

SCHEDULE 8

PRICES

SECTION A GENERAL

A1. Capitalized Terms

A1.1 Capitalized terms used in this Schedule 8 have the meanings set out in the Design Build Agreement, unless otherwise expressed in this Schedule 8.

A2. Definitions

A2.1 In this Schedule 8, the following terms have the meanings as described:

- (a) **“Cash Allowance Amount”** means the amount in Section B1.2;
- (b) **“Contract Price”** means the amount in Section B1.1 being the price agreed upon for the Works as set out in the Intermediate Design Submittal, which includes the Cash Allowance Amount, the Mobilization Amount and the DB Price, and any adjustments thereto made in accordance with this Design Build Agreement;
- (c) **“Corporate Overhead”** means the amount of corporate overhead as determined in accordance with Section C2.1;
- (d) **“Cost Element Allocation Tables”** means Table A to H of Appendix A to this Schedule 8;
- (e) **“DB Price”** means the amount in Section B1.2, which is the Contract Price less the Mobilization Amount and Cash Allowance Amount, that will be the basis for the Schedule of Prices;
- (f) **“Eligible Costs”** means those Eligible Costs described in Appendix A to this Schedule 8;
- (g) **“Exclusions”** has the meaning given in Appendix B to this Schedule 8;
- (h) **“Fixed Daily Rates”** means the amounts in Section B2.1 that will be paid to Design Builder, via the Cash Allowance Amount, for each onsite person-day an employee of Design Builder is performing the services related to the Cash Allowance Item;
- (i) **“Mobilization Amount”** means the amount in Section B1.2 that is allotted for payment to Design Builder to cover costs for mobilizing to the Lands;
- (j) **“Profit”** means the amount of profit determined in accordance with Section C2.2;

- (k) **“Project Fees”** has the meaning given in Appendix B to this Schedule 8;
- (l) **“Schedule of Prices”** is the schedule in Table 1 that gives the price amounts for the divisions of Work that will be used as a basis for payment; and
- (m) **“Workstation Charge”** has the meaning given in Table D of Appendix A to this Schedule 7.

SECTION B PRICES

B1. Contract Price

B1.1 The Contract Price is:

Contract Price	[\$ XX]
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B1.2 The Contract Price is comprised of the DB Price, Mobilization Amount, and the Cash Allowance Amount, as shown in the table below:

DB Price	[\$ XX]
Mobilization Amount	[\$ XX]
Cash Allowance Amount	[\$ XX]

B1.3 Adjustments to the Contract Price will be in accordance with Schedule 17 – Change Orders.

B2. Schedule of Prices

B2.1 The DB Price is further divided into the Schedule of Prices as shown in the table below:

Table 1 – Schedule of Prices

Item	Description	Price
	[Note to Proponents: this table will be populated based on Development Partner’s Contract Price Report – high-level example shown below]	
Design		
D01	Detailed Design Submittal	
D02	IFC Submittal	
D	Sub-Total Design	

Item	Description	Price
Construction		
C01	Temporary Works	
C02	Area Y – Yard	
C03	Area P – Primary Clarification	
C04	Area C – Centrate Treatment	
C05	Area N – Hauled Sludge Receiving	
C06	Area J – Phosphorus Release	
C07	Area T – Pre-digestion Sludge Treatment	
C08	Area D – Anaerobic Digestion	
C09	Area V – Biosolids Processing and Loading	
C10	Area K – Digester Gas Treatment	
C11	Return Pump Station	
C12	Flushing Water Pump Station	
C	Sub-Total Construction	
Post-Construction		
P01	Training	
P02	Commissioning	
P03	As-Built Submittals	
P04	Substantial Completion	
P05	Final Completion	
P06	Warranty	
P	Sub-Total Post-Construction	
	DB Price	[\$XX]

B3. Fixed Daily Rates

B3.1 In accordance with Schedule 9 – Progress Payments, Design Builder will be paid from the Cash Allowance Amount based on a Fixed Daily Rate as provided for applicable Cash Allowance Items in the table below:

Additional Operations Advisory Services	[\$ XX] per person per day
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Additional Training	[\$ XX] per person per day
[others, if any]	[\$ XX] per person per day

SECTION C ELIGIBLE COSTS, CORPORATE OVERHEAD AND PROFIT

C1. Cost Element Allocation Tables

C1.1 Table A through Table H of Appendix A to this Schedule 8 (“**Cost Element Allocation Tables**”) allocate various cost elements between Eligible Cost and Corporate Overhead.

