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**APPENDIX 2B****USER CONSULTATION AND DESIGN REVIEW****1. SUBMITTALS**

Except as expressly set out otherwise in this Agreement, the provisions of this Appendix 2B will apply to any and all drawings, specifications or other documents (“**Submittals**”) required or specified by this Agreement, including Section 4.2 (Design Process) of Schedule 2 [Design and Construction Protocols], in respect of the Design and the Construction to be submitted to, reviewed, accepted or otherwise processed by the Authority prior to School Service Commencement for each School or after School Service Commencement in respect of the completion of Deficiencies for each applicable School, including any and all subsequent revisions, amendments and changes thereto.

**2. SUBMITTAL SCHEDULE**

- (a) The schedule for Submittals (the “**Submittal Schedule**”) is attached as Attachment 1 to this Appendix. The Submittal Schedule may be amended by agreement of the parties in accordance with the terms of this Section 2.
- (b) Any amendment to the Submittal Schedule will provide for a progressive and orderly flow of Submittals from Project Co to the Authority as appropriate to allow sufficient time for review of each Submittal by the Authority, taking into account both the resources necessary to be available to the Authority to conduct such review (as anticipated by or inferred from the Submittal Schedule attached as Attachment 1 to this Appendix) and consultation with the User Consultation Groups.
- (c) Unless a longer period is required by this Agreement or is otherwise reasonably required by the Authority, the Authority will have 15 Business Days for review of a Submittal from the date the Authority received the Submittal. If the Submittal Schedule is inconsistent with the foregoing review period then it will be deemed to be amended to be consistent. If the Authority receives a Submittal after 12 pm (Central time) on a Business Day, the 15 Business Day review period will commence on the next Business Day.
- (d) Project Co will, in scheduling Submittals and consultations with the User Consultation Groups, and in the performance of the Design and the Construction, allow adequate time prior to performing the Design and the Construction that is the subject of the Submittals, for review of the Submittals by the Authority and the User Consultation Groups as applicable, and for Project Co to make changes to the Submittals, the Design and the Construction as may be required to account for any comments received from the Authority and the User Consultation Groups.

- (e) If the Submittal Schedule indicates that Submittals will be required to be reviewed during the last week of August or the first week of September, Project Co will allow an additional five Business Days for review by the Authority.
- (f) If the Submittal Schedule indicates that a large number of Submittals will be made at one time, the Authority may, acting reasonably, request a longer period for review or a staggering of the Submittals, and Project Co will, acting reasonably, revise the Submittal Schedule accordingly, taking into account both the availability of resources required by the Authority to conduct such review and the availability of the User Consultation Groups and whether delay in the review of the subject matter of the Submittals will have a material impact on Project Co's ability to progress future anticipated Submittals and the Design or Construction in accordance with the Project Schedule.
- (g) Project Co will submit the then current Submittal Schedule to the Authority on a monthly basis until the Service Commencement Date. All amended Submittal Schedules will be required to meet all the requirements of this Section 2.
- (h) Project Co will submit all Submittals to the Authority in accordance with the then current Submittal Schedule.
- (i) Project Co will bear the risk of delays and additional costs caused as a result of the late submission of Submittals to the Authority, by Submittals which are rejected or required to be corrected and re-submitted in accordance with the terms of this Appendix 2B, or by changes in the Design and Construction required as a result of comments made pursuant to this Appendix 2B.

