the Estates contract is maintained.
- To carry out specialist technical and non-technical work as deemed appropriate to the continuing maintenance function of this Unit and its associated properties and to assist the Maintenance Supervisor over the full range of his duties.
- Supervision of site based workforce
- Meeting maintenance activity targets
- Responsibility for site operation of the CAFM
- Deliver all planned and reactive tasks in accordance with the Service Level Specification requirements
- In conjunction with the local NHS Forth Valley representatives agree the Annual and Monthly Maintenance Plan
- Day to day interface with local NHS Forth Valley representatives
- Input into the development of the 5 Year and Annual Maintenance Plans and the Asset Renewal Plan
- Agreeing with client access requirements
- Facilitating Insurance inspections in liaison with the Technical Manager
- Carrying out risk assessments

- Supporting the Asset Manager in maintaining the Asset Register
- Undertake Senior Authorised Person (AP) duties for all disciplines within his professional competency
 - AP duties HV/LV
 - AP duties (boilers & pressure vessels and confined space)
 - AP duties Medical Gas
- In conjunction with the Technical Manager, competence assessment for the purposes of appointment of Competent Persons and issuing of Standing Instructions
- Research and make recommendations into the implications of plant and building refurbishment proposals.
- Control and manage the work of specialist consultants, contractors and in-house staff on building services projects and specialist operational maintenance issues.
- Provide assistance in maintaining Estate's records including the update of Operational Procedure Manuals.
- Provide input to the Estate's CAFM planned maintenance system through the planning co-ordinator by reviewing, amending, rescheduling, deleting and creating maintenance activities.
- Manage and review delegated maintenance service contracts.
- Liaise with client and act as Serco's maintenance representative for delegated 'Capital' schemes.
- Assist with the preparation and submission of NHS returns.
- Project management for specific delegated building services schemes.
- Analyse and technically comment upon maintenance feedback from both direct labour and specialist maintainer staff.
- Maintain Estate's records.
- Participate in Serco Estate's management on-call rota.
- Be responsible for steriliser testing and maintenance in conjunction with the Authorised Steriliser Person

- Be fully conversant with and understand the complete working of the mechanical, electrical and electronic systems in N.H.S building particularly as they relate to this unit i.e. sterilisation, lifts, refrigeration, boiler plant and steam utilisation, air conditioning fire alarm systems, computer systems, control theory, practical and application.

Person Specification:

- Understanding of customer care and experience of managing the client relationship. Preferably including time within a Healthcare environment.
- Demonstrate knowledge of safe use of equipment.
- Experience in a people environment.
- Good interpersonal and communication skills.
- Able to use own initiative in problem solving on day to day issues.
- Self-motivated and ability to motivate others.
- Be a good team leader and work well as part of that team.
- Keen to develop both own skills and knowledge and that of others.
- Live within an acceptable travelling time of the Hospital.
- Flexible attitude to working hours

Qualifications:

- Completion of either a recognised or registered EITB or CITB apprenticeship, or other approved training of at least 4 years duration or relevant acceptable experience and:
- Higher National Certificate (Btec) in Electrical or Electronic Engineering. or Mechanical Engineering

Experience:

- Minimum of 3 years experience in a similar role within a large complex service organisation.
- Recruitment and selection of staff.
- Direct line management of staff.
- Experience in employment relations issues i.e. Disciplinary procedures, absence control etc.

- Accuracy and attention to detail.
- IT skills.
- Ability to work to tight deadlines in a demanding environment.
- Effectively interface with Trade Unions.

Training:

- Health and Safety
- Site Orientation and Corporate Induction
- Customer care
- Quality and customer service
- Project Co Values
- Personnel procedures
- Fire Safety
- Personal Development Plan
- Customer Service

General Notes:

The job description is in general terms and the employee is expected to undertake all other tasks as reasonably required by the Contract Manager

Health & Safety:

The post holder will be responsible for all appropriate health, safety and welfare matters affecting staff in or attached to their area of work responsibility. This will include safe systems of work, training and safety inspections

Job Title: **Technical Manager**

Responsible to: Estates Manager

Job Description:

The Technical Manager shall work closely with the Maintenance Manager and will be responsible for the development of Asset Management Procedures, for the in-house team and for the appointment and management of Service Partners, to guide and monitor the performance of the Asset Management Service the across the four services of estates, grounds and gardens, utilities and pest control.

Areas of Responsibility:

- Provide technical support across the Scottish Health portfolio
- Development and implementation and monitoring of policies and procedures for the Asset Management Service such as the Permit to Work System and Emergency Procedures in accordance with HTM 2070
- To support the Maintenance activities of the department, by providing specialist engineering knowledge and advice, associated with the full range of hospital building services.
- Undertake Senior Authorised Person (AP) duties for all disciplines within his professional competency
 - AP duties HV/LV
 - AP duties (boilers & pressure vessels and confined space)
 - AP duties Medical Gas
- Preparation, competence assessment and issuing of Standing Instructions
- In conjunction with the Maintenance Manager, the appointment and management of Specialist Service Partners
- Control and manage the work of specialist consultants, contractors and in-house staff on building services projects and specialist operational maintenance issues.
- Co-ordination of Minor New Works and Capital Works
- Liaise with client and act as Serco's technical representative for delegated 'Capital' schemes
- To monitor and review maintenance activities such that strategic development of the Estates service is maintained.

- To carry out specialist technical and non-technical work as deemed appropriate to the continuing maintenance function of this Unit and to assist the Maintenance Manager over the full range of his duties.
- Liaison with the Environmental Manager to ensure responsiveness to energy issues
- Supervision of site based workforce
- Responsibility for site operation of the CAFM
- Deliver all planned and reactive tasks in accordance with the Service Level Specification requirements
- Day to day interface with local NHS Forth Valley representatives
- Co-ordination of building surveys
- Input into the development of the 5 Year and Annual Maintenance and Energy Management Plans and the Asset Renewal Plan
- Research and make recommendations into the implications of plant and building refurbishment proposals.
- Agreeing access requirements
- Arranging Insurance inspections
- Carrying out risk assessments
- Supporting the Asset Manager in maintaining the Asset Register
- Provide input to the Estate's CAFM planned maintenance system in conjunction with the Maintenance Manager
- Assist with the preparation and submission of NHS returns.
- Project management for specific delegated building services schemes.
- Analyse and technically comment upon maintenance feedback from both direct labour and specialist maintenance staff.
- Participate in Estate's management on-call rota.
- Be conversant with and understand the complete working of the mechanical, electrical and electronic systems in N.H.S building particularly as they relate to this unit i.e. sterilisation, lifts, refrigeration, boiler plant and steam utilisation, air

conditioning fire alarm systems, computer systems, control theory, practical and application.

Person Specification:

- Understanding of customer care and experience of managing the client relationship. Preferably including time within a Healthcare environment.
- Demonstrate knowledge of safe use of equipment.
- Experience in a people environment.
- Good interpersonal and communication skills.
- Able to use own initiative in problem solving on day to day issues.
- Self-motivated and ability to motivate others.
- Be a good team leader and work well as part of that team.
- Keen to develop both own skills and knowledge and that of others.
- Live within an acceptable travelling time of the Hospital.
- Flexible attitude to working hours

Qualifications:

- Completion of either a recognised or registered EITB or CITB apprenticeship, or other approved training of at least 4 years duration or relevant acceptable experience and:
- Higher National Certificate (Btec) in Electrical or Electronic Engineering. or Mechanical Engineering

Experience:

- Minimum of 3 years experience in a similar role within a large complex service organisation.
- Recruitment and selection of staff.
- Direct line management of staff.
- Experience in employment relations issues i.e. Disciplinary procedures, absence control etc.
- Accuracy and attention to detail.

- IT skills.
- Ability to work to tight deadlines in a demanding environment.
- Effectively interface with Trade Unions.

Training:

- Authorised Person in several disciplines
- Health and Safety
- Site Orientation and Corporate Induction
- Customer care
- Quality and customer service
- Project Co Values
- Personnel procedures
- Fire Safety
- Personal Development Plan
- Customer Service

General Notes:

The job description is in general terms and the employee is expected to undertake all other tasks as reasonably required by the Contract Director.

Health & Safety:

The post holder will be responsible for all appropriate health, safety and welfare matters affecting staff in or attached to their area of work responsibility. This will include safe systems of work, training and safety inspections.

Job Title: **Maintenance Officer**

Responsible to: Maintenance Manager

Job Description:

The Maintenance Officer shall work closely with the Maintenance Manager and will be responsible for management and supervision of multi skilled workforce carrying out reactive and planned maintenance, minor improvement and capital work across the Hospital as directed by management, ensuring compliance with Serco safety standards and procedures.

Areas of Responsibility:

- Ensures rotating shift is adequately manned and provides cover for shift technician as required.
- Manages orders and supply of goods, services and contractors to ensure cost effective and efficient delivery of service.
- Supervises other shift personnel during out of hour's periods.
- To support the implementation and monitoring of policies and procedures for the Asset Management Service such as the Permit to Work System and Emergency Procedures in accordance with HTM 2070
- To support the Maintenance activities of the department, by providing engineering knowledge and advice to the maintenance team, associated with the full range of hospital building services.
- Undertake Authorised Person (AP) duties for all disciplines within his competency e.g.
 - AP duties HV/LV
 - AP duties (boilers & pressure vessels and confined space)
 - AP duties Medical Gas
- To work and ensure those carrying out tasks operate in accordance with the requirements of Health Technical Memorandums (HTMs) on HTM2020, The Electrical Safety Code for Low Voltage Systems, Sterilization HTM 2010, Medical Gases HTM 2022 and Water Supplies HTM 2027 as appointed Authorised or Competent Person.
- To manage estates maintenance personnel in the operation and control of engineering planned preventative maintenance schemes to ensure assets are maintained to the requirements of the contract.