C1.2 The Exclusions (each as defined in Appendix B to this Schedule 8) shall not constitute Eligible Costs.

C2. Corporate Overhead and Profit Rates

C2.1 The Corporate Overhead payable by the City to the Design Builder as part of the Contract Price under the Design Build Agreement is the amount equal to:

- (a) [●]% of the Eligible Costs for Primary Team Self-Performed Design Work;
- (b) [●]% of the Eligible Costs for Primary Team Subcontracted Design Work;
- (c) [●]% of the Eligible Costs for Primary Team Self-Performed Construction Work; and
- (d) [●]% of the Eligible Costs for Primary Team Subcontracted Construction Work.

[Note to Proponents: The percentages in this Section will be populated prior to the Effective Date of the DPA, using the rates provided with the Preferred Proponent’s Financial Submission.]

C2.2 The Profit payable by the City to the Design Builder under the Design Build Agreement is the amount equal to:

- (a) [●]% of the Eligible Costs for Primary Team Self-Performed Design Work;
- (b) [●]% of the Eligible Costs for Primary Team Subcontracted Design Work;
- (c) [●]% of the Eligible Costs for Primary Team Self-Performed Construction Work; and
- (d) [●]% of the Eligible Costs for Primary Team Subcontracted Construction Work.

[Note to Proponents: The percentages in this Section will be populated prior to the Effective Date of the DPA, using the rates provided with the Preferred Proponent’s Financial Submission.]

APPENDIX A: COST ELEMENT ALLOCATION TABLES

Table A Design Builder’s Corporate Overhead and Corporate Office Costs

Ref	Cost Element	Cost Category	
		Eligible Cost	Corporate Overhead Cost
A.	Corporate Office management, technical (exclusive of designated Primary Design Team staff), administration and service staff and non-Project Specific staff, including HR, finance, commercial, accounts, purchasing, occupational health and safety, quality, environment, and IT that are Principally Engaged in the Project, provided they are detailed on a staff list approved by the City in advance in writing. The Eligible Costs for such staff shall be equal to their time incurred to the Project assessed on a month-by-month basis. For the purposes of determining the DBA Eligible Costs, the staff payroll burden for the corporate staff identified in this provision shall be determined in the same manner as the staff payroll burden is determined in Ref C of Table B of this Appendix A and a pro-rated amount shall be determined based on their time incurred to the Project.	√	
B.	For a period beginning on the date of delivery and ending on the date being two years following Substantial Completion, costs of securing any letter of credit required under the Design Build Agreement, excluding, for certainty, any costs incurred or arising from any drawdown or replenishment of such letter of credit.	√	
C.	Costs incurred for the maintenance and protection of the Infrastructure.	√	
D.	Insurance premiums relating to the insurance required to be obtained and maintained by Design Builder as set out in DBA Schedule 11 - Insurance Requirements including the cost of insurance premiums, provided that no Corporate Overhead or Profit shall be payable by the City to Design Builder with respect to any insurance premiums or costs of or associated with insurance premiums.	√	
E.	Levies, fees, charges, and costs associated with the Permits, Licences and Approvals in accordance with the Design Build Agreement.	√	
F.	Corporate Office and corporate overhead costs.		√
G.	Overhead costs of Subcontractors.		√

Ref	Cost Element	Cost Category	
		Eligible Cost	Corporate Overhead Cost
H.	Process Performance Guarantee of Guarantor. <i>[Note to Proponents: To be revised to reflect appropriate references based on performance security requirements.]</i>		√
I.	Interest, financing charges, banking charges.		√
J.	Business insurance, warranties, professional indemnity insurance (excluding insurance taken out by the City), product liability insurance.		√
K.	Insurance deductibles for which the Design Builder is responsible and costs of any claims assistance, claims adjuster or adjustment activities pursuant to DBA Schedule 11 - Insurance Requirements.		√
L.	Franchises, royalties, licences.		√
M.	Corporate or entity accounting / auditing costs.		√
N.	Corporate Office recruitment costs, including both staff and agency costs and redundancy, and any Corporate Office human resources/industrial relations management staff (Ref F of Table B of this Appendix A in respect of Project Specific recruitment costs).		√
O.	Corporate Office management, technical (exclusive of designated Primary Design Team staff), administration and service staff and non-Project Specific staff, including HR, finance, commercial, accounts, purchasing, occupational health and safety, quality, environment, and IT that are not Principally Engaged in the Project.		√
P.	Procurement or tendering costs (except as pre-authorized by the City).		√
Q.	Corporate Office paper, printing and stationery.		√
R.	Taxes (e.g., property tax, business tax, income tax, etc.).		√
S.	Company cars, where not allocated directly to Project Specific staff, including all costs and expenses (except for expenses approved in advance by the City in writing).		√
T.	All Corporate Office accommodation costs, including all services, administration, maintenance, furniture, equipment, rent, rates, taxes, telephone, fax, reprographics, couriers, postage (except for any Workstation Charges approved in advance by the City in writing).		√

