

Schedule 4 - Change Compensation Principles

Document for Release

Execution Version

PART A - Change Compensation Principles

1. Definitions

Unless otherwise expressly defined, expressions used in this Schedule have the meanings given to them in or for the purposes of this Agreement:

Agreed Margins means the D&C Margin and the O&M Margin.

Allowance means, subject to the terms of this Schedule, the percentage allowances to which Project Co is entitled for the *relevant* component identified in Tables 1, 2 or 3 in section 3.2 of this Part A (as the case may be) depending on the applicable thresholds set out in column 2, 3 or 4 (as the case may be) of the relevant table.

Base Costs means those Costs (including Design Base Costs, D&C Base Costs, O&M Base Costs and other Costs incurred by Project Co), directly attributable to a Change Compensation Event, but excluding:

- (a) Prolongation Costs and Financing Delay Costs;
- (b) any Agreed Margins or other Margin; and
- (c) the cost of project management services provided by Project Co.

CCP Modification means a Modification other than:

- (a) as a result of a Streamlined Modification Proposal; and
- (b) a Modification the subject of a Modification Proposal under clause 33.6 of this Agreement.

Change Compensation Amount means the compensation payable by the State to Project Co or by Project Co to the State in respect of a Change Compensation Event determined in accordance with this Schedule.

Change Compensation Event means each event or change to which these Change Compensation Principles are expressed in this Agreement to apply, including the events or changes described in the clauses listed in the table in section 2 of this Part A.

Change Notice means the notice referred to in section 5 of this Part A, including any updated Change Notice.

Change Notice Request means the notice referred to in section 5.2(a)(iii) of this Part A.

Change Response means the notice referred to in section 6.1 of this Part A.

Costs means all direct capital, operating and other costs properly and reasonably incurred or which will be properly and reasonably incurred by Project Co to the extent that they exceed the relevant amounts (if any) assumed in the Financial Model.

CPI Multiplier Annual (C) has the meaning given in the Indexes Schedule.

D&C Base Costs means the actual costs of the D&C Subcontractor or other Subcontractor carrying out the works, (as the case may be) properly and reasonably incurred and directly attributable to a Change Compensation Event, including in respect of a Change Compensation Event, any on-site management and supervision costs that are properly and reasonably incurred, and directly attributable to, that Change Compensation Event, excluding all Agreed Margins, D&C Subcontractor Preliminaries, other preliminaries and Design Base Costs.

D&C Margin means:

- (a) prior to the Date of Stage One Completion, the percentage for the "D&C Margin" that the D&C Subcontractor may charge in accordance with Table 1 in section 3.2 of this Part A;
- (b) during the first 2 years of the O&M Phase, the percentage for the "D&C Margin" that the D&C Subcontractor may charge in accordance with Table 2 in section 3.2 of this Part A or, in circumstances where the D&C Subcontractor does not undertake the required works, the percentage that the Subcontractor carrying out the works may charge as determined through a competitive tender process in accordance with section 7 of this Part A; and
- (c) after the first 2 years of the O&M Phase, the percentage that the Subcontractor carrying out the works may charge as determined through a competitive tender process in accordance with section 7 of this Part A,

to cover all off-site overheads and administrative, corporate and other like costs and profits of the D&C Subcontractor or other Subcontractor carrying out the works, but excluding D&C Subcontractor Preliminaries and D&C Base Costs.

D&C Subcontractor Preliminaries means the percentage that the D&C Subcontractor may charge for "D&C Subcontractor Preliminaries" in accordance with Table 1 or Table 2 (as the case may be) in section 3.2 of this Part A to cover all on-site overheads and other like costs (excluding any on-site management and supervision costs which are covered in the definition of D&C Base Costs).

Design Base Costs means the actual third party design fees including architects', engineers' and other design consultants' fees properly and reasonably incurred and directly attributable to a Change Compensation Event but excluding all other costs of the D&C Subcontractor and all Agreed Margins other than the Margin of the relevant third party design consultant.

Financing Delay Costs means the incremental financing delay costs actually incurred (or in the case of a CCP Modification, to be incurred) by Project Co or Finance Co under the Finance Documents and directly attributable to a delay to the achievement of Stage One Completion caused by a Compensable Extension Event or a CCP Modification.

Margin means an amount on account of off-site and on-site overheads and administrative, corporate and other like costs and profit.

O&M Base Costs means the actual costs of the O&M Subcontractor or any Subcontractors properly and reasonably incurred and directly attributable to implementing the recurrent elements of a Change Compensation Event including warranty costs and lifecycle costs, but excluding the O&M Margin.

O&M Margin means the percentage that the O&M Subcontractor or other Subcontractor may charge in accordance with Table 3 in section 3.2 of this Part A, on its O&M Base Costs to

cover all off-site and on-site overheads and administrative, corporate and other like costs and profits of the O&M Subcontractor or other Subcontractor.