- Actively ensure all participate in the operation of the CAFM labour control scheme by working within the scheme including completion of all work orders, record sheets and log books.
- Use handheld electronic technology to provide feedback of information required by the computer aided facilities management system CAFM to assist the estates department in carrying out its duties
- Coordinates and supervises all staff to ensure all work orders, ppm and reactive, are accounted for correctly with record sheets and log books accurately filled in.
- Ensure all goods, materials and support contractors are available to assist in efficient delivery of service
- At all times to carry Hospital communication devices (Pagers and Two-way radios/phones) to facilitate immediate response to emergencies as part of the Emergency Response Team.
- To ensure all estates personnel and contractors under his/her control that maybe working in hazardous areas takes all safety measures to prevent danger, avoid injury and prevent damage to equipment.
- Ensure that works are completed or communicated, and continuity of shift is maintained at all times.
- Work overtime to carry out emergency repairs as required by management.
- Provides cover for maintenance technician shift cover as required.
- Ensure essential repair works, planned preventative maintenance, calibration and fault diagnostics are carried out by estates workforce, offers technical support and back up as required.
- To ensure all requests regarding plant or equipment failures are responded to and the supply of goods and/or services available to enable a cost effective and efficient repair.
- Ensures planned preventative maintenance inspections, validation and calibration tests are carried out in accordance with Hospital technical memorandums, (HTM's), SHTM's and other legislation /work instructions.
- Ensure all report sheets, work orders and test certificates are correctly completed to protect engineering plant and equipment and asset register is updated.
- To follow planned preventative maintenance schedules.

- Ensures all works are carried out in accordance with safe systems of work and permit to work procedures
- Ensures electrical testing and monitoring results are compliant with the latest edition of the Wiring Regulations BS7671 and interprets and follows the regulations at all times.
- Immediately notifies the Maintenance Manager of any deviation from the regulations.
- Follows detailed engineering drawings and specifications.
- Uses all relevant tools and equipment within safety guidelines as necessary for the completion of works.
- Undertakes inspection and commissioning tests for the installation and issues the appropriate completion certificates.
- To monitor and review maintenance activities
- To carry out specialist technical and non-technical work as deemed appropriate to the continuing maintenance function of the Hospital and to assist the Maintenance Manager over the full range of his duties.
- Liaison with the Environmental Manager to ensure responsiveness to energy issues
- Be conversant with the operation of the CAFM
- Deliver all planned and reactive tasks in accordance with the Service Level Specification requirements.
- Day to day interface with local NHS Forth Valley representatives
- Research and make recommendations into the implications of plant and building refurbishment proposals.
- Agreeing access requirements
- Carrying out risk assessments for adhoc activities and monitoring of day to day implementation of safe working procedures and safe systems of work
- Provide input to the Estate's CAFM planned maintenance system in conjunction with the Maintenance Manager
- Assist with the preparation and submission of NHS returns.

- Analyse and technically comment upon maintenance feedback from both direct labour and specialist maintenance staff.
- Participate in Estate's management on-call rota.
- Be conversant with and understand the complete working of the mechanical, electrical and electronic systems in N.H.S building particularly as they relate to this unit i.e. sterilisation, lifts, refrigeration, boiler plant and steam utilisation, air conditioning fire alarm systems, computer systems, control theory, practical and application.

Person Specification:

- Understanding of customer care and experience of managing the client relationship, preferably including time within a Healthcare environment.
- Demonstrate knowledge of safe use of equipment.
- Experience in a people environment.
- Good interpersonal and communication skills.
- Able to use own initiative in problem solving on day to day issues.
- Self-motivated and ability to motivate others.
- Be a good team leader and work well as part of that team.
- Keen to develop both own skills and knowledge and that of others.
- Live within an acceptable travelling time of the Hospital.
- Flexible attitude to working hours

Qualifications:

- Completed City and Guilds / NVQ or equivalent in engineering, plumbing or electrical apprenticeship
- BTEC / ONC in engineering services or five years experience as engineering technician
- Competent person in either/or piped medical gases, boiler and pressure systems,
- Low voltage electrical systems, sterilization to requirements of HTM's, SHTM's.
- Capable of appointment as Authorised person high voltage systems and or Boilers and Pressure Systems and MGPS within 6 months of appointment.

Experience:

- Minimum of 3 years experience in a similar role within a large complex service organisation.
- Recruitment and selection of staff.
- Direct line management of staff.
- Experience in employment relations issues i.e. Disciplinary procedures, absence control etc.
- Accuracy and attention to detail.
- CAFM System and general IT skills.
- Ability to work to tight deadlines in a demanding environment.
- Effectively interface with Trade Unions.

Training:

- Authorised Person in several disciplines
- Health and Safety
- Site Orientation and Corporate Induction
- Customer care
- Quality and customer service
- Project Co Values
- Personnel procedures
- Fire Safety
- Personal Development Plan
- Customer Service

General Notes:

The job description is in general terms and the employee is expected to undertake all other tasks as reasonably required by the Estates Management.

Health & Safety:

The post holder will be responsible for all appropriate health, safety and welfare matters affecting staff in or attached to their area of work responsibility. This will include safe systems of work, training and safety inspections.

Job Title: **Maintenance Craftsperson Electrical**

Responsible to: Maintenance Officer

Job Description:

The Electrical Craftsperson shall undertake on electrical installations including Electrical distribution, lighting, fire detection, building management system (BMS), standby generator plant, air tube system, nurse call systems, data-communications, security and access systems and any other electrically operated equipment not connected to patients in both planned preventative maintenance and reactive work.

The Electrical Craftsman shall also undertake minor improvement and capital work across the Hospital as directed by management, ensuring compliance with Serco safety standards, procedures and Health & Safety at work.

Provide cover as required for rotating shift (if applicable)

Areas of Responsibility:

- To work in accordance with the requirements of HTM2020, The Electrical Safety Code for Low Voltage Systems as appointed Competent Person (LV) for the Hospital.
- To be prepared to work in hazardous areas taking all safety measures to prevent danger, avoid injury and prevent damage to equipment.
- To actively participate in the operation of planned preventative maintenance (ppm)
- Actively participate in the operation of the Archibus labour control scheme by working within the scheme including completion of all work orders, record sheets and log books
- Work overtime to carry out emergency repairs as required by management.
- Recall to work should the need arise.
- Ensure that works are completed or communicated, even if it means working longer than the designated working hours.
- Ensuring that information regarding works not completed or works required are conveyed to other members of staff.
- Undertake essential repair works and general maintenance activities at the request of the Electrical Supervisor.

- To liaise with Maintenance Officer regarding plant or equipment failures and to request the supply of goods and/or services as necessary.
- Undertake fault finding on electrical distribution and systems and report findings
- Carry out planned preventative maintenance inspections and commissioning tests in accordance with Health technical memorandums (HTM's) 16th edition IEE Regs BS7671 and all other legislation
- Complete all report sheets, work orders, log books and test certificates in hard copy or electronic logger as necessary.
- Use handheld electronic technology to provide feedback of information required by the computer aided facilities management system CAFM to assist the estates department in carrying out its duties.
- Operates within constraints of permit to work systems
- Interprets and follows the regulations at all times.
- Immediately notifies the Electrical Supervisor of any deviation from the regulations.
- Follows detailed engineering drawings and specifications.
- Uses all relevant tools and equipment within safety guidelines as necessary for the completion of works.
- Ensure that works are completed or communicated, even if it means working longer than the designated working hours.
- Work overtime to carry out emergency repairs as required by management.

Person Specification:

- Understanding of customer care and experience of managing the client relationship, preferably including time within a Healthcare environment.
- Demonstrate knowledge of safe use of equipment.
- Experience in a people environment.
- Good interpersonal and communication skills.
- Able to use own initiative in problem solving on day to day issues.
- Self-motivated and ability to motivate others.
- Work well as part of a team.

- Keen to develop both own skills and knowledge and that of others.
- Live within an acceptable travelling time of the Hospital.
- Flexible attitude to working hours

Qualifications:

- Recognized electrical apprenticeship e.g. city and guilds / NVQ
- Minimum 2 years craftsman experience
- 16th edition IEE regulations (Electrical only)

Experience:

- Minimum of 3 years experience in a similar role within a large complex service organisation.
- Accuracy and attention to detail.
- IT skills.
- Ability to work to tight deadlines in a demanding environment.

Training:

- To attend training establishments as necessary.
- Provide training, technical advice and support to Apprentices, Trainees and Maintenance Assistants.
- Undertake any other duties appropriate to the grade
- Health and Safety
- Site Orientation and Corporate Induction
- Customer care
- Project Co Values
- Fire Safety
- Personal Development Plan

General Notes:

The job description is in general terms and the employee is expected to undertake all other tasks as reasonably required by the Estates Management.

Health & Safety:

The post holder will be responsible for all appropriate health, safety and welfare matters affecting staff in or attached to their area of work responsibility. This will include safe systems of work, training and safety inspections.

Job Title: **Maintenance Craftsperson Mechanical**

Responsible to: Maintenance Officer

Job Description:

The Mechanical Craftsperson shall undertake works on a wide range of engineering plant and equipment including low/medium steam, boiler and pressure systems, Steam Sterilizers, Medical Gas Pipe Systems, Natural Gas Systems, Chiller Plant, Ventilation Systems, Pumps and Motors in both reactive and planned preventative maintenance capacity.

