

SECTION A: APPLICABILITY OF SECTIONS AND CODE STRUCTURE

1. INTRODUCTION

1.1 This Section A sets out:

1.1.1 the structure of the Code;

1.1.2 the definition of Code Procedures and an explanation of their relationship with other parts of the Code;

1.1.3 provisions relating to publication of and access to the Code;

1.1.4 the relationship of the Code with other documents.

2. STRUCTURE OF THE CODE

2.1 The Code

2.1.1 The Code comprises each of the sub-paragraphs, paragraphs, Parts, Sections, Schedules, and Code Procedures.

2.2 TO Construction Agreements

2.2.1 Each TO Construction Agreement contemplated to be entered into pursuant to Section D, Part Two of this Code shall, unless otherwise agreed between the Parties to such TO Construction Agreement, contain the terms, or contain terms substantially in the same form as, those set out in Schedule Nine.

2.2.2 Each TO Construction Agreement entered into pursuant to Section D, Part Two of this Code and in force from time to time shall constitute a separate agreement governed by the terms of this Code and will be read and construed accordingly.

2.3 Code Procedures

2.3.1 The Code Procedures form a part of the Code and set down processes and procedures that the Relevant Parties consider and agree are appropriate to support their compliance with the rest of the Code.

2.3.2 The Code Procedures shall be those listed in Schedule Two which Schedule shall be updated from time to time in accordance with Section B, paragraph 7.3.

2.3.3 Unless otherwise specified, a reference in other parts of the Code (including, for the avoidance of doubt, in any other Code Procedure) to a Code Procedure shall be deemed to be a reference to the version of that Code Procedure then in force as indicated in the then current version of Schedule Two.

2.3.4 Each Relevant Party shall comply with the Code Procedures where and to the extent that such Code Procedures relate to such Relevant Party.

2.3.5 Code Procedures may be amended and new Code Procedures created in accordance with Section B, paragraph 7.3.

3. ACCESS TO THE CODE

- 3.1 Subject to paragraph 3.3, a copy of the Code shall be published on the Code Website.
- 3.2 Notwithstanding paragraph 3.1 and subject always to paragraph 3.3, the Panel Secretary shall provide a copy of the Code (including, for the avoidance of doubt, any Code Procedure) or any past versions of same, to any person on request, which may be subject (other than in the case of the Authority) to payment by such person of a reasonable charge. A reasonable charge shall be an amount not exceeding the reasonable cost to the Panel Secretary of making and providing such copy.
- 3.3 A Code Procedure, or part(s) thereof, may not be published or otherwise made available to other Parties, any third person or communicated to the public, including by publication on the Code Website or otherwise, where Relevant Parties agree that the disclosure of the contents of such Code Procedure, or part(s) thereof (including, without limitation, names and personal contact details) would substantially prejudice the interests of such Relevant Parties or persons identified therein and have notified the Parties, Panel Secretary and the Authority to this effect.
- 3.4 The Panel Secretary shall maintain and keep up to date a library of all past and current versions of the Code (including, for the avoidance of doubt, of each Code Procedure).

4. PRECEDENCE

- 4.1 In the event of any inconsistency between the provisions of a Code Procedure and any other parts of the Code that are not Code Procedures then such other parts of the Code shall prevail.
- 4.2 In the event of any inconsistency between the provisions of the Code and the provisions of any other document established or adopted under and pursuant to the Code then the provisions of the Code shall prevail.
- 4.3 In the event of any inconsistency between the provisions of one Code Procedure and another, the Relevant Parties to such Code Procedures as are inconsistent shall agree which provision(s) shall take precedence pending amendment of the Code Procedure(s) as relevant under Section B paragraph 7.3, and such Relevant Parties shall promptly take such steps in accordance with Section B paragraph 7.3 to remove such inconsistency.
- 4.4 A Party may refer a failure to agree pursuant to paragraph 4.3 to the Authority as a Dispute pursuant to Section H, paragraph 4.1.
- 4.5 The provisions of this paragraph 4 shall be subject to any express provision to the contrary in any part of the Code not contained in a Code Procedure.