Prolongation Costs means the lower of:

(a) the actual, additional net costs (excluding Financing Delay Costs) properly and reasonably incurred (or in the case of a CCP Modification, to be incurred) by Project Co and directly attributable to a delay to the achievement of Stage One Completion caused by a Compensable Extension Event or a CCP Modification; and

(b) the maximum daily rate for:

[not disclosed – could disadvantage parties in future negotiations]

Savings means:

(a) the amount of any costs, including any Agreed Margins or other Margin, avoided or otherwise reduced in accordance with this Schedule arising in connection with a Change Compensation Event; or

(b) if the Base Cost attributable to any omitted D&C Activities or O&M Activities (when aggregated with any other omitted D&C Activities or O&M Activities, as applicable, but excluding any D&C Activities or O&M Activities omitted under clause 6.3A of this Agreement) exceeds [not disclosed - could disadvantage parties in future projects]% of the value of the Base Cost of the D&C Activities or [Not disclosed – could disadvantage parties in future projects]% of the value of the Base Cost of the O&M Activities (as applicable) set out in the Financial Close Financial Model, the amount determined by applying the following formula:

$$A - (B \times (C - D)) + (E \times (F - G))$$

where:

A = the amount referred to in paragraph (a) of this definition of Savings;

B = [not disclosed - could disadvantage parties in future projects]%;

C = Base Costs of any omitted D&C Activities as at the date of calculation;

D = [not disclosed - could disadvantage parties in future projects]% of the value of the Base Cost of the D&C Activities as set out in the Financial Close Financial Model (unless C is < D, in which case C minus D will be deemed to be 0);

E = [not disclosed - could disadvantage parties in future projects]%;

F = Base Costs of any omitted O&M Activities as at the date of calculation; and

G = [not disclosed - could disadvantage parties in future projects]% of the value of the Base Cost of the O&M Activities as set out in the Financial Close Financial Model (unless F is < G, in which case F minus G will be deemed to be 0).

2. Change Compensation Events

Change Compensation Event	Clause of this Agreement	Compensation to be calculated in accordance with the following section of this Part A or other provisions of this Agreement as identified
Compensable Extension Event	Clause 22.10, 22.8 and 36.4(b)(i).	Section 3.3 of this Part A.
Compensable Intervening Event	Clause 26.1, 26.4(b) and 26.6(b).	Sections 3.1 and 3.2 of this Part A.
Force Majeure Event	Clause 22.15, 26.5 and 36.4(c).	Section 3.4 of this Part A.
CCP Modification	Clause 33.1, 33.3, 33.5, 33.7, 33.8, 33.8A, 33.9, 33.10 and 33.13.	Sections 3.1, 3.2, 3.3 and 3.6 of this Part A.
Streamlined Modification	Clause 33.11.	Sections 3.1 and 3.2 of this Part A.
Modification for Technological Improvement	Clause 34.3.	Sections 3.1 and 3.2 of this Part A.
Repair or rebuild to different specifications	Clause 37.3(b) and 37.3(c).	Sections 3.1, 3.2 and 3.3 of this Part A.
Repair or rebuild- State risk	Clause 37.3(d).	Sections 3.1, 3.2 and 3.3 of this Part A.
Amount of Final Refurbishment Works	Clause 27.1.	Sections 3.1 and 3.2 of this Part A.

The table above is provided for ease of reference only, and is not intended to be an exhaustive description of the Change Compensation Events or a party's entitlement to compensation. A party's entitlement to compensation arising from any of the Change Compensation Events set out in the table above is subject to the relevant calculation specified in the third column of that table, the remainder of this Schedule and any relevant provisions of this Agreement.

3. Methodology for calculating compensation

3.1 Compensation for Change Compensation Events

Subject to sections 3.2 to 3.4 of this Part A and the specific requirements otherwise set out in this Agreement including this Schedule, Project Co's entitlement to compensation in respect of a Change Compensation Event will be calculated as follows:

$$P = C - D$$

where:

- P** = the amount payable to Project Co, where this is a positive amount, or the amount payable by Project Co, where this is a negative amount;
- C** = the amount of any Base Costs plus Agreed Margins payable to Project Co and any of its Associates in accordance with this Schedule; and
- D** = Savings.

The Agreed Margins or other Margin included in the calculation of D in the foregoing formula must be no less than the Allowance which would have applied to the relevant avoided costs if those costs were Base Costs or other Costs in respect of which the Agreed Margins or other Margin would have applied.

3.2 Calculation of Base Costs and Agreed Margins

- (a) **(Prior to Stage One Completion - capital component):** For Change Compensation Events prior to the Date of Stage One Completion that involve a capital component, the Base Costs and Agreed Margins for the capital cost component shall be calculated as:

$$A + B + C + D + E + F$$

Where:

- A** = the Design Base Costs;
- B** = the D&C Base Costs;
- C** = the applicable D&C Subcontractor Preliminaries (set out in Table 1) multiplied by B;
- D** = the applicable D&C Margin (set out in Table 1) multiplied by the sum of B and C;
- E** = any other Base Costs (other than A, B and any O&M Base Costs) necessary to undertake the Change Compensation Event; and
- F** = any administrative and overhead costs (excluding permanent Project Co employees) reasonably and properly incurred by Project Co in administering the Change Compensation Event.