Ref	Cost Element	Cost Category	
		Eligible Cost	Corporate Overhead Cost
U.	General fees paid on a regular basis (excluding Project Specific general fees instructed by the City Representative).		√
V.	Legal advice, fees, and services (excluding costs identified in Ref B of Table G of this Appendix A).		√
W.	Membership fees in trade bodies and professional fees (except where approved in advance by the City in writing).		√
X.	Marketing, sales, and industry conferences, unless approved in advance by the City in writing.		√
Y.	Advertising, including agency fees and publication costs (unless approved in advance by the City in writing).		√
Z.	Research and development costs (unless specifically approved in advance by the City in writing).		√
AA.	Corporate Office computer hardware and software systems (except for any Workstation Charges approved in advance by the City in writing).		√
BB.	Charitable donations and entertaining, unless approved in advance by the City in writing.		√
CC.	Training (except where expressly permitted under the Design Build Agreement or approved in advance by the City in writing).		√

Table B - Designated Project Specific Costs of Design Builder’s Employed Staff.

Ref	Cost Element	Cost Category	
		Eligible Cost	Corporate Overhead Cost
A.	Entitlement under this Table B shall be limited to the Design Builder’s Employed Staff who are not Site Labour and who are Principally Engaged in carrying out work on the Project, including the design and/or design approval process, provided they are detailed on a staff list approved in advance by the City in writing, regardless of whether such staff are located at a Corporate Office, Project Office, working from home, or working from some other location approved in advance by the City in writing.		
B.	Project Specific secretarial/clerical personnel as detailed on the staff organizational staff approved in advance by the City in writing.	√	

Ref	Cost Element	Cost Category	
		Eligible Cost	Corporate Overhead Cost
C.	<p>Staff payroll burden consisting of:</p> <ul style="list-style-type: none"> i. actual salaries (excluding bonuses and incentive payments related to the profitability of the Design Builder’s business); ii. pre-authorized overtime, weekend or vacation pay allowances, and sick pay (in accordance with the Design Builder’s standard HR policies); iii. employer contributions to private health/dental insurance and life insurance as per the employee’s contract of employment; iv. employer contributions to health premiums in accordance with Applicable Laws; v. employer contributions to approved pension schemes (excluding discretionary contributions and special pension contributions that the employer may have to make to the pension fund to make up any shortfall); vi. employer contributions in respect of Canada Pension Plan and Employment Insurance in accordance with Applicable Law; vii. Project Specific staff training inclusive of time spent and course fees, if approved in advance by the City in writing; and viii. an estimated allowance to cover any costs arising out of or in connection with travel, relocation and accommodation and subsistence, to the extent consistent with City guidelines. <p>For clarity, severance pay in the case of employee layoffs shall not be considered a staff payroll burden.</p>	√	
D.	<p>All costs for Project Specific vehicles directly allocated to Project Specific staff at the rate and for the number of vehicles agreed to by the City, including insurance, depreciation, and maintenance. Fuel and fuel allowances to be reimbursed in accordance with Design Builder’s standard conditions of employment for individual members of Design Builder’s Project Specific staff.</p>	√	
E.	<p>Project Specific recruitment costs (approved in advance by City in writing).</p>	√	
F.	<p>Redundancy costs where the recipient has been engaged on the Works for a reasonable period of time (if approved in advance by the City in writing).</p>	√	