The Mechanical Craftsman shall also undertake minor improvement and capital work across the Hospital as directed by management, ensuring compliance with Serco safety standards, procedures and Health & Safety at work.

Provide cover as required for rotating shift (if applicable)

Areas of Responsibility:

- To work in accordance with the requirements of Health Technical Memorandums (HTMs) and SHTM's.
- To be prepared to work in hazardous areas taking all safety measures to prevent danger, avoid injury and prevent damage to equipment.
- To actively participate in the operation of planned preventative maintenance (ppm)
- Actively participate in the operation of the CAFM labour control scheme by working within the scheme including completion of all work orders, record sheets and log books.
- Work overtime to carry out emergency repairs as required by management.
- Recall to work should the need arise.
- Undertake essential repair works and general maintenance activities at the request of the Maintenance Officer
- To liaise with Maintenance Officer regarding plant or equipment failures and to request the supply of goods and/or services as necessary.
- Carry out planned preventative maintenance inspections and commissioning tests in accordance with H.T.M s and procedures.
- Complete all report sheets, work orders, log books and test certificates in hard copy or by electronic logger as necessary.

- Use handheld electronic technology to provide feedback of information required by the computer aided facilities management system CAFM to assist the estates department in carrying out its duties.
- Operates within constraints of permit to work systems.
- Immediately notifies the Engineering Supervisor of any deviation from the regulations.
- Follows detailed engineering drawings and specifications operation and maintenance manuals.
- Uses all relevant tools and equipment within safety guidelines as necessary for the completion of works.
- Ensure that works are completed or communicated, even if it means working longer than the designated working hours.
- Ensuring that information regarding works not completed or works required are conveyed to other members of staff.
- Undertake fault finding on mechanical installations and report findings
- Carry out planned preventative maintenance inspections and commissioning tests in accordance with Health technical memorandums (HTM's) SHTM's, and all other applicable legislation

Person Specification:

- Understanding of customer care and experience of managing the client relationship preferably including time within a Healthcare environment.
- Demonstrate knowledge of safe use of equipment.
- Experience in a people environment.
- Good interpersonal and communication skills.
- Able to use own initiative in problem solving on day to day issues.
- Self-motivated and ability to motivate others.
- Work well as part of a team.
- Keen to develop both own skills and knowledge and that of others.
- Flexible attitude to working hours

Qualifications:

- Recognized electrical apprenticeship e.g. city and guilds / NVQ in Mechanical and/or plumbing
- Minimum 2 years craftsman experience

Experience:

- Minimum of 3 years experience in a similar role within a large complex service organisation.
- Accuracy and attention to detail.
- IT skills.
- Ability to work to tight deadlines in a demanding environment.

Training:

- To attend training establishments as necessary.
- Provide training, technical advice and support to Apprentices, Trainees and Maintenance Assistants.
- Undertake any other duties appropriate to the grade
- Health and Safety
- Site Orientation and Corporate Induction
- Customer care
- Project Co Values
- Fire Safety
- Personal Development Plan

General Notes:

The job description is in general terms and the employee is expected to undertake all other tasks as reasonably required by the Estates Management.

Health & Safety:

The post holder will be responsible for all appropriate health, safety and welfare matters affecting staff in or attached to their area of work responsibility. This will include safe systems of work, training and safety inspections.

Job Title: **Maintenance Assistant**

Responsible to: Maintenance Officer

Job Description:

The Maintenance Assistant shall undertake works, under the guidance of Maintenance Officer, technicians and craftsman, on all aspects of engineering plant and equipment for both planned and reactive maintenance.

Undertakes planned maintenance and reactive repairs, working from training programmes, work procedures and operational manuals, recording and logging readings, carrying out basic adjustments and repairs with careful documentation and recording on service sheets and work orders

Carrying out ductwork cleaning, filter changing, lamp and tube replacement including cleaning. Cleaning plant, equipment, plant rooms, plenums and electrical sub-stations

Provide cover as required for rotating shift (if applicable)

Areas of Responsibility:

- To work in accordance with the requirements of Health Technical Memorandums (HTMs), SHTM's and other applicable legislation under the guidance of supervisors, technicians and craftsmen
- To be prepared to work in hazardous areas taking all safety measures to prevent danger, avoid injury and prevent damage to equipment.
- To actively participate in the operation and control of engineering planned preventative maintenance schemes.
- Actively participate in the operation of the CAFM labour control by completion of paperwork for all work orders, service sheets and log books or electronic logger.
- Work overtime to carry out emergency repairs as required by management.
- Recall to work should the need arise.
- Undertake essential repair works and general maintenance activities at the request of the Maintenance Officer.
- To liaise with Maintenance Officer regarding plant or equipment failures and observations
- Assist technicians and craftsmen with technical maintenance diagnostic fault finding and repair

- Carry out planned preventative maintenance inspections and tasks unsupervised where considered safe and appropriate.
- Complete all report sheets, work orders, log books and test certificates as necessary.
- To follow planned maintenance schedules.
- To actively participate in the operation of planned preventative maintenance (ppm)
- Operates within constraints of permit to work systems.
- Immediately notifies the Maintenance Officer of any deviation from the regulations.
- Follows guidance as laid down operation and maintenance manuals.
- Uses all relevant tools and equipment within safety guidelines as necessary for the completion of works.
- Ensure that works are completed or communicated, even if it means working longer than the designated working hours.
- Ensuring that information regarding works not completed or works required are conveyed to other members of staff.

Person Specification:

- Understanding of customer care and experience of managing the client relationship preferably including time within a Healthcare environment.
- Demonstrate knowledge of safe use of equipment.
- Experience in a people environment.
- Good interpersonal and communication skills.
- Able to use own initiative in problem solving on day to day issues.
- Self-motivated and ability to motivate others.
- Work well as part of a team.
- Keen to develop both own skills and knowledge and that of others.
- Live within an acceptable travelling time of the Hospital.
- Flexible attitude to working hours

Qualifications:

Experience:

- Minimum of 3 years experience in a similar role within a large complex service organisation.
- Accuracy and attention to detail.
- IT skills.
- Ability to work to tight deadlines in a demanding environment.

Training:

- To attend training establishments as necessary.
- Provide training, technical advice and support to Apprentices, Trainees and Maintenance Assistants.
- Undertake any other duties appropriate to the grade
- Health and Safety
- Site Orientation and Corporate Induction
- Customer care
- Project Co Values
- Fire Safety
- Personal Development Plan

General Notes:

The job description is in general terms and the employee is expected to undertake all other tasks as reasonably required by the Estates Management.

Health & Safety:

The post holder will be responsible for all appropriate health, safety and welfare matters affecting staff in or attached to their area of work responsibility. This will include safe systems of work, training and safety inspections.

PART 38 OF THE SCHEDULE: TRANSITIONAL ARRANGEMENTS

APPENDIX C

Dated 2007

FORTH VALLEY HEALTH BOARD

FORTH HEALTH LIMITED

[SERVICE PROVIDER]

EMPLOYEE

EMPLOYEE LOAN AGREEMENT

This Agreement is made on 2007

Between

- (1) FORTH VALLEY HEALTH BOARD of Carseview House, Castle Business Park, Stirling, FK9 4SW (the "Board") (the "Employer");
- (2) FORTH HEALTH LIMITED (registered number 05986479) whose registered office is Allington House, 150 Victoria Street, London, SW1E 5LB ("Project Co");
- (3) [Project Co's Service Provider] whose registered office is at [address] (the "Company"); and
- (4) [Employee] of [address] (the "Employee").

WHEREAS

- (A) The Employer has entered into the Project Agreement, which sets out the terms and conditions upon which Project Co will carry out the Project.
- (B) Project Co has entered into an agreement with the Service Provider to perform the Services pursuant to the Project Agreement.
- (C) In order for Project Co and the Service Provider to prepare for the provision of the Services it is necessary for certain key staff (including the Employee) to provide support to the Service Provider prior to the Phase 1 Actual Completion Date.
- (D) It is therefore agreed by the parties that the Employee will be made available to the Service Provider pursuant to the terms of this Loan Agreement.

It is agreed

1. Definitions and interpretation

- 1.1 In this Agreement the following words and phrases shall have the following meanings:

Company Line Manager means []

Contract of Employment means the contract of employment between the Employer and the Employee

Employer Line Manager means []

Loan Arrangement means the arrangement under this Loan Agreement whereby the services of the Employee are made available to the Service Provider

Project Agreement means the agreement dated [] entered into by the Employer and Project Co for the development of the site of the new acute hospital for Forth Valley and the provision of services

- 1.2 The headings in this Agreement shall not affect its construction or interpretation.
- 1.3 Any reference to a clause is to a clause in this Agreement.
- 1.4 Words and phrases which are defined in the Project Agreement shall, unless the context otherwise requires, bear the same meanings in this Agreement.
- 1.5 This Agreement shall be governed by and construed in accordance with the laws of Scotland.