Table 1

Column 1	Column 2	Column 3	Column 4
Threshold	\$[Not disclosed – could disadvantage parties in future projects] to \$[Not disclosed – could disadvantage parties in future projects]	> \$[Not disclosed – could disadvantage parties in future projects] to \$[Not disclosed – could disadvantage parties in future projects]	> \$[Not disclosed – could disadvantage parties in future projects] Base Cost ¹

	Base Cost ¹	Base Cost ¹	
Component	Allowance	Allowance	Allowance
D&C Margin	[Not disclosed – could disadvantage parties in future projects]%	[Not disclosed – could disadvantage parties in future projects]%	[Not disclosed – could disadvantage parties in future projects]%
D&C Subcontractor Preliminaries	[Not disclosed – could disadvantage parties in future projects]%	[Not disclosed – could disadvantage parties in future projects]%	[Not disclosed – could disadvantage parties in future projects]%
¹ The above dollar thresholds are as at Financial Close and will be Indexed thereafter.			

- (b) **(O&M Phase - capital component):** For Change Compensation Events during the O&M Phase that involve a capital component, the Base Costs and Agreed Margin for the capital cost component shall be calculated as:

$$A + B + C + D + E + F$$

Where:

A = the Design Base Costs;

B = the D&C Base Costs;

C = the applicable preliminaries multiplied by B, being:

- (i) during the first 2 years of the O&M Phase, the applicable D&C Subcontractor Preliminaries (set out in Table 2) where the D&C Subcontractor undertakes the works; or
- (ii) after the first 2 years of the O&M Phase or where the D&C Subcontractor does not undertake the works, the percentage that the Subcontractor carrying out the works may charge to cover all on-site overheads and other like costs as determined through a competitive process in accordance with section 7 of this Part A;

D = the applicable Margin, being:

- (i) during the first 2 years of the O&M Phase, the applicable D&C Margin (set out in Table 2) where the D&C Subcontractor undertakes the works; or
- (ii) after the first 2 years of the O&M Phase or where the D&C Subcontractor does not undertake the works, the percentage

that the Subcontractor carrying out the works may charge as determined through a competitive process in accordance with section 7 of this Part A,

multiplied by the sum of B and C;

E = any other Base Costs (other than A, B and any O&M Base Costs) necessary to undertake the Change Compensation Event; and

F = any administrative and overhead costs (excluding permanent Project Co employees) reasonably and properly incurred by Project Co in administering the Change Compensation Event.

Table 2

Column 1	Column 2	Column 3	Column 4
Threshold	[\$[Not disclosed – could disadvantage parties in future projects] to \$[Not disclosed – could disadvantage parties in future projects] Base Cost ¹	>[\$[Not disclosed – could disadvantage parties in future projects] to \$[Not disclosed – could disadvantage parties in future projects] Base Cost ¹	>[\$[Not disclosed – could disadvantage parties in future projects] Base Cost ¹
Component	Allowance	Allowance	Allowance
D&C Margin	[Not disclosed – could disadvantage parties in future projects]%	[Not disclosed – could disadvantage parties in future projects]%	[Not disclosed – could disadvantage parties in future projects]%
D&C Subcontractor Preliminaries	[Not disclosed – could disadvantage parties in future projects]%	[Not disclosed – could disadvantage parties in future projects]%	[Not disclosed – could disadvantage parties in future projects]
¹ The above dollar thresholds are as at Financial Close and will be Indexed thereafter.			

- (c) **(D&C Phase and O&M Phase - recurrent cost component):** For Change Compensation Events (including those with a capital cost component and whether occurring during the D&C Phase or the O&M Phase) which impact on the cost of carrying out the O&M Activities, the Base Costs and Agreed Margin in respect only of those recurrent costs shall be calculated as:

$$A + B + C + D$$

Where:

- A** = the O&M Base Costs;
- B** = the applicable O&M Margin (set out in Table 3) multiplied by A;
- C** = any other Base Costs (other than Design Base Costs and D&C Base Costs) necessary to undertake the Change Compensation Event; and
- D** = any administrative and overhead costs (excluding permanent Project Co employees) reasonably and properly incurred by Project Co in administering the Change Compensation Event.

Table 3

Column 1	Column 2	Column 3	Column 4
Threshold	[\$[Not disclosed - could disadvantage parties in future projects] to \$[Not disclosed - could disadvantage parties in future projects] per annum Base Cost ¹	>[\$[Not disclosed - could disadvantage parties in future projects] to \$[Not disclosed - could disadvantage parties in future projects] per annum Base Cost ¹	>[\$[Not disclosed - could disadvantage parties in future projects] per annum Base Cost ¹
Component	Allowance	Allowance	Allowance
O&M Margin	[Not disclosed - could disadvantage parties in future projects]%	[Not disclosed - could disadvantage parties in future projects]%	[Not disclosed - could disadvantage parties in future projects]%
<i>¹The above dollar thresholds are as at Financial Close and will be Indexed thereafter.</i>			