Ref	Cost Element	Cost Category	
		Eligible Cost	Corporate Overhead Cost
G.	Employee stock or share purchase plans (unless specifically approved in writing by the City).		√
H.	Staff employee benefits not identified in Ref C of Table B of this Appendix A (unless approved in advance by the City in writing).		√
I.	Travel, accommodation, and subsistence costs (including location allowances) for Site personnel, Project Office based staff, and designated Primary Design Team staff, to Site and other authorized Project Specific destinations, beyond what is included in the salary payroll burden allowance.		√
J.	Travel, accommodation, and subsistence costs (including location allowances) for Corporate Office based personnel (excluding identified Project Specific staff per Ref A of Table B of this Appendix A), to Site and other authorized Project Specific destinations (unless approved in advance by the City in writing).		√
K.	Maternity or parental leave payments.		√
L.	Long term sickness payments in excess of three months or as prescribed by Applicable Law (unless approved in advance by the City in writing).		√
M.	Long term sickness payments up to three months or as prescribed by Applicable Law.		√
N.	Project Specific bonus or incentive payments, not related to the profitability of the Design Builder's broader or other businesses or other projects or matters in respect of which the applicable employee may be engaged.		√
O.	Laptop computers (hardware and software), tablets and mobile phones assigned to staff that are not Project Specific.		√
P.	Personal professional fees and subscriptions.		√

Table C Design Builder’s Site Labour

Ref	Cost Element	Cost Category	
		Eligible Cost	Corporate Overhead Cost
A.	Entitlement under this Table C shall be limited to the Design Builder’s Site Labour		
B.	Site Labour costs burden required by the applicable collective bargaining agreement in carrying out work on the Project proportionate to the percentage of hours worked on the Project in relation to the total amount of hours worked, including: <ul style="list-style-type: none"> i. worker’s total earnings, including pre-authorized overtime (excluding bonuses); ii. payments in respect of public holidays and pre-authorized vacation; iii. sickness or injury payments; iv. employer’s contributions to annual vacation credits, pensions, death benefit and other employment benefit schemes (excluding special pension contributions that the Design Builder’s (as employer) may have to make to the pension fund to make up any shortfall); v. fares or pre-authorized lodging allowances (not relocation allowances); vi. tool allowances; vii. medical examinations where approved in advance by the City in writing (except in the case of pre- existing medical conditions); viii. protective clothing (subject to standard Design Builder policy); and ix. Project Specific employee training inclusive of time spent and course fees, subject to prior written authorization by the City. 	√	
C.	Labour only subcontract.	√	
D.	Redundancy costs where the recipient has been engaged on the Works for a reasonable period of time (if approved in advance by the City in writing).	√	
E.	Project Specific bonus or incentive payments, not related to the profitability of the Design Builder’s broader or other businesses or other projects or matters in respect of which the applicable employee may be engaged.		√

Ref	Cost Element	Cost Category	
		Eligible Cost	Corporate Overhead Cost
F.	Construction equipment having a capital value of less than \$2,000.00, tools of the trade and small tools in excess of any tool allowance included in Ref B.		√
G.	Any other costs or expenses of Site Labour that is not expressly identified as a DBA Eligible Cost in Table C.		√

Table D Project Office(s), Site Establishment and Site Charges (Design Builder’s Equipment)

Ref	Cost Element	Cost Category	
		Eligible Cost	Corporate Overhead Cost
A.	Project Offices, including rent and costs associated with the operation, repair and maintenance of the subject space together with any other payments payable by the Design Builder under the applicable lease or tenancy agreement, provided that no Corporate Overhead and Profit shall be payable by the City to the Design Builder with respect to any such DBA Eligible Costs.	√*	
B.	Partitioning, racking and fitting out.	√*	
C.	Temporary foundations and services.	√*	
D.	Installation and running costs of utilities including water, gas, electricity and other services.	√*	
E.	Documentation, printing, photocopying and consumables.	√	
F.	Project Specific computer hardware and software systems (provided that such computer hardware and software systems shall be handed over to the City and the Design Builder shall assign and transfer to the City for nominal consideration, free and clear of all encumbrances all right, title, benefit and interest of the Design Builder in and to such computer hardware and software system, when the same is no longer being principally used in connection with the Project).	√	
G.	Cleaning and maintenance.	√*	
H.	Safety requirements, including first aid, clothing, training, protection systems, inspecting and all other measures required to satisfy Applicable Laws.	√*	
I.	Project Specific telephones, communication systems, mobile phones and site communication systems.	√*	
J.	Security and CCTV.	√*	
K.	Consumables, tea, coffee, paper, and the like.	√*	
L.	Furniture, fixtures, fittings, and equipment.	√*	
M.	Stationery, postage, courier services and the like.	√*	
N.	Photography.	√*	
O.	Temporary roads and hard-standings.	√*	
P.	Temporary fencing, hoarding and security.	√*	