### **3. GENERAL REQUIREMENTS FOR SUBMITTALS**

- (a) Unless otherwise specified by the Authority:
  - (1) Project Co will deliver 5 printed copies of each Submittal to the Authority at a location defined by the Authority, together with an electronic copy in a format acceptable to the Authority;
  - (2) Project Co will post an electronic copy of each Submittal (in a format acceptable to the Authority) on an internet-based system that is established by Project Co for the Project and accessible to Project Co and Authority and School Board staff;
  - (3) the review time limit will start once all components are received including printed copies;
  - (4) Submittal PDF files are to be submitted as individual sheets and as sets grouped per discipline. Any individual PDF file to be limited to 40MB;

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- (5) standard naming conventions that limit file name length and exclude special characters are to be submitted by Project Co and agreed upon prior to the first Submittal; and
  - (6) all document formats must be submitted by Project Co for review by the Authority prior to the first Submittal.
- (b) All Submittals will be in English.
  - (c) All Submittals required by this Agreement, applicable Law or Good Industry Practice to be signed or sealed by persons with professional designations (including where applicable by registered professional architects, landscape architects or engineers) will be so signed and, where applicable, sealed.
  - (d) All Submittals will refer to the relevant provisions of the Design and Construction Specifications, the Services Protocols and Specifications (if applicable) and to any matter that has previously been subject to review. All Submittals (or covering documentation delivered with the Submittals) will include a statement confirming that the Submittals comply with, or identifying any elements of the Schools that for any reason vary from, the requirements of the Project Agreement, with particular reference to Schedule 2 [Design and Construction Protocols] and Schedule 3 [Design and Construction Specifications].
  - (e) All Submittals will be clearly identified as a Submittal and will be delivered with appropriate covering documentation, which will include:
    - (1) a list of all attached Submittals;
    - (2) a description of:
      - (A) the purpose of the Submittal(s) (including whether the Submittal is being submitted for review by the User Consultation Groups, for review under Section 5 of this Appendix or for other purposes);
      - (B) the component of the Design that is subject to review by the Authority or the User Consultation Groups;
      - (C) the specific item or items in the Submittal that are the subject of the review that have been updated since the previous Submittal; and
      - (D) Project Co's expectations for the Authority's review of the Submittal and Project Co's proposed course of action relating to the Submittal and the Design and the Construction that are the subject of the Submittal;
    - (3) if the Submittal is submitted as part of the Design phases described in Section 4.2 of Schedule 2 [Design and Construction Protocols], a report for the Submittal including the information described in Section 4.2(c)(10) of Schedule 2 [Design and Construction Protocols] as applicable to that Submittal;

- (4) for each Submittal:
  - (A) the document number(s) or drawing number(s);
  - (B) revision numbers (if applicable);
  - (C) document or drawing title(s);
  - (D) name of entity that prepared the Submittal;
  - (E) the Submittal history showing date and delivery information and/or log number of all previous submissions of that Submittal; and
  - (F) identification of any previous Submittal superseded by the current Submittal.
- (f) Project Co will compile and maintain a register of the date, contents and status of the submission of all Submittals, including the date of receipt and content of all returned Submittals and comments thereon.

#### 4. USER CONSULTATION PROTOCOL

- (a) Project Co acknowledges that review of the Design by the Authority and consultation with the School Users is an essential step in the completion of the detailed design of the Schools. Accordingly, Project Co will conduct consultations with the User Consultation Groups as described in this Appendix 2B. The Authority will make reasonable efforts, as requested by Project Co, to assist and support Project Co with the consultation process, but nothing in this Section 4 will be interpreted to give the Authority responsibility for the Design, the Design schedule or the user consultation process.
- (b) The Authority will establish a User Consultation Group that will include School Users.
- (c) Unless agreed by the Authority, all aspects of the Design will be subject to review by one or more User Consultation Groups.
- (d) The User Consultation Groups will include a User Consultation Group designated as the "Scheduling User Group" with responsibility for coordinating the Design review process with Project Co, which will include the Authority's Representative for the Project.
- (e) Project Co's Service Provider team will be fully integrated into the Design team to ensure that the most sustainable design decisions are informed not only as they relate to initial capital costs but also to the operational efficiencies and effectiveness of the systems for the whole life of the Schools.
- (f) Unless otherwise agreed, Submittals will be provided and reviewed in accordance with the following:

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- (1) Draft Submittal to the Authority:
    - (A) Project Co will provide a draft Submittal as indicated on the Submittal Schedule that includes all relevant material with a covering transmittal indicating the purpose of the Submittal, and the information that should be reviewed by the Authority and the User Consultation Groups.
    - (B) All changes from a previous Submittal should be clearly indicated in accordance with Section 11 of this Appendix 2B.
    - (C) One week prior to the draft Submittal, Project Co will provide the time, date, location and agenda for the meeting of the relevant User Consultation Groups.
  - (2) User Group Consultation:
    - (A) One week following the draft Submittal, Project Co will present the relevant material at a meeting of the relevant User Consultation Groups.
    - (B) The presentation will be made in person by the Architect or, if the Authority agrees, the Design-Builder's engineer or other subject matter expert.
    - (C) Project Co's presentation will include a page-by-page review of the draft Submittal.
    - (D) Project Co, the Design-Builder and a representative of the Service Provider must be in attendance, preferably in person, but teleconference is acceptable.
    - (E) During the presentation, a representative of Project Co will take "live minutes" so that all parties can agree on the content of the minutes during the meeting. Project Co will circulate the minutes immediately after the meeting to all parties and within 3 Business Days Project Co must circulate formal minutes for review. If the Authority notifies Project Co of any errors in the minutes, Project Co will correct such errors within 3 Business Days of the Authority's notice. Project Co will circulate a minute format for approval prior to commencing. Project Co will provide all materials/drawings presented at the meetings, in electronic form, with the minutes.
  - (3) Informal Comments from the Authority:
    - (A) The Authority will provide any additional informal feedback to Project Co.
    - (B) The Authority will provide additional informal feedback within one week after the presentation, unless the Authority advises Project Co in writing.

The period will not exceed 10 Business Days unless agreed with Project Co.

- (4) Formal Submittal to the Authority:
  - (A) Project Co will make the formal Submittal within 10 Business Days following the presentation (or one week after receiving additional informal feedback).
  - (B) If Project Co does not address the feedback received at the presentation or subsequently provided by the Authority, Project Co will provide commentary on the reasons for not addressing the feedback.
- (5) Formal Response from the Authority:
  - (A) The Authority will respond within 15 Business Days following the formal Submittal in accordance with this Appendix 2B.
  - (B) Following the Authority's formal response, Project Co may request a meeting with the Authority regarding the content and comments on the Submittal(s), to carry out a page-by-page review of such comments with the Authority and to answer any questions Project Co may have about the Authority's review.
- (g) The process set out in this Section 4 will be set out in the Submittal Schedule.
- (h) The parties acknowledge that Design development is an iterative and interactive process and that additional User Consultation Groups review and meetings may be required from those shown on the Submittal Schedule. The parties will co-operate to amend the Submittal Schedule as may be required from time to time to ensure that sufficient consultations with the User Consultation Groups in relation to each component of the Design (and changes to the Design resulting from such consultations) are completed prior to Project Co making the formal Submittal.
- (i) The Authority and Project Co will not be bound by the consultations with the User Consultation Groups, unless reflected in the formal Submittal and comments from the Authority.
- (j) If Project Co considers that compliance with any comment raised by a User Consultation Group member would lead to a Change, Project Co will, before taking into account such comment or objection, notify the Authority. If it is agreed by the Authority that such comments or objections would lead to a Change then the procedure as detailed in Schedule 6 [Changes, Minor Works and Innovation Proposals] will apply. In all cases, the parties will cooperate to identify potential alternative solutions to any comments or objections raised that would not lead to a Change.

- (k) The User Consultation Group consultation meetings will be held in Regina, at space made available by the Authority.