3.3 Compensation for Financing Delay Costs and Prolongation Costs

Subject to the specific requirements otherwise set out in this Agreement, Project Co's entitlement to Prolongation Costs and Financing Delay Costs on the occurrence of a Compensable Extension Event, event under clauses 37.3(c) or 37.3(d) or in respect of a CCP Modification, will be calculated as follows:

$$P = A + B$$

Where:

- P** = the amount payable to Project Co;
- A** = Prolongation Costs for each day for which Project Co is granted an extension of time for the Compensable Extension Event, event under clauses 37.3(c) or 37.3(d) or CCP Modification, being:
- (a) in the case of a CCP Modification, from the Date for Stage One Completion at the time of the Modification Order until the revised Date for Stage One Completion set out in the Modification Order under clause 33.1(c)(iii) of this Agreement; and
 - (b) in the case of a Compensable Extension Event or an event under clauses 37.3(c) or 37.3(d), from the Date for Stage One Completion at the time of the Compensable Extension Event or event under clauses 37.3(c) or 37.3(d) occurring until the earlier of:
 - (i) the revised Date for Stage One Completion due to that Compensable Extension Event or event under clauses 37.3(c) or 37.3(d);
 - (ii) the Date of Stage One Completion; and
 - (iii) any termination of this Agreement; and
- B** = the Financing Delay Costs for the period for which Project Co is granted an extension of time for the Compensable Extension Event, event under clauses 37.3(c) or 37.3(d) or CCP Modification, being:
- (a) in the case of a CCP Modification, from the Date for Stage One Completion immediately prior to the issuing of the Modification Order until the revised Date for Stage One Completion set out in the Modification Order under clause 33.1(c)(iii) of this Agreement; and
 - (b) in the case of a Compensable Extension Event or an event under clauses 37.3(c) or 37.3(d), from the Date for Stage One Completion at the time of the Compensable Extension Event or event under clauses 37.3(c) or 37.3(d) occurring until the earlier of:
 - (i) the revised Date for Stage One Completion due to that Compensable Extension Event or event under clauses 37.3(c) or 37.3(d);
 - (ii) the Date of Stage One Completion; and
 - (iii) any termination of this Agreement.

3.4 Force Majeure Event

Where clause 22.15 or 26.5 of this Agreement applies, Project Co will be entitled to payment of an amount equal to the minimum amount necessary to enable Project Co or Finance Co to pay the lower of:

- (a) scheduled principal repayments and interest on Actual Debt; and
- (b) principal repayments and interest scheduled in the Financial Model,

taking into account the amount of any Quarterly Service Payment (if any) payable following Abatement in accordance with those clauses.

3.5 Annual review of ongoing compensation

- (a) **(Annual review):** If compensation for a Change Compensation Event has been made by an increase or decrease in the Quarterly Services Payment under section 4.2(a)(iii) of this Part A, the amount of the compensation will be subject to annual review at the end of each Financial Year in accordance with this section 3.5 of this Part A. For the avoidance of doubt, to the extent that any compensation is to accommodate the costs incurred by Project Co or Finance Co for financing a Change Compensation Event, this compensation will not be subject to review in accordance with this section, but will be governed by the provisions of this Agreement dealing with Refinancings.
- (b) **(Adjustment to Quarterly Services Payment):** To the extent that, on any such review, a re-assessment of the ongoing net Costs or net Savings arising as a consequence of any Change Compensation Event differs from the amount for which compensation was first made through the Quarterly Services Payment in accordance with the Change Compensation Principles or the amount of compensation as adjusted on any prior review and re-assessment under this section 3.5 of this Part A, that adjustment will be made to the Quarterly Services Payment over the balance of the Term.
- (c) **(Time of review):** Within one month prior to the end of each Financial Year (or at the same time that Project Co submits a Modification Quote to the State in accordance with clause 33.3 of this Agreement), Project Co must undertake and provide to the State a review and a re-assessment of the amount of ongoing net Costs or net Savings arising as a consequence of the Change Compensation Event incurred, paid or accrued for which compensation has been made through the Quarterly Services Payment over the Term.
- (d) **(State review and Disputes):** The State must, within 20 Business Days of receipt of a review, notify Project Co of any matter within that review and re-assessment with which the State does not agree, and any Dispute on whether or not there ought to be re-assessment of compensation, or the amount of any re-assessment which has been made through the Quarterly Services Payment may be referred by either party for resolution in accordance with clauses 41 to 42 of this Agreement.

3.6 Payment for Modification Quotes

If under clause 33.10 of this Agreement Project Co is entitled to recovery of third party costs incurred in preparing a Modification Quote or CityLink Rectification Works Quote, the State must pay the third party costs calculated in accordance with these Change Compensation Principles up to the amount quoted by Project Co in accordance with clause 33.10(b) of this Agreement for the preparation of the Modification Quote or CityLink Rectification Works Quote:

- (a) **(no State Modification Order):** if the State does not issue a Modification Order, within 20 Business Days of receiving an invoice from Project Co for such third party costs provided that the relevant Modification Quote or CityLink Rectification

Works Quote has been prepared and submitted in accordance with this Agreement;
or

- (b) **(State Modification Order)**: if the State does issue a Modification Order, as part of the amount payable by the State for the Modification (including taking into account any Savings).