2. Loan Arrangement

- 2.1 The Loan Arrangement shall commence on [DATE] and, subject to the provisions of this Agreement, shall continue until Phase 1 Actual Completion Date unless terminated by the Employer or the Company giving to the other not less than [3 months'] written notice.
- 2.2 During the Loan Arrangement the Employee shall [INSERT DUTIES] for the Company whilst continuing to be employed by the Employer under the Contract of Employment which shall remain in force.
- 2.3 Notwithstanding the provisions of this clause 2, the Employer's Line Manager shall continue to manage, appraise and (if necessary) discipline the Employee during the Loan Arrangement, where relevant following consultation with and/or with appropriate input from the Company, and the Company shall refer any line management issues in relation to the Employee to the Employer.
- 2.4 The Company shall not, and shall not require the Employee to do anything that shall breach the Contract of Employment and the Company shall have no authority to vary the terms of the Contract of Employment or make any representations to the Employee in relation to the terms of the Contract of Employment.
- 2.5 The Company shall not require the Employee to do anything beyond the scope of the duties detailed in Clause 2.2 above.
- 2.6 The Company shall provide the Employer with such information and assistance as it may reasonably require to carry out its obligations as the Employee's employer.
- 2.7 Both the Company and the Employer shall inform the other as soon as reasonably practicable of any significant matter that may arise during the Loan Arrangement relating to the Employee or his/her employment.

3. Duties

- 3.1 During the Loan Arrangement the Employee shall devote the whole of his/her time attention and skill to his/her duties for the Company under this Agreement. The Employee shall faithfully and diligently perform duties and exercise such powers as may from time to time be reasonably assigned to or vested in him/her by or under the authority of the Company Line Manager. The Employee shall obey all reasonable and lawful directions given to him/her by or under such authority and shall use his/her best endeavours to promote the interests of the Company.
- 3.2 Notwithstanding the provisions of clause 3.1, in the event of any conflict between the directions given to the Employee by the Company Line Manager and the Employer Line Manager, the directions given to the Employee by the Employer Line Manager shall prevail.

4. Remuneration

- 4.1 During the Loan Arrangement the Employer undertakes to perform the terms of the Contract of Employment including without limitation to pay the Employee's salary and any allowances, provide any benefits due to the Employee or his/her dependants, make any payments to third parties in relation to the Employee and make any deductions that it is required to make from the Employee's salary and other payments.
- 4.2 No fee shall be payable by the Company to the Employer in respect of work undertaken by the Employee for the Company pursuant to this Agreement.

5. Expenses

The Employer shall refund to the Employee all reasonable travelling and other expenses incurred by the Employee during the Loan Arrangement in the exercise of the Employee's duties to the Company, in accordance with the relevant Employer policies.

6. Place of Work

The Employee's place of work during the Loan Arrangement shall be as stipulated in the Employee's Contract of Employment.

7. Hours of work

The Employee's hours of work during the Loan Arrangement shall be as stipulated in the Employee's Contract of Employment.

8. Holidays

The Employee's holiday entitlement during the Loan Arrangement shall be as stipulated in the Employee's Contract of Employment and shall be taken at times approved by the Company Line Manager.

9. Termination

9.1 Notwithstanding clause 2, this Agreement shall automatically terminate if the Contract of Employment is terminated before the expiry of the Loan Arrangement.

9.2 Notwithstanding clause 2, the Employer may terminate this Agreement with immediate effect without notice if the Company is guilty of any serious or repeated breach of the terms of this Agreement, including but not limited to where the Company requests that the Employee perform duties outside the scope of clause 2.2 and/or where such request constitutes a fundamental variation to the working or shift patterns of the Employee.

9.3 Notwithstanding clause 2, the Company may terminate this Agreement with immediate effect without notice:

- (a) if the Employer is guilty of any serious or repeated breach of the terms of this Agreement; or
- (b) if the Employee is guilty of any serious or repeated breach of the terms of this Agreement.

10. Indemnity

10.1 The Company shall indemnify the Employer against all liabilities, costs and expenses arising out of or in any way connected to, the Loan Arrangement and all documents signed, or actions taken by, the Employee during the Loan Arrangement (save for any claim that the Employer has failed to pay the Employee's salary and any allowances, provide any benefits due to the Employee or his dependants, make any payments to third parties in relation to the Employee or make any deductions that it is required to make from the Employee's salary and other payments or any claim arising as a result of any other act or omission of the Employer).

10.2 The Employer agrees to indemnify the Company against all liabilities, costs and expenses arising out of or in any way connected to any claim or demand by the Employee arising out of:

- (a) the employment of the Employee by the Employer during Loan Arrangement other than any liabilities, costs and expenses arising from

or in connection with any act or omission by the Company during the Loan Arrangement;

- (b) the termination by the Employer of the Employee's employment whether during the Loan Arrangement or otherwise other than any liabilities, costs and expenses arising from or in connection with any act or omission by the Company during the Loan Arrangement.

11. Confidentiality

11.1 In this clause "**Confidential Information**" means any confidential proprietary and/or commercially sensitive information in whatever form and whether conveyed in writing, orally or in visual or electronic or machine readable form (including, without limitation, in magnetic or digital form) relating to the relevant party (the Employer or the Company) including without limitation trade secrets, the relevant party's assets, liabilities, business, customers, suppliers, trading practices, proposals or trading prospects, discounts, rebates and other financial information, computer software and passwords including any information or document containing or otherwise reflecting, generated or deriving from such information and including information acquired by the Employee in any way from any of the officers, employees, agents or professional advisers of the relevant party.

11.2 The Employee shall not during this Loan Arrangement or afterwards use, exploit or divulge or seek to use, exploit or divulge to any third party by any means any Confidential Information, provided always that the Employee shall be permitted to do so:

- (a) with the express written consent of the relevant party (the Employer or the Company);
- (b) where the Employee can demonstrate that such information is already in the public domain otherwise than as a result of a breach by him of this Agreement;
- (c) where disclosure of the Confidential Information is required by virtue of any legal or professional obligation or by the order of any regulatory authority;
- (d) where disclosure of such information would constitute a protected disclosure under the Public Interest Disclosure Act 1998 ("the Act") provided that the disclosure is made in accordance with the provisions of the Act and the Employee has complied with any policy of the Employer from time to time in force regarding such disclosures.

11.3 The Company shall:-

- (a) keep any Confidential Information relating to the Employer that it obtains as a result of the Loan Arrangement secret;
- (b) not use, exploit or divulge or seek to use, exploit or divulge any Confidential Information (or allow it to be used, exploited or divulged), in whole or in part, to any person without the prior written consent of the Employer;
- (c) ensure that no person accesses such Confidential Information from it, its officers, employees or agents unless authorised to do so; and
- (d) inform the Employer immediately upon becoming aware, or suspecting, that an unauthorised person has become aware of such Confidential Information.

11.4 The Employer shall:-

- (a) keep any Confidential Information relating to the Company that it obtains as a result of the Loan Arrangement secret;
- (b) not use, exploit or divulge or seek to use, exploit or divulge any Confidential Information (or allow it to be used, exploited or divulged), in whole or in part, to any person without the prior written consent of the Company;
- (c) ensure that no person accesses such Confidential Information from it, its officers, employees or agents unless authorised to do so; and
- (d) inform the Company immediately upon becoming aware, or suspecting, that an unauthorised person has become aware of such Confidential Information.

12. **General**

- 12.1 This Agreement constitutes the entire Agreement between the parties and supersedes all prior agreements, understandings and arrangements between them, and representations by them, whether oral or written, which relate to the subject matter of this Agreement.
- 12.2 This Agreement may be executed in two or more counterparts, each of which shall constitute an original but which, when taken together, shall constitute one instrument.
- 12.3 The Employee hereby confirms that the Company may process data relating to the Employee for legal, personnel, administrative and management purposes and in particular that the Company may process any "sensitive personal data" (as defined in the Data Protection Act 1998) relating to the Employee for the

purposes of enabling the Company to comply with any legal and/or regulatory requirement and/or to enable the Company to comply with its obligations under the terms of this Agreement.

The Common Seal of **Forth Valley Health**)
Board was hereunto affixed in the presence of:)

.....
Signatory

.....
Signatory's Full Name

.....
Signatory

.....
Signatory's Full Name

SIGNED on behalf of **Forth Health Limited** by

.....
Director/Secretary/Authorised Signatory, at
..... on in the
presence of:

.....
Project Co Authorised
Signatory/Director/Secretary

.....
Signatory's Full Name

.....
Witness Signature

.....
Witness Full Name

.....
.....
.....
Witness Address

SIGNED on behalf of **[Service Provider]** by

.....
Director/Secretary/Authorised Signatory, at
..... on in the
presence of:

.....
Service Provider Authorised

.....
Witness Signature

Signatory/Director/Secretary

.....

Signatory's Full Name

.....

Witness Full Name

.....

.....

.....

Witness Address

SIGNED as a Deed by

[Employee]

in the presence of:

)

)

Witness Name:

.....

Witness Address:

.....

.....

.....

PART 38 OF THE SCHEDULE: TRANSITIONAL ARRANGEMENTS

APPENDIX D

Dated 2007

FORTH VALLEY HEALTH BOARD

FORTH HEALTH LIMITED

[SERVICE PROVIDER]

EMPLOYEE

EMPLOYEE LOAN AGREEMENT

This Agreement is made on 2007

Between

- (1) FORTH VALLEY HEALTH BOARD of Carseview House, Castle Business Park, Stirling, FK9 4SW (the "Board") (the "Board");
- (2) FORTH HEALTH LIMITED (registered number 05986479) whose registered office is Allington House, 150 Victoria Street, London, SW1E 5LB ("Project Co");
- (3) [Project Co's Service Provider] whose registered office is at [address] (the "Employer"); and
- (4) [Employee] of [address] (the "Employee").

WHEREAS

- (A) The Board has entered into the Project Agreement, which sets out the terms and conditions upon which Project Co will carry out the Project.
- (B) Project Co has entered into an agreement with the Employer to perform the Services pursuant to the Project Agreement.
- (C) In order for the Board to ensure the smooth transition of the provision of the Services it is necessary for certain key staff (including the Employee) to provide support to the Board after the Phase 1 Actual Completion Date.
- (D) It is therefore agreed by the parties that the Employee will be made available to the Board pursuant to the terms of this Loan Agreement.

