



Model Conditions of Collaborative Contract for Integrated Fusion Project Delivery

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FOREWORD

Introduction

Fusion infrastructure construction is likely to be a long, complex, and expensive process. This is due to the inherent engineering complexity of fusion technologies, as well as the involvement of research and development and first-of-a-kind issues.

Complex environments in fusion infrastructure construction will require multi-disciplinary approach, trust, and collaboration between stakeholders, as well as willingness to fulfil the project objectives first. Project complexity also means that there will be more interfaces to manage with more contractors and third parties working side-by-side for an extensive period. Therefore, fusion construction project contracts should facilitate long-term collaboration, open communication, and joint discussions on solutions for problems, instead of transferring risks and responsibilities to another party to the project. Such contracts should allow for holistic risk management and a “best-for-project” ethos to be developed, as well as they should promote innovation and knowledge spreading among different stakeholders.

In addition to project complexity, technology uncertainty remains a defining feature of fusion infrastructure delivery. Designs are still evolving, with unexpected breakthroughs or failures potentially reshaping scope, timelines, and budgets. This requires robust change control mechanisms within the contract, alongside flexible cost and schedule adjustment regimes that can fairly allocate risks associated with scientific unpredictability.

At the same time, it should be acknowledged that fusion project delivery circumstances are different during the lifecycle of through the project, i.e., during the design phase and the construction phase of the project. During the design phase of the project, by applying early contractor involvement, several contractors specialising in different fields should join their forces to develop together the facility design, preferably in Building Information Modelling (BIM). At this stage, the project is prone to multiple modifications and issues. A close collaboration, including working in an integrated project team, as well as joint problem resolution mechanisms and taking joint decisions in the best interest of the project frameworks are key for the success of this phase of the project. The output of this phase should be the design and detailed proposal for the construction of the fusion facility, including a proposal for budget, timeline and required resources. Once the design is stabilised, the fusion project unknowns and modifications are expected to be limited. Therefore, the circumstances in which the project is delivered change.

*These characteristics of fusion projects justify the need for a new model of collaborative contract. This is why Fusion for Energy accepted the challenge to develop the Model Conditions of Collaborative Contract for Integrated Fusion Project Delivery (“**Collaborative Contract**”) tailored to the needs of a fusion project.*

*In developing the Collaborative Contract, we chose the **FAC-1 Framework Alliance Contract** as the foundational industry standard. FAC-1, first published in 2016 and now being used in many countries around the world, was based on consultations with employers, consultants, contractors, lawyers, and academics in 14 jurisdictions and it has been translated for use in different countries. FAC-1 is a proven tool for fostering collaborative relationships across large, complex infrastructure programmes. It proposes joint governance, shared objectives, and flexible integration of multiple project contracts – making it well-suited to the dynamic and multi-phased nature of fusion construction. FAC-1 was recommended by the UK government and industry as achieving ‘strategic planning, integrated teams, continuous improvement and*

the delivery of better, safer, faster and greener project outcomes.’¹ Its use is supported as well by the European Bank for Reconstruction and Development (EBRD).

We further tailored the FAC-1 Contract to the fusion projects’ specific needs, incorporating the lessons learnt at Fusion for Energy, amongst others, from the ITER Tokamak Complex construction. Additionally, further developments were made with the help and valuable input from the various stakeholders, such as project owners, fusion supply chain members, construction contractors and consultants, construction law experts, including the Centre of Construction Law & Dispute Resolution of the King’s College London, and delegates at the Fusion for Energy Contracting Professionals Roundtable 2024.

The specificities of fusion facility construction are reflected in these Collaborative Contract terms. The Collaborative Contract model proposes a pure alliance collaboration for the design phase of the project, where several contractors prepare jointly the design of the fusion facility in BIM, and a relationship alliance model for the construction phase of the project, where based on the Collaborative Contract working as an umbrella agreement together with the Project Contracts, which may be based on traditional construction contract models, particular contractors deliver specific scopes of the project. Other aspects of the Collaborative Contract tailored to the fusion projects’ needs include a detailed process for the design development process, framework for the close alliance organization, incentives, provisions on third-party liability for radiological damage, insurance and the Intellectual Property rights regulation.

At the same time, it should be highlighted that the Collaborative Contract adopted the FAC-1 structure, including separation between the Framework Alliance Agreement and the Contract Terms, as well as the concept of Framework Brief and Framework Prices. Also, the majority of the FAC-1 clauses was adopted in the Collaborative Contract, including those related to the Core Group’s and Alliance Manager’s functions, Supply Chain collaboration, Objectives, Success Measures, and Timetable.

The Collaborative Contract outline

The Collaborative Contract governs the relationship between the owner (“Client”) and the contractors (“Contractor Alliance Members” or “CAMs”) for integrated fusion project delivery in the Alliance. The entire effort to design, construct, and commission the fusion facility is considered under the Collaborative Contract a Programme. It involves multiple interdependent parts that need coordination to achieve the overall goal. Each part of Works to be delivered by a particular CAM is treated under the Collaborative Contract as a separate Project.

Subject to certain rights and obligations retained by the Client, both the Client and the CAMs are Alliance Members. The relationship between the Client and the CAMs is different from the relationship between the “Employer” and “Contractor” in more traditional construction contracts. Key Programme risks are shared Alliance risks, jointly held between the Client and the CAMs. Time, cost, and quality failures relating to the Design of the Works are generally shared Alliance risks, meaning that the Client cannot make claims against the CAMs during the Design Phase for time, cost, or quality failures and vice versa. Commercial risk during the Construction Phase is shared through the Programme Target Price Regime.

Most decisions relating to the Programme are jointly made by the Client and the CAMs.

¹ UK Construction Playbook 2022.

The Alliance Members shall establish an Alliance culture based on the Alliance Charter and make all the decisions related to the Programme on “Best-for-Programme” basis rather than “best-for-the- individual” basis. The Alliance Members shall commit to work together to achieve the Objectives stated in the Contract.

- **The Collaborative Contract structure**

The Collaborative Contract is designed to govern both the Design and the Construction Phase of the Programme delivery. However, the Design and the Construction Phase of the Programme are not governed identically by the Collaborative Contract.

During the Design Phase, the CAMs shall jointly perform the design of the Works. The Collaborative Contract governs exclusively the relationship between the Alliance Members during this Phase, whilst during the Construction Phase, their relationship will be governed by the Collaborative Contract and their individual Project Contract. At the end of this Phase, the CAMs shall present to the Client the Projects Proposal, divided into Project Packages and Sections, including the design and detailed proposal for the construction of the Works. If the Client accepts the Projects Proposal, it shall exercise the Construction Option, and the Projects shall enter the Construction Phase.

During the Construction Phase, the CAMs shall construct the Works. The construction of the Works shall be governed by the Collaborative Contract, and in addition, by the Project Contracts, to be entered into by the relevant CAMs and the Client. The Collaborative Contract serves for the Construction Phase as a framework (i.e. umbrella contract) for the Project Contracts in a sense that it is over-arching a group of related Project Contracts and it establishes a structure for coordination and joint implementation of those Project Contracts.

It is up to the Client to decide which contract model shall be used for the Project Contracts. The Client may choose one of the publicly available construction contract templates or prepare a bespoke construction contract. At the same time, the respective Project Contracts terms shall be shared with the Alliance Members together with the Collaborative Contract, as they form shall part of the agreement between the relevant CAMs and the Client.

- **Collaborative Team**

The Collaborative Contract provides a framework for creation of the Programme team, which includes: the CEO Forum, the Core Group, the Alliance Manager, the Alliance Management Team, and the Alliance Design Team.

The CEO Forum is the forum of the ultimate group-level Chief Executive Officers for each Alliance Member. The CEO Forum oversees the proper functioning of the Alliance and plays a key role in resolving issues amicably within the Alliance.

The Core Group is composed of the representatives of each Alliance Member. The Core Group provides the strategic leadership for the Programme and takes the key decisions for the Alliance.

The Alliance Manager is primarily integrating the Projects, monitoring, and supporting achievement of the Objectives, Success Measures and Targets of the Programme. The Alliance Manager shall exercise any discretion fairly and constructively.

The Alliance Management Team is functioning only during the Design Phase and is composed of senior individuals drawn from the Alliance Members and is led by an Alliance Manager. The Alliance

Management Team is responsible for the day-to-day management of the Alliance during the Design Phase.

The Alliance Design Team is also functioning only during the Design Phase and is composed of personnel drawn from each Alliance Member, led by the Alliance Design Team Leader. The Alliance Design Team will jointly perform the design of the Works.

- **Payment terms**

During the Design Phase, the CAMs are paid based on cost reimbursement basis. The Reimbursable Amount includes Actual Costs (defined in the Collaborative Contract) and the pre-agreed Overheads and Profit. Additionally, the CAMs may be entitled to incentives if they jointly perform the Design Phase of the Programme on satisfactory levels for the Client. The joint Design Phase incentives are subject to the Design Phase KPIs measurement.

During the Construction Phase, the CAMs are paid primarily based on the Project Contracts, which may include individual incentives. Additionally, the CAMs' performance during the Construction Phase is also subject to the joint Construction Phase Risk or Reward Regime (RRR) defined in the Collaborative Contract.

The Construction Phase Risk or Reward Regime is composed of two elements: Construction Phase Incentive Scheme and the Programme Target Price Regime.

Under the Construction Phase Incentive Scheme, the CAMs may be entitled to joint Alliance incentives, if they jointly perform the Construction Phase of the Programme on satisfactory levels for the Client. The joint Construction Phase incentives are subject to the Construction Phase KPIs measurement.

Under the Programme Target Price Regime, the NCAMs may be entitled to Gainshare, if they perform the Construction Phase below the Target Price, or may be obliged to suffer Painshare, if they perform the Construction Phase above the Target Price.

The above-described payment terms are underpinned by the open book commitment of the Alliance Members regarding the Programme.

- **Variations**

Under the Collaborative Contract, the Client is entitled to vary the Works by issuing a Direction and the Alliance Members must implement such a Direction. If a Direction amounts to a significant change to the Programme, such a Direction is a Scope Variation.

Examples of when a Direction issued by the Client during the Design Phase is a Scope Variation shall be set out in the Framework Brief. Examples of when a Direction issued by the Client during the Construction Phase is a Scope Variation shall be set out in the Scope Variation Benchmarking Guidelines included in the Projects Proposal.

- **Intellectual property**

Intellectual property is of particular importance in fusion construction, given the sector's strong emphasis on innovation and competition. Contractors may work with proprietary designs, advanced

superconducting technologies, or unique plasma-facing materials. The Collaborative Contract therefore pays close attention to ownership of inventions and confidentiality.

- **Defects**

The Design Phase Defects are corrected by the CAMs against the payment of Actual Cost. Rules for correction of the Construction Phase Defects shall be defined in the Project Contracts.

- **Insurance**

The insurance provisions in the Collaborative Contract apply only to the Design Phase. Insurance arrangements for the Construction Phase must be agreed before construction begins and will be governed by the Project Contracts. Because fusion is not covered by conventional nuclear liability frameworks, the extent of insurance protection may be uncertain. To avoid gaps in coverage or disputes, it is important to confirm whether the policies cover work at a fusion facility, as some exclude all nuclear activities. Project-specific insurance should also be considered, including cover for construction and plant damage, delay in start-up or contamination. One option to ensure all these is for the Client to provide all risk insurance for the Works in the joint names of all Alliance Members (including the Client) from the start of construction until the Works taking-over.

Development of the EU fusion industry and use of the Collaborative Contract

Fusion projects are about preparing the ground for Europe's future fusion capabilities. Lessons learned from ITER, considered in this Collaborative Contract, should improve the design and development of future facilities in the EU, ensuring that each new project builds on past experience rather than starting from scratch.

Equally important for strengthening Europe's future fusion capabilities is the effective involvement of industry. By supporting industrial partners to move beyond the role of suppliers, fusion projects can foster a European fusion supply chain and help private entities evolve into key players in the sector. Their contributions may include providing engineering expertise, driving commercialization, scaling innovations, and enabling breakthroughs through public-private partnerships (PPPs), which may be based on the Collaborative Contract.

In parallel, the development of dedicated technology facilities, such as a future "Fusion Pilot Plant" operating alongside ITER and DONES, will be vital for the European fusion industry. These facilities should not only close key technology gaps but also demonstrate the integration of solutions at scale, including non-negligible electricity production compared to input power.

By combining public funding with private investment and ensuring industry engagement from the outset, fusion projects can diversify approaches, share risks, and enhance market impact. Contracts therefore need to go beyond traditional client-contractor relationships and actively support a broader ecosystem of innovation and collaboration – a role that the Collaborative Contract is designed to fulfil.

The Collaborative Contract model may be used for the design and construction of first-of-a-kind fusion facilities, including future fusion research and demonstration facilities. It is suitable for both private and public sector entities.

It is important to mention that the Collaborative Contract is not a "framework agreement" as defined by the EU Public Procurement Directives, the purpose of which is to establish the terms governing contracts

to be awarded during a given period. The Collaborative Contract is a framework in the sense that it is a contract over-arching a group of related Project Contracts and it is establishing a structure for coordination and joint implementation of those Project Contracts.

It also needs to be highlighted that the Collaborative Contract is a template only and subject to tailoring on a project-by-project basis to reflect the circumstances and the needs of each individual project. Especially, if the design is to be performed in BIM, the Collaborative Contract template would require further specific adaptations.

The explanatory notes included in this Collaborative Contract are for information only and do not form part of the Collaborative Contract.

All drafting notes including the explanatory notes below are to be deleted prior to use.

We welcome feedback from the fusion and construction communities. We are committed to improve the Collaborative Contract and we plan to issue regular updates and guidance notes to ensure the Contract remains fit-for-purpose.

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The ultimate decision regarding the wording of the clauses and format of the document rests with Fusion for Energy, and acknowledgement of the reviewers does not mean that they concur with or approve the wording of all clauses.



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MODEL CONDITIONS OF COLLABORATIVE CONTRACT FOR INTEGRATED FUSION PROJECT DELIVERY

FRAMEWORK ALLIANCE AGREEMENT

A FRAMEWORK ALLIANCE CONTRACT is created the ____ day of _____

IN RELATION TO _____

_____ (the *Framework Programme*) as described in the *Framework Documents*

BETWEEN _____ (the *Client*) and the other *Alliance Members* who have signed this *Framework Alliance Agreement*

WHO AGREE to Project in an *Alliance*, to fulfil their agreed roles and responsibilities and to apply their agreed expertise in relation to the *Framework Programme*, in accordance with and subject to the *Framework Documents*, and who agree that subject to amendment in accordance with the *Contract Terms*:

Reference in Contract Terms

Clause 1.1 The roles, expertise and responsibilities of the *Alliance Members* are described in the *Framework Documents* and, in addition to the *Client*, the *Alliance Manager*, the *Alliance Information Manager*, and the *Alliance Members* are:

Clauses 1.3, 1.4 and 1.5 The *Framework Documents*, subject to addition and amendment in accordance with any *Joining Agreements* and the *Contract Terms*, are:

- ▶ this *Framework Alliance Agreement* incorporating:
 - ▶ the *Objectives*, (Schedule 1)
 - ▶ the *Timetable* (Schedule 2)
 - ▶ the *Risk Register* (Schedule 3)
 - ▶ the *Design Phase Roles and Responsibilities* (Schedule 4)
 - ▶ the *Template Project Documents* (Schedule 5)
 - ▶ any *Legal Requirements* and *Special Terms* (Schedule 6)
 - ▶ *Success Measures, Targets* and *Incentives* (Schedule 7)

- ▶ *Working Premises* (Schedule 8)
- ▶ *PMO Charter* (Schedule 9)
- ▶ *Alliance Manager Services* (Schedule 10)
- ▶ the *Client's Representative Role* (Schedule 11)
- ▶ the *Contract Terms* and
- Appendix 1 (Definitions)
- Appendix 2 (Form of Joining Agreement)
- Appendix 3 (Insurance Policies)
- Appendix 4 (Dispute Board Rules, Arbitration, Model Dispute Adjudication Agreement)
- Appendix 5 (Form of Parent Company Guarantee)
- Appendix 6 (Intellectual Property)
- Appendix 7 (Radiological Damage Indemnity)
- ▶ the *Framework Brief*
- ▶ the *Framework Prices*
- ▶ *Alliance Charter*
- ▶ *Projects Proposal*
- ▶ the *Alliance Manager Payment Terms* agreed confidentially between the *Client*, any *Additional Clients* and the *Alliance Manager*

and any additional *Framework Documents* listed below:

Clause 1.6

The *Core Group* members are:

Drafting Note: This Schedule shall include the initial list of representatives for each of the Alliance Members

Role	Person
<i>Client's Core Group member</i>	[*insert name, surname, contact details]
<i>Client's alternate Core Group member</i>	[*insert name, surname, contact details]
<i>CAM1's Core Group member</i>	[*insert name, surname, contact details]
<i>CAM1's alternate Core Group member</i>	[*insert name, surname, contact details]
<i>CAM2's Core Group member</i>	[*insert name, surname, contact details]
<i>CAM2's alternate Core Group member</i>	[*insert name, surname, contact details]

<i>CAM[●]'s Core Group member</i>	<i>[*insert name, surname, contact details]</i>
<i>CAM[●]'s alternate Core Group member</i>	<i>[*insert name, surname, contact details]</i>
<i>[*Optional: Alliance Manager]</i>	<i>[*insert name, surname, contact details]</i>
<i>[*Optional: Alliance Information Manager]</i>	<i>[*insert name, surname, contact details]</i>

Clause 1.10.3 The communication systems are:

Drafting Note: The communication systems shall include digital communication systems managed in accordance with ISO 19650 and the Framework Brief.

Clause 1.11 The *Alliance Members* shall engage with the following *Stakeholders* in accordance with
[Delete if not applicable] clause 1.11 and the *Framework Documents*:

Clause 1.12 The following *Additional Clients* and/or other *Additional Alliance Members* may join
[Delete if not applicable] the *Alliance* in accordance with clause 1.12:

Clause 3.1 The *Alliance Manager* is: _____
and the *Alliance Manager's* authority under clause 3.1 is subject to the following restrictions:

Clause 3.2 The *Alliance Manager* may act on behalf of the *Client* in the following matters:

Clause 3.3 The *Independent Adviser* is: _____
 [Delete if not applicable]

Clause 6 The *Alliance Members* shall implement the following *Supply Chain Collaboration* and/or other *Alliance Activities* in accordance with clause 6 within the timescales stated in the *Timetable* or as otherwise agreed:

Drafting Note: The Alliance Activities may include the following in alignment with ISO19650:

- Producing, sharing and agreeing digital information in accordance with the Timetable and the BIM Execution Plan
- Creating, integrating and updating the Master Information Delivery Plan
- Creating and managing the Common Data Environment and CDE Project flow in accordance with clause 1.9.3.

For the purposes of achieving Improved Value and reduced risks in accordance with ISO 19650, Supply Chain Collaboration under clause 6.3 shall include:

- Revisiting Supply Chain information management proposals obtained when Alliance Members are selected
- Developing new Supply Chain information management proposals
- Seeking improvements through joint engagement with Supply Chain members under shared information management systems monitored by the Client and the Alliance Manager
- Agreeing improved and more consistent information management commitments to and from Supply Chain members.

Clause 7.5.1 The person selected by the *Client* as the *ADT Leader* is _____

Clause 8.12 The payment periods set out in clause 8.12 are amended as follows:

[Delete if not applicable]
 clause 8.12.1 _____

- clause 8.12.2 _____
- Clause 8.17 The rate of interest on late payment is: _____
- Clause 10.15 The total aggregate liability of each *CAM* to the *Client* referred to in clause 10.15 shall not exceed the amount of _____
- Clause 10.14 The Alliance Members acknowledge that the Operator of the Facility will be _____
- Clause 12 The following *Alliance Members* shall take out the following types and amounts of insurance cover in accordance with clause 12 in respect of matters governed by the *Framework Alliance Contract*:
- _____
- _____
- _____
- _____
- _____
- Clause 13.2 The following rights of assignment and/or sub-contracting apply under clause 13.2:
[Delete if not applicable]
- _____
- _____
- Clause 13.4 The applicable laws under clause 13.4 and the courts with non-exclusive jurisdiction are those of:
- _____
- Clause 14.1 The *Framework Alliance Contract* commences on: _____
- Clause 15.2 Any dispute may be referred to a *Dispute Board* as per Appendix 4.
[Complete or delete as appropriate]
- _____
- The *Dispute Board* members are:
- _____
- Clause 15.3 Any dispute may be referred to arbitration conducted in accordance with clause 15.3 and Part 3 of Appendix 4.
[Complete or delete as appropriate]
- The number of arbitrators shall be: _____

In the absence of agreement between the *Alliance Members* in dispute the appointing authority or equivalent shall be:

An arbitration shall be conducted in the English language and in accordance with the following rules:

The location of an arbitration shall be: _____

15.4 The *Framework Alliance Agreement* is governed by the laws: _____

The Framework Alliance Agreement is subject to the non-exclusive jurisdiction of the courts of: _____

Drafting note: *Framework Alliance Agreement* may be governed by the UNIDROIT principles with respect for mandatory provisions of the law of the construction site.

This *Framework Alliance Contract* is executed by the following *Alliance Members*:

- 1) ***Client:***
- 2) ***Alliance Manager:***
- 3) ***Alliance Information Manager:***
- 4) ***CAM1:***
- 5) ***CAM2:***
- 6) ***CAM[n]:***

SCHEDULE 1

OBJECTIVES

(see clause 2.1)

Guidance Note: The *Objectives* shall state the agreed objectives of the *Alliance* and the *Framework Programme*, and of the *Alliance Members* in relation to the *Alliance* and the *Framework Programme*. They form the basis for the *Success Measures* and *Targets* stated in Schedule 7 and for seeking *Improved Value* in accordance with clauses 2.2, 6.1 and 6.3 of the *Contract Terms*.

Examples of *Objectives* are listed below.

The *Objectives* can also include the following in accordance with ISO19650 principles:

- Establishing and using an environment where digital information (*including information models*) are created, shared, agreed and used in a timely and consistent manner
- Optimising the quality, accuracy and completeness of information exchanges and *information management* relating to design, cost, time, safety and risk throughout the *life cycle* of a single *Project* or multiple *Projects*
- Using *information management* effectively as a tool for measurable improved efficiency, *Improved Value* and *Risk Management*.

2.1 The *Objectives* are:

1.1.1 Cost performance

- a) *Programme Target Price* within budget allowance;
- b) delivery to the *Programme Target Price* or better whilst achieving other cost *Objectives*;
- c) clear demonstration of best value for the investment (delivering the *Framework Programme* at the lowest cost);
- d) minimisation of the long term operational and maintenance costs;
- e) achieve positive environmental sustainability outcomes;
- f) minimisation of the decommissioning costs;

1.1.2 Time performance

- a) submission of *Projects Proposal* by [*to be inserted];
- b) delivery of [*specific part of *Framework Programme* - to be inserted] by [*to be inserted];
- c) delivery of [*specific part of *Framework Programme* - to be inserted] by [*to be inserted];
- d) all *Framework Programme* complete by [*to be inserted];
- e) progressive completion to enable earliest possible delivery of *Framework Programme* benefits;

1.1.3 Quality outcomes

- a) the design aligns with the objectives for the local area to complement or provide

- opportunities for enhancement, including opportunities for future value capture;
- b) the design considers and provides for a positive user experience;
- c) compliance with internationally recognized standards or best practice applicable to the *Framework Programme*;
- d) [*to be inserted].

SCHEDULE 2

TIMETABLE (see clause 6.1)

Description of action/consent/approval	Alliance Member(s) responsible for action/consent/approval	Period/deadline for action/consent/approval	Additional comments

Guidance Note: The *Timetable* states agreed deadlines, gateways and milestones in respect of the *Framework Programme* and achievement of the *Objectives*, and the timescales for *Alliance Activities*, including the nature, sequence and duration of the agreed actions of each *Alliance Member* and any consents or approvals (whether required from *Alliance Members* or third Alliance Members) that are pre-conditions to subsequent actions.

The *Timetable* can include the following activities and interfaces in accordance with ISO 19650 principles:

- Define, agree, and update the *BIM execution plan*.
- Define, agree, and update the *delivery team's mobilization plan*.
- Define, agree, and update reference information and shared resources.
- Define, agree, and update the detailed responsibility matrix.
- Plan information delivery by integrating and updating predefined information exchanges.
- Integrate and update each project's information delivery milestones.
- Develop and implement integrated *high-level* and *detailed responsibility matrices*.
- Create and update integrated *master information delivery plans* (MIDP) that aggregate all *task information delivery plans* (TIDP).
- Define the *federation strategy* and *information container* breakdown structure collaboratively.
- Implement a digital *Common Data Environment (CDE) Project* flow for collaborative information management during operational and delivery phases.

SCHEDULE 3

RISK REGISTER (see clauses 9.11 and 9.12)

Risk	Likelihood of risk	Impact of risk on <i>Framework Programme</i> and/or <i>Objectives</i> and/or <i>Alliance Activities</i>	<i>Alliance Member(s)</i> responsible for <i>Risk Management</i> action	<i>Risk Management</i> action	<i>Risk Management</i> action period/deadline

Guidance Note: The *Risk Register* states the nature of each risk, its likelihood and impact on the *Framework Programme* and/or achievement of the *Objectives* and/or any *Alliance Activities* (including any anticipated financial impact), the *Alliance Member(s)* responsible for each *Risk Management* action, the agreed *Risk Management* actions (including actions to reduce the likelihood of each risk and to reduce its financial and other impact) and the agreed periods/deadlines for completing those actions.

The *Risk Register* shall, in accordance with ISO19650 principles, establish and update a documented risk assessment for asset or project information delivery, ensuring risks, consequences, and likelihood are understood, communicated, and managed. Each *Alliance Member* shall update the *Risk Register*, detailing risks associated with timely information delivery and how they intend to manage these risks.