4. General

4.1 General principles for calculating compensation

The extent (if any) to which compensation will be payable by the State, for a Change Compensation Event, will be determined as follows:

- (a) **(overriding considerations)**: the overriding considerations will be that:
 - (i) the State is receiving value for money; and
 - (ii) the compensation amount is fair and reasonable and is calculated in a manner that is transparent;
- (b) **(timing of payments)**: all payments made by the State to Project Co in accordance with this Schedule will be made as and when the corresponding cost is incurred by Project Co or Finance Co (as the case may be) or in arrears in accordance with section 4.2 of this Part A;
- (c) **(time value of money)**:
 - (i) appropriate regard must be given to the time value of money and timing of cash flows; and
 - (ii) all cash flows must be discounted or inflated to reflect when they occur (if applicable);
- (d) **(open book basis)**:
 - (i) Project Co must:
 - A. provide all information referred to in this Schedule on an open book basis, in accordance with section 4.1(d)(ii) of this Part A;
 - B. if required by the State, make available the appropriate personnel to explain the basis on which a particular calculation has been made; and
 - C. allow the State to review and undertake audits to enable it to verify compliance with this section 4.1(d) of this Part A in respect of the information referred to in section 4.1(d)(i)A of this Part A,

in order to enable the State to make an accurate assessment of actual Costs and Savings in accordance with this Schedule; and
 - (ii) "open book basis" will include Project Co providing a breakdown of the calculation of all relevant preliminaries, labour, equipment, materials,

subcontract, finance and other costs and Margins of Project Co and its Associates in a clear and transparent manner and other information reasonably requested by the State including reasonably available source documents required to verify such calculation;

- (e) **(no double counting)**: no amounts will be double counted; and
- (f) **(margins)**: except as expressly provided for in Section 3, the State will not pay or otherwise compensate Project Co (or any Associate of Project Co) for any Margin (or loss of Margin) in respect of a Change Compensation Event.

4.2 Form and timing of compensation

- (a) **(Payment of Compensation)**: If a Change Compensation Event:
 - (i) results in an amount owing from Project Co to the State, the State will deduct such amount from the Quarterly Service Payments payable to Project Co after the relevant Change Compensation Event, or if no subsequent Quarterly Service Payments are payable to Project Co, such amount will be a debt due and payable by Project Co to the State;
 - (ii) results in an amount owing from the State to Project Co that is not financed by Project Co in accordance with section 4.2(b) of this Part A, the State will pay such amount to Project Co:
 - A. as a lump sum payment, a series of milestone payments, an adjustment to the Quarterly Service Payment (or a combination of these methods) in accordance with the payment arrangements set out in the approved Change Notice and, if applicable, section 4.2(c) of this Part A;
 - B. subject to paragraph (iv), in respect of Prolongation Costs, within 1 Month after the date of the receipt from Project Co of the Change Notice except to the extent that any Prolongation Costs are disputed by the State and referred for resolution in accordance with clauses 41 to 42 of this Agreement; and
 - C. subject to paragraph (iv), in respect of Financing Delay Costs, Quarterly in arrears on the date which the State would have paid the Quarterly Service Payment relating to those days of delay had Stage One Completion not been delayed by the relevant Compensable Extension Event;
 - (iii) results in an amount owing from the State to Project Co that is financed by Project Co in accordance with section 4.2(b) of this Part A, the State will pay such amount to Project Co by way of an increase in the Quarterly Service Payment; or
 - (iv) is a CCP Modification, the State will pay to Project Co the amounts at the times and in the manner as set out in the relevant Modification Order.
- (b) **(Funding)**: Where the State requests Project Co obtain funding for a Change Compensation Event, Project Co must use all reasonable endeavours to obtain such funding, including by:

- (i) using any Savings resulting from other Change Compensation Events which have resulted in amounts being available under the Finance Documents;
- (ii) using (including indirectly) any standby facility that may be available to Project Co or Finance Co;
- (iii) sourcing (including indirectly) additional funding under the Finance Documents and from other sources (if permitted under the Finance Documents); and
- (iv) arranging other funding obtained on commercial terms for Project Co by the State (without any obligation on the State to make any such arrangements).

Where Project Co, having used all reasonable endeavours, is unable to obtain funding that is on terms which are satisfactory to the State, the State will, without limiting its rights under clause 33 of this Agreement, pay the relevant amounts in accordance with section 4.2(a)(ii) of this Part A.

- (c) **(Lump Sum Payments):** If the State elects to pay to Project Co an amount calculated in accordance with these Change Compensation Principles in respect of a Modification by a lump sum payment, the State will pay such amount to Project Co when the following requirements have been satisfied:
 - (i) in respect of Modifications required to be completed prior to the Date of Stage One Completion, in accordance with the terms of the Modification Order;
 - (ii) in respect of Modifications occurring or required to be completed during the O&M Phase, if the State requires certification of any works required as a result of the Modification by a suitably qualified independent reviewer, upon such certification that the Modification has been completed in accordance with the relevant Change Notice and this Agreement; and
 - (iii) within 20 Business Days after receiving a valid Tax Invoice from Project Co for the amount calculated in accordance with these Change Compensation Principles.
- (d) **(Adjustment to Securitisation Structure):** Where an adjustment to the Quarterly Service Payment is made in accordance with section 4.2(a)(i) or section 4.2(a)(iii) of this Part A, Project Co must also calculate the adjustment required to be made to:
 - (i) the Construction Payment;
 - (ii) the Receivables Purchase Price payable by Finance Co under the Receivables Purchase Deed; and
 - (iii) the Rent payable by Project Co under the Lease to reflect, as appropriate, the adjustment to the Construction Payment.