It is agreed

1. Definitions and interpretation

- 1.1 In this Agreement the following words and phrases shall have the following meanings:

Board Line Manager means []

Contract of Employment means the contract of employment between the Employer and the Employee

Employer Line Manager means []

Loan Arrangement means the arrangement under this Loan Agreement whereby the services of the Employee are made available to the Board

Project Agreement means the agreement dated [] entered into by the Board and Project Co for the development of the site of the new acute hospital for Forth Valley and the provision of services

- 1.2 The headings in this Agreement shall not affect its construction or interpretation.
- 1.3 Any reference to a clause is to a clause in this Agreement.
- 1.4 Words and phrases which are defined in the Project Agreement shall, unless the context otherwise requires, bear the same meanings in this Agreement.
- 1.5 This Agreement shall be governed by and construed in accordance with the laws of Scotland.

2. Loan Arrangement

- 2.1 The Loan Arrangement shall commence on [DATE] and, subject to the provisions of this Agreement, shall continue until [Insert agreed date pursuant to Table 2 in Part 38 of the Schedule (Transitional Arrangements)] unless terminated by the Board or the Employer giving to the other not less than [3 months'] written notice.
- 2.2 During the Loan Arrangement the Employee shall [INSERT DUTIES] for the Board whilst continuing to be employed by the Employer under the Contract of Employment which shall remain in force.
- 2.3 Notwithstanding the provisions of this clause 2, the Employer's Line Manager shall continue to manage, appraise and (if necessary) discipline the Employee during the Loan Arrangement, where relevant following consultation with and/or with appropriate input from the Board, and the Board shall refer any line management issues in relation to the Employee to the Employer.
- 2.4 The Board shall not, and shall not require the Employee to do anything that shall breach the Contract of Employment and the Board shall have no authority to vary the terms of the Contract of Employment or make any representations to the Employee in relation to the terms of the Contract of Employment.
- 2.5 The Board shall not require the Employee to do anything beyond the scope of the duties detailed in Clause 2.2 above.
- 2.6 The Board shall provide the Employer with such information and assistance as it may reasonably require to carry out its obligations as the Employee's employer.
- 2.7 Both the Board and the Employer shall inform the other as soon as reasonably practicable of any significant matter that may arise during the Loan Arrangement relating to the Employee or his/her employment.

3. Duties

- 3.1 During the Loan Arrangement the Employee shall devote the whole of his/her time attention and skill to his/her duties for the Board under this Agreement. The Employee shall faithfully and diligently perform duties and exercise such powers as may from time to time be reasonably assigned to or vested in him/her by or under the authority of the Board Line Manager. The Employee shall obey all reasonable and lawful directions given to him/her by or under such authority and shall use his/her best endeavours to promote the interests of the Board.
- 3.2 Notwithstanding the provisions of clause 3.1, in the event of any conflict between the directions given to the Employee by the Board Line Manager and the Employer Line Manager, the directions given to the Employee by the Employer Line Manager shall prevail.

4. Remuneration

- 4.1 During the Loan Arrangement the Employer undertakes to perform the terms of the Contract of Employment including without limitation to pay the Employee's salary and any allowances, provide any benefits due to the Employee or his/her dependants, make any payments to third parties in relation to the Employee and make any deductions that it is required to make from the Employee's salary and other payments.
- 4.2 No fee shall be payable by the Board to the Employer in respect of work undertaken by the Employee for the Board pursuant to this Agreement.

5. Expenses

The Employer shall refund to the Employee all reasonable travelling and other expenses incurred by the Employee during the Loan Arrangement in the exercise of the Employee's duties to the Company, in accordance with the relevant Employer policies.

6. Place of Work

The Employee's place of work during the Loan Arrangement shall be as stipulated in the Employee's Contract of Employment.

7. Hours of work

The Employee's hours of work during the Loan Arrangement shall be as stipulated in the Employee's Contract of Employment.

8. Holidays

The Employee's holiday entitlement during the Loan Arrangement shall be as stipulated in the Employee's Contract of Employment and shall be taken at times approved by the Board Line Manager.

9. Termination

9.1 Notwithstanding clause 2, this Agreement shall automatically terminate if the Contract of Employment is terminated before the expiry of the Loan Arrangement.

9.2 Notwithstanding clause 2, the Employer may terminate this Agreement with immediate effect without notice if the Board is guilty of any serious or repeated breach of the terms of this Agreement, including but not limited to where the Board requests that the Employee perform duties outside the scope of clause 2.2 and/or where such request constitutes a fundamental variation to the working or shift patterns of the Employee.

9.3 Notwithstanding clause 2, the Board may terminate this Agreement with immediate effect without notice:

- (a) if the Employer is guilty of any serious or repeated breach of the terms of this Agreement; or
- (b) if the Employee is guilty of any serious or repeated breach of the terms of this Agreement.

10. Indemnity

10.1 The Board shall indemnify the Employer against all liabilities, costs and expenses arising out of or in any way connected to, the Loan Arrangement and all documents signed, or actions taken by, the Employee during the Loan Arrangement (save for any claim that the Employer has failed to pay the Employee's salary and any allowances, provide any benefits due to the Employee or his dependants, make any payments to third parties in relation to the Employee or make any deductions that it is required to make from the Employee's salary and other payments or any claim arising as a result of any other act or omission of the Employer).

10.2 The Employer agrees to indemnify the Board against all liabilities, costs and expenses arising out of or in any way connected to any claim or demand by the Employee arising out of:

- (a) the employment of the Employee by the Employer during Loan Arrangement other than any liabilities, costs and expenses arising from

or in connection with any act or omission by the Board during the Loan Arrangement;

- (b) the termination by the Employer of the Employee's employment whether during the Loan Arrangement or otherwise other than any liabilities, costs and expenses arising from or in connection with any act or omission by the Board during the Loan Arrangement.

11. Confidentiality

11.1 In this clause "**Confidential Information**" means any confidential proprietary and/or commercially sensitive information in whatever form and whether conveyed in writing, orally or in visual or electronic or machine readable form (including, without limitation, in magnetic or digital form) relating to the relevant party (the Employer or the Board) including without limitation trade secrets, the relevant party's assets, liabilities, business, customers, suppliers, trading practices, proposals or trading prospects, discounts, rebates and other financial information, computer software and passwords including any information or document containing or otherwise reflecting, generated or deriving from such information and including information acquired by the Employee in any way from any of the officers, employees, agents or professional advisers of the relevant party.

11.2 The Employee shall not during this Loan Arrangement or afterwards use, exploit or divulge or seek to use, exploit or divulge to any third party by any means any Confidential Information, provided always that the Employee shall be permitted to do so:

- (a) with the express written consent of the relevant party (the Employer or the Board);
- (b) where the Employee can demonstrate that such information is already in the public domain otherwise than as a result of a breach by him of this Agreement;
- (c) where disclosure of the Confidential Information is required by virtue of any legal or professional obligation or by the order of any regulatory authority;
- (d) where disclosure of such information would constitute a protected disclosure under the Public Interest Disclosure Act 1998 ("the Act") provided that the disclosure is made in accordance with the provisions of the Act and the Employee has complied with any policy of the Employer from time to time in force regarding such disclosures.

11.3 The Board shall:-

- (a) keep any Confidential Information relating to the Employer that it obtains as a result of the Loan Arrangement secret;
- (b) not use, exploit or divulge or seek to use, exploit or divulge any Confidential Information (or allow it to be used, exploited or divulged), in whole or in part, to any person without the prior written consent of the Employer;
- (c) ensure that no person accesses such Confidential Information from it, its officers, employees or agents unless authorised to do so; and
- (d) inform the Employer immediately upon becoming aware, or suspecting, that an unauthorised person has become aware of such Confidential Information.

11.4 The Employer shall:-

- (a) keep any Confidential Information relating to the Board that it obtains as a result of the Loan Arrangement secret;
- (b) not use, exploit or divulge or seek to use, exploit or divulge any Confidential Information (or allow it to be used, exploited or divulged), in whole or in part, to any person without the prior written consent of the Board;
- (c) ensure that no person accesses such Confidential Information from it, its officers, employees or agents unless authorised to do so; and
- (d) inform the Board immediately upon becoming aware, or suspecting, that an unauthorised person has become aware of such Confidential Information.

12. **General**

- 12.1 This Agreement constitutes the entire Agreement between the parties and supersedes all prior agreements, understandings and arrangements between them, and representations by them, whether oral or written, which relate to the subject matter of this Agreement.
- 12.2 This Agreement may be executed in two or more counterparts, each of which shall constitute an original but which, when taken together, shall constitute one instrument.
- 12.3 The Employee hereby confirms that the Board may process data relating to the Employee for legal, personnel, administrative and management purposes and in particular that the Board may process any "sensitive personal data" (as defined in the Data Protection Act 1998) relating to the Employee for the purposes of

enabling the Board to comply with any legal and/or regulatory requirement and/or to enable the Board to comply with its obligations under the terms of this Agreement.