SCHEDULE 4

DESIGN PHASE ROLES AND RESPONSIBILITIES

(see clause 4 of the Contract Terms)

Without limiting any reasonable skill and care warranty, each *CAM* shall contribute to those aspects of the design of the *Projects* comprising the *Framework Programme* that fall within its role, expertise and responsibilities as stated in this Schedule 4:

SCHEDULE 5

TEMPLATE PROJECT DOCUMENTS (see clause 5.13)

All *Project Contracts* shall use the following *Template Project Documents*:

Guidance Note: *Template Project Documents* include:

- the *Project Contract Conditions* to be used for each *Project Contract*, comprising the applicable standard forms of contract and any amendments.

SCHEDULE 6

PART 1

LEGAL REQUIREMENTS

(see clause 13.4)

The following *Legal Requirements* supplement or amend the following *Contract Terms*:

Guidance Note: The *Legal Requirements* state any additional or amended *Contract Terms* required in order for the *Framework Alliance Contract* to comply with specific laws of the jurisdiction stated in the *Framework Alliance Agreement*.

PART 2

SPECIAL TERMS

(see clause 13.5)

The following *Special Terms* supplement or amend the following *Contract Terms*:

Guidance Note: The *Special Terms* state any additional or amended *Contract Terms* required by reason of the particular needs of the *Client* or any *Additional Client* or other *Alliance Members* or by reason of the nature of the *Framework Programme*.

SCHEDULE 7

PART 1: INCENTIVES FOR THE DESIGN PHASE

1 Applicability

- 2.2 The *Design Phase Incentive* scheme applies to the *Design Phase* of the *Framework Alliance Contract*.

2 Design Phase Incentive Scheme

- 2.1. The *Design Phase Incentive* scheme measures:
- 2.1.1. the overall *Alliance Members* ' performance and
 - 2.1.2. the performance of the individual *CAMs* against the *Design Phase Success Measures*.
- 2.2. The *Design Phase Incentive* scheme may result in an *Incentive* payable by the *Client* to the *CAMs*.
- 2.3. For the avoidance of doubt, the *Design Phase Incentive* scheme cannot result in a negative amount payable by the *Client* to the *CAMs*.

3 Design Phase Success Measures

- 3.1. The *Design Phase Success Measures* are the areas against which the performance of all the *Alliance Members* and the individual performance of each *CAM* shall be measured for the purpose of calculation of the *Design Phase Incentive*.
- 3.2. The *Design Phase Success Measures* for measurement of the overall performance of all the *Alliance Members* are set out in Part 2 of this Schedule 7.
- 3.3. The *Design Phase Success Measures* for measurement of the individual performance of each *CAM* are set out in Part 3 of this Schedule 7.

4 Measurement of the performance

- 4.1. *High Performance* against the *Design Phase Success Measures* (i.e. performance which is better than *MCOS Performance* against the *Design Phase Success Measures*) will result in the *Incentive* payable to the *CAMs*, calculated in accordance with this Schedule.

5 Details of Design Phase Success Measures

- 5.1. Part 2 and 3 of this Schedule 7 set out for each of the *Design Phase Success Measures*:
- 5.1.1. the description of the *Success Measure*;
 - 5.1.2. the weightings;
 - 5.1.3. what constitutes *Poor Performance*, *MCOS Performance* and *High Performance*;
 - 5.1.4. methodologies for measuring performance and calculating a performance score; and
 - 5.1.5. the method of calculation of *Incentive*.

6. Incentive calculation

- 6.1. The *Core Group* will calculate the *Design Phase Incentive* (if any) at the intervals identified in this Schedule 7 and the *Client* will make a payment (if any) to the *CAMs* (if any) in accordance with clause 8 of the *Contract Terms*.

PART 2: DESIGN PHASE SUCCESS MEASURES AND TARGETS APPLICABLE TO ALL CAMS

Guidance Note: Examples of *Success Measures*, *Targets* and *KPIs* are listed below.

1 Success Measures

The *Success Measures* for the overall performance of all the *Alliance Members* during the *Design Phase* are the following:

1.1 Level of the proposed Programme Target Price

[*General description and why it is measured.]

1.2 Consideration of the Life Cycle Cost

[*General description and why it is measured.]

1.3 Submission of the Projects Proposal on time

[*General description and why it is measured.]

1.4 Risk Management

[*General description and why it is measured.]

1.5 Integrated Information Management

[*General description and why it is measured.]

1.6 Staff management

[*General description and why it is measured.]

2 Targets and calculation of the overall performance against Success Measures

2.1 TARGET 1: Overall performance against all Success Measures

The overall performance against all *Success Measures* (“**Overall Performance Score**”) is calculated as follows:

Overall Performance Score = sum of each (*Success Measures Performance Score* x *Success Measure weighting*)

2.2 TARGET 2: Performance against a particular Success Measure

The performance against a particular *Success Measure* (“**Success Measure Performance Score**”) is calculated as follows:

Success Measure Performance Score = sum of all (*KPI Performance Score* x *KPI weighting*)

2.3 TARGET 3: KPI performance score

Key Performance Indicators (KPIs) performance score is calculated in accordance with paragraph 4. [*Key Performance Indicators*] of this Schedule.

3 Weightings

The weightings for *Success Measures* and *KPI* are the following:

Success Measure	Success Measure weighting	KPI	Calculation Date / Period	KPI weighting within Success Measure
Level of the proposed Target Price	[50%]	<i>[Amount proposed in the Projects Proposal as the Programme Target Price]</i>	At completion of Design Phase	100%
Innovations	[10%]	<i>[Number of validated innovative solutions adopted]</i>	At completion of Design Phase	100%
Consideration of the Life Cycle Cost	[10%]	<i>[Estimate of the O&M program costs]</i>	At completion of Design Phase	60%
		<i>[Estimate of the decommissioning program costs]</i>		40%
Submission of the Projects Proposal on time	[10%]	<i>[Submission of the Projects Proposal by the Submission Date]</i>	At completion of Design Phase	100%
Effective decision making by the Core Group	[10%]	<i>[Decisions taken within the timelines defined in the Contract, without further escalation]</i>	[*]	100%
Risk Management	[5%]	<i>[Effective Risk Management in accordance with the Risk Register]</i>	[*]	100%
Integrated Information Management	[5%]	<i>[Efficient and consistent creation, sharing, agreement and use of information in accordance with ISO 19650]</i>	[*]	30%
		<i>[Compliance with the timescales stated in the Timetable for information exchanges and interfaces]</i>	[*]	70%
Staff Management	[5%]	<i>[Staff turnover]</i>	[*]	70%
		<i>[Training & qualification]</i>		30%
Overall	100%			

4 Key Performance Indicators

The below tables present the *KPIs* and the methodologies for measuring performance and calculating a performance score:

Drafting Note: Below is presented an example of description of the Key Performance Indicators. Such a description is required for each of the Key Performance Indicators.

KPI: Amount proposed in the <i>Projects Proposal</i> as the <i>Programme Target Price</i>			
Principle	<p>The principle of this KPI is to promote improved performance outcomes by aiming at completing the <i>Programme</i> at the lowest cost in accordance with all the requirements of the <i>Framework Alliance Contract</i> and the <i>Project Contracts</i>.</p> <p>The <i>Programme Target Price</i> set out in the <i>Projects Proposal</i> will be used for purposes of this KPI.</p>		
Performance Spectrum	Poor Performance	MCOS Performance	High Performance
	<i>Programme Target Price</i> is more than [100]% of the <i>Client's</i> budget estimate	<i>Programme Target Price</i> is [100]% of the <i>Client's</i> budget estimate	<i>Programme Target Price</i> is less than [100]% of the <i>Client's</i> budget estimate
Performance Score calculation	Description of performance		KPI Performance Score
	<i>Programme Target Price</i> is [100]% or more of the <i>Client's</i> budget estimate		0
	<i>Programme Target Price</i> is less than [100]% but more than [90]% of the <i>Client's</i> budget estimate		Linearly distributed between 1 and 99
	<i>Programme Target Price</i> is [90]% or less of the <i>Client's</i> budget estimate		100

KPI: Number of validated innovative solutions adopted	
Principle	<p>The principle of this KPI is to encourage the Alliance Members to propose, test, and integrate innovative solutions that improve safety, efficiency or sustainability in fusion facility design and construction.</p> <p>An innovative solution is any new or significantly improved method, technology, process or approach that demonstrably contributes to the success of the Programme and that complies with the below described requirements for novelty, value contribution, validation and adoption:</p> <p><u>Novelty</u></p> <ul style="list-style-type: none"> • Has not been previously implemented in comparable infrastructure projects or is a significant enhancement of an existing method. • Shall originate from an Alliance Member. <p><u>Value Contribution</u></p> <ul style="list-style-type: none"> • Provides measurable improvement in at least one of the following areas: <ul style="list-style-type: none"> – Safety (e.g., enhanced worker or environmental protection, radiological risk reduction), – Cost efficiency (e.g., reduction in construction cost or resource use), – Time efficiency (e.g., reduction in schedule delays, acceleration of processes), – Quality (e.g., improved reliability, precision, or compliance with technical standards), – Sustainability (e.g., reduced carbon footprint, improved energy/material efficiency), – Knowledge and capability building (e.g., transferable methodologies for future

	fusion projects). <u>Validation</u> <ul style="list-style-type: none"> The solution must be formally documented (with evidence of testing, pilot results, or expert validation). The Core Group must review and confirm the classification as an innovative solution. <u>Adoption</u> <ul style="list-style-type: none"> The solution must be adopted in practice within the Programme scope (not merely proposed). 		
Performance Spectrum	Poor Performance	MCOS Performance	High Performance
	No innovative solutions adopted	1-3 innovative solutions adopted	4 or more innovative solutions adopted
Performance Score calculation	Description of performance		KPI Performance Score
	No innovative solutions adopted		0
	1-3 innovative solutions adopted		Distributed between 25, 50 and 75
	4 or more innovative solutions adopted		100

<u>KPI: Estimated Life Cycle Cost in the Projects Proposal</u>			
Principle	The principle of this <i>KPI</i> is fostering O&M cost efficiency considerations during the <i>Design Phase</i> by optimizing the CAPEX-OPEX balance while maintaining compliance with all the requirements of the <i>Framework Alliance Contract</i> and the <i>Project Contracts</i> . The <i>Client's</i> Call for Tender O&M program cost and the <i>Projects Proposal's</i> estimated <i>Life Cycle Cost</i> will be used for purposes of this <i>KPI</i> .		
Performance Spectrum	Poor Performance	MCOS Performance	High Performance
	<i>Projects Proposal's</i> estimated <i>Life Cycle Cost</i> is more than [100]% of the <i>Client's</i> call for tender O&M program cost	<i>Projects Proposal's</i> estimated <i>Life Cycle Cost</i> is between [100]% and [85]% of the <i>Client's</i> call for tender O&M program cost	<i>Projects Proposal's</i> estimated <i>Life Cycle Cost</i> is less than [85]% or less of the <i>Client's</i> call for tender O&M program cost
Performance Score calculation	Description of performance		KPI Performance Score
	<i>Projects Proposal's</i> estimated <i>Life Cycle Cost</i> is more than [100]% of the <i>Client's</i> call for tender O&M program cost		0
	<i>Projects Proposal's</i> estimated <i>Life Cycle Cost</i> is between [100]% and [85]% of the <i>Client's</i> call for tender O&M program cost		Linearly distributed between 1 and 99
	<i>Projects Proposal's</i> estimated <i>Life Cycle Cost</i> is less than [85]% or less of the <i>Client's</i> call for tender O&M program cost		100

KPI: Submission of the <i>Projects Proposal</i> by the <i>Submission Date</i>			
Principle	The principle of this <i>KPI</i> is to promote the progress of design of the <i>Projects</i> comprising the <i>Framework Programme</i>		
Performance Spectrum	Poor Performance	MCOS Performance	High Performance
	The <i>Projects Proposal</i> is submitted after <i>Submission Date</i>	The <i>Projects Proposal</i> is submitted on <i>Submission Date</i>	The <i>Projects Proposal</i> is submitted before <i>Submission Date</i>
Performance Score calculation	Description of performance		KPI Performance Score
	The <i>Projects Proposal</i> is submitted on <i>Submission Date</i> or later		0
	The <i>Projects Proposal</i> is submitted earlier than on <i>Submission Date</i> but later than <i>Submission Date</i> minus 100 calendar days		Linearly distributed between 1 and 99
	The <i>Projects Proposal</i> is submitted on <i>Submission Date</i> minus 100 calendar days or earlier		100

KPI: Effective decision making by the <i>Core Group</i>			
Principle	The principle of this <i>KPI</i> is to promote the collaboration and effective decision making by the <i>Core Group</i>		
Performance Spectrum	Poor Performance	MCOS Performance	High Performance
	At least one <i>Core Group</i> decision is referred for disputes' resolution process under Appendix 4	Not all decisions are taken by the <i>Core Group</i> within the timeframe specified in the Contract, but there is no escalation for disputes' resolution process under Appendix 4	100% of the matters presented for decision of the <i>Core Group</i> are taken by the <i>Core Group</i> within the timeframe specified in the Contract and there is no escalation for disputes' resolution process under Appendix 4
Performance Score calculation	Description of performance		KPI Performance Score
	Poor Performance		0
	MCOS Performance		50
	High Performance		100

KPI: Effective <i>Risk Management</i> in accordance with the <i>Risk Register</i>			
Principle	The principle of this <i>KPI</i> is to promote effective <i>Risk Management</i> through the <i>Design Phase</i>		
Performance Spectrum	Poor Performance	MCOS Performance	High Performance
	Poor application of the <i>Risk Register</i> with a demonstrably slow and reactive approach to <i>Risk Management</i>	Good application of the <i>Risk Register</i> with a prompt and pro-active approach to <i>Risk Management</i> .	Exceptional application of the <i>Risk Register</i> with a no-surprise culture engendered and issues for resolution identified with key dates for resolution.
Performance	Description of performance		KPI Performance Score

Score calculation	Poor Performance	0
	MCOS Performance	50
	High Performance	100

KPI: Efficient and consistent creation, sharing, agreement and use of information in accordance with ISO 19650			
Principle	The principle of this <i>KPI</i> is to promote an integrated <i>Information Management</i> environment throughout the <i>Design Phase</i>		
Performance Spectrum	Poor Performance	MCOS Performance	High Performance
	<i>Alliance Members</i> generally comply with the <i>Client's Information Management</i> requirements outlined in the <i>Digital Information Management</i> strategies and/or required by the <i>Core Group</i> , with only a few, minor and unintentional breaches	<i>Alliance Members</i> generally comply with the <i>Client's Information Management</i> requirements outlined in the <i>Digital Information Management</i> strategies and/or required by the <i>Core Group</i> , with only a few, minor and unintentional breaches	<i>Alliance Members</i> are in total compliance with all <i>Client's Information Management</i> requirements outlined in the <i>Digital Information Management</i> strategies and/or required by the <i>Core Group</i>
Success Measure Performance Score calculation	Description of performance		KPI Performance Score
	Poor Performance		0
	MCOS Performance		50
	High Performance		100

KPI: Compliance with the timescales stated in the <i>Timetable</i> for information exchanges and interfaces			
Principle	The principle of this <i>KPI</i> is to promote the timely exchange of information across the <i>Programme</i>		
Performance Spectrum	Poor Performance	MCOS Performance	High Performance
	<i>Alliance Members</i> fail to meet [*90%] of the timescales for information exchanges and interfaces stated in the <i>Timetable</i> during the <i>Design Phase</i>	<i>Alliance Members</i> meet between [*90% and 99%] of all timescales for information exchanges and interfaces stated in the <i>Timetable</i> during the <i>Design Phase</i>	<i>Alliance Members</i> meet all timescales for information exchanges and interfaces stated in the <i>Timetable</i> during the <i>Design Phase</i>
Success Measure Performance Score calculation	Description of performance		KPI Performance Score
	Poor Performance		0
	MCOS Performance		Linearly distributed between 1 and 99
	High Performance		100

KPI: Staff turnover			
Principle	The principle of this <i>KPI</i> is encouraging the <i>CAMs</i> to preserve knowledge and know-how within the consortium during the design phase by maximizing staff retention. The overall turnover rate is calculated by dividing the number of employees who have left the <i>CAMs</i> during the design phase by the average staff number during the same period.		
Performance Spectrum	Poor Performance	MCOS Performance	High Performance
	<i>CAMs</i> turnover rate is more than [XX]%	<i>CAMs</i> turnover rate is between [XX]% and [XX]%	<i>CAMs</i> turnover rate is less than [XX]%
Success Measure Performance Score calculation	Description of performance		KPI Performance Score
	<i>CAMs</i> turnover rate is more than [XX]%		0
	<i>CAMs</i> turnover rate is between [XX]% and [XX]%		Linearly distributed between 1 and 99
	<i>CAMs</i> turnover rate is less than [XX]%		100

KPI: Staff training and qualification			
Principle	The principle of this <i>KPI</i> is encouraging the <i>CAMs</i> to deliver training and education to staff to maximize commitment to improve processes and quality. The overall training and qualification rate is calculated by dividing the number of training hours during the design phase by the total number of manhours during the same period.		
Performance Spectrum	Poor Performance	MCOS Performance	High Performance
	<i>CAMs</i> training and qualification rate is less than [XX]%	<i>CAMs</i> training and qualification rate is between [XX]% and [XX]%	<i>CAMs</i> training and qualification rate is more than [XX]%
Success Measure Performance Score calculation	Description of performance		<u>Success Measure</u> Performance Score
	<i>CAMs</i> training and qualification rate is less than [XX]%		0
	<i>CAMs</i> training and qualification rate is between [XX]% and [XX]%		Linearly distributed between 1 and 99
	<i>CAMs</i> training and qualification rate is more than [XX]%		100

5 The relationship between the performance score and the Incentive

*[*This paragraph shall detail the method of calculation of the Incentive depending on the result of performance in particular KPIs and/or in the Success Measures, for example as proposed below.*

If the relevant KPI / Success Measure is calculated periodically, the calculation should propose split of the particular Incentive amount as per the calculation periods.]

The *Success Measure Performance Score* shall impact calculation of the *Incentive*, as follows:

5.1 Incentive is not payable

When the *Success Measure Performance Score* is 0, there is no *Incentive* payable by the *Client* to the *CAMs* for the relevant *Success Measure*.

5.2 Incentive is payable

When *Success Measure Performance Score* is more than 0, the *Incentive* to be paid by the *Client*, the *CAMs* for the relevant *Success Measure* shall be calculated as follows:

$\text{Alliance Design Phase Incentive Pool Success Measure weighting} * \text{Success Measure Performance}$
--

6 Split of the Incentive between the CAMs

6.1 The *Incentive* calculated in accordance with this Annex shall be due to the *CAMs* as follows:

- 6.1.1 The shall be due [*to be inserted*]% of the *Incentive*;
- 6.1.2 The *CAM2* shall be due [*to be inserted*]% of the *Incentive*;
- 6.1.3 The *CAM3* shall be due [*to be inserted*]% of the *Incentive*;
- 6.1.4 The *CAM4* shall be due [*to be inserted*]% of the *Incentive*;
- 6.1.5 [*etc.*]

PART 3: SUCCESS MEASURES AND TARGETS APPLICABLE TO INDIVIDUAL CAMS

Guidance Note: Examples of *Success Measures*, *Targets* and *KPIs* are listed below.

This section is applicable only to the CAMS listed below

Individual Design Incentive for the CAM1

1 Success Measure

The individual *Success Measures* for CAM1 during the *Design Phase* are the following:

1.1 Communication

[*General description of the *Success Measure* and why it is measured.]

1.2 Teamwork

[*General description of the *Success Measure* and why it is measured.]

2 Targets for individual CAMs

2.1 TARGET 1: Overall performance against all *Success Measures*

The overall performance against all *Success Measures* (“**Overall Performance Score**”) is calculated as follows:

Overall Performance Score = sum of each (*Success Measure* Performance Score x *Success Measure* weighting)

2.2 TARGET 2: Performance against a particular *Success Measure*

The performance against a particular *Success Measure* (“**Success Measure Performance Score**”) is calculated as follows:

Success Measure Performance Score = sum of all (KPI Performance Score x KPI weighting)

2.3 TARGET 3: *KPI* Performance Score

KPI Performance Score is calculated in accordance with paragraph 4 [Key Performance Indicators] of this Part 5 of Schedule 7.

3 Weightings

The weightings for *Success Measures* are the following:

<i>Success Measure</i>	<i>Success Measure</i> weighting	<i>KPI</i>	Calculation Date / Period	<i>KPI</i> weighting within <i>Success Measure</i>
Communication	[60%]	Attendance at Core Group meetings during the <i>Design Phase</i>	[*]	60%

		Regular updates to <i>Client</i> and other <i>Alliance Members</i> of progress of design.	[*]	40%
Teamwork	[40%]	Evidence that the <i>CAMI</i> is working with other <i>Alliance Members</i> in an open and constructive manner.	[*]	100%
Overall	100%			

4 KPIs

The below table present the KPIs and the methodologies for measuring performance and calculating a performance score:

[*Below is presented an example of description of the Key Performance Indicator. Such a description is required for each of the Key Performance Indicators.]

KPIs: Frequency of and attendance at <i>Core Group</i> meetings during the <i>Design Phase</i>			
Principle	The principle of this <i>KPI</i> is to promote effective cooperation and communication within the <i>Alliance</i> .		
Performance Spectrum	Poor Performance	MCOS Performance	High Performance
	<i>CAMI</i> did not have a representative at more than one <i>Core Group</i> meetings	<i>CAMI</i> did not have a representative at no more than one <i>Core Group</i> meetings	<i>CAMI</i> had a representative at each of the <i>Core Group</i> meetings
Performance Score calculation	Description of performance		KPI Performance Score
	<i>CAMI</i> did not have a representative at two or more <i>Core Group</i> meetings		0
	<i>CAMI</i> did not have a representative one <i>Core Group</i> meeting		50
	<i>CAMI</i> had a representative at each of the <i>Core Group</i> meetings		100

KPI: Evidence that <i>Client</i> and other <i>Alliance Members</i> are kept fully up to date with progress of the design			
Principle	The principle of this <i>KPI</i> is to promote effective cooperation and communication within the <i>Alliance</i> .		
Performance Spectrum	Poor Performance	MCOS Performance	High Performance
	<i>CAMI</i> 's communication is slow and only in response to the prompts or formal reviews; progress reports frequently delivered late	<i>CAMI</i> 's communication is prompt and often initiated by <i>CAMI</i> ; progress reports delivered on time	<i>CAMI</i> communicates pro-actively; progress reported with detail against budget and programme
Success Measure Performance Score calculation	Description of performance		KPI Performance Score
	Poor Performance		0
	MCOS Performance		50
	High Performance		100

KPI: Evidence that the CAM is working with other Alliance Members in an open and constructive manner			
Principle	The principle of this KPI is to promote effective cooperation and communication within the Alliance.		
Performance Spectrum	Poor Performance	MCOS Performance	High Performance
	CAMI works in isolation. Does not value Projects of others.	CAMI is actively engaged in working with the ADT. Key issues discussed openly with the team. Mutually agreed actions implemented.	CAMI proactively encourages inputs from the ADT. Key issues discussed openly with the team. Mutually agreed actions implemented. Opportunities for innovation / best practice explored at all stages.
Success Measure Performance Score calculation	Description of performance		KPI Performance Score
	Poor Performance		0
	MCOS Performance		50
	High Performance		100

5 The relationship between the performance score and the Incentive

*[*This paragraph shall detail the method of calculation of Incentives depending on the result of performance in particular KPIs and/or in the Success Measure for example as proposed below.*

If the relevant KPI / Success Measure is calculated periodically, the calculation should propose split of the particular Incentive amount as per the calculation periods.]

The Overall Performance Score shall impact calculation of the Incentive, as follows:

5.1 Incentive is not payable

When the Success Measure Performance Score is 0, there is no Incentive payable by the Client to the CAMI for the particular Success Measure.

5.2 Incentive is payable

When the Success Measure Performance Score is more than 0, the Incentive to be paid by the Client to the CAMI for the relevant Success Measure shall be calculated as follows:

$$\text{CAM1 Design Phase Incentive Pool} * \text{Success Measure weighting} * \text{Success Measure Performance Score} * 1\%$$

Individual Design Incentive for the CAM2, CAM3, CAM4, ...

*[*There should be an individual Incentive Scheme for each CAM]*

PART 4: CONSTRUCTION PHASE RRR

1. Applicability

- 1.1. The *Construction Phase Risk or Reward Regime (RRR)* applies to the *Construction Phase*.
- 1.2. The RRR is composed of:
 - 1.2.1. The ***Programme Target Price Regime***, and
 - 1.2.2. The ***Construction Phase Incentive Scheme***.

2. Programme Target Price Regime

The *Programme Target Price Regime* may result in a *Gainshare* payable by the *Client* to the *CAMs* or a *Painshare* payable by the *CAMs* to the *Client* (if any and as the case may be) in accordance with this Schedule.

2.1. Gainshare and Painshare

- 2.1.1. The *Construction Phase Price* determined in respect of the *Alliance Members (CAMs and Client)* in accordance with the *Project Contracts* under the *Construction Phase* shall be measured against the *Programme Target Price*.
- 2.1.2. If the *Construction Phase Price* is below the *Programme Target Price*, each *CAM* shall be entitled to receive from the *Client* its share in the *Gainshare*.
- 2.1.3. If the *Construction Phase Price* is above the *Programme Target Price*, the *Client* shall be entitled to receive from the *CAMs* their share in the *Painshare*.

Drafting Note: Shares (percentage) of the Gainshare and Painshare due to or from each Alliance Member shall be dependent on the detailed design and the amount of the Programme Target Price.

2.2. Diagram illustrating the sharing mechanism

- 2.2.1. A diagram illustrating the mechanism for calculating the *Gainshare* or *Painshare* (as the case may be) shall be set out in the *Project Brief*.