## 5. REVIEW PROCEDURE

- (a) The Authority will review and respond to each Submittal in accordance with the applicable time periods set out in the Submittal Schedule (as may be amended from time to time in accordance with this Appendix).
- (b) Before commencing Construction of a particular component of the Project, Project Co will submit to the Authority a Submittal:
  - (1) that fully addresses the User Group Consultation described in Section 4 of this Appendix; and
  - (2) describing that component, including all necessary Design and other information as the Authority may reasonably require, including any Design reports and calculations reasonably necessary for the Authority to conduct an appropriate review to confirm that the Design described in the Submittal conforms to the requirements of this Agreement (including the Design and Construction Specifications and the Proposal Extracts (Design and Construction)).
- (c) At the Authority's request, Project Co will meet with the Authority and make a presentation to the Authority regarding the content and purpose of the Submittal(s), carry out a page-by-page review of the Submittal(s) with the Authority and answer any questions the Authority may have in advance of its review.
- (d) Project Co will provide a detailed "Comments sheet" tracking the Authority's comments sequentially. The first Submittal will incorporate the minor non-compliant items identified in Project Co's Technical Submission review. All subsequent Submittals must include comments from the previous review and indicate how they have been addressed. If not all comments are addressed, the entire Submittal will be rejected.
- (e) The Authority will review Submittals submitted under Section 5(b) above and assign one of the following 4 comments:
  - (1) "REVIEWED";
  - (2) "CORRECT DEFICIENCIES";
  - (3) "REJECTED"; or
  - (4) "NOT REVIEWED".
- (f) The comment "REVIEWED" will be assigned to those Submittals that, in the opinion of the Authority, acting reasonably, appear to conform to the requirements of this

Agreement, including the Design and Construction Specifications and the Proposal Extracts (Design and Construction).

- (g) The comment “CORRECT DEFICIENCIES” will be assigned to those Submittals that, in the opinion of the Authority, acting reasonably, appear to generally conform to the requirements of this Agreement, but in which minor deficiencies have been found and identified by the Authority’s review. Project Co will to the extent necessary correct these Submittals and provide a copy of such corrected Submittals to the Authority within 15 Business Days. Project Co may proceed on the portions of such Submittals that have not received comments but Project Co will not proceed on the portions of such Submittals that have received the comment “CORRECT DEFICIENCIES” until Project Co obtains a comment that permits Project Co to proceed. Project Co will correct, revise and resubmit Submittals as often as may be required to obtain a comment that permits Project Co to proceed. If at any time it is discovered that Project Co has not corrected the deficiencies on Submittals that were correctly stamped "CORRECT DEFICIENCIES", then Project Co will be required to modify the Submittals and the relevant Design and the Construction as required to correct the deficiencies and Project Co may be required, at the Authority’s discretion, acting reasonably, to resubmit relevant Submittals.
- (h) The comment “REJECTED” will be assigned to those Submittals that, in the opinion of the Authority, acting reasonably, contain significant deficiencies or do not generally conform with the requirements of this Agreement. Project Co will correct and re-submit these Submittals within 15 Business Days after the comment has been provided to Project Co. The Authority will then review such corrected Submittals and assign a comment to the corrected Submittal. Project Co will correct, revise and resubmit Submittals as often as may be required to obtain a comment that permits Project Co to proceed. Except with the written consent of the Authority, Project Co will not proceed with any Design or Construction to which such Submittals receiving the comment “REJECTED” relate until Project Co obtains a comment that permits Project Co to proceed. The comment “REJECTED” may also be assigned to Submittals that are in relation to any aspect of the Design and that have not been subject to review by one or more User Consultation Groups, unless agreed by the Authority in accordance with Section **Error! Reference source not found.** of this Appendix.
- (i) The comment “NOT REVIEWED” may be assigned to those Submittals that have not been reviewed by the Authority in detail because, in the opinion of the Authority, acting reasonably, the Submittals do not comply with the requirements of this Appendix (including Section 5(b) above), are incomplete or otherwise insufficient for the purposes of a Design review, or are received by the Authority before the date scheduled in the Submittal Schedule. Project Co will correct and re-submit these Submittals within 15 Business Days or, if a later date is set out on the Submittal Schedule, by such later date. Project Co will correct, revise and resubmit Submittals as often as may be required to obtain a comment that permits Project Co to proceed. Project Co will not proceed with any Design or Construction to which such Submittals receiving the comment “NOT

REVIEWED” relate until Project Co obtains a comment that permits Project Co to proceed.