Ref	Cost Element	Cost Category	
		Eligible Cost	Corporate Overhead Cost
Q.	Lunch rooms, drying and messing rooms as may be required including maintenance.	√*	
R.	Road-sweeping, waste disposal.	√*	
S.	Project Specific technical equipment for surveying and testing, etc.	√*	
T.	Rent (including other lease costs incurred by virtue of a property lease approved in advance by the City in writing), rates and other municipal and statutory charges.	√*	
U.	Office and equipment costs associated with designated staff working on the Project, wherever they may be located (“Workstation Charge”).	√*	
V.	Demobilization / removal of site establishment and making good/restoration (if required).	√*	
W.	Any other related site establishment and site charges not included in the above (if approved in advance by City in writing).	√*	
X.	Petty cash.		√
<p><i>A “√*” in the column entitled “Eligible Cost” of this Table D means that costs may be charged at quoted rates approved by the City in writing, but only to the extent that such costs are directly related to the Project.</i></p>			

Table E Other Design Builder Machinery and Equipment

Ref	Cost Element	Cost Category	
		Eligible Cost	Corporate Overhead Cost
A.	Machinery and equipment purchased for incorporation within the Works.	√	
B.	Machinery, tools, consumables and equipment required for the design, installation, testing, commissioning and management of the Works, forming part of the Works, either purchased, hired or leased (including track installation and tamping plant; cranes, wheeled and tracked machinery, engineering trains, locomotives and wagons).	√	
C.	<p>Own 'internal' Design Builder's machinery and equipment.</p> <p>Where the machinery and equipment is purchased specifically for use by Design Builder to execute the Works, the cost is the purchase price or the first cost if Design Builder assembled, fabricated or otherwise produced the item of equipment. The cost is credited with residual values, as actually realized or if not, as approved in advance by the City in writing after that equipment is no longer required by Design Builder to execute the Works.</p> <p>Where the equipment is hired or rented by Design Builder from an Affiliate, the costs should be at reasonable market hire or rental rates approved in advance by the City in writing.</p> <p>Where the equipment is owned by Design Builder but not purchased specifically for use by Design Builder to execute the Works, the costs should be at reasonable market hire or rental rates, subject to approval by the City.</p>	√	
D.	Hired 'external' Design Builder's machinery and equipment.	√	
E.	Transportation, erection and dismantling, fuels, oils and other consumables for Design Builder's own and hired or rented machinery and equipment.	√	
F.	Spare parts and maintenance for Design Builder's own and hired or rented machinery and equipment.	√	
G.	Site transport (if specified).	√	

Table F Materials

Ref	Cost Element	Cost Category	
		Eligible Cost	Corporate Overhead Cost
A.	Materials for incorporation as part of the Works including transportation of materials and insurance (if such insurance is not covered under OCIP) whilst in storage and transit. Also included is the cost of samples and tests and providing and removing packaging. The cost is credited with payments received for the disposal of materials and return packaging.	√	
B.	Subcontractor's materials for incorporation as part of the Works including transportation of materials and insurance (if such insurance is not covered under OCIP) whilst in storage and transit.	√	
C.	Materials for temporary works including formwork, earthwork support, etc.	√	

Table G Miscellaneous

Ref	Cost Element	Cost Category	
		Eligible Cost	Corporate Overhead Cost
A.	The cost of surety bonds required by the Design Build Agreement.	√	
B.	Legal advice, fees and services specific to the Project instructed and approved in advance by the City in writing.	√	
C.	Small tools (picks, shovels, barrows, buckets and similar non-mechanical tools, including small portable power tools).	√	
D.	Haulage and disposal.	√	
E.	The cost of scrap recovery where undertaken by Design Builder shall be credited with the payments received for scrap sold or held by Design Builder.	√	
F.	Consumables (e.g. welding rods, oxyacetylene, personal protective equipment and clothing etc.).	√	
G.	Project expenses (except where incurred for the furtherance or promotion of Design Builder's business or other interests outside the Project), either purchased, rented, leased, or hired and approved in advance by the City in writing.	√	
H.	Project specific team building events and other special team functions approved in advance by the City in writing.	√	
I.	Manufactured products and goods at the lowest discounted market price current at the date of their purchase. The cost is credited with payments received for the disposal of materials and return packaging.	√	
J.	Community engagement costs directly related to the performance of the Works.	√	
K.	Costs and expenses approved in advance by the City to prepare any Quotation under or pursuant to Schedule 8 – Change Orders.	√	
L.	Cost to undertake any currency, fuel, and / or commodity price hedging, if approved in advance by the City in writing.		
M.	Non-recoverable taxes incurred by Design Builder in respect of the payment of insurance premiums relating to the insurance required to be obtained and maintained by Design Builder as set out in DBA Schedule 11 – Insurance Requirements, provided that no Corporate Overhead or Profit shall be payable by the City to Design Builder with respect to such non-recoverable taxes.	√	