2.3. Calculation of Gainshare or Painshare and Interim Gainshare or Interim Painshare

- 2.3.1. As soon as practicable after the issuance of the *Programme Performance Certificate* the *Core Group* will calculate the *Gainshare* or *Painshare* (if any and as the case may be) following determination of the *Construction Phase Price* in performing the Works under the *Construction Phase* to the *Final Programme Completion Date* and the *Client* will make a payment (if any) to the *CAMs* or the *CAMs* will make a payment (if any) to the *Client* (as the case may be) in accordance with this Schedule.
- 2.3.2. The *Core Group* may also agree to calculate at specific intervals the *Interim Gainshare* or *Interim Painshare*, being the estimated amount of *Gainshare* or *Painshare* which the *Core Group* determines is payable to the *CAMs* or by the *CAMs* prior to the *Final Programme Completion Date*, and the respective payments shall be made in accordance with this Schedule 7.

3. Construction Phase Incentive Scheme

- 3.1. This Schedule sets out the general principles as to the manner in which the *Incentives* will operate during the *Construction Phase*. Further details are set out in Part 5 of this Schedule 7 and the *Framework Brief*.

- 3.2. *High Performance* against the *Construction Phase Success Measures* (i.e. performance which is better than *MCOS Performance* against the *Construction Phase Success Measures*) will result in the *Incentive* payable to the *CAMs*, calculated in accordance with this Schedule.

4. Performance against *Construction Phase Success Measures*

4.1. Part 5 of this Schedule sets out for each of the *Construction Phase Success Measure*:

- 4.1.1. the description of the *Success Measure*;
- 4.1.2. the weightings;
- 4.1.3. what constitutes *Poor Performance*, *MCOS Performance* and *High Performance*;
- 4.1.4. methodologies for measuring performance and calculating a performance score; and
- 4.1.5. the method of calculation of *Incentive*.

4.2. Incentive calculation

- 4.2.1. The *Core Group* will calculate the *Construction Phase Incentive* in accordance with the *Construction Phase Success Measures*, *Targets* and *Incentives* and the *Client* will make a payment (if any) to the *CAMs* in accordance with this Schedule.
- 4.2.2. For the avoidance of doubt, the *Construction Phase Incentive* cannot result in a negative amount payable by the *Client* to the *CAMs*.

5. The relationship between the performance score and the *Incentive*

[This paragraph shall detail the method of calculation of the *Incentive* depending on the result of performance in particular *KPIs* and/or the *Success Measures*, and an example is provided below

If the relevant *KPI / Success Measure* is calculated periodically, the calculation should propose split of the particular *Incentive* amount as per the calculation periods]

- 5.1. The Overall Performance Score shall impact calculation of the *Incentive*, as follows:

5.1.1. Incentive is not payable

When the *Success Measure* Performance Score is 0, there is no *Incentive* payable by the *Client* to the *CAMs* for the relevant *Success Measure*.

5.1.2. Incentive is payable

When the *Success Measure* Performance Score is more than 0, the *Incentive* to be paid by the *Client* to the *CAMs* for the relevant *Success Measure* shall be calculated as follows:

$\text{Alliance Construction Phase Incentive Pool} * \text{Success Measure weighting} * \text{Success Measure Performance Score} * 1\%$

- 5.2. The *Incentive* calculated in accordance with this Schedule shall be due to the *CAMs* as agreed in the *Projects Proposal*.

PART 5: INCENTIVES FOR THE CONSTRUCTION PHASE

Guidance Note: Examples of *Success Measures*, *Targets* and *KPIs* are listed below.

1. Construction Phase Incentive Scheme

Construction Phase Incentive Scheme measures the overall *Alliance Members'* performance against the *Construction Phase Success Measures*. [*For the avoidance of doubt, the *Construction Phase Incentive scheme* does not measure the performance of the individual *CAMs* during the *Construction Phase*.]

Drafting Note: *Construction Phase Incentive Scheme* for individual *CAMs* is addressed under the *Project Contracts*

2. Construction Phase Success Measures

The *Success Measures* for the overall performance of all the *Alliance Members* during the *Construction Phase* are the following:

2.1 Quality

[*General description of the Success Measure and why it is measured.]

2.2 Compliance with Timetable

[*General description of the Success Measure and why it is measured.]

2.3 Health and safety

[*General description of the Success Measure and why it is measured.]

2.4 Consideration of the Life Cycle Cos

[*General description of the Success Measure and why it is measured.]

2.5 [*Other]

[*General description of the Success Measure and why it is measured.]

3. Targets and calculation of the overall performance against *Success Measures*

3.1 TARGET 1: Overall performance against all *Success Measures*

The overall performance against all *Success Measures* (“**Overall Performance Score**”) is calculated as follows:

Overall Performance Score = sum of each (*Success Measure Performance Score* x *Success Measure*)

3.2 TARGET 2: Performance against a particular *Success Measure*

The performance against a particular *Success Measure* (“**Success Measure Performance Score**”) is calculated as follows:

Success Measure Performance Score = sum of all (*KPI Performance Score* x *KPI weighting*)

3.3 TARGET 3: KPI Performance Score

KPI Performance Score is calculated in accordance with paragraph 4 [Key Performance Indicators] of this Annex.

4. Weightings

The weightings for *Success Measures* are the following:

<i>Success Measure</i>	<i>Success Measure weighting</i>	<i>KPI</i>	<i>Calculation Date / Period</i>	<i>KPI weighting within Success Measure</i>
Quality	15%	Number of <i>Defects</i> /snags	[*]	50%
		Timely resolution of <i>Defects</i> /snags	[*]	30%
		[<i>Other</i>]	[*]	20%
Compliance with Timetable	50%	Completion of [<i>Milestone to be defined</i>] in accordance with the [<i>planned Milestone completion date</i>]	[*]	10%
		Completion of [<i>Milestone to be defined</i>] in accordance with the [<i>planned Milestone completion date</i>]	[*]	10%
		Completion of [<i>Milestone to be defined</i>] in accordance with the [<i>planned Milestone completion date</i>]	[*]	10%
		Completion of [<i>Milestone to be defined</i>] in accordance with the [<i>planned Milestone completion date</i>]	[*]	10%
		Completion of [<i>Milestone to be defined</i>] in accordance with the [<i>planned Milestone completion date</i>]	[*]	10%
		Completion of [<i>Milestone to be defined</i>] in accordance with the [<i>planned Milestone completion date</i>]	[*]	10%
		Completion of [<i>Milestone to be defined</i>] in accordance with the [<i>planned Milestone completion date</i>]	[*]	10%
		Completion of [<i>Milestone to be defined</i>] in accordance with the [<i>planned Milestone completion date</i>]	[*]	10%
		Completion of [<i>Milestone to be defined</i>] in accordance with the [<i>planned Milestone completion date</i>]	[*]	10%

		Completion of [<i>Milestone to be defined</i>] in accordance with the [<i>planned Milestone completion date</i>]	[*]	10%
Effective decision making by the Core Group	[10%]	[Decisions taken within the timelines defined in the Contract, without further escalation]	[*]	100%
Health and Safety	5%	Number of accidents on Site	[*]	60%
		[<i>Other</i>]	[*]	40%
Consideration of the Life Cycle Cost	10%	Estimated lifecycle O&M cost	at	60%
		Estimated decommissioning cost	Taking - Over	40%
[<i>Other</i>]	[10%]	[<i>Other</i>]	[*]	100%
Overall	100%			

5. Key Performance Indicators

[Below is presented an example of description of the Key Performance Indicator. Such a description is required for each of the Key Performance Indicators.]

KPI: Number of Defects/snags			
Principle	The principle of this KPI is to promote improved performance outcomes by completing the <i>Programme</i> in accordance with the best standards.		
Performance Spectrum	Poor Performance	MCOS Performance	High Performance
	More than [<i>number</i>] Defects/snags identified until the completion of the <i>Programme</i>	[<i>number</i>] Defects/snags identified until the completion of the <i>Programme</i>	Less than [<i>number</i>] Defects/snags identified until the completion of the <i>Programme</i>
Performance Score calculation	Completion of <i>Programme</i>		KPI Performance Score
	[<i>number</i>] or more Defects/snags were identified until the Completion of the <i>Programme</i>		0
	Between [<i>number</i>] and [<i>number</i>] Defects/snags identified until the Completion of the <i>Programme</i>		Linearly distributed between +20 and +80
	Less than [<i>number</i>] Defects/snags identified until the Completion of the <i>Programme</i>		+100

KPI: Timely resolution of Defects/snags			
Principle	The principle of this <i>KPI</i> is to promote improved performance outcomes by completing outstanding <i>Works</i> (snags) and resolving <i>Defects</i> within the time prescribed by the of the <i>Framework Alliance Contract</i> and the <i>Project Contracts</i> .		
Performance Spectrum	Poor Performance	MCOS Performance	High Performance
	Less than [85]% of the Defects/snags resolved within the time prescribed by the of the <i>Framework Alliance Contract</i> and the <i>Project Contracts</i> .	Between [85]% and [100]% of the Defects/snags resolved within the time prescribed by the of the <i>Framework Alliance Contract</i> and the <i>Project</i>	More than [100]% of the Defects/snags resolved within the time prescribed by the of the <i>Framework Alliance Contract</i> and the <i>Project Contracts</i> .

		<i>Contracts.</i>	
Performance Score calculation	Completion of Project		KPI Performance Score
	Less than [85]% of the <i>Defects/snags</i> resolved within the time prescribed by the of the <i>Framework Alliance Contract</i> and the <i>Project Contracts</i> .		0
	Between [85]% and [100]% of the <i>Defects/snags</i> resolved within the time prescribed by the of the <i>Framework Alliance Contract</i> and the <i>Project Contracts</i> .		Linearly distributed between 1 and 99
	More than [100]% of the <i>Defects/snags</i> resolved within the time prescribed by the of the <i>Framework Alliance Contract</i> and the <i>Project Contracts</i> .		+100

KPI: Completion of Programme Milestones – compliance with the <i>Timetable</i>			
Principle	The principle of this <i>KPI</i> is to promote improved performance outcomes by satisfactorily completing the [<i>Milestone to be defined</i>] in accordance with the <i>Timetable</i> .		
Performance Spectrum	Poor Performance	MCOS Performance	High Performance
	Actual <i>Milestone</i> completion date is after the [<i>planned Milestone completion date</i>]	Actual <i>Milestone</i> completion date is at the [<i>planned Milestone completion date</i>]	Actual <i>Milestone</i> completion date is before the [<i>planned Milestone completion date</i>]
Performance Score calculation	Completion of Project		KPI Performance Score
	Actual <i>Milestone</i> completion date is at the [<i>planned Milestone completion date</i>] or later		0
	Actual <i>Milestone</i> completion date is between [99] calendar days before the [<i>planned Milestone completion date</i>] and [1] calendar day before the [<i>planned Milestone completion date</i>]		Linearly distributed between 1 and 99
	Actual <i>Milestone</i> completion date is [100] calendar days or more before the [<i>planned Milestone completion date</i>]		100

Regarding the *KPI* of Compliance with the *Timetable* (i.e. completion of the defined *Milestone* before a given date), if a particular *Success Measure* was not achieved by the *Alliance*, but the following *Success Measure* was achieved, that particular *Success Measure* is scored as the following *Success Measure* (even though that particular *Milestone* is still considered as not achieved for the purpose of the calculation of the *Construction Phase Incentive*).

KPI: Effective decision making by the Core Group			
Principle	The principle of this <i>KPI</i> is to promote collaboration and effective decision making by the <i>Core Group</i>		
Performance Spectrum	Poor Performance	MCOS Performance	High Performance
	At least one <i>Core Group</i> decision is referred for disputes' resolution process under Schedule 4	Not all decisions are taken by the <i>Core Group</i> within the timeframe specified in the Contract, but there is no escalation for disputes' resolution process under Schedule 4	100% of the matters presented for decision of the <i>Core Group</i> are taken by the <i>Core Group</i> within the timeframe specified in the Contract and there is no escalation for disputes' resolution process under Schedule 4
Performance Score calculation	Description of performance		KPI Performance Score
	Poor Performance		0
	MCOS Performance		50
	High Performance		100

KPI: Number of accidents on Site			
Principle	The principle of this <i>KPI</i> is to promote safety culture during the performance of the <i>Programme</i> .		
Performance Spectrum	Poor Performance	MCOS Performance	High Performance
	More than <i>[number]</i> accidents identified until the completion of the <i>Programme</i>	<i>[number]</i> accidents identified until the completion of the <i>Programme</i>	Less than <i>[number]</i> accidents identified until the completion of the <i>Programme</i>
Performance Score calculation	Completion of <i>Programme</i>		KPI Performance Score
	<i>[number]</i> accidents or more identified until the Completion of the <i>Programme</i>		0
	<i>[number]</i> accident identified until the Completion of the <i>Programme</i>		50
	<i>[number]</i> accidents identified until the Completion of the <i>Programme</i>		100

KPI: Estimated lifecycle O&M cost at Taking-Over			
Principle	The principle of this <i>KPI</i> is fostering O&M cost efficiency considerations during the <i>Construction Phase</i> by optimizing the CAPEX-OPEX balance while maintaining compliance with all the requirements of the <i>Framework Alliance Contract</i> and the <i>Project Contracts</i> . The <i>Projects Proposal's</i> estimated O&M program cost and the CAM estimated lifecycle O&M cost at Taking-Over will be used for purposes of this <i>KPI</i> .		
Performance Spectrum	Poor Performance	MCOS Performance	High Performance
	CAMs estimated lifecycle O&M cost at <i>Taking-Over</i> is more than [100]% of the <i>Projects Proposal's</i>	CAMs estimated lifecycle O&M cost at <i>Taking-Over</i> is between [100]% and [85]% of the <i>Projects</i>	CAMs estimated lifecycle O&M cost at <i>Taking-Over</i> is less than [85]% or less of the <i>Projects Proposal's</i>

	estimated O&M program cost	<i>Proposal's</i> estimated O&M program cost	estimated O&M program cost
Performance Score calculation	Description of performance		KPI Performance Score
	<i>CAMs</i> estimated lifecycle O&M cost at Taking-Over is more than [100]% of the <i>Projects Proposal's</i> estimated O&M program cost		0
	<i>CAMs</i> estimated lifecycle O&M cost at Taking-Over is between [100]% and [85]% of the <i>Projects Proposal's</i> estimated O&M program cost		Linearly distributed between 1 and 99
	<i>CAMs</i> estimated lifecycle O&M cost at Taking-Over is less than [85]% or less of the <i>Projects Proposal's</i> estimated O&M program cost		100

<u>KPI: Estimated decommissioning cost at <i>Taking-Over</i></u>			
Principle	The principle of this <i>KPI</i> is fostering decommissioning cost efficiency considerations during the <i>Construction Phase</i> while maintaining compliance with all the requirements of the <i>Framework Alliance Contract</i> and the <i>Project Contracts</i> . The <i>Projects Proposal's</i> estimated decommissioning program cost and the <i>CAM</i> estimated decommissioning cost at <i>Taking-Over</i> will be used for purposes of this <i>KPI</i> .		
Performance Spectrum	Poor Performance	MCOS Performance	High Performance
	<i>CAMs</i> estimated decommissioning program cost at <i>Taking-Over</i> is more than [100]% of the <i>Projects Proposal's</i> estimated decommissioning program cost	<i>CAMs</i> estimated decommissioning program cost at <i>Taking-Over</i> is between [100]% and [85]% of the <i>Projects Proposal's</i> estimated decommissioning program cost	<i>CAMs</i> estimated decommissioning program cost at <i>Taking-Over</i> is less than [85]% or less of the <i>Projects Proposal's</i> estimated decommissioning program cost
Performance Score calculation	Description of performance		Performance Score
	<i>CAMs</i> estimated decommissioning program cost at <i>Taking-Over</i> is more than [100]% of the <i>Projects Proposal's</i> estimated decommissioning program cost		0
	<i>CAMs</i> estimated decommissioning program cost at <i>Taking-Over</i> is between [100]% and [85]% of the <i>Projects Proposal's</i> estimated decommissioning program cost		Linearly distributed between 1 and 99
	<i>CAMs</i> estimated decommissioning program cost at <i>Taking-Over</i> is less than [85]% or less of the <i>Projects Proposal's</i> estimated decommissioning program cost		100

SCHEDULE 8

WORKING PREMISES

Drafting Note: This schedule shall include a description of the Working Premises to be provided by the Client to the Alliance Members, in accordance with Clause 1.16) and its rules for use.

SCHEDULE 9

PMO CHARTER

Drafting Note: The Schedule shall be adapted and aligned with the particular needs of the specific Programme. In particular, it can differentiate the role and responsibilities of the PMO during the Design Phase and during the Construction Phase.

1. General provisions

- a. The *Programme Management Office* (“PMO”) shall support the *Alliance*, by providing the services described in article 3 of this *Programme Management Office Charter*, to achieve the Programme’s objectives.
- b. The PMO shall be led by the *Alliance Manager*.
- c. This *Programme Management Office Charter* may be modified from time to time by the *Core Group*.

2. Composition

- a. The PMO shall have the following structure: [*organisation chart]

3. Role and Responsibilities

- a. The PMO in order to support the *Alliance* shall provide programme management services, including but not limited to:
 - i. establish and maintain project management standards, processes, and best practices, ensuring that the *Framework Programme* is executed efficiently;
 - ii. provide overview of the implementation of the *Framework Programme* and enable optimal utilization of resources;
 - iii. work to identify potential contractual issues and, eventually, proactively alert the *Core Group*;
 - iv. improve communication and knowledge transfers between the *Alliance Members*, also by holding meetings to review the progress of the *Framework Programme*;
 - v. develop and implement a communications strategy for the *Alliance Members* in connection the performance of their obligations under the *Framework Alliance Contract*;
 - vi. facilitate consultation of documents by making *Programme* and *Projects* plans, reviews, templates and documentation available to the concerned *Alliance Members*;
 - vii. help gather lessons learnt.
- b. The *Alliance Members* shall provide the PMO with written and / or verbal briefings, as requested by the PMO, and make available upon request work papers and supporting documentation, supporting analysis, and all other relevant documentation prepared or generated under the *Framework Alliance Contract*.

4. Guidance of the PMO

- a. The PMO may issue to the *Alliance Members* at any time guidance for the best execution of the *Projects* comprising the *Framework Programme*
- b. Guidance comes in the form of recommendations, which are not binding on the *Alliance Members*.
- c. The PMO shall respond to questions, concerns and comments raised by the *Alliance Members* concerning its guidance.

5. Training on the Contract implementation

- a.* The *CAMs* are obliged to provide training on the *Framework Alliance Contract* implementation to all their *Personnel*, including the *Personnel* joining the *CAMs* during the *Framework Alliance Contract* implementation. The detailed content of the training shall be defined by the *Alliance Manager*.

SCHEDULE 10

ALLIANCE MANAGER SERVICES

Drafting Note: The Schedule shall be adapted and aligned with the particular needs of the specific Project.

SCHEDULE 11

CLIENT'S REPRESENTATIVE ROLE

Drafting Note: The Schedule shall be adapted and aligned with the particular needs of the specific Project.

1.1 With regard to scope of the Project or Projects comprising the Framework Programme

1.1.1. The *Client's Representative* shall facilitate the *Alliance Members'* access to documentation, which describes the *Client's* requirements for the design, documentation and construction of the *Project or Projects* comprising the *Framework Programme*, and may agree with the *Alliance Members* in writing to change the *Project or Projects* comprising the *Framework Programme*.

1.1.2. The *CAMs* may agree with the *Client* on the transfer of scope of *Works* between different *CAMs*.

1.2 Financial accountability

1.2.1. The *Client's Representative* shall:

- a) specify the required format and intervals for reporting to the *Client* on financial and other matters;
- a) formally acknowledge on behalf of the *Client's* adjustments to the relevant *Design Phase Success Measures, Construction Phase Success Measures, Programme Target Price* and *Planned Programme Completion Date*,
- b) where agreed and notified by the *Core Group*;
- c) check that all payments by the *Client* to each *CAM* for the *Actual Cost* that the relevant *CAM* incurs are made in accordance with the *Framework Alliance Contract*;
- d) check that all payments by the relevant *Client* to the relevant *CAM* of any *Incentive* due are made in accordance with the *Framework Alliance Contract*;
- e) check that all payments by the relevant *Client* to the relevant *CAM* of any *Gainshare* due are made in accordance with the *Framework Alliance Contract* (after taking into account any *Interim Gainshare* and/or *Painshare* previously paid or due from that *CAM*) and
- f) check that all other payments by the *Client* to the *CAMs* are made in accordance with the *Framework Alliance Contract*.

1.3 Liaison and facilitation

1.3.1. The *Client's Representative* shall:

- a) communicate directly with the *Core Group, Alliance Manager* and the *AMT* on operational issues;

- b) attend *Core Group* meetings as required, and other meetings by agreement with the *Alliance Manager* or as required by the *Framework Alliance Contract*;
- c) ensure that the *Client* provides relevant information in a timely manner;
- d) communicate to the *Client* issues arising from the *Alliance Members*;
- e) facilitate access to relevant resources and expertise in the *Client* for the benefit of the *Alliance Members*; and
- f) ensure relevant support staff of the *Client* understand the nature of the alliance, and the obligations placed on the *Alliance Members*.

1.4 Ownership

1.4.1. The *Client's Representative* shall:

- a) issue the *Programme Performance Certificate* to the *Alliance Members* on behalf of the *Client*;
- b) receive all documents and information in respect of the design of the *Project* or *Projects* comprising the *Framework Programme*, including all design documentation, surveys and as-built information together with any other documentation, which is held by the *Client's* with respect to the *Project* or *Projects* comprising the *Framework Programme*; and
- c) to the extent required, ensure that the payments to each *CAM* are made by the *Client* in accordance with the *Framework Alliance Contract* after the *Payment Certificates* are issued.

CONTRACT TERMS

1. ALLIANCE MEMBERS, FRAMEWORK DOCUMENTS AND CORE GROUP

Alliance Members	1.1	The <i>Alliance Members</i> shall work together and individually in the spirit of trust, fairness and collaboration for the benefit of the <i>Framework Programme</i> , within the scope of their agreed roles, expertise and responsibilities as stated in the <i>Framework Documents</i> , and all their respective obligations under the <i>Framework Alliance Contract</i> shall be construed within the scope of those roles, expertise and responsibilities, and in all matters governed by the <i>Framework Alliance Contract</i> they shall act reasonably and without delay.
Definitions	1.2	All words and expressions used in the <i>Framework Documents</i> have the meanings stated in the <i>Definitions</i> set out in Appendix 1 and the meanings stated elsewhere in the <i>Framework Documents</i> .
Framework Documents	1.3	<p>The <i>Framework Documents</i> are described in the <i>Framework Alliance Agreement</i> and any <i>Framework Document</i> created or amended in accordance with these <i>Contract Terms</i> is binding on all <i>Alliance Members</i>, except that:</p> <p>1.3.1. unless otherwise agreed in the <i>Contract Terms</i>, no <i>Framework Document</i> added or amended after the date of the <i>Framework Alliance Agreement</i> shall add to or amend the role, expertise, responsibilities or other obligations of any <i>Alliance Member</i> who does not agree it;</p> <p>1.3.2. the <i>Alliance Manager Payment Terms</i> shall bind only the <i>Client</i>, any <i>Additional Clients</i> and the <i>Alliance Manager</i>.</p>
Responsibility for Framework Documents	1.4	Each <i>Alliance Member</i> who prepares any one or more <i>Framework Documents</i> shall be responsible for the consequences of any error or omission in, or any discrepancy between, those <i>Framework Documents</i> or its contributions to them, except to the extent of its reliance (if stated in those <i>Framework Documents</i>) on any information provided by any one or more other <i>Alliance Members</i> .
Errors, omissions and discrepancies	1.5	<p>All <i>Framework Documents</i> shall be treated as complementary and:</p> <p>1.5.1. an <i>Alliance Member</i> shall give <i>Early Warning</i> in accordance with clause 1.9 as soon as it becomes aware of any error, omission or discrepancy in or between the <i>Framework Documents</i>;</p> <p>1.5.2. if any error, omission or discrepancy cannot be resolved under clause 1.5.1, the priority between <i>Framework Documents</i> shall follow the sequence set out in the <i>Framework Alliance Agreement</i> in descending order except that the <i>Contract Terms</i> shall have priority over</p>

Schedules 1 to 10 to the *Framework Alliance Agreement* and except where the *Alliance Members* otherwise agree;

1.5.3. if there is any discrepancy between the *Framework Documents* and any *Project Contract*, then the *Framework Documents* shall take precedence.

Core Group 1.6 The *Core Group* shall review and support the implementation of the *Framework Alliance Contract* and shall fulfil the other functions stated in the *Framework Documents* or agreed by the *Alliance Members*, and:

1.6.1. the *Core Group* comprises the individuals named in the *Framework Alliance Agreement* or in any *Joining Agreement* subject to changes and arrangements for alternates agreed by the *Alliance Members*;

1.6.2. each *Alliance Member* shall ensure at its own cost that any employee who is a *Core Group* member or an agreed alternate shall attend *Core Group* meetings and fulfil the agreed functions of a *Core Group* member in accordance with the *Framework Documents*.

Core Group meetings and decisions 1.7 Each meeting of the *Core Group*:

1.7.1. shall be convened by the *Alliance Manager* at the request of any *Core Group* member and otherwise as required by the *Framework Documents* at not less than [*5 (five) *Working Days*] notice (unless all *Core Group* members agree a shorter period) issued to all *Core Group* members stating its agenda;

1.7.2. shall be chaired by the *Alliance Manager* and shall deal only with the matters listed in its agenda (unless all *Core Group* members otherwise agree);

1.7.3. shall make decisions by *Consensus* of all *Core Group* members present at that meeting and the *Alliance Members* shall comply with any decision of the *Core Group* made within the scope of its agreed functions.

CEO Forum 1.8 The *CEO Forum*, being the forum of the ultimate group-level chief executive officers for each *Alliance Member* (for the avoidance of doubt, including the Client) shall meet at least twice per year, based on the proposals of the *Core Group*, to oversee the proper functioning of the *Alliance* and take any necessary decisions.