The Common Seal of **Forth Valley Health**)
Board was hereunto affixed in the presence of:)

.....
Signatory

.....
Signatory's Full Name

.....
Signatory

.....
Signatory's Full Name

SIGNED on behalf of **Forth Health Limited** by

.....
Director/Secretary/Authorised Signatory, at
..... on in the
presence of:

.....
Project Co Authorised
Signatory/Director/Secretary

.....
Signatory's Full Name

.....
Witness Signature

.....
Witness Full Name

.....
.....
.....
Witness Address

SIGNED on behalf of **[Service Provider]** by

.....
Director/Secretary/Authorised Signatory, at
..... on in the
presence of:

.....
Service Provider Authorised
Signatory/Director/Secretary

.....
Witness Signature

.....

.....
Signatory's Full Name

Witness Full Name

.....
.....
.....

Witness Address

SIGNED as a Deed by
[Employee]
in the presence of:

)
)

Witness Name:

.....

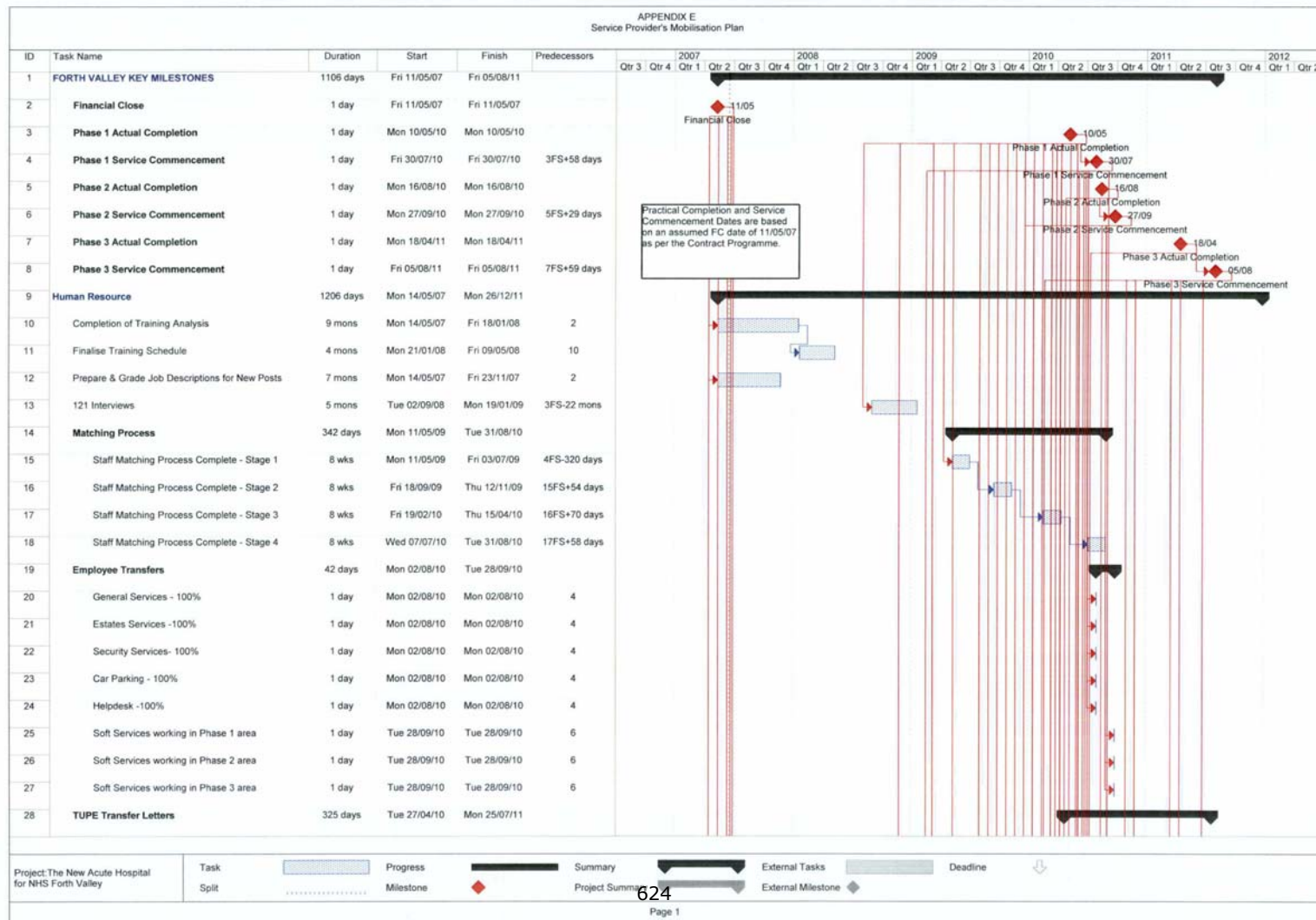
Witness Address:

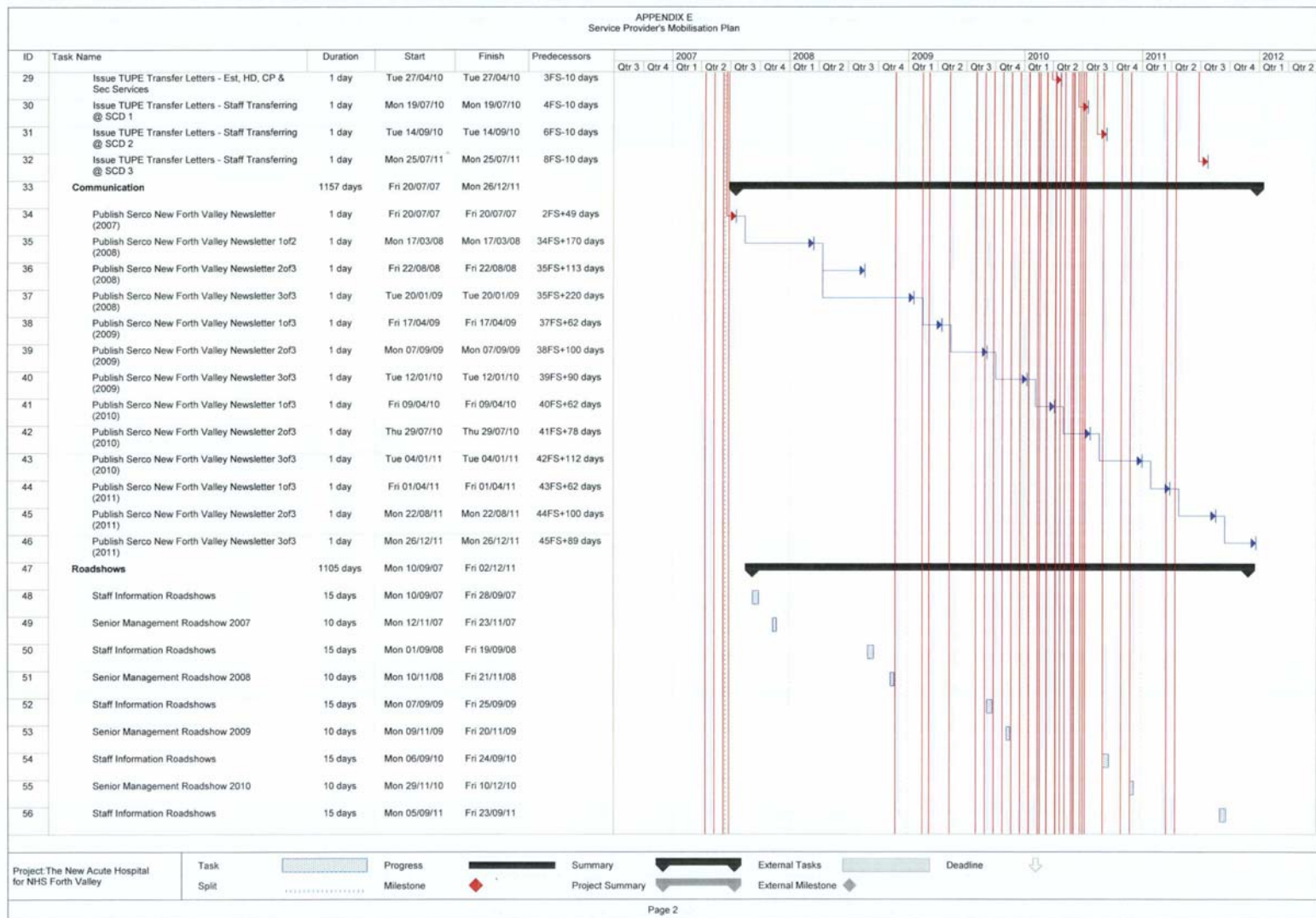
.....
.....
.....