4.3 Modifications and Streamlined Modifications

- (a) **(Application to Modifications):** Sections 5 and 6 of this Part A apply to all Change Compensation Events other than Modifications (including where arising as a result of a Streamlined Modification Proposal).
- (b) **(Process for Modifications):** The process for dealing with Modifications, including the issue of Modification Requests, Modification Quotes, Modification Proposals and Modification Orders, is set out in clause 33 of this Agreement.
- (c) **(Obligations for Modifications):** Any Modification Request, Modification Quote, Modification Proposal or Modification Order issued must comply with the applicable requirements of clause 33 of this Agreement and be prepared in accordance with and comply with Part B of this Schedule, and references in Part B of this Schedule to a "Change Notice" shall be deemed to refer to each Modification Request, Modification Quote, Modification Proposal or Modification Order, as the case may be (to the extent applicable).
- (d) **(Modification arising from Streamlined Modification Proposal):** In respect of any Modification arising as a result of a Streamlined Modification Proposal:
 - (i) clause 33.11 of this Agreement will apply;
 - (ii) any amounts claimed or payable in respect of a Modification as a result of a Streamlined Modification Proposal must be calculated in accordance with this Schedule; and
 - (iii) Project Co must promptly provide such information as is reasonably requested by the State Representative to support the amount claimed to be payable for the Modification as a result of a Streamlined Modification Proposal; but
 - (iv) a Streamlined Modification Proposal (or response to it) is not otherwise required to comply with Part B of this Schedule.

5. Change Notice

5.1 Change Notice and State Response

- (a) **(Change Notice):** Any Change Notice submitted by Project Co must be prepared in accordance with and comply with Part B of this Schedule.
- (b) **(Requirements for Change Compensation Event):** If an event or change is expressed in this Agreement to be subject to, or an amount is to be calculated in accordance with, this Schedule, then, as a condition precedent to making a claim in respect of such a Change Compensation Event, Project Co must, subject to section 4.3 of this Part A:
 - (i) prepare and submit to the State Representative or reviewing party specified in this Agreement a Change Notice within the time specified in this Agreement; or
 - (ii) if no time is specified in this Agreement, within 20 Business Days after the date on which Project Co first became aware of the Change Compensation Event.

- (c) **(Right of rejection):** Without limiting section 6.2 of this Part A, the State Representative or reviewing party is entitled to reject a Change Notice where the Change Notice fails to meet the requirements of this Schedule and this Agreement.
- (d) **(Updated Change Notice):** Where:
 - (i) a Change Notice is submitted;
 - (ii) the Change Compensation Event continues beyond the issue of the initial Change Notice; and
 - (iii) there is no obligation otherwise in this Agreement to submit an updated Change Notice,

Project Co must prepare and submit to the State an updated Change Notice every 20 Business Days (or such longer period as reasonably determined by the State, having regard to the extent and nature of the Change Compensation Event and its effects) for the period of the Change Compensation Event or the consequences of such event where either continue beyond the issue of the initial Change Notice.

5.2 State may request a Change Notice

- (a) **(Request):** Without limiting the State's rights under this Agreement (including where Project Co has failed to submit a Change Notice in accordance with this Agreement), where:
 - (i) the State believes that a Change Compensation Event has occurred; and
 - (ii) Project Co has not submitted a Change Notice in accordance with section 5.1 of this Part A,the State may:
 - (iii) in a notice entitled "Change Notice Request", request that Project Co prepare and submit a Change Notice in respect of the particular Change Compensation Event; or
 - (iv) during the O&M Phase, request Project Co to carry out a tender process, in accordance with section 7 of this Part A,**(Change Notice Request).**
- (b) **(Submission by Project Co):** Upon receipt of a Change Notice Request, Project Co must prepare and submit a Change Notice within 20 Business Days from receipt of the Change Notice Request in accordance with section 5.1(d) of this Part A.
- (c) **(Requirement for Tender):** Upon receipt of a request under section 5.2(a)(iv) of this Part A, Project Co must carry out a tender process in accordance with section 7 of this Part A.