1.8.1. The *CEO Forum* shall meet in-person or via virtual meetings.

1.8.2. The *CEO Forum* will take decisions in principle by *Consensus*, on the *Best-For-Programme* basis.

Early Warning 1.9 Each *Alliance Member* shall give *Early Warning* to the other *Alliance Members* as soon as it is aware of any matter adversely affecting or

threatening the *Alliance* or the *Framework Programme* or its own performance or the performance of another *Alliance Member* under the *Framework Alliance Contract* and:

- 1.9.1. the notifying *Alliance Member* shall submit as part of its *Early Warning* (within the scope of its agreed role, expertise and responsibilities) proposals for avoiding or remedying that matter;
- 1.9.2. the *Alliance Manager* shall convene a *Core Group* meeting within [*5 (five) *Working Days*] from the date of *Early Warning* (unless all *Core Group* members agree a shorter period) to agree an appropriate course of action (unless all *Core Group* members agree a course of action without a meeting).

Communications 1.10 Except as otherwise agreed in writing, all communications between *Alliance Members*:

- 1.10.1. shall be in writing with any evidence of receipt and of the authority of the sender as stated in the communication systems referred to in clause 1.10.3;
- 1.10.2. shall be effective from the date of delivery to the address of the relevant *Alliance Member* set out in the *Framework Alliance Agreement* or in any *Joining Agreement* or to a substitute address that an *Alliance Member* shall notify to the other *Alliance Members*;
- 1.10.3. shall use the communication systems stated in the *Framework Alliance Agreement*.

Stakeholders 1.11 The *Alliance Members* shall engage with the *Stakeholders* as stated in the *Framework Alliance Agreement*.

Additional Clients and other Additional Alliance Members 1.12 *Additional Clients* and other *Additional Alliance Members* as listed in the *Framework Alliance Agreement* or as otherwise agreed by the *Alliance Members* may join the *Alliance* and:

- 1.12.1. upon receipt of notice from the *Alliance Manager*, the current *Alliance Members* shall enter into a *Joining Agreement* with an *Additional Client* or other *Additional Alliance Member* based on the form set out in Appendix 2;
- 1.12.2. following execution of a *Joining Agreement*, an *Additional Client* or other *Additional Alliance Member* shall be bound by and entitled to implement and enforce the terms of the *Framework Alliance Contract* as an *Alliance Member* with the role, expertise and responsibilities stated in the *Joining Agreement*, and all the provisions of the *Framework Alliance Contract* shall apply to the *Additional Client* or other *Additional Alliance Member* as if it were separately identified in the *Framework Alliance Contract*;

1.12.3. additional and amended *Framework Documents* may be included in a *Joining Agreement* if agreed by all *Alliance Members* in order to describe the role, expertise and responsibilities of each *Additional Client* or other *Additional Alliance Member* and extend the commitments described in clause 1.3;

1.12.4. unless otherwise agreed, an *Additional Client* or other *Additional Alliance Member* shall have no rights or obligations under the *Framework Alliance Contract* in relation to any matter arising before the effective date of its *Joining Agreement*.

2. OBJECTIVES, SUCCESS MEASURES AND TIMETABLE

<i>Objectives</i>	2.1	The <i>Alliance Members</i> , within the scope of their agreed roles, expertise and responsibilities, shall seek to achieve the <i>Objectives</i> set out in Schedule 1 to the <i>Framework Alliance Agreement</i> .
<i>Improved Value</i>	2.2	Each <i>Alliance Member</i> , within the scope of its agreed roles, expertise and responsibilities, shall investigate and submit for <i>Core Group</i> approval proposals for <i>Supply Chain Collaboration</i> and/or other <i>Alliance Activities</i> intended to achieve <i>Improved Value</i> consistent with the <i>Objectives</i> .
<i>Success Measures and Targets</i>	2.3	The success of the <i>Alliance</i> and the <i>Framework Programme</i> and the performance of the <i>Alliance Members</i> in achieving the <i>Objectives</i> shall be assessed by reference to the <i>Success Measures</i> and <i>Targets</i> set out in Schedule 7.
<i>Incentives</i>	2.4	The <i>Incentives</i> to achieve <i>Objectives</i> and/or <i>Targets</i> are set out in Schedule 7 to the <i>Framework Alliance Agreement</i> .
<i>Timetable</i>	2.5	Deadlines, milestones and gateways in respect of the <i>Framework Programme</i> and achievement of the <i>Objectives</i> , and timescales for <i>Alliance Activities</i> under clause 6, are stated in the <i>Timetable</i> set out in Schedule 2 to the <i>Framework Alliance Agreement</i> .
<i>Updated Timetable</i>	2.6	The <i>Alliance Manager</i> shall update the <i>Timetable</i> for <i>Core Group</i> approval to reflect the agreed effects of additional <i>Alliance Activities</i> under clause 6, of any <i>Joining Agreements</i> , of changes under clause 9.1, of approved actions under clause 14.2.1 and of any other changes agreed in accordance with the <i>Framework Documents</i> .
<i>Best-For-Programme</i>	2.7	The <i>Alliance Members</i> shall make their best endeavours to act at all times in a manner that is consistent with the <i>Best-For-Programme</i> approach.
<i>Alliance Charter</i>	2.8	The <i>Alliance Charter</i> shall be developed by the <i>Core Group</i> before the start of the design of the <i>Design Phase</i> .
	2.9	The <i>Alliance Members</i> shall use their best endeavours to perform the <i>Framework Alliance Contract</i> in accordance with the <i>Alliance Charter</i> .

- 2.10 The *Core Group* may review and amend any part of the *Alliance Charter*.
- Commitment to no-blame culture 2.11 The *Alliance Members* commit themselves to:
- 2.11.1. the promotion and maintenance of a no-blame culture between the *Alliance Members* in relation to disputes, errors, mistakes, *Defects*, poor performance and other issues which may arise within the *Alliance*;
 - 2.11.2. the promotion and maintenance of a working culture where transparency, resilience and good faith prevail; and
 - 2.11.3. the prompt and mutual resolution of all disputes, differences and other issues by all *Alliance Members* within the *Framework Alliance Contract*.
- Sharing Arrangements 2.12 The *Alliance Members* acknowledge that the transparency and visibility of the legal and commercial arrangements between them and between the *CAMs* and the *Client* is essential for the successful delivery of the *Framework Programme*.
- 2.13 Each *Alliance Member* severally warrants to each other *Alliance Member* and the *Client* that it has not and that none of its *Affiliated Undertakings* have entered and will not enter into any sharing arrangement, joint venture, partnership or other similar arrangement with any of the other *Alliance Member* or any of their *Affiliated Undertakings* in relation to any legal or beneficial interest in its:
- 2.13.1. allocation under the *Framework Alliance Contract* of any *Reimbursable Amount*; or
 - 2.13.2. rights or liabilities arising under clause 10.4 of the Contract Terms [Saving of certain legal and equitable rights],
- (“**Sharing Arrangements**”), and that all legal, commercial and financial arrangements between it or any of its *Affiliated Undertakings* and the other *Alliance Members* or any of their *Affiliated Undertakings* in relation to the *Programme* and its rights and liabilities under the *Framework Alliance Contract* are exclusively and exhaustively set out in the *Framework Alliance Contract* unless otherwise agreed by the *Alliance Members* and the relevant arrangement is disclosed to the *Alliance Members*.
- 2.14 A material breach of clause 2.13 will be deemed to be a *Willful Default* by any *Alliance Member* who is party to the relevant *Sharing Arrangement*.
- 2.15 Where the role of the *Client* under this agreement is performed by multiple entities, the *Alliance Members* agree, taking into account necessary collaboration of these *Client* entities, that the arrangements between these entities are excluded from clause 2.13.

3. ALLIANCE MANAGER

<i>Alliance Manager</i> functions	3.1	The <i>Alliance Manager</i> shall fulfil the functions described in the <i>Contract Terms</i> and Schedule 10, integrating the <i>Alliance</i> and exercising any discretion fairly and constructively, and subject to any restrictions stated in the <i>Framework Alliance Agreement</i> shall: <ul style="list-style-type: none"> 3.1.1. monitor and support achievement of the <i>Objectives</i>, <i>Success Measures</i> and <i>Targets</i>, monitor and support achievement of deadlines, gateways and milestones in the <i>Timetable</i>, and prepare updates of the <i>Timetable</i> for <i>Core Group</i> approval in accordance with clause 2.6; 3.1.2. call, organise, chair and minute <i>Core Group</i> meetings under clauses 1.7 and 15.1; 3.1.3. organise, support and monitor <i>Supply Chain Collaboration</i> and other <i>Alliance Activities</i> under clause 6 and engagement with <i>Stakeholders</i> under clause 1.11; 3.1.4. manage payments under clause 8; 3.1.5. monitor and support <i>Risk Management</i> in accordance with the <i>Risk Register</i> set out in Schedule 3 to the <i>Framework Alliance Agreement</i> and prepare updates of the <i>Risk Register</i> for <i>Core Group</i> approval in accordance with clause 9.12.
Representation of Client	3.2	The <i>Client</i> and any <i>Additional Clients</i> authorise the <i>Alliance Manager</i> to act on behalf of it or them in those matters stated in the <i>Framework Alliance Agreement</i> or in a <i>Joining Agreement</i> .
Independent Adviser	3.3	If stated in the <i>Framework Alliance Agreement</i> , the <i>Alliance Members</i> may appoint an <i>Independent Adviser</i> to provide impartial and constructive advice and support to the <i>Core Group</i> .
Employees	3.4	Each <i>Alliance Member</i> shall employ for the purposes of the <i>Framework Alliance Contract</i> individuals with the necessary skills, qualifications and experience and shall promptly remove or replace any individual who disrupts or adversely affects the <i>Framework Programme</i> or any <i>Alliance Activities</i> or any <i>Project</i> .

4. DESIGN PHASE ALLIANCE ACTIVITIES

Design of the <i>Projects</i> comprising the <i>Framework</i> <i>Programme</i>	4.1	The CAMs are responsible for the design of the <i>Projects</i> comprising the <i>Framework Programme</i> in accordance with the <i>Framework Alliance Contract</i> and as directed by the <i>Core Group</i> .
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Design Contribution and Responsibilities of CAMs	4.2	Without limiting any reasonable skill and care warranty, each <i>CAM</i> shall contribute to those aspects of the design of the <i>Project</i> or <i>Projects</i> comprising the <i>Framework Programme</i> that fall within its role, expertise and responsibilities as stated in Schedule 4 to the <i>Framework Alliance Agreement (Design Phase Roles and Responsibilities)</i> or in any <i>Joining Agreements</i> , and in accordance with the <i>Alliance Activities</i> , working within the timescales stated in the <i>Timetable</i> .
Collaboration and Integration in Design Development	4.3	The <i>CAMs</i> shall work together and individually in the development of an integrated design for the <i>Framework Programme</i> under the co-ordination of the <i>ADT Leader</i> .
Stages of Design	4.4	<p>The design of the <i>Projects</i> comprising the <i>Framework Programme</i> shall be carried in accordance with this clause 4, in stages, in the following sequence:</p> <ul style="list-style-type: none"> a) stage 0: strategic definition and concept design; b) stage 1: design consolidation; c) stage 2: value engineering; d) stage 3: preliminary design; e) stage 4: detailed design; f) stage 5: construction/manufacturing design, <p>as further detailed in the <i>Framework Brief</i>.</p>
Instruction of Stages	4.5	From the <i>Effective Date</i> , the <i>CAMs</i> are only instructed to carry out stage 0: strategic definition and concept design and stage 1: design consolidation. Each subsequent stage may be instructed by the <i>Client</i> in accordance with the following <i>Provisional Acceptance</i> and <i>Acceptance</i> procedure.
<i>Provisional Acceptance</i> and <i>Acceptance</i>	4.6	<p>From the <i>Effective Date</i> regular meetings shall be held monthly at a date determined by the <i>ADT Leader</i> for each <i>CAM</i> to present a concise summary of the progress, development and current detail of design and <i>Projects Proposal</i>, divided in <i>Project Packages</i> and <i>Sections</i> for comment and <i>Provisional Acceptance</i>. The <i>Client</i> shall at these meetings or in any event within [*5 (five) <i>Working Days</i>] either:</p> <ul style="list-style-type: none"> a) <i>Provisionally Accept</i> some or all of the current detail of design and <i>Projects Proposal</i>; or b) reject some or all of the current detail of design and <i>Projects Proposal</i>, giving reasons and specifying the changes required to be accepted. The <i>CAMs</i> shall make the necessary adjustments and resubmit the detail for <i>Provisional Acceptance</i> by the <i>Client</i>.

*Acceptance
Procedure*

- 4.7 The purpose of *Provisional Acceptance* is to assist in the efficient development and progression of the detail of the design and *Projects Proposal*, so that the final submissions can be reviewed for *Acceptance* efficiently in the time available:
- a) on completion of each stage of design and its approval by the *Core Group*, the *CAMs* shall submit the design for that stage to the *Client* for comment and *Acceptance*;
 - b) the *Client* shall, within reasonable time from receipt of a stage of design from the *CAMs*, but no longer than [**20 (twenty) Working Days*]:
 - *Accept* the stage of design and instruct commencement of the next stage of design; or
 - reject the stage of design, giving reasons and specifying the changes required to the stage of design to be accepted or specifying that the following design stages will not be instructed. The *CAMs* shall make the necessary adjustments and resubmit the design stage for *Acceptance* by the *Client*;
 - c) if the *Client* accepts the design for any given stage of design, the *CAMs* may review the *Budget* and/or *Timetable* commitments stated in the *Framework Brief* for the next stage of design and (if necessary) propose adjusted *Budget* and/or *Timetable* commitments for the *Client's* review and *Acceptance*;
 - d) while reviewing the adjusted *Budget* and/or *Timetable* commitments for the next stage of design, the *Client* may:
 - consult independent consultants;
 - require the *CAMs* to provide clarifications regarding the adjusted *Budget* and/or *Timetable* commitments; and
 - negotiate with the *CAMs* the extent of the proposed adjustments;
 - e) provided the *Client* and the *CAMs* agree on any adjustments to the *Budget* and/or the *Timetable* commitments for the next stage, the *Framework Brief* and the *Timetable* shall be amended accordingly and the *Client* may instruct the *CAMs* to commence the next stage of design by written notice;
 - f) only once the *Client* has accepted the design of any given stage and instructed commencement of the next stage, shall next stage of design commence;

		g)	if the <i>Client</i> chooses, at its sole discretion, not to instruct the <i>CAMs</i> to carry out a stage of design (other than stage 1: design consolidation), the <i>Client</i> shall issue a written notice to the <i>CAMs</i> informing them of its decision. In such a case, the performance of the <i>Framework Programme</i> under the <i>Framework Alliance Contract</i> shall be considered to have been completed from the date of issue by the <i>Client</i> of notice under this section shall (g) apply.
<i>Client</i> Decisions and <i>CAMs</i> ' Design Liability	4.8		A decision of the <i>Client</i> under the procedure described in clause 4.7 to accept the design and instruct commencement of the next stage, release liability of the <i>CAMs</i> for the approved design to the extent described in clause 10.6.
<i>Design Phase</i> Collaboration	4.9		In accordance with the <i>Objectives</i> , the <i>Framework Brief</i> , the <i>Design Phase Roles and Responsibilities</i> , the <i>Budget</i> , the <i>Risk Register</i> and the <i>Timetable</i> , the <i>Alliance Members</i> will:
		a)	Develop the design in the stages, formats and levels of details required for the <i>Construction Phase</i> to proceed, and present this design to the <i>Alliance Manager</i> and the <i>Client</i> ;
		b)	Seek and obtain the stated permits, licences and other approvals from third parties that are required in order for the <i>Construction Phase</i> to proceed;
		c)	Implement and complete the agreed <i>Risk Management</i> actions;
		d)	Implement and complete the actions allocated in relation to developing <i>Site</i> data;
		e)	Prepare a <i>Construction Phase Timetable</i> for approval by the <i>Core Group</i> ;
		f)	Develop the <i>Framework Target Price</i> in compliance with the <i>Budget</i> and for approval in accordance with clause 5.
<i>Client</i> Obligations During the <i>Design Phase</i>	4.10		During the <i>Design Phase</i> the <i>Client</i> shall:
		a)	Make available to the other <i>Alliance Members</i> all and any <i>Site</i> data in the <i>Client's</i> possession;
		b)	Be responsible for the security of the <i>Site</i> ;
		c)	Provide the other <i>Alliance Members</i> with access to the <i>Site</i> if required.
<i>CAMs'</i> Responsibilities for Off-Site Access and Use	4.11		During the <i>Design Phase</i> the <i>CAMs</i> shall be responsible for any access to, and/or possession and use of, any area (such as access routes) located outside the <i>Site</i> that they or any <i>Supply Chain</i> members may require.

Selection of Supply Chain Members	<p>4.12 The <i>CAMs</i> shall submit to the <i>Alliance Manager</i> a plan for the selection and appointment of <i>Supply Chain</i> members that complies with the <i>Objectives</i>, the <i>Framework Brief</i>, the <i>Design Phase Roles and Responsibilities</i>, the <i>Budget</i>, the <i>Risk Register</i> and the <i>Timetable</i> that identifies in relation to each <i>Project Package</i>:</p> <ul style="list-style-type: none"> a) Those <i>Supply Chain</i> members already approved by the <i>Client</i> for the scope of each relevant <i>Project Package</i> and the planned costs of each relevant <i>Supply Chain</i> members as approved by the <i>Client</i>; b) The categories of <i>Supply Chain</i> members who will be selected during the <i>Design Phase</i> together with the dates during the <i>Design Phase</i>; c) The categories of <i>Supply Chain</i> members who will be selected during the <i>Construction Phase</i> together with the dates during the <i>Construction Phase</i>.
Process for the selection of <i>Supply Chain</i> members	<p>4.13 The <i>Alliance Members</i> will implement in relation to each relevant <i>Project Package</i> the process for the selection of <i>Supply Chain</i> members.</p>
Standard of design	<p>4.14 Subject to clause 4.4 of the <i>Contract Terms</i> [Stages of the design], the <i>Alliance Members</i> shall ensure that the design of the <i>Works</i> is undertaken:</p> <ul style="list-style-type: none"> 4.14.1. to maximize value for money, at the cost acceptable for the <i>Client</i> and taking into consideration also obligation to comply with all the requirements of the <i>Framework Alliance Contract</i>, including compliance with all the requirements listed below 4.14.2. with diligence 4.14.3. in accordance with: <ul style="list-style-type: none"> a) the <i>Alliance Charter</i>; b) the <i>Framework Brief</i> (including the <i>Budget</i> and <i>Timetable</i> commitments specified for each stage of design); c) the applicable standards of industrial and nuclear safety ensuring the full operational intent of the <i>Facility</i>; d) <i>Good Industry Practice</i>; e) local technical applicable standards; f) all applicable <i>Laws</i>; and g) all requirements of the <i>Relevant Authorities</i>,

	4.14.4. taking into consideration conventional safety, quality, constructability and financial aspects.
CAMs' Design Responsibility	<p>4.15 The <i>CAMs</i> are responsible for the entire design of the <i>Projects</i> comprising the <i>Framework Programme</i> including all design <i>Provisionally Accepted</i> and <i>Accepted</i> by the <i>Client</i>.</p> <p>4.16 The <i>CAMs</i> shall use reasonable skill and care to see that the design of the <i>Projects</i> comprising the <i>Framework Programme</i> meets this <i>Framework Brief</i>.</p> <p>4.17 Any error, omission and/or discrepancy:</p> <p>4.17.1. between the <i>Framework Brief</i> and any <i>CAM Document</i>;</p> <p>4.17.2. between any of the <i>Laws</i> and any <i>CAM Document</i>; or</p> <p>4.17.3. within or between any <i>CAM Document</i>,</p> <p>shall be corrected by the <i>CAMs</i> as directed by the <i>Core Group</i> to meet the <i>Framework Brief</i> and on a <i>Best-For-Programme</i> basis.</p> <p>4.18 For the avoidance of doubt, any failure of the design of the <i>Framework Programme</i> to comply with clause 4.15 or 4.16 is a <i>Defect</i> and is subject to Clause 4.25 [<i>Design Defects</i>] of the <i>Contract Terms</i>.</p>
Life Cycle Cost	<p>4.19 The <i>CAMs</i> shall use reasonable skill and care to design the <i>Works</i> to minimize, as is reasonably practicable, the <i>Life Cycle Cost</i> of the <i>Works</i> having regard to the:</p> <p>4.19.1. requirements of the <i>Framework Brief</i>;</p> <p>4.19.2. operating and maintenance requirement stated for the use of the <i>Works</i> by the <i>Client</i>, and if not stated, then as reasonably inferred; and</p> <p>4.19.3. design lives stated or reasonably inferred for each component of the <i>Works</i>.</p>
CAMs' Documents	<p>4.20 The <i>CAMs' Documents</i> shall comprise the documents required to satisfy all necessary approvals by the <i>Relevant Authorities</i> and any other documents specified for review and/or approval in the <i>Framework Alliance Contract</i>.</p> <p>4.21 The <i>CAMs</i> shall provide to the <i>Client</i> for onward transmission to the <i>Relevant Authorities</i> in good time all design and all other related documents as required or requested by the <i>Client</i>. The <i>CAMs</i> shall provide all necessary assistance to the <i>Client</i> and the <i>Relevant Authorities</i> in carrying out any inspection and shall respond in a timely manner to any queries made by the <i>Client</i> and the <i>Relevant Authorities</i> in relation thereto. The <i>CAMs</i> shall comply with any direction issued by the <i>Relevant Authorities</i> (which shall be transmitted by the <i>Client</i>) which relates to the <i>Works</i>. Clause 9.8 may</p>

apply *mutatis mutandis* to the extent that the direction of the *Relevant Authorities* requires any part of the *Works* to be halted and/or remedied as a result of any failure on the part of the *CAMs* to ensure that the design of the *Framework Programme* meet the requirements of *Relevant Authorities* and/or the *Framework Alliance Contract*.

4.22 The *Client* and the *Relevant Authorities* (as appropriate) shall have the right to inspect the preparation of all the *CAMs' Documents*, whenever they are being prepared. The preparation, control, submission and storage of documents shall be in accordance with the requirements set out in the *Framework Brief*.

Technical Codes,
Standards and
Regulations

4.23 The *CAMs' Documents* shall comply with the local technical standards (including such standards as are consistent with the *Good Industry Practice* within the local nuclear industry and any further *Relevant Authorities* requirements), the nuclear *Laws*, building, construction and environmental *Laws*, *Laws* applicable to the *Project* or *Projects* comprising the *Framework Programme* and other codes and standards applicable to the *Project* or *Projects* comprising the *Framework Programme*.

Site Data

4.24 The *Client* shall make available to the *CAMs* for their information, prior to the *Effective Date*, all relevant data in the *Client's* possession on the topography of the *Site* and, on sub-surface, hydrological, climatic and environmental conditions at the *Site*. The *CAMs* shall present to the *Client* a plan for further reasonable *Site* investigations to develop a design for the sub-surface *Works* and related *Works*.

4.24.1. The *CAMs* shall submit the *Projects Proposal* taking into account all relevant matters, including (without limitation):

- a) the form and nature of the *Site*, including sub-surface conditions;
- b) the hydrological and climatic conditions;
- c) the extent and nature of the work and goods necessary for the execution and completion of the *Project* or *Projects* comprising the *Framework Programme*, and the remedying of any *Defects*;
- d) the *Laws*, including the local procedures and labour practices; and
- e) the *Alliance Members'* requirements for access, accommodation, facilities, interfaces and co-activity, personnel, power, transport, water, and other services.

Drafting Note: As-built documents and O&M manuals to be included under Project Contracts

Design defects

4.25 If during the *Framework Alliance Contract* performance or within [*2 (two)] years from the *Acceptance* of the *Projects Proposal*, the design or any part of the *Projects Proposal* is found to comprise or constitute a *Defect*, the

CAMs shall rectify that *Defect* as soon as reasonably practicable in accordance with the *Framework Documents* and the following rules shall apply:

Drafting Note: Rules for correction of Construction Phase Defects shall be included in the Project Contracts.

4.25.1. The *Client* may request to correct the design *Defect* any of the *CAMs* involved in preparing the design with *Defect*.

4.25.2. The *CAMs* are entitled to the *Actual Cost* incurred in undertaking their responsibilities for rectifying *Defects* under this clause 4.25. Payment of such *Actual Cost* is part of the *Design Phase Price*.

4.25.3. The *Alliance Members* shall ensure that appropriate corrective actions are implemented to prevent *Defects*, including appropriate process improvements, brought about by the corrective actions, to prevent repetition of *Defects*.

4.25.4. The *Alliance Members* shall ensure that their *Supply Chain* members implement similar procedures.

5. PROJECTS PROPOSAL AND ENTRY INTO FORCE OF PROJECT CONTRACTS

Content of *Projects Proposal*

5.1 Based on the *Framework Brief*, the *CAMs* shall develop the *Projects Proposal* comprising as a minimum:

- a) the design of the *Framework Programme*, in accordance with clause 4 and Schedule 4;
- b) construction planning including division of the *Framework Programme* into *Projects*;
- c) the *Project Package Target Prices*, together with the report documenting establishment of the *Project Package Target Prices* including the relevant calculations;
- d) the *Framework Target Price*, being the sum of the *Project Package Target Prices* for each *Project Contract*;
- e) the details and matters relevant to the *Construction Phase Incentive Scheme*, including the *CAMs'* and the *Client's* share in the *Gainshare/Painshare* and a diagram illustrating the mechanism for calculating the *Gainshare* or *Painshare*;
- f) the *Project Management System* including the *Project Management Plan*, environmental & *Sustainability* strategy, health and safety strategy; contracting strategy; training and skills strategy;

- g) the *Scope Variation Benchmarking Guidelines* for the *Construction Phase* of the *Project*;
- h) the *Alliance Risk and Opportunity Report*;
- i) proposed updates to the *Risk Register* for the *Construction Phase*;
- j) an *Operation* and maintenance programme;
- k) the estimated *Operation* and maintenance programme costs;
- l) the estimated decommissioning programme costs;
- m) a decommissioning plan; and
- n) develop a whole of life cost plan.

The *Projects Proposal* shall be in compliance with all the requirements of the *Framework Brief*.