Ref	Cost Element	Cost Category	
		Eligible Cost	Corporate Overhead Cost
N.	Other corporate services or events, including any off-Site administrative support function which is not directly involved in performing the Works and not in the immediate control and direction of the City.		√

Table H Costs Payable to Design Builder for Subcontracts to be paid on a lump-sum or fixed price basis if approved in advance in writing by City in accordance with Section T5 of the Design Build Agreement and subject to Exclusions per Appendix B, but exclusive of Affiliated Subcontracts

Ref	Cost Element	Cost Category	
		Eligible Cost	Corporate Overhead Cost
A.	Lump sum or fixed price Subcontract	√	

Note: Table H is intended to be used for Subcontractors on a tendered lump-sum or fixed price contract only.

APPENDIX B: EXCLUSIONS

SECTION A DBA ELIGIBLE COSTS EXCLUSIONS

A.1 Exclusions

- A1.1 The following amounts, fees, costs, expenses, disbursements, reimbursements, liabilities, payments, taxes, fines, penalties, losses or damages (including fees, costs, expenses and disbursements in respect of legal, accounting, financial advisory, consultancy or other professional or expert services) that may be suffered or incurred by the Design Builder or any Design Builder Party (each a “**Project Fee**” and collectively “**Project Fees**”) will not be Eligible Costs:
- (a) any Project Fees related to, in respect of or arising out of the performance of any works or services which are not directly referable to the performance of the Works or the express assumptions adopted by the Design Builder in developing the Contract Price that have been approved in advance by the City in writing, or which do not otherwise form part of the Works;
 - (b) any Project Fees related to, in respect of or arising out of the performance of any Works or services which cannot be properly and reasonably justified by the Design Builder’s or a Design Builder Party’s accounts and records;
 - (c) any Project Fees related to, in respect of or arising out of equipment and resources not used by the Design Builder or a Design Builder Party in providing the Works;
 - (d) any Project Fees related to, in respect of or arising out of defending, prosecuting, responding, or continuing any lawsuits, actions, applications, arbitrations, adjudications, or legal, quasi-legal, regulatory or administrative proceedings, investigations, or claims (including payment of fines, penalties, judgements, awards, orders, damages, restitution, compensation or interest);
 - (e) any Project Fees related to, in respect of or arising out of breach of Applicable Law by the Design Builder or any Design Builder Party;
 - (f) any interest payable to any Subcontractor (whether by the Design Builder or any other Subcontractor) including pursuant to *The Builders’ Liens Act (Manitoba)*;
 - (g) any Project Fees related to, in respect of or arising out of a Subcontract (including a contract for supply) where the Design Builder has not complied with the City’s procurement policy with respect to such Subcontractor;
 - (h) any Project Fees related to, in respect of or arising out of the Design Builder or any Design Builder Party defending any prosecution or claim brought against the Design Builder or any Design Builder Party, as applicable, by a Governmental Authority by reason of an alleged breach of Applicable Law, except where the City Representative determines otherwise by notice in writing to the Design Builder, having regard to the nature of the breach and the effect of the breach on the Project, the Works and the City;

