Schedule 2 – Conditions Precedent Schedule

***[Note: This Schedule is a template only and agencies should consider on a case by case basis to consider if any bespoke conditions precedent are required, for example:***

***- obtaining any bespoke intellectual property rights;***

***- obtaining any particular approvals; or***

***- obtaining FIRB approvals in respect of Key Subcontractors (if required).]***

| **Item** | **Condition Precedent** | **Benefiting Party** | **Party to satisfy** | **Condition  Precedent Deadline** |
| --- | --- | --- | --- | --- |
|  | **Project Documents**  Project Co delivering to the State:  (a) original counterparts of each of the State Project Documents (other than this Deed, [***#***]and the Operational Phase Licence); and  (b) certified copies of all other Project Documents (other than [***#***]),  in each case:  (c) duly executed by each of the parties to the documents other than the State; and  (d) each in a form and substance satisfactory to the State.  ***[Note: As a practical matter, consider whether certified copies are required under (b) or whether it is sufficient that they be provided under cover of a confirmation from Project Co or its legal advisers that the copies are true and complete. Particularly where documents will increasingly be signed electronically so there is no wet ink original to certify. If certification is to be retained, consider whether this be defined to include certification by a director of Project Co (e.g. pursuant to a verification certificate attaching all documents) rather than individual certification of every document by a legal practitioner.]*** | State and Project Co | Project Co | [#]  ***[Note: to be inserted.]*** |
|  | **Legal Opinions**  The State receiving legal opinions given for the benefit of the State in form and substance satisfactory to the State from solicitors acting for each Consortium Member as to:   1. the legal capacity and corporate power of that Consortium Member to enter into, deliver and perform its obligations under the Project Documents to which it is a party; 2. the enforceability against the relevant Consortium Member of the Project Documents to which it is a party; and 3. due execution by the Consortium Member of the Project Documents to which it is a party. | State | Project Co | [#]  ***[Note: to be inserted.]*** |
|  | **Pre-Rate Set Satisfaction Notice**  The State receiving an original pre-rate set satisfaction notice in form and substance satisfactory to the State Representative signed by the Facility Agent confirming that all initial conditions precedent to funding and drawdown of the facilities for the Project (including the satisfaction of conditions precedent under any other Project Documents) have been satisfied or waived in accordance with the terms of the Finance Documents, save for those specified in the notice which will be satisfied upon the occurrence of the agreed actions listed in the notice. | State | Project Co | [#]  ***[Note: to be inserted.]*** |
|  | **Development Phase Insurances**  Project Co delivering to the State in respect of the Insurances required to be effected under clause 44.1(a):   1. certificates from an insurance broker as to the currency of all such Insurances and confirming that the State and relevant persons are insured under the policy (to the extent this is required under this Deed); and 2. such other evidence satisfactory to the State that all such Insurances have been procured in accordance with this Deed.   ***[Note: To be settled on a project by project basis based on the insurance regime.]*** | State | Project Co | [#]  ***[Note: to be inserted.]*** |
|  | **FIRB approvals**  The State receiving a copy of the approval of the Foreign Investment Review Board of the Commonwealth Department of Treasury in respect of any foreign ownership of any Equity Investor.  ***[Note: This condition precedent is subject to the Preferred Respondent's proposed structure.]*** | State and Project Co | Project Co | [#]  ***[Note: to be inserted.]*** |
|  | **Financial Close Financial Model**  The State receiving an electronic copy of the Financial Close Financial Model in form and substance satisfactory to the State. | State | Project Co | [#]  ***[Note: to be inserted.]*** |
|  | **Tax Ruling**  The State receiving a certified copy of tax rulings issued by and binding upon the Australian Taxation Office, in a form and substance satisfactory to the State, in respect of the following:  [#]  [***Note: This condition precedent is subject to the Preferred Respondent's proposed structure.***] | State | Project Co | [#]  ***[Note: to be inserted.]*** |
|  | **Performance Bond**  Project Co delivering to the State evidence satisfactory to the State that Project Co has secured the D&C Contractor Construction Bond from the D&C Contractor with an aggregate face value of at least the D&C Contactor Construction Bond Amount. | State | Project Co | [#]  ***[Note: to be inserted.]*** |