Content of <i>Project Package</i>	5.2	<p>A <i>Project Package</i> identified in the <i>Projects Proposal</i> shall:</p> <ul style="list-style-type: none"> a) meet the requirements of the <i>Framework Brief</i>; and b) contain, divided in the <i>Sections</i>: <ul style="list-style-type: none"> • outline proposals for construction of the <i>Project Package</i>; • clear geographical limits; • the period in which the <i>Client</i> may instruct the <i>Section</i> in accordance with the relevant <i>Project Contract</i>; • the <i>Planned Project Package Completion Date</i>; • the <i>Project Package Target Price</i>.
Submission of the <i>Projects Proposal</i>	5.3	The <i>CAMs</i> shall submit the <i>Projects Proposal</i> subject to interim review for <i>Provisional Acceptance</i> and <i>Acceptance</i> to the <i>Client</i> by no later than the <i>Submission Date</i> .
Evaluation of the <i>Projects Proposal</i>	5.4	<p>The <i>Client</i> shall review and evaluate the <i>Projects Proposal</i> against the evaluation criteria set out in the <i>Framework Brief</i> within [*20 (twenty) <i>Working Days</i>]. Following this evaluation, the <i>Client</i> shall notify the <i>CAMs</i>:</p> <ul style="list-style-type: none"> a) of the results of the evaluation of the <i>Projects Proposal</i> and the corresponding amount of <i>Incentive</i>, if appropriate, calculated in accordance with Schedule 7; and b) whether the <i>Client</i> exercises the <i>Construction Option</i>.

While evaluating the *Projects Proposal*, the *Client* may:

- c) consult *Relevant Authorities* and consultants;
- d) require the *CAMs* to provide clarifications and corrections regarding the *Projects Proposal*; and
- e) negotiate with the *CAMs* the content of the *Projects Proposal*.

Modifications to the <i>Projects Proposal</i>	5.5	If during the evaluation of the <i>Projects Proposal</i> the <i>Alliance Members</i> agree on modifications to the <i>Projects Proposal</i> , the <i>CAMs</i> shall submit to the <i>Client</i> , within the agreed time, the <i>Projects Proposal</i> revised accordingly.
Inquiry about the <i>Target Prices</i>	5.6	<p>If during the evaluation of the <i>Projects Proposal</i> the <i>Client</i> considers that any of the proposed <i>Project Package Target Prices</i> (and the <i>Framework Target Price</i>) or certain elements of them are higher than reasonable, the <i>Client</i> may:</p> <ul style="list-style-type: none"> a) inquire with the relevant <i>CAMs</i> about their pricing calculations, including performing due diligence of the cost calculation and obtaining advice from the independent adviser, and negotiate in good faith with the <i>CAMs</i> the content of the <i>Projects Proposal</i>, and/or b) require the relevant <i>CAMs</i> to invite tenders from third parties, approved by the <i>Client</i> and the relevant <i>CAMs</i>, and to select as <i>Supply Chain</i> members those third parties who are approved by the <i>Client</i>, after the <i>Core Group</i> consultation, on the basis of prices and other proposals, which offer best value to the <i>Client</i> and the <i>CAMs</i> shall submit to the <i>Client</i>, within the agreed time, the <i>Projects Proposal</i> revised accordingly.
Ownership of the <i>Projects Proposal</i>	5.7	<p>Subject to Clause 11 [<i>Intellectual property rights</i>], the ownership of the <i>Projects Proposal</i> and all design, documentation and information comprising the <i>Projects Proposal</i> and/or prepared for the purpose of the <i>Projects Proposal</i>, immediately vests in the <i>Client</i> upon their creation, and provided that the <i>Client</i> paid for them, and the <i>CAMs</i> have no right to:</p> <ul style="list-style-type: none"> a) use any part of the <i>Projects Proposal</i> without the <i>Client's</i> prior approval; or b) disclose any part of the <i>Projects Proposal</i> without the <i>Client's</i> prior approval.
Use of <i>Projects Proposal</i>	5.8	Subject to Clause 11 [<i>Intellectual property rights</i>], should the <i>Client</i> decide not to exercise the <i>Construction Option</i> , it may use the <i>Projects Proposal</i> and all design, documentation and information comprising the <i>Projects Proposal</i> and/or prepared for the purpose of the <i>Projects Proposal</i> for the purpose of performing the <i>Framework</i> by all <i>Third Parties</i> .

License to <i>Background</i>	5.9	If the <i>Projects Proposal</i> includes <i>Background Intellectual Property</i> or if <i>Background Intellectual Property</i> is necessary for the use of the <i>Projects Proposal</i> or for the use of the <i>Foreground Intellectual Property and Information</i> related to the <i>Projects Proposal</i> , the ownership of and licencing to the <i>Background</i> shall be governed by Sub-clauses 11.12 to 11.17.
<i>Projects Proposal</i> as part of the <i>Framework Alliance Contract</i>	5.10	If the <i>Client</i> exercises the Construction Option pursuant to Clause 5.11 the <i>Projects Proposal</i> immediately becomes a part of the <i>Framework Alliance Contract</i> and binds the <i>Alliance Members</i> .
Exercise of the <i>Construction Option</i>	5.11	<p>The <i>Client</i>, at its sole discretion, may exercise the <i>Construction Option</i> within 84 days from the <i>Acceptance</i> of the <i>Projects Proposal</i>. Exercise of the <i>Construction Option</i> shall be subject to a written notice from the <i>Client</i> to each of the <i>CAMs</i>. Such written instruction shall:</p> <ul style="list-style-type: none"> a) explicitly inform the <i>CAMs</i> that the <i>Client</i> has decided to exercise the <i>Construction Option</i>; and b) indicate the <i>Construction Phase Commencement Date</i>, which shall be not earlier than [*15 (fifteen) <i>Working Days</i>] after the <i>Construction Option</i> exercise date.
Non-exercise of the <i>Construction Option</i>	5.12	The non-exercise of the <i>Construction Option</i> shall be subject to written notice by the <i>Client</i> to each of the <i>CAMs</i> within 84 days of the <i>Acceptance</i> of the <i>Projects Proposal</i> . Such written notice shall explicitly inform the <i>CAMs</i> that the <i>Client</i> has decided not to exercise the <i>Construction Option</i> and what are the reasons for not exercising the <i>Construction Option</i> . The <i>CAMs</i> shall not be entitled to any compensation or any <i>Consequential Loss</i> should the <i>Client</i> decide not to exercise the <i>Construction Option</i> .
Entry into of <i>Project Contracts</i>	5.13	If the <i>Construction Option</i> is exercised by the <i>Client</i> in accordance with clause 5.11, the relevant <i>Project Contracts</i> in accordance with the templates included in Schedule 5 [Template Project Contract Documents] shall enter into force, and the <i>Projects Proposal</i> shall become binding on the <i>Alliance Members</i> . The <i>Alliance Manager</i> shall issue the to the <i>NCAMs</i> the <i>Project Contracts</i> incorporating the design and other relevant details in respect of each <i>Project Package</i> from the <i>Projects Proposal</i> .
Execution of <i>Project Contracts</i> by <i>CAMs</i>	5.14	Each <i>CAM</i> shall sign and return to the <i>Alliance Manager</i> within [*10 (ten) <i>Working Days</i>] from the date of receipt a <i>Project Contract</i> issued pursuant to Clause 5.13.
	6.	ALLIANCE ACTIVITIES, SUPPLY CHAIN COLLABORATION AND TIMETABLE
<i>Alliance Activities</i>	6.1	The <i>Alliance Members</i> shall implement the <i>Alliance Activities</i> described in the <i>Framework Alliance Agreement</i> and the <i>Framework Brief</i> and otherwise agreed by <i>Alliance Members</i> , working within the timescales stated in the

Timetable and other timescales agreed by *Alliance Members*, in order to create *Improved Value* consistent with the *Objectives*.

Supply Chain 6.2 The *Alliance Members* shall seek to establish and develop relationships with *Supply Chain* members that are complementary to the relationships under the *Framework Alliance Contract* and that assist in the achievement of the *Objectives* and *Targets* and shall use *Supply Chain Contracts* that are consistent with the corresponding *Project Contracts*.

Supply Chain Collaboration 6.3 If stated in the *Framework Alliance Agreement* or the *Framework Brief* or otherwise agreed by *Alliance Members*, the *Alliance Activities* shall include *Supply Chain Collaboration* in order to achieve *Improved Value* consistent with the *Objectives* through more consistent, longer term, larger scale *Supply Chain Contracts* and through other improved *Supply Chain* commitments and working practices by means of:

6.3.1. agreeing through the *Core Group*, if not already set out in the *Framework Brief*, the basis for sharing information between *Alliance Members* in relation to their current and proposed *Supply Chain Contracts* and, if not already set out in the *Timetable*, the timescales for each stage of *Supply Chain Collaboration*;

6.3.2. reviewing and comparing the value offered by each *Alliance Member's* current and proposed *Supply Chain*;

6.3.3. reviewing the potential for more consistent, longer term, larger scale *Supply Chain Contracts* and for other improved *Supply Chain* commitments and working practices;

6.3.4. jointly re-negotiating *Supply Chain Contracts* or undertaking joint *Supply Chain* tender processes, in each case through procedures to be approved by the *Core Group*, to be led by one or more agreed *Alliance Members* and to be organised, monitored and supported by the *Alliance Manager*;

6.3.5. subject to approval by the *Client* and any *Additional Clients* of the *Improved Value* resulting from *Supply Chain Collaboration*, agreeing and entering into more consistent, longer term, larger scale *Supply Chain Contracts* and other improved *Supply Chain* commitments and working practices.

7. ALLIANCE ORGANIZATION

Alliance Management Team 7.1 The *AMT* shall be responsible for the day-to-day management of the *Alliance* and shall comprise:

7.1.1. the *Alliance Manager*; and

7.1.2. senior individuals drawn from the *Alliance Members* reporting to the *Alliance Manager*,

provided that at all times there will be at least one (1) representative from each *Alliance Member* on the *AMT*.

7.2 The *AMT* members will be selected by the *Alliance Manager* in consultation with the *Alliance Members*. For this purpose, each *CAM* shall nominate several persons for *AMT* and the *Alliance Manager* shall select from the nominated persons in consultation with the *Alliance Members*. The number of the *AMT* members to be nominated by each *CAM* shall be defined by the *Alliance Manager* in consultation with the *Alliance Members*. The *AMT* members shall be approved by the *Core Group*. Membership of the *AMT* may only be amended with the prior approval of the *Core Group*.

7.3 Each *Alliance Member* shall (subject to satisfactory performance by the relevant personnel) use best endeavours to ensure that, where appropriate, each person that has been assigned to the *AMT* by the relevant *Alliance Member* remains as a member of the *AMT* for the *Design Phase* and for the *Construction Phase*, or otherwise until the *Core Group* decides that person is no longer required for the *Project*. In particular, the *Core Group* may decide that composition of the *AMT* shall be amended for the *Construction Phase*.

7.4 The *AMT* shall use best endeavours to perform the functions:

7.4.1. described in this *Framework Brief*; and

7.4.2. as otherwise determined by the *Core Group* from time to time.

Alliance Design
Team

7.5 The *ADT* will comprise:

7.5.1. the *ADT Leader*; and

7.5.2. *ADT* personnel from each *Alliance Member*.

7.6 The *ADT* personnel shall be selected by the *ADT Leader* in consultation with the *Alliance Manager* and *Alliance Members* prior to commencement of the design of the Works. For this purpose, each *CAM* shall nominate several persons for *ADT* and the *ADT Leader* shall select from the nominated persons in consultation with the *Alliance Manager* and *Alliance Members*. Membership of the *ADT* may only be amended with the prior approval of the *AMT*.

7.7 *ADT Leader* shall coordinate the elaboration of the design.

7.8 The *ADT Leader* shall interact with the *Alliance Manager* at all times.

7.9 Each *Alliance Member* shall (subject to satisfactory performance by the relevant personnel) use best endeavours to ensure that, where appropriate,

each person that has been assigned to the *ADT* by the relevant *Alliance Member* remains as a member of the *ADT* until the *Core Group* or *AMT* decides that person is no longer required for the *Design Phase*.

*Programme
Management Office*

- 7.10 The *PMO* shall support the *Alliance*.
- 7.11 The *PMO* mission, objectives, goals and functions are described in Schedule 9.
- 7.12 The *PMO* personnel shall be selected by the *Alliance Manager* in consultation with the *Alliance Members* prior to commencement of the design of the *Works*.

Role of the Client

- 7.13 The *Client* is an *Alliance Member* but it is also acting under the *Framework Alliance Contract* in the role of the *Client*, having under this role the rights and obligations different from the other *Alliance Members*. Throughout the *Framework Alliance Contract* references are made to “*Client*” when that entity is acting in that role for the delivery of the *Programme*.

*Client’s
Representative*

- 7.14 The *Client* may exercise any of its rights and obligations under the *Client’s* role under the *Framework Alliance Contract* only through the *Client’s Representative* (the “*Client’s Representative*”), unless this *Framework Alliance Contract* provides otherwise. For the avoidance of doubt, if the *Client* is formed by two or more entities, these entities shall jointly appoint only one *Client’s Representative* and one alternative for its *Client’s Representative* (the “*Client’s Alternate Representative*”).
- 7.15 The *Client* shall ensure that the *Client’s Representative* promptly performs its role and functions and is given the powers and rights allocated to the *Client’s Representative* as set out in Schedule 11 [*Client Representative’s Role*].
- 7.16 The *CAMs* will provide all assistance necessary to ensure the *Client* and the *Client’s Representative* can fulfil the responsibilities, perform those roles and functions and exercise those rights.
- 7.17 The *Client’s Representative* shall be the *Client’s Core Group Member* selected in accordance with Clause 1.6 [*Core Group*] of the *Contract Terms*.
- 7.18 The *Client’s Alternate Core Group Member* selected in accordance with Clause 1.6 [*Core Group*] of the *Contract Terms* shall be the *Client’s Alternate Representative*.
- 7.19 All notices to or from the *Client* under the *Framework Alliance Contract* shall be sent to or from the *Client’s Representative*.
- 7.20 The *Client’s Representative* may from time to time on prior notice to the *Core Group* appoint named delegates to perform any specified role or roles of the *Client’s Representative* (including specifying limits of authority) and

may vary or remove any such appointment or authority at any time on prior notice to the *Core Group*.

7.21 The *Core Group* and the *Alliance Members* are entitled to rely on any act or omission of a delegate of the *Client's Representative* which such person is authorised to make in accordance with the *Framework Alliance Contract* as if it was an act or omission of the *Client's Representative*.

Reserved Powers

7.22 The *Alliance Members* acknowledge that the final decision on the following matters is reserved for unilateral determination by the *Client* ("*Reserved Powers*");

7.22.1. any emergency decisions, directions or actions the *Client* determines are necessary following any event which significantly impacts on the whole or any part of the *Works* or the achievement of the *Framework Brief*;

7.22.2. any decisions, directions or actions regarding nuclear safety;

7.22.3. approval of the design stages in accordance with clause 4;

7.22.4. evaluation of the *Projects Proposal* against the evaluation criteria set out in this *Framework Brief*, documented in writing upon request of any of the *Alliance Members*; and

7.22.5. measurement of performance for the purpose of payment of the *Incentive* in accordance with the *Framework Alliance Contract*.

Provision of Working Premises

7.23 The *Client* shall provide *Working Premises* from the *Effective Date* to the *Final Programme Completion Date* for the *Projects* comprising the *Framework Programme* or such other period as specified by the *Core Group*.

7.24 The detailed requirements to be met by the *Working Premises* and the conditions for use by the *Alliance Members* of the *Working Premises* are included in Schedule 8.

Role of the *Client's Representative*

7.25 In performing any role under the *Framework Alliance Contract*, the *Client's Representative* acts on behalf of the *Client* in their capacity as the *Client* for the performance of *Projects* comprising the *Framework Programme*.

Reliance on *Client's Representative*

7.26 The *Alliance Members* are entitled to rely on any act or omission of the *Client's Representative* which is made by the *Client's Representative* (or any authorised delegate) pursuant to or in accordance with the *Framework Alliance Contract* as an act or omission of the *Client*.

8. AGREED PRICES, INCENTIVES, PAYMENT

Agreed Prices

8.1 The *Agreed Prices* are *Design Phase Price* and *Construction Phase Price*.

<i>Design Phase Price</i>	8.2	The <i>Design Phase Price</i> is the amount payable to the <i>CAMs</i> for mobilization under the <i>Design Phase</i> , performance of the design of the <i>Framework Programme</i> during the <i>Design Phase</i> , including development of the <i>Projects Proposal</i> , remedying any <i>Defects</i> therein and transfer and licensing of the <i>Intellectual Property Rights</i> in accordance with the <i>Framework Alliance Contract</i> , including the <i>Intellectual Property Rights</i> related to the <i>Projects Proposal</i> .
Calculation of <i>Design Phase Price</i>	8.3	The <i>Design Phase Price</i> will be calculated based on the <i>Reimbursable Amount</i> determined in respect of the <i>CAMs</i> under the <i>Design Phase</i> , which may be increased by the <i>Incentives</i> , if appropriate.
<i>Reimbursable Amount</i>	8.4	The <i>Reimbursable Amount</i> shall be determined in accordance with the <i>Framework Prices</i> .
<i>Incentives for the Design Phase</i>	8.5	The <i>Incentives</i> for the <i>Design Phase</i> shall be determined in accordance with Schedule 7.
<i>Construction Phase Price</i>	8.6	Except otherwise agreed, <i>Construction Phase Price</i> shall be calculated in accordance with the relevant <i>Project Contract</i> and not under the <i>Framework Alliance Contract</i> .
<i>Construction Phase Price and individual Incentives</i>	8.7	<i>Construction Phase Price</i> and individual <i>Construction Phase Incentives</i> are determined separately for each <i>CAM</i> in accordance with the relevant <i>Project Contract</i> .
Collective <i>Construction Phase Incentives</i>	8.8	The collective <i>Construction Phase Incentives</i> are determined in accordance with Schedule 7.
Payment to be made by the <i>Client</i>	8.9	<p>The <i>Client</i> or any <i>Additional Client</i> as agreed shall be responsible for payment under the <i>Framework Alliance Contract</i>:</p> <p>8.9.1. of all agreed amounts due to the <i>Alliance Manager</i> under the <i>Alliance Manager Payment Terms</i>;</p> <p>8.9.2. of all agreed amounts due to each <i>Alliance Member</i> under the <i>Framework Alliance Contract</i>;</p> <p>in each case subject only to any fluctuation provisions stated in the <i>Alliance Manager Payment Terms</i> or the <i>Framework Brief</i> and subject to adjustment in accordance with these <i>Contract Terms</i>.</p>
<i>Payment Notices to Alliance Members</i>	8.10	Within [<i>*5 (five) Working Days</i>] from receipt of each application for payment made by an <i>Alliance Member</i> (other than the <i>Alliance Manager</i>) in accordance with <i>Framework Prices</i> , the <i>Alliance Manager</i> shall issue to that <i>Alliance Member</i> and the <i>Client</i> or any <i>Additional Client</i> as agreed a <i>Payment Notice</i> :

- 8.10.1. stating the amount the *Alliance Manager* considers due on the *Due Date*;
 - 8.10.2. calculated in accordance with the *Framework Prices* to establish the value of the *Alliance Activities* less the total of all amounts previously paid to that *Alliance Member* under the *Framework Alliance Contract*;
 - 8.10.3. specifying the basis on which that amount is calculated.
- Payment Notices to Alliance Manager*
- 8.11 Within [**5 (five) Working Days*] from receipt of each application for payment made by the *Alliance Manager* in accordance with clause 8.11, the *Client* or any *Additional Client* as agreed shall issue to the *Alliance Manager* a *Payment Notice*:
 - 8.11.1. stating the amount the *Client* or the *Additional Client* considers due on the *Due Date*;
 - 8.11.2. calculated in accordance with the *Alliance Manager Payment Terms* to establish the value of the *Alliance Manager Services* less the total of all amounts previously paid under the *Framework Alliance Contract*;
 - 8.11.3. specifying the basis on which that amount is calculated.
- Payments to Alliance Members and Alliance Manager*
- 8.12 Subject to any revised periods stated in the *Framework Alliance Agreement* and subject to any *Pay Less Notice* issued under clause 8.14, the *Client* or any *Additional Client* as agreed shall pay:
 - 8.12.1. to each *Alliance Member* (other than the *Alliance Manager*) the amount stated in a *Payment Notice* issued pursuant to clause 8.10 within [**20 (twenty) Working Days*] from the *Due Date* and that date shall be the *Final Date for Payment*;
 - 8.12.2. to the *Alliance Manager* the amount stated in a *Payment Notice* issued pursuant to clause 8.11 within [**20 (twenty) Working Days*] from the *Due Date* and that date shall be the *Final Date for Payment*.
- Default Payment Notices*
- 8.13 If the *Alliance Manager* or the *Client* or any *Additional Client* as agreed does not issue a *Payment Notice* in accordance with clause 8.10 or clause 8.11 respectively:
 - 8.13.1. the relevant *Alliance Member*'s application for payment under clause 8.14.1 shall be treated as the *Payment Notice*;
 - 8.13.2. subject to any *Pay Less Notice* issued under clause 8.14, the *Client* or the *Additional Client* shall pay the amount stated as due in the application for payment by the *Final Date for Payment*.

- Pay Less Notices* 8.14 Not later than [* (5) five *Working Days*] before the *Final Date for Payment* of any amount due and if the *Client* or any *Additional Client* as agreed considers a lesser amount to be due than the amount stated in an application for payment:
- 8.14.1. the *Client* or the *Additional Client* may give a *Pay Less Notice* to another *Alliance Member* specifying the amount that the *Client* or the *Additional Client* considers due on the date that the notice is served and the basis on which that amount is calculated;
- 8.14.2. if a *Pay Less Notice* is issued under this clause 8.14, the *Client* or the *Additional Client* shall pay the amount stated in that *Pay Less Notice* by the *Final Date for Payment*.
- Adjustment of notices and payments 8.15 No notice or payment shall:
- prevent its later reconsideration and adjustment;
 - imply or be evidence of approval or acceptance of any part of any *Alliance Activities* or *Alliance Manager Services*.
- Suspension of performance 8.16 If the *Client* or any *Additional Client* as agreed fails to make any payment due in accordance with this clause 8 by the *Final Date for Payment*, and if that failure shall continue for [*5 (five) *Working Days*] after another *Alliance Member* has given the *Client* or the *Additional Client* notice of its intention to suspend performance of its *Alliance Manager Services* or *Alliance Activities* and the grounds for the intended suspension, then:
- 8.16.1. that *Alliance Member* may suspend performance of any or all of its notified obligations to the *Client* or the *Additional Client* until the payment due is received in full;
- 8.16.2. where an *Alliance Member* exercises this right of suspension the *Client* or the *Additional Client* shall pay to that *Alliance Member* a reasonable amount in respect of costs and expenses reasonably incurred by it as a result of the exercise of this right.
- Interest on late payment 8.17 Any delay in a due payment beyond the *Final Date for Payment* shall entitle an *Alliance Member* to be paid interest at the rate stated in the *Framework Alliance Agreement*.

9. CHANGE AND RISK MANAGEMENT

- Change 9.1 Any change to the scope or nature of the *Framework Programme* or to any other aspect of the *Framework Alliance Contract* shall be by agreement of all *Alliance Members* unless stated otherwise in the *Framework Documents*.
- 9.2 The *Client* may, by notice to the *Core Group*, direct the *Alliance Members* to change/amend the *Framework Programme*. For the *Construction Phase*,

the respective changes shall be introduced in parallel under the respective *Project Contracts*, in accordance with the procedure stipulated therein.

9.3 Any *CAM* may propose a change to the *Client* if it considers that a change could have a positive impact on cost, schedule, quality or otherwise be beneficial the *Client* and the *Alliance*. The *Client* shall consider such proposal and subject to its assessment may direct the *Alliance Members* to change/amend the *Framework Programme* in accordance with clause 9.2.

9.4 The *Alliance Members* shall, subject to obtaining any necessary *Consent* or amendment to an existing *Consent* and, in the case of a *Scope Variation*, the *Client's Representative* acknowledgement of receipt of the relevant *Scope Variation Report* within a reasonable time, implement that direction to change under the *Framework Alliance Contract* and their respective *Project Contracts* (as applicable).

Significant change

9.5 A direction by the *Client's Representative* under this clause 9, which amounts to either:

9.5.1. a significant change, amendment or alteration to the *Works*; or

9.5.2. a significant change to the fundamental requirements of the *Works* (including the conditions under which the *Works* are to be performed),

is referred to in the *Framework Alliance Contract* as a “**Scope Variation**”.

9.6 Examples of when a direction by the *Client's Representative* given in accordance with this clause 9 during the *Design Phase* is a *Scope Variation* are set out in the *Framework Brief*.

9.7 Examples of when a direction by the *Client's Representative* given in accordance with this clause 9 during the *Construction Phase* is a *Scope Variation*, are set out in the *Scope Variation Benchmarking Guidelines*.

Determination of
Scope Variation

9.8 Where any *CAM* considers that a direction by the *Client* under clause 9 may be a *Scope Variation*, the *CAM* shall, prior to its implementation, within [*10 (ten) *Working Days*] (or any other reasonable period agreed by the *AMT*) from receiving the *direction*, submit a scope change report (“**Scope Variation Report**”) to the *Core Group*:

9.8.1. identifying the basis on which it considers the direction to be a *Scope Variation*;

9.8.2. providing submissions or recommendations that it believes are appropriate to reduce and/or optimise the impact of the direction on the *Reimbursable Amount*, as well as to ensure compliance by the *Alliance Members* with the *Framework Brief*; and

9.8.3. providing submissions or recommendations on any alteration:

- a) for the *Design Phase*: to the *Design Phase Success Measures*,
- b) for the *Construction Phase*: to the *Construction Phase Success Measures*, *Programme Target Price*, and *Planned Programme Completion Date*,

which are required as a result of the direction.

