

PART 10 OF THE SCHEDULE

Review Procedure

This is Part 10 of the Schedule comprising the Review Procedure referred to in the Project Agreement relating to the detailed design, financing, construction, fitting out, commissioning, operation of and the provision of services at Gartnavel Royal Hospital

between

Greater Glasgow Health Board

and

Robertson Health (Gartnavel) Limited

SCHEDULE PART 10

Review Procedure

1 Review Procedure

1.1 The provisions of this Part 10 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 this 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 the Schedule as a "Submitted Item"). In relation to each Submitted Item, the following procedure shall apply:

1.2.1 as soon as possible and, if the Submitted Item comprises:

1.2.1.1 an item of Reviewable Design Data;

1.2.1.2 a revised Programme submitted pursuant to Clause 19 of this Agreement (*Programme and Dates for Completion*); or

1.2.1.3 a document or proposed course of action submitted in the case of an emergency,

within fifteen (15) Business Days of the date of receipt of a submission (or within ten (10) Business Days of the date of receipt of a 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 of this Part 10 of the Schedule) (*Grounds for Objection*) "comments" as appropriate; and

1.2.2 subject to paragraph 1.4, 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 1.2.1, within twenty (20) Business Days in respect of a Submitted Item and within fifteen (15) Business Days in respect of a re-submitted Submitted Item or within such other period as the parties may agree in writing) 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

1.2.3 in relation to Finishes:

1.2.3.1 Project Co shall within 30 Business Days of the date of this Agreement propose to the Board's Representative a range or selection of aspects of finishes ("Range of Finishes") listed in Part 5 of Part 8 of the Schedule (the "Finishes table") in accordance with the Board's Construction

Requirements and Project Co's Proposals that are available as at the date of this Agreement for selection by the Board in accordance with paragraph 3.4 of this Part 10 of the Schedule (*Review Procedure*) and within the relevant selection period listed in the Finishes table ("Selection Period");

1.2.3.2 The Board's Representative shall notify ProjectCo of its selection of each of the Finishes within the Selection Period.

1.2.3.3 if no selection of a Finish has been made by the Board's Representative and notified to Project Co in accordance with the 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 for 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 Part 10 of the Schedule, or fails to comply with the provisions of this paragraph, Project Co may, in its discretion, either:

1.3.1 request written clarification of the basis for such comments and, if clarification is not received within fifteen (15) 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

1.3.2 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 1.3 of Part 24 of the Schedule (*Handback Procedure*), a failure by the Board's Representative to endorse and return such Submitted Item within the period specified in paragraph 1.2.2 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 twenty (20) Business Days following the expiry of the period specified in paragraph 1.2.2, the matter shall be determined in accordance with Part 26 of the Schedule (*Dispute Resolution Procedure*).

2 Further Information

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 Part 10 of the Schedule. If Project Co does not submit any such information, data and documents, the Board's Representative shall be entitled to:

2.1 comment on the Submitted Item on the basis of the information, data and documents which have been provided; or

- 2.2 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 of the Schedule.

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 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:

- 3.1 in relation to any Submitted Item if:
- 3.1.1 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
 - 3.1.2 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;
- 3.2 in relation to any Submitted Item submitted pursuant to Clause 4.1 (*Changes to Project Documents*) if:
- 3.2.1 the Board's ability to perform its obligations under the Agreement would be adversely affected by the proposed course of action;
 - 3.2.2 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;
 - 3.2.3 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;
 - 3.2.4 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
 - 3.2.5 Project Co's ability to perform its obligations under this Agreement would be materially adversely affected by the proposed course of action;
- 3.3 in relation to Reviewable Design Data submitted pursuant to Clause 17.7.1 (*Design Construction and Commissioning Process*):
- 3.3.1 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:
 - 3.3.1.1 the Board's Construction Requirements; and/or
 - 3.3.1.2 Project Co's Proposals;

- 3.3.2 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 Schedule), 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
 - 3.3.3 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), 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:
 - 3.3.3.1 is not in accordance with the Board's Construction Requirements and/or Project Co's Proposals; or
 - 3.3.3.2 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);
- 3.4 in relation to Finishes:
 - 3.4.1 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 Part 10 of the Schedule; or
 - 3.4.2 where the Submitted Item does not comply with the relevant provisions of the Board's Construction Requirements and/or Project Co's Proposals;
- 3.5 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;
- 3.6 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 or Clause 25.7 (*Quality Assurance*) or any quality manual or procedure in accordance with Clause 25.10 (*Quality Assurance*), 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:
 - 3.6.1 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 Part 3 of the Schedule Part 8 (*Construction Matters*); and
 - 3.6.2 in the case of the Services Quality Plan referred to in Clause 25 (*Quality Assurance*), the requirements referred to in Part 3 of the Schedule Part 14 (*Service Requirements*);