6. Change Response

6.1 State to issue a Change Response

- (a) Unless otherwise expressly stated in this Agreement, within 20 Business Days of receipt of a Change Notice, or such other period as the State reasonably requires, the State Representative or other reviewing party:
- (i) **(request for further information)**: may request from Project Co any further information that the State Representative or other reviewing party reasonably requires in order to assess Project Co's Change Notice in accordance with this Schedule; and
 - (ii) **(Change Response notice)**: must advise Project Co, in a notice entitled "Change Response", that the State or other reviewing party:
 - A. accepts the Change Notice, in which case Project Co will, subject to Project Co complying with the other requirements of this Agreement (including this Schedule), be entitled to compensation calculated in accordance with section 3 of this Part A;
 - B. does not accept the Change Notice (and the reasons for this) and that it requires Project Co to:
 - 1) during the O&M Phase, carry out a tender process, in accordance with section 7 of this Part A;
 - 2) have any amount that is not a fixed or specified amount under these Change Compensation Principles determined in accordance with section 8 of this Part A; or
 - 3) amend any aspect of the Change Notice, in accordance with the Change Response; or
 - C. rejects the Change Notice and the reasons for this, **(Change Response)**.
- (b) No failure of the State Representative or other reviewing party to review a Change Notice or to issue a Change Response in accordance with this Agreement (including within any time period specified in this Agreement) will entitle Project Co to the relief or compensation set out in the Change Notice or put time at large or deprive the State or other reviewing party of the power to grant the relief sought or such other relief as appropriate (including the power to extend time).

6.2 Options where the Change Notice is not accepted

If the State Representative does not accept or rejects a Change Notice under sections 6.1(a)(ii)B or 6.1(a)(ii)C of this Part A, Project Co must:

- (a) submit an updated Change Notice to the State, responding to the Change Response; or

- (b) notify the State of any specific matters which it disputes in respect of the Change Response,

within 20 Business Days (or such other period as agreed with the State) of Project Co's receipt of the Change Response.

6.3 Dispute resolution

Any Disputes about the Change Response may be referred by either party for resolution in accordance with clauses 41 to 42 of this Agreement.

7. Tender process

- (a) **(Conduct of the tender process):** If Project Co is required to carry out a tender process under this Part A and in accordance with Best Industry Practice, Project Co must obtain three separate quotes (or such lesser number of quotes as directed by the State) from experienced, independent and capable contractors which are acceptable to the State (acting reasonably) to carry out the work in respect of the relevant Change Compensation Event.
- (b) **(Project Co to select):** Project Co will be responsible for selecting a subcontractor from this process in consultation with (and subject to the prior agreement of) the State.
- (c) **(Tender process material):** Project Co must permit the State to review all materials that are submitted in the tender process and provide any other information that the State reasonably requires (including such consents as are required by Law to carry out any Probity Investigations).
- (d) **(Selection criteria):** Project Co must demonstrate, to the reasonable satisfaction of the State, that the subcontractor it intends to select is the best choice having regard to:
 - (i) the price quoted in the prevailing market conditions;
 - (ii) the experience and capability of that subcontractor in the context of the relevant Change Compensation Event; and
 - (iii) the ability of the subcontractor to carry out the work in respect of the Change Compensation Event in the manner required by this Agreement.

The subcontractor must meet the requirements in respect of Subcontractors set out in this Agreement.

- (e) **(Effect of tender process):** Subject to section 7(f) of this Part A, Project Co must, within 10 Business Days of the outcome of the tender process, amend its Change Notice and submit it to the State, or where the State has exercised its right under section 5.2(a)(iv) of this Part A, submit a Change Notice which takes full account of the outcome of the tender process.
- (f) **(State not satisfied):** If, following the conduct of the tender process, the State is not reasonably satisfied as to the matters described in section 7(d) of this Part A, or that the tender process has not been conducted in accordance with Best Industry Practice, it may:

- (i) direct Project Co not to accept any tender;
- (ii) otherwise instruct Project Co not to proceed with the work in respect of the relevant Change Compensation Event;
- (iii) proceed to implement the work that would otherwise have been performed in respect of the relevant Change Compensation Event itself, through subcontractors selected by it; or
- (iv) instruct Project Co to proceed with the work in respect of the relevant Change Compensation Event, but on another basis under this Schedule.

8. Dispute resolution

If the State does not accept an amount as calculated by Project Co in any Change Notice, such amount not being a fixed or specified amount under these Change Compensation Principles, the State may refer the matter for resolution in accordance with clauses 41 to 42 of this Agreement, in which case:

- (a) **(Base Costs):** the Base Costs calculated in item C of section 3.1 of this Part A shall be the lower of:
 - (i) the amount claimed by Project Co in accordance with this Schedule; and
 - (ii) the amount determined in accordance with clauses 41 to 42 of this Agreement; and
- (b) **(Savings):** the Savings calculated in item D of section 3.1 of this Part A shall be the higher of:
 - (i) the amount claimed by Project Co in accordance with this Schedule; and
 - (ii) the amount determined in accordance with clauses 41 to 42 of this Agreement.

PART B - Change Notice Requirements

1. Requirements for Change Notice

A Change Notice prepared by Project Co in respect of a Change Compensation Event must:

- (a) **(Change Notice contents)**: contain:
 - (i) the information, to the extent that it is relevant to the particular Change Compensation Event, outlined in this Part B; and
 - (i) any additional information required under this Agreement in respect of a particular Change Compensation Event;
- (b) **(true and correct)**: be warranted by the Project Co Representative as being true and correct to the best of his or her knowledge;
- (c) **(signed)**: be signed by the Project Co Representative; and
- (d) **(attachments)**: attach copies of any required changes to the Project Strategies, Project Plans and O&M Manuals.