9.9 The *Core Group* shall consider the *Scope Variation Report* and determine within [*20 (twenty) *Working Days*] if the direction is a *Scope Variation* and its eventual impacts on the parameters referred to in clause 9.8.3.

Risk Management 9.10 The *Alliance Members* recognise the risks involved in the *Framework Programme* and shall undertake *Risk Management* together and individually in accordance with the *Framework Documents* in order to analyse and manage those risks using the most effective methods.

Risk Register 9.11 The *Alliance Members* shall undertake the *Risk Management* actions described in the *Risk Register* within the periods stated in the *Risk Register* and as otherwise agreed by the *Alliance Members*.

Updated *Risk Register* 9.12 The *Alliance Manager* shall update the *Risk Register* for *Core Group* approval at the intervals stated in the *Timetable* and as otherwise agreed by *Alliance Members*.

10. SKILL AND CARE, GOOD FAITH, NO CLAIMS, LIABILITY

Skill and care 10.1 Subject to any amendments stated in the *Framework Alliance Agreement*, in all matters governed by the *Framework Alliance Contract* the *Alliance Members* shall use reasonable skill and care appropriate to their respective roles, expertise and responsibilities as stated in the *Framework Documents*.

Good faith 10.2 The *Alliance Members* shall act in good faith under the *Framework Alliance Contract*.

No claims between the *Alliance Members* 10.3 The *Alliance Members* shall seek to avoid disputes (during both the *Design Phase* and *Construction Phase*) and, to the extent a dispute arises, shall resolve the dispute within the *Alliance* in accordance with clause 15 and Appendix 4. The *Alliance Members* agree as well that:

10.3.1. Subject to the exceptions listed in clause 10.4, the *Alliance Members* agree that there will be no litigation, arbitration or adjudication between them arising out of or in connection with the *Framework Alliance Contract*.

10.3.2. Subject to the exceptions listed in clause 10.4, a failure by an *Alliance Member* to perform any obligation or to discharge any duty under, arising out of or in connection with the *Framework Alliance Contract*, or which is otherwise an obligation to or duty owed to

another *Alliance Member* however arising, whether during the *Design Phase* or *Construction Phase*, does not give rise to any enforceable right or obligation at law (other than any right expressly foreseen under the *Design Phase Incentive Scheme*, the *Construction Phase Risk or Reward Regime (RRR)*, the relevant *Project Contracts*), and to the extent that it does, the other *Alliance Members* release that *Alliance Member* from any consequences at law for that failure.

10.3.3. For the avoidance of doubt, subject to the exceptions listed in clause 10.4, and/or contrary provisions under the *Project Contracts*, none of the *Alliance Members* shall be entitled to request any compensation from another *Alliance Member* due to delay in performance of the *Project*.

Saving of certain legal and equitable rights

10.4 Clause 10.3 has no force or effect:

10.4.1. In respect of a *Willful Default* by an *Alliance Member*;

10.4.2. Where an *Alliance Member* has a right to bring a claim or cause of action against another *Alliance Member* under Laws which cannot be excluded by the *Alliance Members* as a matter of law;

10.4.3. In respect of a breach of *Intellectual Property Rights*, to the extent specified in clauses 11.24 and 11.25 [*CAMs* infringement indemnity and *Clients* infringement indemnity];

10.4.4. In respect of a breach of duty to warn on buildability issues, (including discrepancies in *Framework Documents* or design errors) during the *Design Phase*, to the extent specified in clause 10.9.

10.5 In respect of breach of confidentiality of *Sensitive Information* to the extent specified in Clause 13.3 [Confidentiality];

10.5.1. In respect of a failure by an *Alliance Member* to make payment under clause 8 [Payment] or under a *Project Contract*;

10.5.2. In respect of liability under clause 10.14 [Radiological Damage Liability and Indemnity],

10.5.3. Where an *Alliance Member* has a right to bring a claim or start litigation, arbitration or adjudication against another *Alliance Member* under the *Project Contract*.

Liability for design default

10.6 Without prejudice to clauses 10.3 and 10.4, in the event of any default in the design during the *Design Phase*, liability rests with the *Client*, provided that *CAMs* have complied with their respective duty to warn on buildability issues and only if the *Client* accepts the design and instructs commencement of the next stage as per clause 4.

Construction Phase Liability

10.7 The extent and conditions of liability for breach of contractual obligations (including design errors) during the *Construction Phase* will be dealt with under each *Project Contract*.

Design Phase Liability	10.8	Each <i>Alliance Member</i> shall be liable for any matter regulated under clause 10.3 directly resulting from breach of its own duty and obligation under the <i>Framework Alliance Contract</i> .
Duty to warn on buildability issues	10.9	The duty of <i>CAMs</i> to warn on buildability issues (including but not limited to discrepancies in the <i>Framework Documents</i> or design errors) is limited to their role, expertise and responsibilities as stated in the <i>Framework Alliance Contract</i> and <i>Project Contracts</i> .
Liability of <i>CAM</i> being a grouping	10.10	<p>If an <i>CAM</i> constitutes (under the <i>Laws</i>) a joint venture, consortium, or other unincorporated grouping under the <i>Laws</i> of two or more persons or incorporated grouping of two or more persons having unlimited liability in that grouping:</p> <p>10.10.1. these persons shall be deemed to be jointly and severally liable to the <i>Client</i> and other <i>CAMs</i> under the <i>Framework Alliance Contract</i>;</p> <p>10.10.2. the <i>CAM</i> shall not alter its composition or legal status without the prior written approval of the <i>Client</i> and the <i>Core Group</i> in accordance with the <i>Framework Alliance Contract</i>; and</p> <p>10.10.3. the grouping agreement shall be shared with <i>Client</i> prior to the <i>Framework Alliance Contract</i>'s signature by the relevant <i>CAM</i>.</p>
	10.11	<p>If the <i>CAM</i> constitutes a joint venture, consortium, or other unincorporated grouping under the <i>Laws</i> of two or more persons:</p> <p>10.11.1. these persons shall notify the <i>Alliance Members</i> of their group leader;</p> <p>10.11.2. the group leader shall have the authority to bind the grouping and each of the members of the grouping with respect to any and all matters in connection with the <i>Framework Alliance Contract</i>;</p> <p>10.11.3. the group leader is exclusively entitled to act and sign on behalf of the grouping any and all the documents in connection with the <i>Framework Alliance Contract</i>;</p> <p>10.11.4. the <i>Core Group Member</i> and the <i>Alternate Core Group Member</i> appointed by that <i>CAM</i> in accordance with clause 1.6 [<i>Core Group</i>] shall be the representatives of the group leader and of the <i>CAM</i> as a whole.</p>
Correction of design during the Construction Phase	10.12	<i>CAMs</i> may be required to amend the <i>Design</i> during the <i>Construction Phase</i> under the <i>Framework Collaborative Contract</i> . All <i>CAMs</i> should perform such activities in relation to their <i>Projects</i> with reasonable skill and care. All amended designs during the <i>Construction Phase</i> shall require approval from the <i>Core Group</i> .

CAM's liability under the <i>Programme Target Price Regime</i>	10.13 Each CAM's share of any <i>Painshare</i> under the <i>Programme Target Price Regime</i> is calculated as stated in accordance with Schedule 7 Part 4 [Incentives for the Construction Phase] and the amount of any such share incurred by a CAM is not taken into account in determining any cap on liability for that CAM under Clause 10.15 [Cap on liability].
Radiological Damage Liability and Indemnity	<p>10.14 The <i>Alliance Members</i> acknowledge that fusion installations are not covered by the international nuclear liability conventions and that common tort law will apply in case <i>Radiological Damage</i> is caused by a <i>Radiological Incident</i> arising out of or in connection with the operation of the <i>Facility</i>.</p> <p>10.14.1. The <i>Alliance Members</i> agree that the <i>Operator</i> of the <i>Facility</i> shall be strictly and exclusively liable for <i>Radiological Damage</i> caused by a <i>Radiological Incident</i> arising out of or in connection with the operation of the <i>Facility</i>.</p> <p>10.14.2. By entry into the <i>Radiological Damage Indemnity</i> set out in Appendix 7 the <i>Operator</i> of the <i>Facility</i> shall waive any right to pursue a claim or claims against the <i>Alliance Members</i> and any <i>Supply Chain</i> member for <i>Radiological Damage</i> caused by a <i>Radiological Incident</i> which arises out of or in connection with the operation of the <i>Facility</i>, whether based in contract, tort, strict liability or otherwise, where the <i>Operator</i> of the <i>Facility</i> has assumed liability for such <i>Radiological Damage</i> subject to and in accordance with the <i>Radiological Damage Indemnity</i> set out in Appendix 7.</p>
Cap on liability	<p>10.15 Subject to clauses 10.13 [CAM's liability under the <i>Programme Target Price Regime</i>], 10.16 and 10.17, the total aggregate liability of each CAM to the <i>Client</i> arising out of or in connection with the <i>Framework Alliance Contract</i> in contract, tort, negligence, for breach of statutory duty, in respect of any indemnity, or otherwise shall not exceed whichever is the greater of:</p> <p>10.15.1. the aggregate <i>Fee</i> and <i>Incentive</i> paid or payable to that CAM under the <i>Framework Alliance Contract</i> at the date the relevant liability arose; or</p> <p>10.15.2. the amount stipulated in the <i>Framework Alliance Agreement</i>.</p>
Exclusions from Cap on Liability	<p>10.16 Nothing in clause 10.15 [Cap on Liability] limits any liability of an <i>Alliance Member</i> in respect of:</p> <p>10.16.1. any <i>Painshare</i> due under Schedule 7;</p> <p>10.16.2. fraud in connection with the <i>Framework Alliance Contract</i>;</p> <p>10.16.3. breaches under clause 11 [Intellectual Property Rights];</p>

10.16.4. any liability to the extent it cannot be excluded or limited by *Law*.

Exclusion of Liability under *Project Contracts* 10.17 The *CAMs* acknowledge and agree that clause 10.15 [Cap on Liability] shall not limit any *CAM's* liability to the *Client* under any *Project Contract* and each *CAM's* liability under a *Project Contract* shall be provided for in that *Project Contract*.

Exclusion of Consequential Loss 10.18 No *Alliance Member* is liable to any other *Alliance Member* (for the avoidance of doubt, including the *Client*) for any *Consequential Loss* sustained by that other *Alliance Member*, whether caused by, related to or arising out of that *Alliance Member's* breach of the *Framework Alliance Contract*, negligence and whether in contract, in tort, for breach of statutory duty or otherwise.

11. INTELLECTUAL PROPERTY RIGHTS

Ownership of Foreground by Client 11.1 The *Client* shall become the owner of any *Intellectual Property Rights* and *Information* created under the *Framework Alliance Contract* and any *Project Contracts* (the *Foreground*).

Drafting note: Where circumstances justify it, and provided it does not prejudice the Client, the Client may agree to exceptions to this general rule.

Transfer of Foreground to Client 11.2 Transfer and assignment of the *Foreground* to the *Client* takes place upon the *Information* and *Intellectual Property* creation and is hereby accepted by the *Client*. If the *Foreground* is a trade secret, the *CAM* shall organize the *Intellectual Property* in a structured and transferable manner which allows for the identification and reproduction of the trade secret. If some *Client Foreground* rights are non-transferable by law, the *CAM* shall grant an irrevocable, exclusive, royalty-free license with the right to further sub-license, which is unlimited in territory and time to enable *Client* to exploit the non-transferable part of the *Foreground* together with the transferred *Foreground*.

CAM license to use Foreground 11.3 The *Client* shall grant the relevant *CAM* an royalty-free, nonexclusive licence to use and reproduce any or all of the *Foreground* for any purpose related to the *Project*, but the relevant *CAM* shall not make copies thereof, nor shall it use the same in connection with any other *Project* or for any other purpose, neither sub- licence it without the prior written approval of the *Client*. Such approval by the *Client* shall not be unreasonably withheld, nor delayed. The *Foreground* may be used only for peaceful purposes.

CAM request for business use license 11.4 Upon a written request by an *CAM*, the *Client* shall grant to the *CAM* a non-exclusive licence to use the *Foreground* created by the requesting *CAM* for use in the *CAM's* own business under fair and reasonable conditions taking into account the contributions of the *Alliance Members* towards its creation and development. The *CAM* would have to state the business case in the request and the *Client* shall not deny the granting of the licence without a compelling reason. In the event that *Foreground* is transferred to a third

party by the *Client*, the *Client* shall ensure that the right of an *CAM* to request a licence under this paragraph is maintained.

Foreground creation reporting	11.5	The <i>Alliance Manager</i> shall systematically and in due time report to the <i>Client</i> any creation of <i>Foreground</i> , using the form provided in Appendix 6 Part 1.
<i>Client's</i> right to file patents	11.6	Where patentable <i>Foreground</i> is created in the performance of the <i>Framework Alliance Contract</i> or <i>Project Contracts</i> , the <i>Client</i> shall have the right to file patent applications and obtain patents in its name. The relevant <i>Alliance Members</i> shall take the necessary legal and administrative measures to enable the <i>Client</i> to file patent applications and obtain patents in its own names. The <i>Client</i> may transfer at any time its right to file patent applications.
Patent application post-completion	11.7	In case any <i>CAM</i> files any patent applications related to the subject matter of the <i>Project</i> within a period of two years after the <i>Final Programme Completion Date</i> , these inventions shall be considered as <i>Foreground</i> unless the <i>CAMs</i> demonstrate that they have been created independently and outside the scope of the <i>Framework Alliance Contract</i> and or a relevant <i>Project Contract</i> . Any such filing arising after the completion of the <i>Framework Alliance Contract</i> shall be notified to the <i>Client</i> including references, sufficient to enable the <i>Client</i> to trace the origin of the patent application.
Compatibility with <i>CAM Personnel</i> rights	11.8	If the <i>CAM's Personnel</i> is entitled to claim rights on the <i>Foreground</i> , the <i>CAM</i> shall ensure that it is possible to exercise those rights in a manner, compatible with the <i>CAM's</i> obligations under the <i>Framework Alliance Contract</i> and the relevant <i>Project Contracts</i> and such that it does not hamper the rights of the <i>Client</i> . The <i>CAMs</i> shall take care of any inventor remunerations for <i>Foreground</i> due under a national employee invention law or granted to <i>Personnel</i> under a private agreement
Responsibility for licenses and copyrights	11.9	The <i>CAMs</i> shall be responsible for obtaining all licences and copyrights required for the implementation of the <i>Framework Alliance Contract</i> and the <i>Project Contracts</i> under the <i>Laws</i> and regulations in force at the place(s) at which the <i>Project</i> under the <i>Framework Alliance Contract</i> and <i>Project Contracts</i> are to be carried out.
Failure to obtain license and copyrights	11.10	If the relevant <i>CAM</i> is unable to obtain any of the licences and copyrights referred to above, after having undertaken reasonable efforts, it shall inform the <i>Core Group</i> and the <i>Client</i> . With the support of the <i>Core Group</i> , the relevant <i>CAM</i> and the <i>Client</i> shall aim at finding an amicable and workable alternative solution. If no solution is found, the <i>Core Group</i> shall decide whether all or any part of the <i>Project</i> affected are to be suspended or terminated under and in accordance with the <i>Framework Alliance Contract</i> and the relevant <i>Project Contracts</i> .

<i>Client's Documents</i>	11.11 The <i>Client</i> shall retain the copyright and other <i>Client's Intellectual Property Rights</i> in the <i>Framework Alliance Contract</i> , the drawings, and other documents made by (or on behalf of) the <i>Client</i> .
<i>Background Intellectual Property</i>	11.12 The <i>CAMs</i> shall declare any <i>Background</i> in the form set out in Appendix 6 Part 2 prior to the signature of the <i>Framework Alliance Contract</i> and <i>Project Contracts</i> . The declaration shall provide detailed information on the origin and ownership of the <i>Background</i> as well as any legal restrictions relating to its use of which the <i>CAM</i> is aware. If all or part of the <i>Background</i> is confidential, it shall be clearly identified as such in the declaration of <i>Background</i> . The <i>Alliance Members</i> shall monitor the use of the <i>Background</i> for the purposes of the <i>Project</i> .
Post-Signature Declaration of <i>Background</i>	11.13 In the event that <i>Background</i> of an <i>CAM</i> is identified after the signature of the <i>Framework Alliance Contract</i> or after the signature of a <i>Project Contract</i> , it can be added to the declaration of the <i>Background</i> upon the agreement of the <i>Client</i> . The <i>CAM</i> shall justify why the existence of such <i>Background</i> could not be invoked prior to the signature of the <i>Framework Alliance Contract</i> or the signature of the <i>Project Contract</i> .
Ownership of <i>Background</i> by <i>CAM</i>	11.14 The relevant <i>Alliance Member</i> shall remain the exclusive owner of its own <i>Background</i> and <i>Project Contracts</i> . In case an <i>Alliance Member</i> is not able to obtain all the rights allowing the use of the <i>Background</i> from a <i>Third Party</i> despite reasonable efforts, with the support of the <i>Core Group</i> the relevant <i>CAM</i> and the <i>Client</i> shall aim at finding an amicable and workable alternative solution. If no solution is found, the <i>Core Group</i> shall decide whether all or any parts of the <i>Project</i> affected are to be suspended or terminated under and in accordance with the <i>Framework Alliance Contract</i> and the relevant <i>Project Contracts</i> .
Licensing of third-party <i>Background</i>	11.15 In case the <i>Background</i> belongs to a <i>Third Party</i> and its use was granted to the <i>Alliance Member</i> under a license agreement, the <i>Alliance Member</i> shall obtain from that <i>Third Party</i> all the rights allowing the use of the <i>Background</i> , in conformity with the <i>Framework Alliance Contract</i> .
Obligations in <i>Background</i> transfers	11.16 Where the <i>CAM</i> assigns or transfers ownership of <i>Background</i> , it shall pass on its obligations regarding that <i>Background</i> , as defined in the <i>Framework Alliance Contract</i> and <i>Project Contracts</i> , to the assignee, including the obligation to pass those obligations on to any subsequent assignee.
<i>Background Intellectual Property Licensing</i>	11.17 Each <i>Alliance Member</i> shall provide a license to its <i>Background</i> under the following conditions: 11.17.1. the <i>Client</i> shall provide an irrevocable, non-exclusive, non-transferable, royalty-free licence, which is not limited in territory for the duration of the <i>Project</i> and/or until the obligations under the <i>Framework Alliance Contract</i> or the <i>Project Contracts</i> are fulfilled, to the <i>CAM</i> on information and documents provided by the <i>Client</i> , if such information and documents (whether

confidential or not) are needed by the *CAM* for the *Project* to fulfil its obligations under the *Framework Alliance Contract* or *Project Contract*. The *CAM* shall obtain prior permission from the *Client* before sub-licensing such information and documents to subcontractors or to other third parties for the sole purpose of executing the *Framework Alliance Contract* or a *Project Contract*. The use of the *Client's* information, documents and results by the *CAM* for purposes other than the performance of the *Framework Alliance Contract* or a *Project Contract* shall be forbidden, unless the *Client* has specifically given prior written authorisation to the contrary;

- 11.17.2. the *CAM* shall provide an irrevocable, non-exclusive, royalty-free licence, which is not limited in territory or in time, to the *Client* on the *Background*, if the *Background* (whether confidential or not) is needed by the *Client* for the use of the *Foreground* , the use of the goods and services supplied under the *Framework Alliance Contract* or a *Project Contract* or in relation to the use of the *Project*. To clarify, this license shall also cover the maintenance and extension of the *Facility*, the safety and quality assurance, and quality control reasons, as required by the Relevant Authority and any public procurement by the *Client* related to the *Facility*;
- 11.17.3. except when clause 5.7 applies, the *CAM* shall grant on *Fair and Reasonable Conditions* to any third party nominated by the *Client* for the purpose of fulfilling a contract with the *Client* a licence to use the *Background* (whether confidential or not), if such *Background* is needed for using the *Foreground* using the goods and services supplied under the *Framework Alliance Contract* or in relation to the use of the *Project*;
- 11.17.4. when the *Client* is not the *Operator*, if the *CAM* incorporates *Background* into items to be delivered to the *Operator* which *Background* is required:
 - a) to construct, operate, use, or integrate technology for research and development in relation to any *Project* done or to be done on the *Facility*;
 - b) to maintain or repair the item provided;
 - c) when decided necessary by the governance of the *Operator*, in advance of any procurement; or
 - d) for safety, for quality assurance, and quality control reasons, as required by the *Relevant Authority*;
- 11.17.5. the *CAM* shall grant, upon request from the *Client*, an irrevocable, non-exclusive, royalty-free licence which is not limited in time, on such *Background* to the *Operator* including manuals or

instructional training materials for the construction, operation, maintenance, and repair of the Facility. In the case the *Background* is *Background* confidential information, the *CAM* may impose the following conditions:

- a) the confidential *Background* shall only be transmitted pursuant to an arrangement on confidentiality;
- b) the *Operator* shall preserve the confidentiality of the confidential *Background* to the extent provided in that arrangement;
- c) a compensation for damages shall be paid by the *Operator* for the misuse of such confidential *Background*, and
- d) the *Operator* shall use the confidential *Background* only for the purposes set forth in this clause.

<i>Background</i> Licensing Between <i>CAMs</i>	11.18 A <i>CAM</i> shall grant on <i>Fair and Reasonable Conditions</i> to another <i>CAM</i> or to any third party nominated by another <i>CAM</i> , a licence to use the <i>Background</i> brought by the <i>CAM</i> into the <i>Framework Alliance Contract</i> or a <i>Project Contract</i> (whether the <i>Background</i> is confidential or not), if such <i>Background</i> is needed for fulfilling the obligations of the other <i>CAM</i> under the <i>Framework Alliance Contract</i> or <i>Project Contract</i> .
<i>Software Works</i>	11.19 <i>Software Works</i> for which a <i>CAM</i> has full and exclusive rights shall be governed from clause 11.1 to clause 11.10.
Non-proprietary <i>Software Works</i>	11.20 If a <i>CAM</i> intends to develop <i>Software Works</i> based on software which is not proprietary to a <i>CAM</i> or open source, the <i>CAM</i> shall designate such software accordingly in Appendix 6 Part 2.
Licensing non- proprietary <i>Software Works</i>	<p>11.21 For <i>Software Works</i> which is not proprietary to a <i>CAM</i>, including such <i>Software Works</i> as have been developed based on standard software or open source and subject to licenses to the <i>CAM</i>, the relevant <i>CAM</i> shall grant to the <i>Client</i> a license in accordance with clauses 11.23 to 11.26 below, subject only to the following limitations:</p> <ul style="list-style-type: none"> a) Unless otherwise agreed upon between the <i>Client</i> and the <i>CAM</i>, the <i>Client</i> shall at its own account acquire and pay for such software and licences which may be required to use the <i>Software Works</i>. The <i>CAM</i> in question shall ensure that such necessary licences will be available for the <i>Client</i>. b) The <i>Client</i> shall accept that use of any standard software may be subject to terms which are not in accordance with this <i>Framework Alliance Contract</i>.

Escrow of crucial <i>Software Works</i>	11.22 Where <i>Software Works</i> remains the property of a <i>CAM</i> , but are crucial for the operation of the <i>Project</i> , the <i>Client</i> may require that the source code is placed in escrow to be released if the <i>CAM</i> becomes insolvent or in case of termination of the <i>Framework Alliance Contract</i> due to breach of contract by the <i>CAM</i> . The escrow agreement shall follow the term and conditions set out in Appendix 6 Part 3.
Extent of licenses	<p>11.23 Any licensee under a licence granted by any <i>CAM</i> has no right to:</p> <ul style="list-style-type: none"> 11.23.1. decompile any computer software which forms part of the Intellectual Property licensed by that <i>CAM</i> to that licensee in respect of <i>Plant</i>; 11.23.2. attempt to derive any algorithms, techniques or other features of the software or modify or attempt to create any derivative from the software supplied by that <i>CAM</i> in respect of <i>Plant</i>; 11.23.3. reproduce or have reproduced the <i>Plant</i> supplied by that <i>CAM</i> in part or in whole; and 11.23.4. make or have made components or spare parts for the <i>CAM</i> which are protected by <i>Intellectual Property Rights</i> vested in that <i>CAM</i> or any of its sub-contractors or suppliers for any purposes whatsoever, <p>and any sub-licence granted by a licensee shall similarly apply these prohibitions to the relevant sub-licensee.</p>
<i>CAM</i> infringement indemnity	<p>11.24 Unless and to the extent caused by any breach by the <i>Client</i> of the <i>Framework Alliance Contract</i>, each <i>CAM</i> indemnifies the <i>Client</i> against all loss damage costs and expenses for which the <i>Client</i> is or becomes liable as a result of any infringement or alleged infringement by that <i>CAM</i> of any <i>Third Party's Intellectual Property Rights</i>, provided the <i>Client</i>:</p> <ul style="list-style-type: none"> 11.24.1. promptly gives the relevant <i>CAM</i> notice of any such claim being received or any proceedings in relation to such a claim being threatened or served on the <i>Client</i>; and 11.24.2. permits the relevant <i>CAM</i> (at that <i>CAM's</i> expense and on the basis that such <i>CAM</i> indemnifies the <i>Client</i> for all legal costs and expenses the <i>Client</i> may properly incur in respect of such proceedings) to conduct the defence of any such claim and all negotiations for its settlement.
<i>Client</i> infringement indemnity	11.25 Unless and to the extent caused by any breach by any <i>CAM</i> of the <i>Framework Alliance Contract</i> , the <i>Client</i> indemnifies each <i>CAM</i> against all loss damage costs and expenses for which the relevant <i>CAM</i> is or becomes liable as a result of any infringement or alleged infringement by the <i>Client</i>

of any *Third Party's Intellectual Property Rights*, provided that the relevant *CAM*:

- 11.25.1. promptly gives the *Client* notice of any such claim being received or any proceedings in relation to such a claim being threatened or served on that *CAM*; and
- 11.25.2. permits the *Client* (at the *Client's* expense and on the basis that the *Client* indemnifies that *CAM* for all legal costs and expenses that *CAM* may properly incur in respect of such proceedings) to conduct the defence of any such claim and all negotiations for its settlement.