- (i) any Project Fees related to, in respect of or arising out of the Design Builder obtaining, maintaining or providing any insurance coverage which is in addition to or supplements the insurance requirements referred to in the Design Build Agreement;
- (j) any Project Fees related to, in respect of or arising out of:
 - (i) any breach or non-compliance of the Design Build Agreement by the Design Builder;
 - (ii) any breach or non-compliance of any Subcontract;
 - (iii) the Design Builder or any Design Builder Party failing to carry out the Works or perform any other obligations subject to and in accordance with the Design Build Agreement or any Subcontract, as applicable;
 - (iv) any Design Builder Default;
 - (v) any default or event of default (however defined) by a Subcontractor (or the Design Builder, if applicable) under any Subcontract;
 - (vi) the termination of the Design Build Agreement pursuant to Section 18 of the Design Build Agreement (except as otherwise provided therein); or
 - (vii) the termination of any Subcontract, provided that Sections A.1(1)(j)(i) to A.1(1)(j)(vi) of this Appendix B to Schedule 7 shall not apply to costs or expenses incurred or suffered to remedy delays experienced by the Design Builder in carrying out the Works as identified in the Design Builder's Recovery Works Schedule or to achieve Final Completion by the Scheduled Final Completion Date; and
 - (viii) correcting and Making Good Defective Works by the Design Builder or any Design Builder Party prior to the applicable Warranty Period, to the extent that such Defective Works are caused by or attributed to, in any way, in whole or in part, willful misconduct, a deliberate act of wrongdoing, breach of Applicable Law, failure to comply with a Permit, Licence or Approval, fraud, gross negligence by the Design Builder or any Design Builder Party, or represent the Works (or parts thereof) being performed or completed by the Design Builder or any Design Builder Party in a manner demonstrating material non-compliance with Good Industry Practice;
- (k) any corporate or personal income tax or capital gains tax imposed on, or paid or payable by, the Design Builder and any Project Fees related thereto;
- (l) GST and any Project Fees related thereto;
- (m) any Project Fees related to, in respect of or arising out of the payment of any fees, charges, duties royalties, licences and statutory charges of any kind

- imposed with respect to the Works or any intellectual property used in respect of the Works;
- (n) any Project Fees which were excluded from Eligible Costs under the Development Phase Agreement;
 - (o) any Project Fees related to, in respect of or arising out of the relocation of personnel or human resources unless approved in advance by the City in writing;
 - (p) any Project Fees related to, in respect of or arising out of pre-existing medical conditions and medical examinations for current employees nominated for or allocated to the Project;
 - (q) any Project Fees related to, in respect of or arising out of any vacation or personal leave escalation, or additional net accrual for increasing an employee's employment entitlements, beyond the accrual in the employment related on-costs;
 - (r) other than as approved in advance by the City in writing or as set out in Appendix A – Cost Element Allocation Tables to this Schedule 7, any Project Fees related to, in respect of or arising out of living away from home allowances or any other living allowances or supplementary payments;
 - (s) any Project Fees related to, in respect of or arising out of specialized personnel's travel, relocation or accommodation, except where approved in advance by the City in writing or as set out in Appendix A – Cost Element Allocation Tables to this Schedule 7;
 - (t) any Project Fees suffered or incurred by the Design Builder or any Design Builder Party prior to the Effective Date, including, for certainty, any such Project Fees suffered or incurred by the Design Builder or any Design Builder Party related to, in respect of or arising out of:
 - (i) prequalification, procurement, proposal or submission costs; and
 - (ii) the negotiation, preparation, execution and delivery of any Design Build Agreement and the Performance Security;
 - (u) any Project Fees related to, in respect of or arising out of corporate training unless approved by the City in advance in writing, including any Project Fees related to the cost of training and cost of time of attending the training;
 - (v) any Project Fees related to, in respect of or arising out of information technology support staff or system administrators from any Corporate Office, unless directly related to supporting Project Office located Employed Staff or Site Labour;
 - (w) software development costs associated with corporate software, being software for which the prime application is not delivery of the Project and any Project Fees in relation thereto;