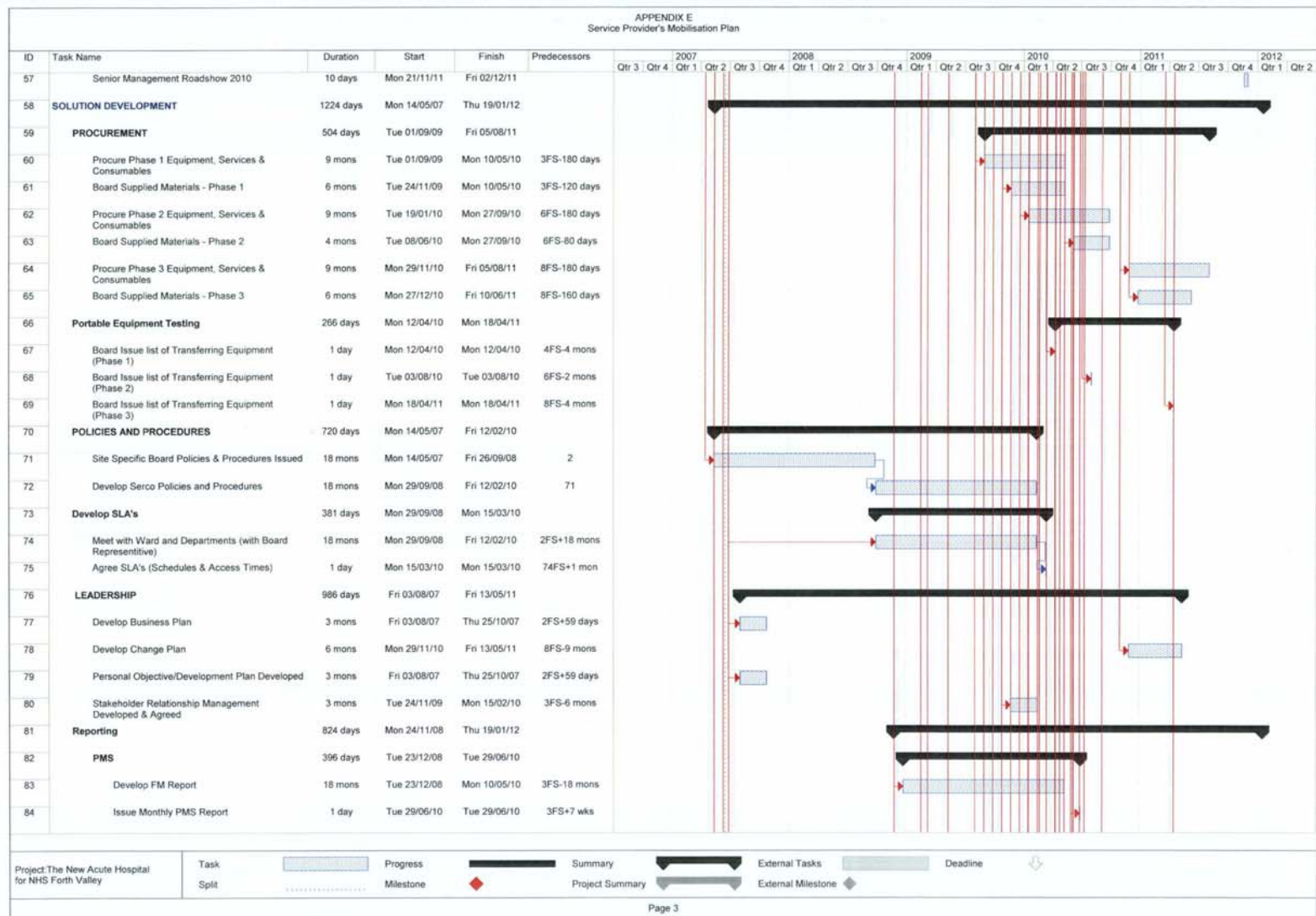
PART 38 OF THE SCHEDULE: TRANSITIONAL ARRANGEMENTS

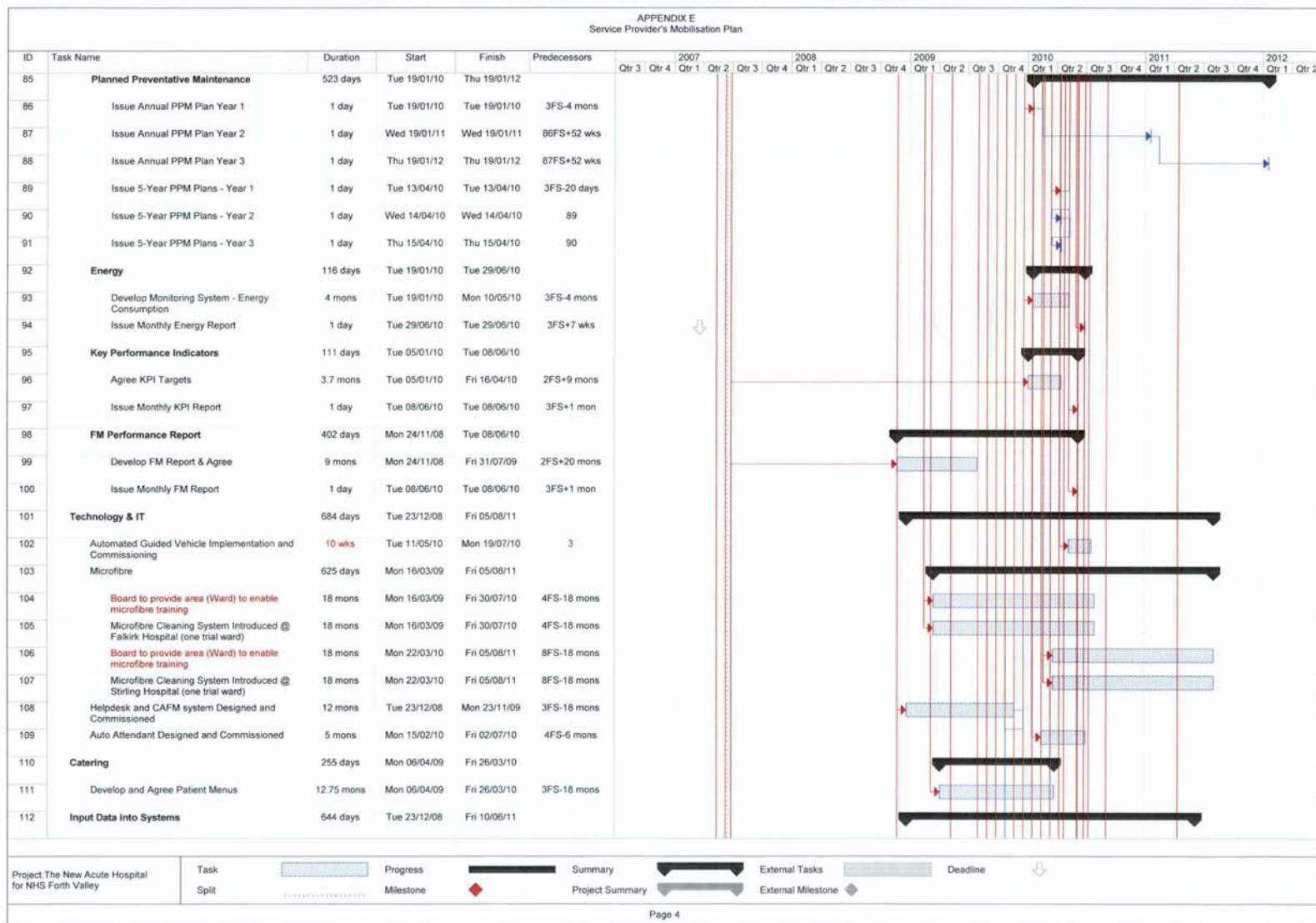
APPENDIX E

Irene Marsh Fiona Mackenzie (signed on every page of table)