Liability for use of documents	11.26 Neither the <i>Client</i> nor any <i>CAM</i> shall be liable in respect of any document that it prepares forming part of or pursuant to the <i>Framework Alliance Contract</i> to the extent of any use for any purpose other than the purpose for which it was agreed to be prepared as stated in, or which can reasonably be inferred from, the <i>Framework Documents</i> .
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12. INSURANCES AND GUARANTEES

Insurances	12.1 Each <i>Alliance Member</i> shall take out insurances of the types and for the amounts stated against its name in the <i>Framework Alliance Agreement</i> or any <i>Joining Agreement</i> for matters governed by the <i>Framework Alliance Contract</i> including those policies set out in Appendix 3 [Insurance Policies].
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Insurance terms	12.2 All insurances stated in the <i>Framework Alliance Agreement</i> or any <i>Joining Agreement</i> shall be placed with insurers for those risks, with those exclusions and deductibles, and on those other terms as shall be stated in the <i>Framework Brief</i> or otherwise agreed by the <i>Client</i> , and all those insurances shall be maintained from the date of the <i>Framework Alliance Agreement</i> or the relevant <i>Joining Agreement</i> until the expiry or earlier termination of the <i>Framework Alliance Contract</i> and no <i>Alliance Member</i> shall do anything to invalidate those insurances.
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Insurance details	12.3 Each <i>Alliance Member</i> shall provide to another <i>Alliance Member</i> upon request copy policies or detailed certification as evidence of its agreed insurances.
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Form of parent company guarantee	12.4 Unless otherwise decided by the <i>Client</i> , each <i>CAM</i> shall ensure that a parent company guarantee in the form, or substantially the same form acceptable to the <i>Client</i> , set out in Appendix 5 [Parent Company Guarantee] is provided to the <i>Client</i> within [*10 (ten) <i>Working Days</i>] from the entry into force of the <i>Framework Alliance Contract</i> from:
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- a) the relevant *CAM's* ultimate holding company (meaning the parent company of the group of companies of which that *CAM* is a member); or

- b) another company (if any) approved by the *Client* as the guarantor in respect of that *CAM*.

Failure to provide guarantees	12.5	Subject to clause 12.4 [Form of parent company guarantee] if any <i>CAM</i> fails to provide a guarantee in accordance with and by the date required by clause 12.4 [Form of parent company guarantee], the <i>Client</i> is entitled to withhold payment of any amount due to that <i>CAM</i> under the <i>Framework Alliance Contract</i> until such time as a guarantee in accordance with clause 12.4 is provided by that <i>CAM</i> , and if such guarantee is not provided within [*1 (one) month] from the signature of the <i>Framework Alliance Contract</i> or the <i>Joining Agreement</i> , as appropriate, such is deemed to be a <i>Default</i> by that <i>CAM</i> .
Recourse by the <i>Client</i>	12.6	The <i>Client</i> may have recourse to the parent company guarantees in the circumstances contemplated by the parent company guarantees.
Maintenance of guarantees	12.7	Each <i>CAM</i> shall ensure that until the <i>Final Programme Completion Date</i> or until the date agreed by the <i>Core Group</i> , whichever is earlier, each parent company guarantee is maintained in the terms specified in Appendix 5 and is otherwise kept in full force and effect.
Cost of procuring guarantees	12.8	The costs incurred by each <i>CAM</i> in establishing and maintaining a parent company guarantee are to be treated as included in its <i>Overhead</i> and are not recoverable as <i>Actual Cost</i> .

13. GENERAL

Exclusion of <i>Partnership</i>	13.1	Nothing in the <i>Framework Documents</i> creates, or shall be construed as creating, a <i>Partnership</i> between any of the <i>Alliance Members</i> and no <i>Alliance Member</i> shall conduct itself so as to create an impression that a <i>Partnership</i> exists.
Assignment and sub-contracting	13.2	No <i>Alliance Member</i> shall assign or sub-contract any of its rights or obligations under the <i>Framework Alliance Contract</i> or any <i>Joining Agreement</i> without the prior consent of the <i>Client</i> and any <i>Additional Clients</i> except as stated in the <i>Framework Alliance Agreement</i> or as otherwise agreed.
Confidentiality	13.3	No <i>Alliance Member</i> shall reveal to any third party (except as expressly agreed in writing by the <i>Alliance Members</i> or as obliged by law) any <i>Sensitive Information</i> exchanged between them and shall use such information only for the purposes of fulfilling their obligations under the <i>Framework Alliance Contract</i> .
	13.3.1	An <i>Alliance Member</i> may not disclose <i>Sensitive Information</i> to its <i>Personnel</i> except the <i>Personnel</i> has been tasked to carry out or been retained in connection with any obligations under the <i>Framework Alliance Contract</i> ;

- 13.3.2 The disclosure to *Personnel* or other *CAMs* is only permitted to the extent that such *Personnel* or *CAM* needs to know the *Sensitive Information* in connection with the fulfilment of its obligations under the *Framework Alliance Contract*. The receiving *Alliance Member* shall procure that its *Personnel* to whom *Sensitive Information* is made accessible are bound by confidentiality undertakings equivalent to those laid out in the *Framework Alliance Contract*. The receiving *Alliance Member* shall be responsible for any breach of the confidentiality provisions of the *Framework Alliance Contract* by its *Personnel*.
- 13.3.3 An *Alliance Member* receiving *Sensitive Information* will not and shall oblige its representatives to not disclose *Sensitive Information* to any third party other than in accordance with the *Framework Alliance Contract* except as required by law or by any judicial, governmental, regulatory or stock exchange authority.
- 13.3.4 In the event that an *Alliance Member* or its *Personnel* is required to disclose *Sensitive Information* pursuant to clause 13.3.3, it will to the extent legally permissible to do so, notify the disclosing *Alliance Member* prior to the disclosure without undue delay in reasonable detail; Further, the receiving *Alliance Member* and its *Personnel* shall use all remedies available to prevent disclosure to the extent reasonably practicable.
- 13.3.5 The receiving *Alliance Member* undertakes and shall oblige its *Personnel* to upon receipt for a request from the *Discloser* and at the latest immediately upon termination of the *Framework Alliance Contract*:
- 13.3.5.1 return to the *Discloser* or destroy all written or otherwise stored *Sensitive Information* (except the *Sensitive Information* has been transferred as *Client Foreground Intellectual Property*) without undue delay and together with all reproductions and copies thereof; material, such as tangible samples etc., shall generally be returned and any destruction shall be subject to the *Discloser's* consent; and
- 13.3.5.2 upon receipt of a request from the *Discloser*, confirm to the *Discloser* in writing that it has fulfilled its obligations pursuant to clause 13.3.5.1.
- 13.3.6 The exercise of any retention rights as well as the retaining of copies of *Sensitive Information* by the receiving *Alliance Member* and its *Personnel* shall be excluded. The receiving *Alliance Member* and its *Personnel* shall however be entitled to retain documents for internal documentation purposes to the extent required by law and any *Sensitive Information* created pursuant to an IT back-up or internal disaster recovery procedures; the duty of confidentiality under the

Framework Alliance Contract shall continue to apply without limitation until such Sensitive Information is returned to the disclosing *Alliance Member* or destroyed.

13.3.7 To clarify, in accordance with clause 1.5 [Errors, omissions and discrepancies], the requirements of this clause 13 apply to all exchanges of *Sensitive Information*, including where expressed through *BIM*.

Legal Requirements	13.4	The <i>Alliance Members</i> shall comply with all laws and regulations currently in force in the country stated in the <i>Framework Alliance Agreement</i> and with the terms of all statutory and other legally binding requirements relating to the <i>Framework Programme</i> and with any <i>Legal Requirements</i> supplementing or amending the <i>Contract Terms</i> set out in Part 1 of Schedule 6 to the <i>Framework Alliance Agreement</i> .
<i>Special Terms</i>	13.5	Any <i>Special Terms</i> supplementing or amending the <i>Contract Terms</i> are set out in Part 2 of Schedule 6 to the <i>Framework Alliance Agreement</i> .
Third party rights	13.6	Subject only to clauses 1.12.2 and 14.8 and except as otherwise agreed, nothing in the <i>Framework Alliance Contract</i> shall confer any benefit or right to enforce any of its terms on any person who is not a party to it.
No employment relationship	13.7	The personnel assigned by each of the <i>Alliance Members</i> to carry out cooperation activities under the <i>Framework Alliance Contract</i> , including collaborative working in joint offices, will continue to work under the direction and dependence of the assigning <i>Alliance Member</i> , and it will not create any labour relation with the other <i>Alliance Member</i> , which will not be considered at any time as a substitute employer.
Recruitment restrictions	13.8	The <i>Client</i> and the other <i>Alliance Members</i> agree not to actively solicit employment from each other's personnel who are directly involved in the performance of this <i>Framework Alliance Contract</i> during its term and for a period of 6 (six) months after its completion, , unless the <i>Core Group</i> provides written approval. This restriction shall not prevent any personnel from responding to, or being hired as a result of, general recruitment activities not specifically targeted at such personnel (including responses to public advertisements, job boards, or recruitment agencies acting without direction to target such personnel).
Data protection	13.9	The following provisions shall apply to data protection: 13.9.1. Each <i>CAM</i> shall take all necessary steps under the data protection Laws, including the General Data Protection Regulation (EU) 2016/679, to allow for disclosure to appropriate <i>Client's</i> Personnel of all information required by the <i>Framework Alliance Contract</i> .

13.9.2. References to “processing”, “process” and “controller” in this *Legal Requirement* shall have the meaning set out in the General Data Protection Regulation (EU) 2016/679.

13.9.3. The *CAMs* undertake:

- a) to process the personal data in accordance with the provisions of the *Framework Alliance Contract* and the *Client's* instructions from time to time;
- b) to ensure that only those *CAM's Personnel* required for meeting by the *CAM* its obligations under the *Framework Alliance Contract* shall have access to the personal data and that such *CAM's Personnel* have received training and instruction in the care and handling of personal data;
- c) to assist the *Client* promptly with all requests for access to personal data which may be received by the *Client* from time to time;
- d) not to disclose the personal data to a third party in any circumstances other than disclosure to the *CAM Personnel* in accordance with this *Legal Requirement* or disclosure at the specific request of the *Client* or if otherwise required by *Law* to make such disclosure;
- e) to allow its data processing facilities, procedures and documentation which relate to the processing of personal data, to be scrutinised by the *Client* or the auditors of the *Client* in order to ascertain compliance with this *Legal Requirement*;
- f) to have in place such technical and organizational measures as are reasonably necessary and appropriate to safeguard against the unauthorised or unlawful processing of personal data and against accidental loss or destruction of, or damage to, personal data; and
- g) to indemnify the *Client* against all losses incurred or suffered by or made against it and whether, wholly or in part, resulting directly or indirectly from, or connected in any way with, any breach of this clause.

13.9.4. Any personal data included in or relating to the *Framework Alliance Contract*, including its implementation shall be processed by the *Client* in accordance with the applicable Laws. Such data shall be processed solely for the purposes of the implementation, management and monitoring of the *Framework Alliance Contract*.

- 13.9.5. Details concerning the processing of personal data, including the details of the data controller and data protection officer are available in the privacy notice referred to on the *Client's* website.
- Compliance with anti-bribery, anti-corruption and anti-slavery legislation
- 13.10 The following provisions shall apply considering compliance with anti-bribery, anti-corruption and anti-slavery legislation:
- 13.10.1. Each *CAM* shall comply with all applicable anti-bribery, anti-corruption and anti-slavery legislation.
- 13.10.2. Any breach of this *Legal Requirement* by a *CAM* will be deemed a *Default* under the *Framework Alliance Contract*.
- 13.10.3. Clause 10.3.1 and clause 10.3.2 do not apply in respect of this *Legal Requirement*.
- Significant Corporate Change
- 13.11 The following provisions shall apply considering to *Significant Corporate Change*:
- 13.11.1. Each *CAM* shall ensure that there is no *Significant Corporate Change* in respect of it without the *Client's* and the other *CAMs'* prior approval (approval not to be unreasonably withheld), except where any *Laws* or regulatory guidance prevent a *CAM* from disclosing a proposed *Significant Corporate Change* to the *Client* on a confidential basis prior to it occurring, in which case that *CAM* shall as soon as reasonably practicable following such *Significant Corporate Change* notify the *Client* of such change.
- 13.11.2. Without limiting clause 13.11.1, in the event of a proposed *Significant Corporate Change* occurring, the relevant *CAM* shall:
- a) notify the *Client* of the reasons for the Significant Corporate Change;
 - b) notify the *Client* of the expected impact of the Significant Corporate Change on the performance of the *Framework Alliance Contract*, including with respect to the technical requirements, the quality assurance requirements, the progress requirements, and the delivery requirements of the *Framework Alliance Contract*;
 - c) provide the *Client* with any documentation or information requested by the *Client* in respect of the Significant Corporate Change; and
 - d) attend meetings requested by the *Client* including arranging for attendance at those meetings by the Third Party acquiring or exercising control over the relevant *CAM*

Open book
commitment

13.11.3. In case of breach by the *CAM* of clause 13.11.1, the *Default* takes place and the concerned *CAM* shall be considered as *Defaulting Alliance Member*.

13.12 Each *Alliance Member* commits to:

13.12.1. maintain, for at least the *Relevant Period*, all of their records and other documentation referred to in the *Framework Alliance Contract* and the *Project Contract(s)* (as applicable) that relate to the *Project* or *Projects* comprising the *Framework Programme* in accordance with, where applicable, good accounting practices, standards and procedures;

13.12.2. fully disclose any affiliations that could reasonably be considered to have a detrimental impact on the achievement of this *Framework Brief* or the *Objectives*;

13.12.3. make their records and other documentation referred to in the *Framework Alliance Contract* that relate to the *Project* or *Projects* comprising the *Framework Programme* available to each other, the *Client* and the *Alliance Auditor* on request; and

13.12.4. subject to compliance with the *Laws*, make available to each other, the *Client* and the *Alliance Auditor* any existing documentation or information in whatever form relating to the *Project* or *Projects* comprising the *Framework Programme*, including documentation and information relating to its *Actual Cost* incurred by it directly or relating to any of its *Affiliated Undertakings* or subcontractors undertaking any part of any *Works*.

13.13 The obligation to make records and documentation available pursuant to clause 13.12 does not apply to records or documentation that may be the subject of legal professional privilege or are confidential lawyer/client communications.

13.14 The obligation to make records and documentation available pursuant to this clause 13.12 does not apply to the scope of *Works* to be performed based on a lump sum.

Retention of
Records for each
Alliance Member

13.15 The *Alliance Members* shall maintain for the *Relevant Period*:

13.15.1. an adequate internal control system (including policies, controls and procedures) for the effective planning, performance and reporting of the *Works* in accordance with the *Framework Alliance Contract* and a relevant *Project Contract*;

13.15.2. books of account kept in accordance with recognised accounting principles which, among other things, show the amounts that are payable and/or have been paid by the *Client* under the *Framework Alliance Contract* and a *Project Contract* (including *Actual Cost*)

and ledgers related to the performance of the *Project* or *Projects* comprising the *Framework Programme*; and

13.15.3. all of their records and other documentation referred to in the Framework Alliance Contract and a Project Contract that relates to the *Project* or *Projects* comprising the *Framework Programme* on the Site.

13.16 The *Alliance Members* shall maintain for the *Relevant Period* a complete set of:

13.16.1. all purchase orders, invoices, accounts, records, bank statements, cost records, timesheets, expenses incurred, to the extent they relate to the *Project* or *Projects* comprising the *Framework Programme*, showing all of the *Actual Cost* incurred in the performance of the *Project* or *Projects* comprising the *Framework Programme*; and

13.16.2. all correspondence, tenders, subcontracts, minutes of meetings, notes, reports, drawings, as built records and all other documentation associated with the *Project* or *Projects* comprising the *Framework Programme*; and

13.16.3. all records which show how the *Programme Target Price* and *Project Package Target Prices* and *Agreed Prices* were calculated and how any *Scope Variations* were valued.

Audit by the
Alliance Auditor

13.17 The following rules shall apply to the *Audit* and the *Alliance Auditor*:

13.17.1. The *Client* has engaged an independent alliance auditor to undertake a regular audit of the *Reimbursable Amount*, the application of the *Incentives*, the *Painshare* or *Gainshare* and to carry out any other audit of the type required or permitted under this clause 13.17 [Audit by the Alliance Auditor] (“*Alliance Auditor*”)

13.17.2. The minimum scope of audit is set out in the *Framework Brief*.

13.17.3. The *Client* may appoint, remove and replace an *Alliance Auditor* at any time, and shall do so if the existing *Alliance Auditor* retires, resigns, dies or is otherwise unable to act.

13.17.4. The *Alliance Auditor* shall undertake such audits as may be directed by the *Core Group* or the *Client*.

13.17.5. The *Alliance Auditor* may inspect and audit the documentation referred to in clauses 13.15 and 13.16 during the period from *Effective Date* to the *Final Programme Completion Date*:

a) at the times identified in the *Audit Plan* to be developed by the

Alliance Auditor promptly after the *Effective Date* and approved by the *Core Group*; or

b) at any other time as required by the *Core Group* or the *Client*.

13.17.6. The *Alliance Auditor* shall develop an *Audit Plan* after their appointment and thereafter maintain such plan.

13.17.7. The *Alliance Auditor* shall make available any audit to all *Alliance Members*.

13.17.8. Each *CAM* shall provide the *Alliance Auditor* with proper access to their personnel and facilities and all assistance required to enable the *Alliance Auditor* to undertake any audit of the kind set out in this clause 13.17 [Audit by the *Alliance Auditor*].

13.17.9. For the purposes of this clause 13.17 [Audit by the *Alliance Auditor*], the *CAMs* will on request by the *Alliance Auditor* provide whatever records, documents, access, facilities or assistance is necessary to conduct whatever audit, inspection, transcription, investigation or copying is required by the *Alliance Auditor* for the purposes of an audit under this clause 13.17 [Audit by the *Alliance Auditor*] within the agreed timescales between the *Auditor* and *CAM*.

13.17.10. The *Alliance Member* who holds the original of any of the records referred to in clauses 13.15 and 13.16 shall on request by the *Alliance Auditor*, make them available to the *Alliance Auditor* within the agreed timescales between the *Auditor* and *CAM*.

Cost Expert

13.18 The *Cost Expert* shall have the same rights under the *Framework Alliance Contract* as the *Alliance Auditor*, including right to receive from the *Alliance Members* whatever records, documents, access, facilities or assistance necessary to provide cost consultancy services to the *Client*.

Reduction of greenhouse gas emissions

13.19 The *CAMs* shall, in performing the *Framework Alliance Contract*, take reasonable steps to minimise greenhouse gas emissions, and cooperate with the *Client* in implementing practicable carbon reduction measures.

14. DURATION AND TERMINATION

Duration

14.1 Performance of the *CAMs'* obligations under the *Framework Alliance Contract* shall not be considered to have been completed until the *Client* has issued the *Programme Performance Certificate* to the *CAMs*, stating the date on which the *CAMs* completed their obligations under the *Framework Alliance Contract*.

- 14.2 The *Client* shall issue the *Programme Performance Certificate*:
- 1.4.2. if the *Construction Option* is not exercised: within [*20 (twenty) *Working Days*] after the issuance of the notice of non-exercise of the *Construction Option* under clause 5.12 or after the *Framework Alliance Contract* termination;
 - 1.4.3. if the *Construction Option* is exercised: within [*20 (twenty) *Working Days*] after the last *Project Package Performance Certificate* has been issued to the relevant *CAM* under the relevant *Project Contract* or after the *Framework Alliance Contract* termination, whichever is earlier.
- 14.3 Should the *Client* fail to issue the *Programme Performance Certificate* within the timeframe defined in clause 14.2, the *Client* shall be deemed to have issued *Programme Performance Certificate* on the last day of the respective time period defined in clause 14.2.
- Targets not achieved
- 14.4 If any of the *Targets* set out in Schedule 7 to the *Framework Alliance Agreement* are not achieved, then:
- 14.4.1. the *Core Group* shall meet and propose actions necessary to achieve those *Targets* or revised *Targets* and any actions approved by the *Client* and any *Additional Clients* shall be signed by all *Alliance Members* as a supplement to the *Timetable*;
 - 14.4.2. subject to Schedule 7, if the *Client* or any *Additional Client* gives notice that it does not approve actions proposed under clause 14.2.1 or if any approved actions are not implemented, then:
 - 14.4.2.1. the notifying *Client* or *Additional Client* may by not less than [*10 (ten) *Working Days*]’ notice cease to be a party to the *Framework Alliance Contract*; or
 - 14.4.2.3. the *Client* and any *Additional Clients* may jointly by not less than [*10 (ten) *Working Days*]’ notice terminate the *Framework Alliance Contract* or the appointment of an *Alliance Member* that has failed to meet *Targets* or revised *Targets*.
- Insolvency Event
- 14.5 If any *Alliance Member* suffers an *Insolvency Event*, then, unless otherwise agreed by all other *Alliance Members*:
- 14.5.1. that *Alliance Member* shall cease to be a party to the *Framework Alliance Contract* with immediate effect; or
 - 14.5.2. if that *Alliance Member* is the only or last remaining *Client* or *Additional Client*, then the appointment of all other *Alliance Members* shall automatically terminate with immediate effect.

<i>Alliance Member breach</i>	14.6	<p>If any <i>Alliance Member</i> breaches the <i>Framework Alliance Contract</i> so as to have a demonstrable adverse effect on the <i>Alliance</i> or the <i>Framework Programme</i> or any <i>Project</i> or <i>Alliance Activities</i> and does not remedy that breach within [*10 (ten) <i>Working Days</i>] from the date of notice from another <i>Alliance Member</i> specifying the breach, then, after notifying the <i>Core Group</i> and allowing a period of [*10 (ten) <i>Working Days</i>] from the date of that notification to receive and consider its recommendations:</p> <p>14.6.1. if the notifying <i>Alliance Member</i> is not the <i>Client</i> or an <i>Additional Client</i>, the notifying <i>Alliance Member</i> may terminate its own appointment under the <i>Framework Alliance Contract</i> by notice with immediate effect; or</p> <p>14.6.2. if the notifying <i>Alliance Member</i> is the <i>Client</i> or an <i>Additional Client</i>, either it may cease to be a party to the <i>Framework Alliance Contract</i> or the <i>Client</i> and any <i>Additional Clients</i> may jointly terminate the appointment of the <i>Alliance Member</i> in breach, in either case by notice with immediate effect.</p>
<i>Existing Project Contracts</i>	14.7	Notwithstanding any termination under this clause 14, all <i>Project Contracts</i> in existence at the time of termination shall remain in full force and effect, subject to the termination rights in those <i>Project Contracts</i> .
<i>Other Alliance Members</i>	14.8	Notwithstanding an <i>Alliance Member</i> for any reason ceasing to be a party to the <i>Framework Alliance Contract</i> , as between all other <i>Alliance Members</i> the <i>Framework Alliance Contract</i> shall remain in full force and effect, and, in the event of termination of the appointment of the <i>Alliance Manager</i> , the <i>Client</i> and any <i>Additional Clients</i> shall jointly identify a replacement and all <i>Alliance Members</i> shall enter into a <i>Joining Agreement</i> with the replacement <i>Alliance Manager</i> .
<i>Accrued rights and obligations</i>	14.9	Any termination under this clause 14 shall not affect the mutual rights and obligations of the <i>Alliance Members</i> under the <i>Framework Alliance Contract</i> accrued at the date of termination.
15. PROBLEM-SOLVING, DISPUTE RESOLUTION AND LAWS		
<i>Notice and Core Group meeting</i>	15.1	As soon as it is aware of any dispute, an <i>Alliance Member</i> shall give notice to the other <i>Alliance Members</i> involved in a dispute and to the <i>Alliance Manager</i> who shall convene a <i>Core Group</i> meeting, notifying all available information and inviting all involved <i>Alliance Members</i> who shall all attend (with any <i>Independent Adviser</i>) and who shall make constructive proposals in seeking to achieve an agreed solution.
<i>Dispute Board</i>	15.2	If any dispute is not resolved in accordance with clause 15.1 and provided that no <i>Alliance Member</i> has by reason of that dispute exercised a right of termination under clause 14, then it becomes a dispute under the <i>Framework Alliance Contract</i> and the <i>Alliance Members</i> involved may refer it to a

Dispute Board in accordance with the *Dispute Board Rules* stated in Appendix 4.

Litigation and
arbitration

15.3 Any dispute that is not resolved in accordance with clauses 15.2 may be referred by any *Alliance Member* involved in that dispute either to the courts stated in the *Framework Alliance Agreement* or, if stated in the *Framework Alliance Agreement*, to one or three arbitrators as stated in the *Framework Alliance Agreement* who shall be appointed as stated in the *Framework Alliance Agreement* and who shall conduct that arbitration in the location and in accordance with Appendix 4 and the rules stated in the *Framework Alliance Agreement*.

Law and
jurisdiction

15.4 The *Framework Alliance Contract* is governed by the laws stated in the *Framework Alliance Agreement* and is subject to the non-exclusive jurisdiction of the courts stated in the *Framework Alliance Agreement*.