- (x) any Project Fees related to, in respect of or arising out of reimbursement for a handling fee or mark-up on disbursements and sub-consultants;
- (y) any contribution to corporate overhead costs or expenses, or any profit or unreasonable advantage from the utilization of people, plant, equipment, software or resources and any Project Fees in relation thereto;
- (z) any amount paid or payable by or on behalf of the Design Builder or any Design Builder Party to a Subcontractor to the extent that the Design Builder is entitled to claim and retain an input tax credit in respect of that payment and any Project Fees in relation thereto;
- (aa) any Project Fees incurred in respect of, relating to, or arising out of or in connection with a change in Direct or Indirect Power or Control;
- (bb) any Project Fees suffered or incurred by the Design Builder or any Design Builder Party related to, in respect of or arising out of:
 - (i) any Dispute, including any claim or demand that could form the basis of any Dispute unless instructed and approved in advance by the City in writing; and
 - (ii) the resolution of any Dispute pursuant to Schedule 7 – Dispute Resolution Procedure, including, for certainty, any Project Fees payable by the Design Builder as expressly described in Schedule 7 – Dispute Resolution Procedure, except to the extent that it is finally determined pursuant to Schedule 7 – Dispute Resolution Procedure that all or any portion of such Project Fees are payable by the City;
- (cc) any legal or consultant cost related to, in respect of or arising out of a payment expert determination to resolve an issue that arises between the City and the Design Builder in respect of an amount payable, and any Project Fees in relation thereto;
- (dd) any amount paid or payable by or on behalf of the Design Builder or any Design Builder Party to a Subcontractor which is an Affiliate of the Design Builder or such Design Builder Party on account of profit or corporate overhead, except where approved by the City in advance in writing, and any Project Fees in relation thereto;
- (ee) any Project Fees suffered or incurred by the Design Builder or any Design Builder Party related to, in respect of or arising out of:
 - (i) any amendment, revision, change or other modification of or to the design (or any part thereof) of the Infrastructure arising out of or in connection with any negligent act or omission of the Design Builder or any Design Builder Party or a breach by the Design Builder of any of its obligations under the Design Build Agreement;

- (ii) the cancellation of any demonstration, testing or re-testing of any part of the Infrastructure by the City where the City or third-party personnel arrive at the site and the scheduled demonstration, testing or re-testing cannot be performed as a result of the Design Builder's representatives not being present or not familiar with operation or control sequences for purposes of the demonstration or otherwise pursuant to DBA Schedule 18 – Technical Requirements;
- (iii) any due diligence matters in respect of or relating to the Project, including in respect of due diligence matters relating to real property of or associated with the Project, except to the extent that any such Project Fees have been approved by the City in advance in writing;
- (iv) an Emergency that is caused or contributed to by an act or omission of the Design Builder or any Design Builder Party or a breach by the Design Builder of any of its obligations under the Design Build Agreement;
- (v) the exercise or enforcement by the Design Builder or any Design Builder Party of any of its rights, remedies, powers or entitlements under or pursuant to the Design Build Agreement, including any right of indemnification, except to the extent that it is finally determined pursuant to DBA Schedule 7 – Dispute Resolution Procedure that all or any portion of such Design Build Fees are payable by the City;
- (vi) the exercise or enforcement by the City or any City Party of any of its rights, remedies, powers or entitlements under or pursuant to the Design Build Agreement, including such Project Fees incurred by the Design Builder to pay or satisfy any reimbursement, payment or similar obligation of the Design Builder to the City of any Project Fees incurred by the City in relation to such exercise or enforcement by the City; and
- (vii) the exercise of all of the steps set out in Section H.6 of the Design Build Agreement in relation to Subcontractor liens;
- (ff) any Project Fees related to, in respect of or arising out of an amount paid (or payable) to satisfy a claim under an indemnity provided pursuant to the Design Build Agreement or any Subcontract, and any Project Fees in relation thereto;
- (gg) any Project Fees related to, in respect of or arising out of a change in the Cost Management System (unless approved in advance by the City in writing);
- (hh) any Project Fees related to, in respect of or arising out of compliance with, or implementation of, any standard, customary or non-Project specific policy, guideline, procedure or matter of internal governance or control of the Design Builder or any Design Builder Party (including any audit or compliance review in relation thereto), including as may be required pursuant to the Design Build Agreement or in connection with the Works;

- (ii) any Project Fees incurred by the Design Builder, or to be incurred by the Design Builder, specifically excluded under the Design Build Agreement as being an Eligible Cost;
 - (jj) any Project Fees incurred by the Design Builder in relation to the modification or resubmission of a Submittal in accordance with Schedule 5 - Review Procedure;
 - (kk) any Project Fees of any kind in respect of alcohol or recreational drugs;
 - (ll) any Project Fees arising or related to any assistance or activities undertaken pursuant to Section H12 of the Design Build Agreement;
 - (mm) any Project Fees arising or related to any activities undertaken pursuant to Section T5 of the Design Build Agreement; and
 - (nn) any Project Fees arising or related to Design Builder caused Construction Defect.
- collectively “**Exclusions**” and each an “**Exclusion**”.