



SCHEDULE 17:
REVIEW PROCEDURE

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1. DEFINITIONS

- 1.1 For the purpose of this **Schedule 17 (Review Procedure)** unless the context otherwise requires:

"Submitted Item" shall have the meaning set out in paragraph 2.2 of this **Schedule 17 (Review Procedure)**.



2. REVIEW PROCEDURE

2.1 Application of Review Procedure

This **Schedule 17 (Review Procedure)** shall apply whenever any item, document or course of action is required to be reviewed, approved or otherwise processed in accordance with the Review Procedure.

2.2 Submitted Items

Each submission under the Review Procedure shall be accompanied by a copy of the document to be reviewed or a statement of the proposed course of action (the entire contents of a submission being a "**Submitted Item**").

2.3 Submitted Items

In relation to each Submitted Item the following procedure shall apply:

2.3.1 As soon as possible, the Authority's Representative shall return one (1) copy of the relevant Submitted Item to the Contractor endorsed as follows:

2.3.1.1 "No Comment"; or

2.3.1.2 (subject to and in accordance with **paragraph 2.4 (Grounds for Amendment)** or **paragraph 4 (Grounds for Objection)**) "Comments",

as appropriate.

2.3.2 If the Authority's Representative fails to return a copy of any such Submitted Item (including any such re-submitted Submitted Item) duly endorsed in accordance with **paragraph 2.3.1 (Submitted Items)**, within ten (10) Business Days (or within such other period as the Parties may agree in writing) of the date of its submission to the Authority's Representative, then the Authority's Representative shall be deemed to have returned the Submitted Item to the Contractor endorsed "No Comment".

2.4 Grounds for Amendment

If the Authority's Representative raises comments on any Submitted Item in accordance with this **paragraph 2.4 (Grounds for Amendment)** they shall state the ground upon which such comments are based and the evidence or other information used to substantiate that ground. To the extent that the Authority's Representative comments on a Submitted Item other than

on the basis set out in this **Schedule 17 (Review Procedure)** or fails to comply with the provisions of this **paragraph 2.4 (Grounds for Amendment)** the Contractor may request written clarification of the basis for such comments and, if clarification is not received within five (5) Business Days of such request by the Contractor, refer the matter for determination in accordance with the Dispute Resolution Procedure.

3. **FURTHER INFORMATION**

The Contractor shall submit any further or other information, data and documents that the Authority's Representative may reasonably require in order to determine whether they have a basis for raising comments or making objections to any Submitted Item in accordance with this **Schedule 17 (Review Procedure)**. If the Contractor does not submit any such information, data and documents, the Authority's Representative shall be entitled to:

- 3.1 comment on the Submitted Item on the basis of the information, data and documents which have been provided; or
- 3.2 object to the Submitted Item on the grounds that insufficient information, data and documents have been provided to enable the Authority's Representative to determine whether they have a legitimate basis for commenting or objecting in accordance with this **Schedule 17 (Review Procedure)**.

4. **GROUND OF OBJECTION**

- 4.1 The expression "**raise comments**" in this **paragraph 4 (Grounds of Objection)** shall be construed to mean "raise comments or make objections" unless the contrary appears from the context.
- 4.2 The Authority's Representative may raise comments in relation to any Submitted Item on the grounds set out in **paragraph 3.2 (Further Information)** or on the grounds that the Submitted Item would breach any Legislation or not be in accordance with any Consents, but otherwise may raise comments in relation to a Submitted Item only as follows:
 - 4.2.1 in relation to any Submitted Item, in the Authority's Representative's reasonable opinion:
 - 4.2.1.1 the Contractor's ability to perform its obligations under this Contract would (in the Authority's Representative's reasonable opinion) be adversely affected by the implementation of the Submitted Item;
 - 4.2.1.2 the implementation of the Submitted Item would (in the

Authority's Representative's reasonable opinion) adversely affect any right of the Authority under this Contract or its ability to enforce any such right;

4.2.1.3 the performance of a party's obligations under any Third Party contract (including any Authority Third Party Contracts) relating to the provision of any goods and/or performance of any works or services at the Prison on behalf of the Contractor, Authority or other Relevant Authority would be adversely affected by the implementation of the Submitted Item.