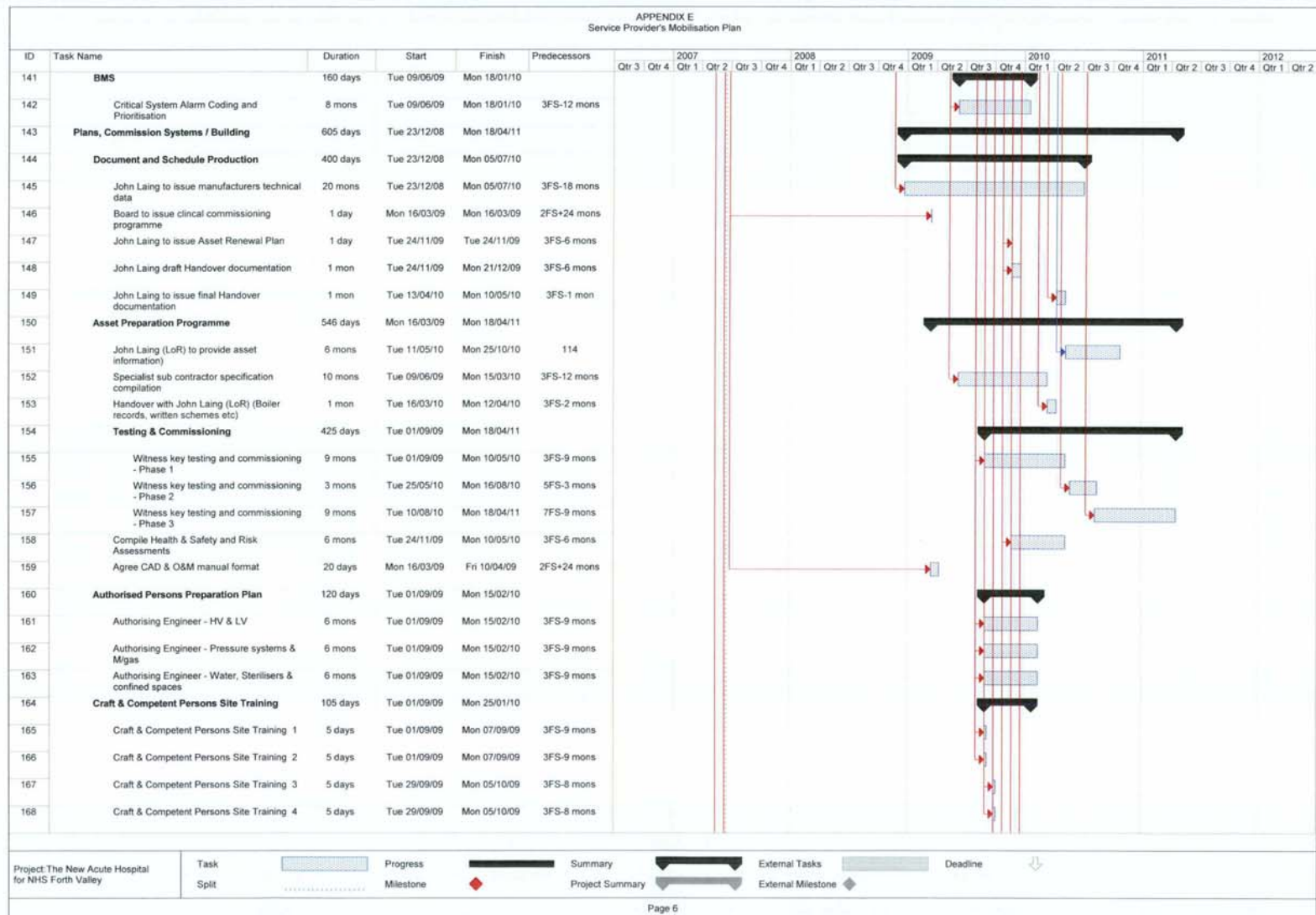


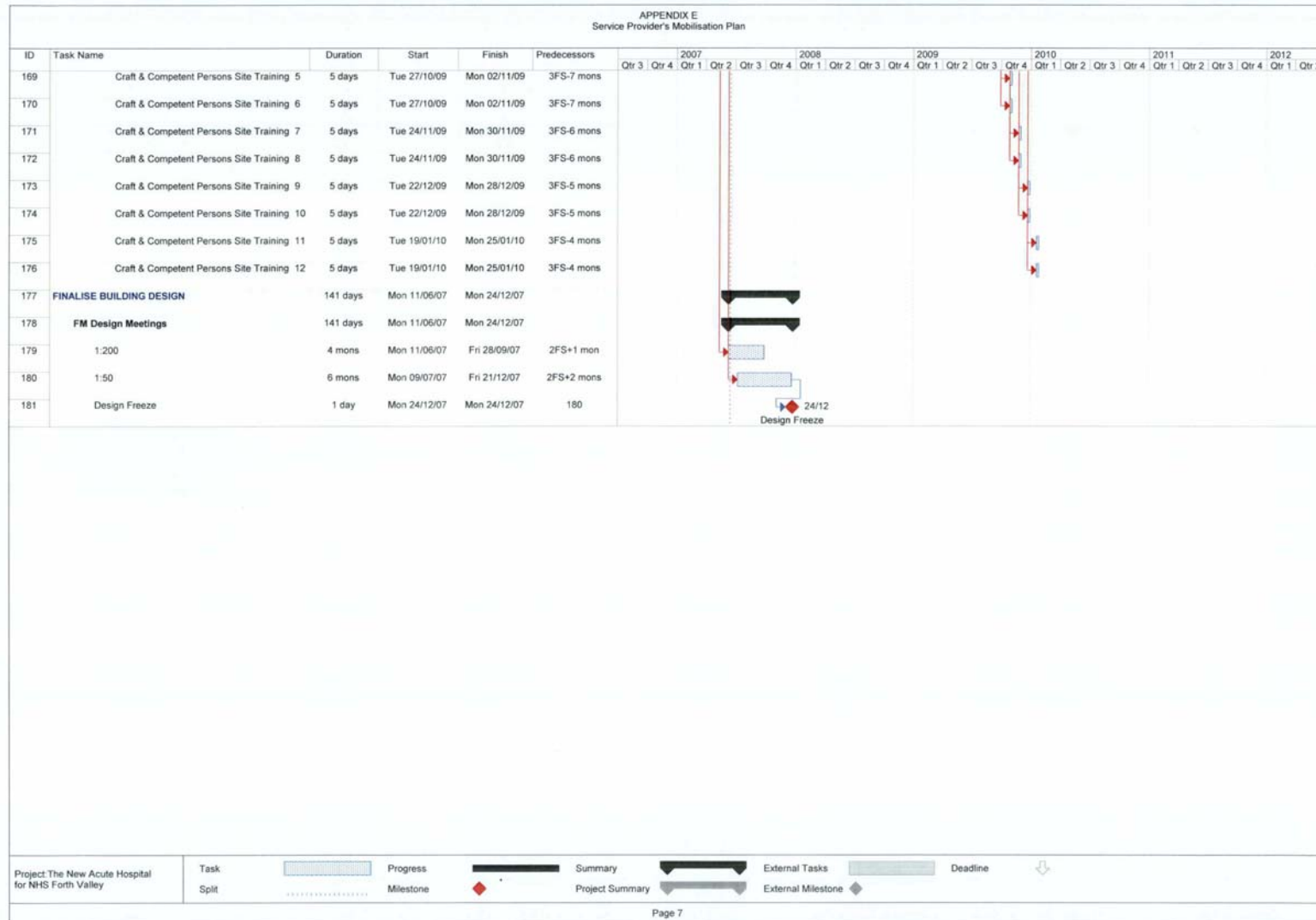












PART 39 OF THE SCHEDULE: ENABLING WORKS SPECIFICATION

1. The Board shall carry out, or procure the carrying out of, the Enabling Works in order to meet the following specification:
 - 1.1 All existing buildings and service structures as indicated and shaded grey on the Enabling Works and Cable Diversion Works Site Plan shall have been demolished, to underside of all foundations and slabs and any Contamination existing under such buildings and service structures shall have been removed from the Works Site and dealt with in accordance with Good Industry Practice. All demolition arisings shall have been removed from the Works Site.
 - 1.2 All existing below ground structures associated with the existing buildings and service structures described in paragraph 1.1 above shall have been grubbed up, including floor slabs, basements, foundations and chambers. All demolition arisings shall have been removed from the Works Site.
 - 1.3 Subject to the terms of the Cable Diversion Works and excluding the Turret main identified on the Enabling Works and Cable Diversion Works Site Plan, all known services located on or under the Enabling Works Site shall have been removed from the Works Site and terminated outwith the boundary of the Works Site. The Board shall have provided a drawing indicating the location and nature of the service termination to Project Co as a record of the works.
 - 1.4 All Contamination and hazardous material associated with the Enabling Works in paragraphs 1.1 to 1.3 shall have been removed from the Works Site.
 - 1.5 The Enabling Works Site shall be handed over to Project Co in a safe and maintained condition, such that it does not present a risk to health and safety.
 - 1.6 The Board shall have delivered to Project Co the concluded post Demolition Health & Safety File which will include the services record drawing, and records of all Contamination removal and clearance of same, in accordance with the requirements of the Construction (Design and Management) Regulations 2007.
2. The topography of the Enabling Works Site shall be in accordance with the Topographical Survey, save for any buildings which would be removed to underside of foundations (i.e. an average of 500mm below EGL at the perimeter of the built area).
3. The Enabling Works shall have been carried out in accordance with Good Industry Practice.
4. A joint inspection and diligence exercise shall be undertaken to confirm compliance by the Board with the Enabling Works Specification on a date to be

agreed between the parties (but not less than 5 Business Days following such notification). These inspections will take place in a sectional manner, as follows:

- (i) the first inspection shall relate to the areas marked on the plan at Appendix A of this Part 39 of the Schedule (*Enabling Works Specification*) as "Enabling Phase 1 Areas", and shall occur no later than 1 June 2007; and
- (ii) the remaining Work Site inspection shall occur no later than 1 October 2007.

5. In the event there is any dispute as to whether the Board has met the Enabling Works Specification set out in this Part 39 of the Schedule (*Enabling Works Specification*), the matter shall be determined in accordance with Schedule Part 26 (*Dispute Resolution Procedure*).

Demolition Site Plan

Enabling Phase 1

Redline position is determined as a consequence of the engineering solution to construct the works

Operational Site is to inside face of stone dyke

A1 NTS

Demolition Site Plan

PART 40 OF THE SCHEDULE: CABLE DIVERSION WORKS SPECIFICATION

Fiona Mackenzie Irene Marsh

1. The Board shall procure that the existing 11kV cable (as shown in red on the Enabling Works and Cable Diversion Works Site Plan) within the Works Site shall have been terminated at the boundaries, as shown on the Enabling Works and Cable Diversion Works Site Plan, in accordance with Good Industry Practice.
2. The Board shall procure:
 - 2.1 The existing sub station shown shaded blue on the Enabling Works and Cable Diversion Works Site Plan (the "Existing Sub Station") within the Works Site shall have been fully decommissioned and removed from the Works Site;
 - 2.2 The Existing Sub Station and all associated structures (including pits, fuel, maintenance storage) and any drainage facility, shall have been deconstructed and removed from the Works Site. All foundations, slabs and retaining structures relating to the Existing Sub Station shall have been grubbed up and removed from the Works Site;
 - 2.3 Any Contamination existing under the Existing Sub Station shall have been removed from the Works Site by or on behalf of the Board and any Contamination or residual arising from or in relation to the Cable Diversion Works shall have been removed from the Works Site;
 - 2.4 The Board shall have provided evidence of clearance certification in respect of the Cable Diversion Works, to Project Co,

all in accordance with Good Industry Practice.
3. The works required to procure the diversion of the cable and repositioning of the Existing Sub Station, to facilitate decommissioning of the cable and Existing Sub Station within the Works Site (all as referred to in paragraphs 1 and 2 above) shall be procured and carried out by the Board in accordance with Clauses 5.3(j) (Board's Undertaking) and 5.9 (Co-operation), in particular so as not to cause interference with Project Co's access to or egress from the Site or Works Site from Old Denny Road.
4. In the event there is any dispute as to whether the Board has met the specification set out in paragraphs 1 and 2 above, the matter shall be determined in accordance with Part 26 of the Schedule (*Dispute Resolution Procedure*).