- (j) The Authority may request additional time for the review of any Submittal, including where the Submittal is voluminous or requires extensive review by representatives (including consultants) of the Authority, and Project Co will, in consultation with the Authority, extend such time for any reasonable requests by the Authority.
- (k) If the Authority does not respond to a Submittal within the applicable time period for that Submittal as determined in accordance with Section 2(c) of this Appendix, the Submittal will be deemed “REVIEWED” and Project Co may proceed with and implement the Design and the Construction on the basis set forth in the applicable Submittal without any further action or documentation required.
- (l) Where the Authority issues the comment “CORRECT DEFICIENCIES”, “REJECTED” or “NOT REVIEWED” the Authority will provide reasons for the comment, referencing particulars of the Section(s) of the Agreement (including the Design and Construction Specifications) that the Submittal fails to satisfy, and if requested by Project Co, the Authority will meet with Project Co to discuss the reasons for the comment.
- (m) If at any time after assigning any comment to a Submittal or where Section 5(k) above has applied, the Authority or Project Co discovers deficiencies or any failure to conform to the requirements of this Agreement, the Authority or Project Co, as the case may be, will promptly notify the other party of such deficiencies or non-conformance and the Authority may revise the comment assigned to any Submittal. If the parties agree or it is determined in accordance with the Dispute Resolution Procedure that the revised comment is correct, Project Co will make all such corrections to the Submittals and the Design and the Construction.
- (n) For the purpose of facilitating and expediting the review and correction of Submittals, the Authority and Project Co’s Design and Construction Representatives will meet as may be mutually agreed to discuss and review any outstanding Submittals and any comments thereon.
- (o) Where an individual Submittal item is voluminous, the Authority at its discretion may elect to stamp only the cover page or first sheet of the Submittal with the appropriate comment, if any, and return to Project Co the cover page or first page together with individual pages or sheets on which comments are made, together with an explanation of the status of all pages not returned to Project Co. Any pages not returned without such an explanation as to their status will be deemed to be “REVIEWED” by the Authority.
- (p) In lieu of returning a Submittal, the Authority may by letter notify Project Co of the comment assigned to the Submittal and if such comment is “CORRECT DEFICIENCIES”, “REJECTED”, or “NOT REVIEWED” the letter will contain comments in sufficient detail, including referencing applicable Section(s) of the Agreement, for Project Co to identify the correction sought.

## 6. REVIEWED DRAWINGS AND SPECIFICATIONS

- (a) The following Submittals will be deemed to be "**Reviewed Drawings and Specifications**":
- (1) Submittals which the Authority has marked as "REVIEWED" under Section 5(f) of this Appendix;
  - (2) portions of Submittals that Project Co may proceed with under Section 5(g) of this Appendix;
  - (3) Submittals which have been deemed "REVIEWED" by the Authority under Section 5(k) of this Appendix.
- (b) Project Co's Design and Construction Representative will promptly deliver one complete copy of the Reviewed Drawings and Specifications to the Independent Certifier.

## 7. DISPUTES

If Project Co disputes any comment issued by the Authority in respect of a Submittal made under Section 4 of this Appendix, Project Co will promptly notify the Authority of the details of such Dispute and will submit the reasons why Project Co believes a different comment should be assigned, together with appropriate supporting documentation. The Authority will review the Submittal, the reasons and supporting documentation and within 7 Business Days after receipt thereof will either confirm the original comment or notify Project Co of a revised comment. Nothing in this Section 7 will limit either party's right to refer a Dispute to the Dispute Resolution Procedure.