4.2.2 in relation to any submission of an Initial Custodial Service Delivery Plan, an Annual Custodial Service Delivery Plan, a Built Environment and M&E Assets Condition Verification Report (including the Asset Forward Maintenance Plan and Asset Forward Replacement Plan), an Asset Condition Schedule, an Equipment Refresh Plan, any Operating Procedure or any Contractor's Staff Information, on the grounds that in the Authority's Representative's reasonable opinion:

4.2.2.1 the Submitted Item is not in accordance with Good Industry Practice;

4.2.2.2 the performance of the relevant Service in accordance with the Submitted Item would:

- (a) be less likely to achieve compliance with relevant parts of the Authority's Requirements;
- (b) have an adverse effect on the safety and/or security of any persons at the Prison; or
- (c) cause the Authority to incur material additional expense;

4.2.2.3 the Authority's, HMIP or a Relevant Authority's ability to carry out any of their statutory functions would be adversely affected by the Submitted Item;

4.2.2.4 the Healthcare Provider's, the Probation Provider's, or the Social Care Service Provider's ability to provide the Healthcare Services, the Probation Services, or the Social Care Services (as the case may be) would be adversely affected by the Submitted Item; and/or

4.2.2.5 the Submitted Item would, if implemented, result in an inferior standard of performance of the relevant Service to the standard of performance required by the Authority's Requirements and the Operating Manual.

5. EFFECT OF REVIEW

5.1 In this **paragraph 5 (Effect of Review)**, references to the implementation of a Submitted Item shall mean that the actions and/or documents submitted for review or approval shall be carried out and/or become effective (as appropriate).

5.2 Any Submitted Item which is returned or deemed to have been returned by the Authority's Representative endorsed "No Comment" shall be implemented by the Contractor.

5.3 Subject to **paragraph 2.4 (Grounds for Amendment)**, in the case of any Submitted Item, if the Authority's Representative returns the Submitted Item to the Contractor endorsed "Comments", the Contractor shall amend such Submitted Item in accordance with such comments and shall thereupon implement the amended Submitted Item, unless the Contractor disputes that any such comment has been made on grounds permitted by this Contract, in which case the Contractor or the Authority's Representative may refer the matter for determination in accordance with the Dispute Resolution Procedure.

5.4 The return or deemed return of any Submitted Item with any endorsement shall not, save to the extent expressly stated in this Contract, relieve the Contractor of its obligations under this Contract; nor is it an acknowledgement by the Authority that the Contractor has complied with such obligations.

6. DOCUMENT MANAGEMENT

6.1 The Contractor shall issue a copy of all Submitted Items by email to the Authority's Representative and compile and maintain a register of the date and contents of the submission of all Submitted Items.

6.2 The Contractor 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 Authority's Representative.

6.3 No review, comment or approval by the Authority shall operate to exclude or limit the Contractor's obligations or liabilities under this Contract (or the Authority's rights under this Contract).

7. VARIATIONS

- 7.1 Subject to **paragraph 7.2 (Variations)**, no approval or comment or failure to give approval or to comment under this **Schedule 17 (Review Procedure)** shall constitute an Authority Change save to the extent expressly provided in this **Schedule 17 (Review Procedure)**.
- 7.2 If, having received comments from the Authority's Representative, the Contractor considers that compliance with those comments would amount to an Authority Change, the Contractor shall, as soon as reasonably practicable and in any event within ten (10) Business Days of receiving such comments and before complying with the comments, notify the Authority of the same and, if it is agreed by the Parties or determined pursuant to the Dispute Resolution Procedure that an Authority Change would arise if the comments were complied with, the Authority may, if it wishes, implement an Authority Change in accordance with **Schedule 16 (Change Protocol)**. Any failure by the Contractor to notify the Authority shall constitute an irrevocable acceptance by the Contractor that compliance with the Authority's comments shall be without cost to the Authority and without any extension of time.