- 3.7 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:
- 3.7.1 the proposed revision or substitution is not in accordance with Good Industry Practice;
 - 3.7.2 the performance of the Service in accordance with the proposed revision or substitution would (on the balance of probabilities):
 - 3.7.2.1 be materially different from the performance of the Service in accordance with the Method Statement prior to such proposed revision or substitution; or
 - 3.7.2.2 be less likely to achieve compliance with the Service Level Specification for that Service; or
 - 3.7.2.3 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
 - 3.7.3 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
- 3.8 in relation to the submission of any Schedule of Programmed Maintenance, any revision to any Schedule of Programmed Maintenance pursuant to Clause 28.1 or 28.6 (*Maintenance*) or any submission of Unprogrammed Maintenance Works pursuant to Clause 28.8 (*Maintenance*), on the grounds that:
- 3.8.1 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
 - 3.8.2 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, Table B to this Part 10 of the Schedule; or
 - 3.8.3 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
 - 3.8.4 the safety of patients or other users of the Facilities would (on the balance of probabilities) be adversely affected; or
 - 3.8.5 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
 - 3.8.6 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:

- 3.8.6.1 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;
- 3.8.6.2 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
- 3.8.6.3 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:
 - 4.3.1 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;
 - 4.3.2 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; and
 - 4.3.3 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;

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 three (3) 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 Level B) send a copy of the Submitted Item as amended to the Board's Representative pursuant to paragraph 4.3 and the provisions of paragraphs 1.2.1 (*Response to Submitted Item*), 4.1 and 4.3 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 4.3.1 Level B or 4.3.2 Level C) 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, such return or deemed return of any Submitted Item shall not otherwise relieve Project Co of its obligations under the Project 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 2 copies of all Submitted Items (or such larger number as the Board shall request (acting reasonably)) 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 1 to this Part 10 of the Schedule or elsewhere in this Part 10 of the Schedule, no review, comment or approval by the Board shall operate to exclude or limit Project Co's obligations or liabilities under the Project Agreement (or the Board's rights under the Project Agreement).

6 Variations

- 6.1 No approval or comment or any failure to give or make an approval or comment under this Schedule shall constitute a Variation save to the extent provided in this Part 10 of the Schedule.
- 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.

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 this Part 10 of the Schedule (Review Procedure) (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 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 - Floor Plans (sections and room elevations)	1:100	A "Level A - no comment" endorsement or a "Level B - proceed subject to amendment as noted" endorsement of any 1:100 scale floor 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 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

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 this Part 10 of the Schedule (<i>Review Procedure</i>) (including both the actual and deemed endorsement)
		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.

APPENDIX 2

Normal Working Hours

- 1 Subject to paragraphs 3 to 5 below, Project Co shall carry out Programmed Maintenance at the Facilities during the hours of 8am to 6.30pm 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:
 - 2.1 the likely disturbance to the Board, its staff and patients within the immediate area where the Maintenance Works are to be undertaken;
 - 2.2 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 paragraph 2.1 above; and
 - 2.3 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

Area of the Facilities	Permitted Hours for Programmed Maintenance (Hours of Operation)
Elderly Wards	Normal Working Hours, but with prior agreement of the Board
Adult Wards	Normal Working Hours, but with prior agreement of the Board
IPCU	Normal Working Hours, but with prior agreement of the Board
Reception Area	Normal Working Hours
Hotel Services Area	Normal Working Hours
Staff Room/Changing	Normal Working Hours
Seminar/Library/Study Rooms	Normal Working Hours
Medical On-Call Accommodation	Normal Working Hours, but with prior agreement of the Board
Therapy Areas	Normal Working Hours, but with prior agreement of the Board

- 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 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 provided that the Board may only issue such a request to Project Co if the time for carrying out the relevant Programmed Maintenance has not already been agreed with the Board under Clause 28 and specified in an agreed Schedule of Programmed Maintenance. For the avoidance of doubt, Clause 28.7 shall apply to any request by the Board for Project Co to defer Programmed Maintenance in relation to an agreed Schedule of Programmed Maintenance.