2. Change Compensation Event

Project Co must set out detailed particulars of the occurrence and impact of the relevant Change Compensation Event.

3. Mitigating factors

Project Co must describe the actions Project Co and any of its Associates has taken (and any further action Project Co proposes to take in the future) to:

- (a) **(Project Co to mitigate, minimise or avoid)**: mitigate, minimise or avoid the adverse effects, costs, consequences or duration of the Change Compensation Event (including by putting in place temporary measures reasonably required by the State); and
- (b) **(effects and costs arising from the Change Compensation Event)**: take advantage of any positive or beneficial effects of the Change Compensation Event and maximise any reduction in costs arising from the Change Compensation Event.

4. Effects

Project Co must provide details, where applicable, and to the extent known or able to be predicted, of the effects of the Change Compensation Event on:

- (a) **(effect on quality)**: the workmanship, quality, appearance or durability of any part of Stage One (excluding the Tolling Services Works);
- (b) **(effect on design and construction)**: the design, construction or commissioning of the Works;

- (c) **(effect on management and maintenance)**: the management and maintenance of Stage One (excluding the Tolling Services Works) or the Maintained Off-Freeway Facilities;
- (d) **(effect on use of Stage One)**: the use of Stage One by Users for the safe, efficient and continuous passage of vehicles;
- (e) **(effect on ability to meet FFP Warranty)**: Stage One meeting, (excluding the Tolling Services Works) or the ability to maintain Stage One (excluding the Tolling Services Works) so that it meets, the FFP Warranty;
- (f) **(effect on Project Co's ability to carry out O&M Activities)**: the carrying out of the O&M Activities and Project Co's ability to carry out O&M Activities in accordance with the performance standards in the PSR;
- (g) **(effect on the warranties given by Project Co)**: the warranties given by Project Co in this Agreement (and in particular under clause 43.2 of this Agreement);
- (h) **(effect on this Agreement)**: any relevant part of this Agreement (including Schedules and Exhibits);
- (i) **(effect on Date for Completion)**: the time consequences of the Change Compensation Event (including any impact on any Date for Completion and the time during which Project Co will be unable to carry out any other obligations due to the relevant Change Compensation Event);
- (j) **(effect on a claimed revised Date for Completion)**: any claimed revised Date for Completion; and
- (k) **(effect on Project Co's performance of any other obligations)**: the performance of any other obligations of Project Co under the Project Documents.

5. Cost and Saving Implications

All Change Notices must fully document all estimated Costs and Savings on an open book basis and otherwise comply with section 3 of Part A, including:

- (a) **(amounts payable by or to Project Co)**: all amounts payable by or to Project Co, and each component of any payment calculation, for the proposed Change Compensation Event in accordance with this Schedule (in the form of and including all information required in accordance with this Schedule);
- (b) **(capital expenditure)**: whether or not any required capital expenditure can be accommodated within the next planned refurbishment of Stage One (excluding the Tolling Services Works);
- (c) **(cost of Insurance)**: the cost of Insurances; and
- (d) **(proposed form and timing for compensation)**: the proposed form and timing for compensation in accordance with section 4.2(b) of Part A.

6. Time Implications

Without limiting clause 22.6 or 33.3 of this Agreement, all Change Notices in which Project Co claims an extension of time to the relevant Date for Completion must:

- (a) set out detailed particulars of the delay or likely delay and the occurrence causing the delay;
- (b) state the number of days extension claimed together with the basis for calculating the total number of days claimed including a detailed critical path programming analysis which demonstrates how the relevant event has delayed Completion; and
- (c) include information reasonably required by the State Representative or other reviewing party to demonstrate that Project Co has satisfied the conditions relevant to its extension of time claim as referred to in clauses 22.7 and 33.3 of this Agreement.

7. Warranty by Project Co

All Change Notices must:

- (a) **(Warranty):** contain a warranty by Project Co in respect of any Modification the subject of a Change Notice that the Modification when implemented will:
 - (i) cause Stage One (excluding the Tolling Services Works) to meet, and remain capable of being maintained so as to meet, the FFP Warranty and otherwise meet the requirements of this Agreement except to the extent that it is agreed or determined that the proposed Modification will have an adverse effect on the matters referred to in section 4 of this Part B; and
 - (ii) enable Project Co at all times during the O&M Phase to carry out the O&M Activities in accordance with the PSR and to comply with the terms of this Agreement, except to the extent that it is agreed or determined that the proposed Modification will have an adverse effect on the matters referred to in section 4 of this Part B,

in each case, without limiting the warranties given by Project Co in other clauses of this Agreement, except to the extent that it is agreed between the parties or determined in accordance with this Agreement that the proposed Modification will have an adverse effect on the matters referred to in section 4 of this Part B; and

- (b) **(Bona fide):** contain a warranty by Project Co that it is satisfied that the Claim the subject of the Change Notice is bona fide and the relief sought is an accurate reflection of Project Co's entitlement under this Agreement to the extent it is able to be known at the time.