## 8. CHANGES

- (a) If Project Co considers that compliance with any comment raised by a User Consultation Group member or the Authority in respect of a Submittal made under Section 4 of this Appendix would lead to a Change, Project Co will, before taking into account such comment, notify the Authority. If it is agreed by the Authority that such comment would lead to a Change then the procedure set out in Schedule 6 [Changes, Minor Works and Innovation Proposals] will apply. If the parties are unable to reach agreement, then either party may refer the matter directly to the Referee in accordance with Schedule 13 [Dispute Resolution Procedure].
- (b) In all cases, the parties will cooperate to identify potential alternative solutions to any comments raised that would not lead to a Change.
- (c) In accordance with Schedule 6 [Changes], a Development Change Register will be managed by Project Co and will be inclusive of design change description, reference number, capital cost, maintenance cost, life cycle cost, annual energy impact, design time implications, action required, priority, and the required date of Authority acceptance.

- (d) The Development Change Register is to be reviewed at every Submittal and at monthly Construction Period Joint Committee meetings.

## 9. EFFECT OF REVIEW BY AUTHORITY

For greater certainty, Section 1.5 (Authority Not Responsible for Design or Construction) of Schedule 2 [Design and Construction Protocols] applies to any review or comment by the Authority on any Submittal.

## 10. SUBMITTAL MEETINGS AND EXPLANATIONS

At any time, the Authority may, acting reasonably, require Project Co, including Project Co's consultants, Sub-Contractors, and any other relevant personnel, at no additional cost to the Authority, to meet with representatives of the Authority and its advisors to answer questions regarding Project Co's Submittals or to explain to the Authority and the Authority's advisors the intent of Project Co's Submittals, including in relation to any Design and any associated documentation and as to its satisfaction of the requirements of this Agreement (including the Design and Construction Specifications). Project Co will, and will cause its consultants, Sub-Contractors, and any other relevant personnel to, attend all meetings requested by the Authority and answer all questions asked by the Authority in accordance with this Section 10 as soon as practicable and in any event no later than 5 Business Days from the date it received the Authority's questions or such longer period as agreed by the parties.

At any time, the Authority may, acting reasonably, require Project Co, including Project Co's Design-Builder and any other relevant personnel, at no additional cost to the Authority, to meet with representatives of the School Boards to present summary progress reports, including graphic representations of Project Co's Design, including in relation to any Design and any associated documentation and as to its satisfaction of the requirements of this Agreement (including Schedule 3 [Design and Construction Specifications]).

If Project Co considers that compliance with any comment raised by a School Board member made under Section **Error! Reference source not found.** of this Appendix or compliance with any comment made by the Authority in respect of a presentation made under Section 4 of this Appendix would lead to a Change, Project Co will, before taking into account such comment, notify the Authority.

## 11. REVISIONS

- (a) Project Co will ensure that Submittals keep the same, unique reference number throughout the review process, and that all subsequent revisions of the same Submittal are identified by a sequential revision number. Correspondence related to such Submittal will reference the reference number and revision number.
- (b) Re-submittals will clearly show all revisions from the previous Submittal. Bound documents, including reports and manuals, will contain a preface that clearly states how revisions are marked and the previous revision number against which the revisions have been marked. A consistent format for mark-ups of documents will be used (e.g. deletions struck out and additions underscored). Revised portions of drawings will be clearly marked (with appropriate means to visually distinguish between the parts of the drawing

that are revised and the parts that are not revised) and the revision number and description of the revision will be included on the drawing.

- (c) All revisions on print media will be initialled by hand by the individual designer, design checker and, where applicable, by the drafter and the drafting checker and will identify the persons who initialled the Submittal. Electronic versions of the Submittal will identify the persons who initialled the revisions to the printed version of the Submittal.
- (d) Project Co will keep all Reviewed Drawings and Specifications current. If any Reviewed Drawings and Specifications are revised as part of a Submittal, all other Reviewed Drawings and Specifications relying on or based on those Reviewed Drawings and Specifications will also be revised accordingly. All such revised Reviewed Drawings and Specifications will also be submitted with the Submittal to which it relates.

**ATTACHMENT 1 (APPENDIX 2B)**

**SUBMITTAL SCHEDULE**

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