APPENDIX 1

DEFINITIONS

(see clause 1.2)

In the *Framework Documents* the following words and expressions have the following meanings, whether used in the singular or the plural and whatever their gender, and cross-references are to clauses of the *Contract Terms* unless stated otherwise:

Acceptance – means the acceptance by the *Client* of the design stage necessary for instruction and commencement of the next stage of design;

Actual Cost – has the meaning given in the *Framework Prices*;

Additional Alliance Member – an additional *Alliance Member* with which the *Alliance Members* enter into a *Joining Agreement* under clause 1.12;

Additional Client – an additional *Client* with which the *Alliance Members* enter into a *Joining Agreement* under clause 1.12;

ADT Leader – the person named in the *Framework Alliance Agreement* to fulfil the role of *ADT Leader* as described in clauses from 7.5 and 7.9, subject to replacement;

Affiliated Undertaking – means a:

- a) subsidiary or parent undertaking of a *CAM*; or
- b) fellow subsidiary undertaking or group undertaking of an *CAM*;

Agreed Prices – prices in respect of a *Programme*, as defined in clause 8.1;

Alliance – the framework alliance created between the *Alliance Members* and governed by the *Framework Alliance Contract*;

Alliance Activities – any activities (including activities related to the *Design Phase* and the *Construction Phase*) agreed to be performed by *Alliance Members* under clause 6 in order to achieve *Improved Value* consistent with the *Objectives*, including agreed *Supply Chain Collaboration*, agreed innovation and education, agreed exchanges of information, and agreed integration, adaptation and standardisation of roles, expertise and responsibilities;

Alliance Auditor – means the independent auditor appointed by the *Client* under clause 13.17;

Alliance Charter – means a document including a declaration of the *Alliance Members*' values and principles, that shall be agreed by them jointly as one of the early *Alliance Activities*;

Alliance Design Team or ADT – means the design team for the *Alliance* as described in clauses from 7.5 and 7.9;

Alliance Management Team or AMT – means the management team for the *Alliance* as described in clauses from 7.1 and 7.4;

Alliance Manager – the party named in the *Framework Alliance Agreement* to fulfil the role of *Alliance Manager* as described in clauses 3.1 and 3.2, subject to replacement in accordance with clause 14.8;

Alliance Manager Payment Terms – a document forming part of the *Framework Alliance Contract* describing the amounts payable to the *Alliance Manager* and the terms of payment including any agreed fluctuations;

Alliance Manager Services – the services described in the *Alliance Manager Services Schedule*;

Alliance Manager Services Schedule – a document forming part of the *Framework Alliance Contract* describing the role, expertise and responsibilities of the *Alliance Manager*;

Alliance Members – the *Client*, the *Alliance Manager*, all other *Alliance Members* who execute the *Framework Alliance Agreement* and any *Additional Clients* and *Additional Alliance Members* who execute *Joining Agreements*;

Alliance Principles – means the alliance principles set out in the *Alliance Charter*;

Audit Plan – means the audit plan developed by the *Alliance Auditor*;

Background Intellectual Property or Information or Background – means any *Intellectual Property Rights or Information*, held by the *Alliance Member* prior to the *Effective Date* or outside the scope of the *Framework Alliance Contract* and the *Project Contracts*, which is needed for the performance of the *Framework Alliance Contract* or a *Project Contract*, or for the use of the *Foreground*, the use of the goods or services supplied under the *Framework Alliance Contract* and the *Project Contracts*;

Best-For-Programme – means an approach, determination, decision, method, solution, interpretation, outcome or resolution that is consistent with the *Framework Brief* and optimal to achieve the *Objectives*;

BIM – building information modelling;

Budget – the *Client's* or any *Additional Client's* monetary allowance for the *Framework Programme*;

CAM Document – means a document, calculation, design, drawing, measurement, record or information (whether in physical or electronic form) submitted by a *CAM* for performing its obligations under the *Framework Alliance Contract* and/or a *Project Contract*;

CEO Forum – as defined in clause 1.8

Client – the party named in the *Framework Alliance Agreement* to fulfil the role of *Client* as described in the *Framework Documents*;

Client's Representative – as defined in clause 7.14;

Client's Alternate Representative – as defined in clause 7.14;

Consensus – unanimous agreement following reasoned discussion;

Consent – means agreement, approval, authorisation, authority certificate consent, exemption, filing, notarisation, licence, permission, permit or registration from, by or with a *Relevant Authority* or a *Third Party*;

Consequential Loss – means loss of use, loss of production, loss of revenue, loss of profit or anticipated profit or loss of business reputation, indirect losses or loss or increased costs caused by:

- (a) reduction in the *Actual Cost* or *Fee* payable by a *Client* to a *CAM*,
- (b) an increase in the *Actual Cost* or *Fee* payable by a *Client* to a *CAM*,
- (c) a reduction in the amount payable by a *Client* to a *CAM*,
- (d) a reduction in the amount payable by a *Client* to a *CAM* by virtue of Schedule 7 Part 5 [Construction Phase RRR], or
- (e) an increase in the amount payable by a *Client* to a *CAM* by virtue of Schedule 7 Part 5 [Construction Phase RRR],

in each case to the extent caused by the act or omission giving rise to such loss;

Contractor Alliance Members or CAMs – means the *Alliance Members* other than the *Client*;

Construction Option – means the *Client's* right to authorise the *Construction Phase*, to be granted at the sole discretion of the *Client*;

Construction Phase – means a phase of performance of the *Project* or *Projects* comprising the *Framework Programme*, which starts at the date of exercise of the *Construction Option* by the *Client*, is governed by the *Framework Alliance Contract* and *Project Contracts* and is completed on the *Final Programme Completion Date*;

Construction Phase Commencement Date – means the date for commencement of the *Construction Phase*, set out by the *Client* in the notice of exercise of the *Construction Option*;

Construction Phase Incentive Scheme – the incentive scheme described in Schedule 7 Part 4 and 5.

Construction Phase Price – is amount payable to *CAMs* for performance of *Framework Programme* during the *Construction Phase*;

Construction Phase Risk or Reward Regime (RRR) – *Programme Target Price Regime* and *Construction Phase Incentive Scheme*, as defined in Schedule 4 Part 4.

Construction Phase Success Measures – means the *Success Measures* applicable to the *Construction Phase*;

Contract Terms – the contract terms, including appendices, as annexed to the *Framework Alliance Agreement*;

Core Group – the individuals identified in the *Framework Alliance Agreement* or in a *Joining Agreement* as *Core Group* members, subject only in each case to agreement of changes and alternates in accordance with clause 1.6.1;

Cost Expert – means the cost expert supporting the *Client* with regard to cost matters and indicated in the *Framework Prices*;

Defect – means any error, omission, defect, non-conformity, deficiency or discrepancy in a part of the *Works* comprising a *Project* or other matter that is not in accordance with the *Framework Alliance Contract*;

Definitions – the definitions set out in this Appendix 1;

Defaulting Alliance Member – means in respect an *Alliance Member* who is in a situation of a *Default*;

Design Phase – means the phase under which the *Alliance Members* shall develop the *Projects Proposal* for the *Projects* comprising the *Framework Programme*;

Design Phase Incentive Scheme – the incentive scheme described in Schedule 7 Part 1, 2 and 3.

Design Phase Price – as defined in clause 8.2;

Design Phase Success Measures – mean the *Success Measures* applicable to the *Design Phase*;

Diligence – means the exercise of the degree of skill, care, expertise, diligence and foresight which would be expected of skilled and experienced professional persons engaged in undertakings of a similar scope, type and complexity as the *Project* or *Projects* comprising the *Framework Programme*;

Discloser – an *Alliance Member* disclosing *Sensitive Information*;

Dispute Board or **DAAB** – a group of individuals who may be identified in the *Framework Alliance Agreement* to advise the *Alliance Members* on the avoidance or resolution of any dispute;

Dispute Board Rules – the rules governing the *Project* of a *Dispute Board* as may be stated in the *Framework Alliance Agreement*;

Due Date – the date of receipt by the *Client* of an application for payment submitted in accordance with the *Framework Alliance Agreement* ;

Early Warning – early warning in accordance with clause 1.9;

Effective Date – means the date of entry into force of the *Framework Alliance Contract*;

Environment – all and any land, water and air including air within any natural or man-made structure above or below ground;

Facility – means [Drafting Note: insert brief description of the facility designed and built under the Collaborative Contract];

Fair and Reasonable Conditions – shall mean appropriate conditions including possible financial terms taking into account the specific circumstances of the request for access, for example the actual or potential value of the *Foreground* or *Background* to which access is requested and/or the scope, duration or other characteristics of the use envisaged;

Fee – means for each *CAM*, the amount of *Overheads* and *Profit* applicable for the performance of *Framework Alliance Contract* during the *Design Phase*;

Final Date for Payment – the final date for payment pursuant to clauses 8.12.1 and 8.12.2;

Final Programme Completion Date – means the date on which the *Programme Performance Certificate* is issued by the *Client* to all the *CAMs*;

Foreground Intellectual Property or Information or Foreground – shall mean Information and *Intellectual Property Rights* whether or not protectable generated for the first time in the course of the execution of the *Framework Alliance Contract*; and *Project Contracts* including through subcontracting.

Framework Alliance Agreement – the agreement executed by the *Alliance Members*;

Framework Alliance Contract – the contract created by and between the *Alliance Members* by executing the *Framework Alliance Agreement* and any *Joining Agreements*;

Framework Brief – one or more documents forming part of the *Framework Alliance Contract* describing the scope and nature of the *Alliance* and of the *Projects* comprising the *Framework Programme* and setting out the *Client's* and any *Additional Clients'* technical, management and commercial requirements including the required approach to design, *Supply Chain* engagement, costing, *Risk Management* and programming and all other relevant procedures and expected outcomes and where appropriate the required approach to *BIM*;

Framework Documents – the documents comprising the *Framework Alliance Contract* as set out in the *Framework Alliance Agreement* subject to addition and amendment in accordance with any *Joining Agreements* and the *Contract Terms*;

Framework Prices – the document forming part of the *Framework Alliance Contract* describing the prices of the *Alliance Members* in response to the *Framework Brief*;

Framework Programme or Programme – the group of related *Projects* (for provision of services and/or supplies) managed in a coordinated way under the *Framework Alliance Contract*, as described in the *Framework Documents*;

Gainshare – means the gainshare (if any) which will be calculated as at the *Final Programme Completion Date*, in accordance with Schedule 7;

Good Industry Practice – means at a particular time, the practices, methods, acts, techniques, and standards (as changed from time to time), applicable to and generally accepted for use in projects of a similar nature

and of a similar size and complexity to the *Projects* comprising the *Framework Programme*;

High Performance – means the level of high performance for each *Success Measure*, being better than *MCOS Performance*, as defined in Schedule 7;

Improved Value – improved value consistent with the *Objectives*, which may include (if and as stated in the *Objectives*) improved cost and/or time certainty, cost and/or time savings, improved quality, improved *Operation*, improved staff and other resources, improved health and safety and other working procedures, improved *Sustainability*, improved efficiency, improved profitability and other benefits to *Alliance Members, Users and Stakeholders*;

Incentive Pool – means the amounts used for the purpose of calculation of the *Incentives* in accordance with Schedule 7;

Incentive Scheme – means the *Design Phase Incentive Scheme* and *Construction Phase Incentive Scheme* set out in Schedule 7;

Incentives – the incentives set out in Part 1 and Part 4 of Schedule 7 to the *Framework Alliance Agreement*;

Independent Adviser – an independent adviser who may be identified in the *Framework Alliance Agreement* and appointed on terms agreed by the *Alliance Members* to provide fair and constructive advice to the *Alliance Members* on the implementation of the *Framework Alliance Contract* and the avoidance or resolution of any dispute;

Information – means any published data, drawings, designs, computations, reports, and other documents, documented data, or methods of research and development, as well as the description of inventions and discoveries, whether or not protectable, which are not covered by *Intellectual Property Rights*;

Information Management – includes leadership in establishing 'the project's information standard, the project's information production methods and procedures and the project's CDE' (based on the defined term under ISO 19650-1 clause 7.3)

Insolvency Event – an event of insolvency as referred to in clause 14.5, arising under the laws of the country in which an *Alliance Member* is incorporated or established and including:

- any event where any *Alliance Member* being a corporate body has an order made for its winding up or a petition is presented or a meeting is convened for purpose of considering a resolution for its winding up or that resolution is passed (except for any members' voluntary winding up for the purposes of amalgamation or reconstruction on terms previously approved in writing by all the other *Alliance Members*); or has a receiver (including an administrative receiver) or manager appointed in respect of the whole or any part of its property, assets or undertaking; or has an administrator appointed (whether by the court or otherwise) or any step taken (whether in or out of court) for the appointment of an administrator or any notice given of an intention to appoint an administrator; or has any distress, execution or other process levied or applied for in respect of the whole or any part of its property, assets or undertaking; or has any composition in satisfaction of its debts or any scheme of arrangement of its affairs or any compromise or arrangement between it and its creditors and/or members or any class of its creditors and/or members proposed, sanctioned or approved; or
- any event where any *Alliance Member* being an individual is the subject of a bankruptcy order, or has a bankruptcy petition filed against him or her; or enters into an individual voluntary arrangement, a deed of arrangement or any other composition or arrangement with his or her creditors in satisfaction of his or her debts; or has any distress, execution or other process levied or applied for in respect of the whole or any part of any of his or her property or assets; or
- any event equivalent to any of the above in any jurisdiction outside England and Wales;

Intellectual Property – has the meaning defined in Article 2 of the Convention Establishing the World Intellectual Property Organization, signed at Stockholm on July 14, 1967 and as amended on September 28, 1979. It may include confidential information, such as know-how or trade secrets, provided that they are unpublished and in writing, or in otherwise documented form, and (i) have been held in confidence by their owner, (ii) are not generally known or available to the public from other sources, and/or are not generally available to the public in printed publications, and/or other readable documents, (iii) have not been made available by their owner to other parties without an obligation concerning confidentiality, and (iv) are not available to the receiving party without an obligation concerning confidentiality;

Intellectual Property Rights – all intellectual property rights (including, without limitation, patents, trade marks, designs, design rights, copyright, inventions, trade secrets, know-how and confidential information) and all applications for protection of any of those rights;

Interim Gainshare – means the estimated amount of *Gainshare* which the *Core Group* determines is payable to the CAMs prior to the *Final Programme Completion Date* in accordance with Schedule 7;

Interim Painshare – means the estimated amount of *Painshare* which the *Core Group* determines is payable to the CAMs prior to the *Final Programme Completion Date* in accordance with Schedule 7;

Joining Agreement – an agreement executed by the *Alliance Members* with an *Additional Client* or other *Additional Alliance Member* based on the form set out in Appendix 2;

Key Performance Indicators (KPIs) – key performance indicators set out in Schedule 7;

Laws – means all laws, statutes, treaties, ordinances, judgments, decrees, injunctions, writs, orders, rules, building licensing requirements, regulations and interpretations of any *Relevant Authorities*, governmental bodies, instrumentalities, agencies, authorities, or other bodies having jurisdiction over duties, obligations, or liabilities of the *Alliance Member*, pursuant to the *Framework Alliance Contract*;

Legal Requirements – any legal requirements supplementing or amending the *Contract Terms* pursuant to clause 13.4, as set out in Part 1 of Schedule 6 to the *Framework Alliance Agreement*;

Life Cycle Cost – shall mean the total cost of constructing, operating, and maintaining over the entire lifespan of the Facility, including decommissioning costs and environmental costs;

Materials – means any materials and other things of all kinds (other than *Plant*) intended to form or forming part of any Works;

MCOS Performance – means the minimum conditions of satisfaction for each *Success Measure*, as defined in Schedule 7;

Model Adjudication Procedure – the procedure governing the process of an *Adjudication* as may be stated in the *Framework Alliance Agreement* and Part 3 of Appendix 4;

Objectives – the agreed objectives of the *Alliance* and the *Framework Programme* and of the *Alliance Members* in respect of the *Alliance* and the *Framework Programme* as set out in Schedule 1 to the *Framework Alliance Agreement*;

Operation – use, occupation, operation, maintenance, repair, alteration and demolition of Works;

Operator – in relation to a fusion installation means the person designated or recognised by the *Relevant Authority* as the operator of that installation;

Overheads – overhead levels set in accordance with the *Framework Prices*;

Painshare – means the painshare (if any) which will be calculated as at the *Final Programme Completion Date*, in accordance with Schedule 7;

Partnership – a business entity creating joint and several liability between its members;

Pay Less Notice – a notice issued in accordance with clause 8.14;

Payment Notice – a notice specifying the amount that the *Alliance Manager* considers to be due in accordance with clause 8.10 or that the *Client* or an *Additional Client* as applicable considers to be due in accordance with clause 8.11;

Personnel – means the representatives of the relevant Party such as board members and managing directors as well as all personnel whom that entity utilises on the *Site*, which may include the staff, labour, and other employees of that entity, and of each of its *Supply Chain* members, and any other personnel assisting that entity in the execution of any Works or to fulfil any obligation under the *Framework Alliance Contract* or a *Project Contract* including freelance workers, students, PostDocs and university professors;

Planned Programme Completion Date – means, if the *Construction Option* is exercised: the planned date for completion of the whole of a *Programme*, as stated in the *Projects Proposal*;

Planned Project Package Completion Date – means, if the *Construction Option* is exercised: the planned date for completion of the *Works* under a *Project Package*, as stated in the *Projects Proposal*;

Plant – means apparatus, machinery and vehicles, supplied by *CAMs* under a *Project Contract*, intended to form or forming part of any *Works*;

Poor Performance – means the level of poor performance for each *Success Measure*, being worse than *MCOS Performance*, as defined in Schedule 7;

Profit – profit levels set in accordance with the *Framework Prices*;

Programme Performance Certificate – means a performance certificate issued by the *Alliance Manager* in accordance with clause 14;

Project Package Target Price – means the target price for delivering a *Project Package*;

Project or **Project Package** – a project forming part of the *Framework Programme* as described in the *Framework Brief*;

Project Brief – document describing the scope and nature of the *Projects* comprising the *Programme*, setting out the *Client's* technical, management and commercial requirements and expected outcomes in respect of the *Progeamme*, including all required quality standards and warranties, including all requirements in respect of insurances and securities, including all processes and procedures for management of communication, performance, quality, design, *Supply Chain* engagement, cost, payment, time, change, risk, health and safety and all other project management processes and procedures, including the required approach to *BIM* as appropriate, and including all requirements in respect of *Sustainability*, *Operation*, and engagement with *Stakeholders* and *Users*;

Project Contract – a contract awarded by the *Client* or an *Additional Client* to any *Alliance Member* in respect of a *Programme*, based on the *Template Project Documents*;

Project Contract Conditions – the terms and conditions governing a *Project Contract*;

Programme Management Office or **PMO** – means the team providing to the *Alliance* the services described in the Schedule 9 [PMO Charter];

Project Management Plan – means for each *Project Package*, the project management plan forming part of the *Project Management System*;

Project Management System – means for each *Project Package*, the project management system set out in the relevant *Projects Proposal*, which incorporates the systems and plans required by the *Framework Brief*;

Project Package – means a part of a *Projects Proposal* identified as a *Project Package* therein;

Project Package Success Measures – means the areas of performance against which the performance of particular *Alliance Members* shall be measured under the *Project Contracts*, as defined in Schedule 7;

Project Package Performance Certificate – means a performance certificate issued by the *Alliance Manager* in accordance with the terms of a *Project Contract*;

Projects Proposal – the document forming part of the *Framework Alliance Contract* describing the proposal of an *Alliance Member* in response to the *Framework Brief* for delivery of the *Construction Phase*, agreed confidentially between that *Alliance Members*, the *Client*, any *Additional Clients* and the *Alliance Manager*;

Programme Target Price – means the sum of the *Project Package Target Prices*, in accordance with the *Framework Prices*;

Programme Target Price Regime – as described in Schedule 7 part 4;

Provisional Acceptance – means provisional acceptance by the *Client* of the documentation prepared by *CAMs*, in order to assist in the efficient development and progression of the detail of the design, *Projects Proposal*, *Project Packages* and *Sections*. The *Provisional Acceptance* shall be followed by the final *Acceptance*, in accordance with the *Framework Alliance Contract* before instructing commencement of the next stage of design under the *Framework Alliance Contract*;

Radiological Damage – means:

- (a) loss of life or personal injury;
- (b) loss of damage to property;

arising out of or resulting from an emission of ionizing radiation emitted by any source of radiation inside the *Facility* or emitted by the *Radioactive Substance* being carried out from or to the *Facility*.

Radiological Incident – means any occurrence or series of occurrences having the same origin which causes *Radiological Damage*;

Radioactive Substances – means any radioactive substance used at the *Facility* to produce energy, such as deuterium and tritium.

Reimbursable Amount – means the aggregate of all:

- (a) *Actual Cost* incurred or to be treated as incurred by the *Client* and each *CAM*; and
- (b) *Fee* due to each *CAM*,

in each case in accordance with the *Framework Alliance Contract*;

Relevant Authorities – means all public authorities, courts, governmental agencies, bodies or instrumentalities, international, national, regional or local bodies, agencies or instrumentalities, regulatory authorities or other bodies having jurisdiction over any of the *Alliance Members*, the *Site*, any *Works*, the execution of any *Projects* forming part of *Framework Programme* including water, water treatment, electricity suppliers or suppliers providing other public utilities ;

Relevant Period – means [*10 (ten)] years from the *Final Programme Completion Date* or date of termination of the *Framework Alliance Contract* (as the case may be);

Reserved Powers – the reserved powers referred to in clause 7.22;

Risk and Contingency Provision – means for each *CAM* the provision for all possible *Actual Cost* which may be incurred by the relevant *CAM* or all *CAMs* (as the case may be), associated with risks that may arise in performing the *Projects* comprising the *Framework Programme*;

Risk Management – a structured approach to ensure that risks are identified at the earliest opportunity, that their potential impacts are allowed for and that by agreed actions those risks and/or their impacts are eliminated, reduced, insured, shared or apportioned;

Risk Register – the risk register set out in Schedule 3 to the *Framework Alliance Agreement* and updated in accordance with clause 9.12, describing recognised risks and agreed *Risk Management* actions in relation to the *Framework Programme* and agreed *Alliance Activities*;

Section – means a part of a *Project Package* identified as a *Section* in the *Projects Proposal*;

Sensitive Information – shall include any information of any nature, including but not limited to technical and/or commercial data, documentation or knowledge, whether written or orally imparted; electronically or otherwise stored independent of format or medium, which is confidential by nature and in particular where the loss, misuse or modification of which, or unauthorized access to, could adversely affect the privacy, welfare or safety of an individual or individuals; compromise intellectual property or trade secrets of an organization; cause commercial or economic harm to an organization or country; and/or jeopardize the security, internal and foreign affairs of a nation, depending on the level of sensitivity and nature of the information. The term *Sensitive Information* also includes any tangible material and samples provided by an *Alliance Member* which is confidential by nature, including

Scope Variation – the scope variation referred to in clause 9.5;

Scope Variation Benchmarking Guidelines – means the *Scope Variation* benchmarking guidelines included in the *Projects Proposal* which set out indicative examples of when a direction by the Client may be or shall not be a *Scope Variation*;

Scope Variation Report – the *Scope Variation* report referred to in clause 9.8;

Section – means a part of a *Project Package* identified as a *Section* in the *Projects Proposal*;

Sensitive Information – shall include any information of any nature, including but not limited to technical and/or commercial data, documentation or knowledge, whether written or orally imparted; electronically or otherwise stored independent of format or medium, which is confidential by nature and in particular where the loss, misuse or modification of which, or unauthorized access to, could adversely affect the privacy, welfare or safety of an individual or individuals; compromise intellectual property or trade secrets of an organization; cause commercial or economic harm to an organization or country; and/or jeopardize the security, internal and foreign affairs of a nation, depending on the level of sensitivity and nature of the information. The term *Sensitive Information* also includes any tangible material and samples provided by an *Alliance Member* which is confidential by nature, including material which altered or fused with said material or was newly created through the use of said material;

The term *Sensitive Information* shall however not include information where the receiving *Alliance Member* can prove that:

- a) At the time of disclosure to the *Alliance Member* and/or its Personnel, the information is already in the public domain or which subsequently becomes available in the public domain otherwise than as a consequence of a breach a confidentiality obligation under the *Framework Alliance Contract*;
- b) the information was lawfully in the possession of the receiving *Alliance Member* and its Personnel before the date of disclosure or has been cleared for disclosure by the disclosing *Alliance Member*;
- c) the information has been independently and without use of the Sensitive Information of the disclosing *Alliance Member* and/or its Personnel developed by the receiving *Alliance Member* and/or its Personnel;

Sharing Arrangements – as defined in clause 2.13

Significant Corporate Change – means any of the following events:

- a) the sale of more than 50% (fifty percent) of the *CAM's* authorized or issued capital stock or any equivalent thereof;
- b) the sale, lease, exchange, or other disposition of all or substantially all of the *CAM's* assets;
- c) the *CAM's* split, merger, transformation, consolidation with or into another entity or any other modification to the *CAM's* legal structure];

Site – means any part of the site where the *Projects* comprising the *Framework Programme* are to be performed or to which access is reasonably required in order to perform the *Projects* comprising the *Framework Programme*;

Software Works – means any software forming part of the *Works* as opposed to software used in the development of the design;

Special Terms – any terms supplementing or amending the *Contract Terms* pursuant to clause 13.5, as set out in Part 2 of Schedule 6 to the *Framework Alliance Agreement*;

Stakeholders – any one or more organisations or groups of individuals, as stated in the *Framework Alliance Agreement* by reference to clause 1.11, who are not *Alliance Members* and who have an interest relating to the *Framework Programme*;

Submission Date – means the latest date for submission of the *Projects Proposal*, as indicated in the *Timetable*;

Success Measures – the success measures in respect of achievement of the *Objectives* and the performance of the *Alliance Members* as set out in Schedule 7;

Supply Chain – any party or *Alliance Members* providing to one or more *Alliance Members Project* or services or supplies of goods, materials or equipment;

Supply Chain Collaboration – any activities agreed to be performed by *Alliance Members* under clause 6.3 in order to achieve *Improved Value* through more consistent, longer term, larger scale *Supply Chain Contracts* and through other improved *Supply Chain* commitments and working practices;

Supply Chain Contract – a contract entered into between an *Alliance Member* and any of its *Supply Chain*;

Sustainability – measures intended to reduce carbon emissions, to reduce use of energy and or natural and manmade resources, to improve waste management, to improve employment and training opportunities, and otherwise to protect or improve the condition of the *Environment* or the well-being of people;

Targets – the *Targets* in respect of the *Success Measures* as set out in Schedule 7;

Template Project Documents – the template documents used in creating each *Project Contract* as described in Schedule 5 to the *Framework Alliance Agreement* including the *Project Contract Conditions*;

Third Party – means person or entity which is not the *Client* or an *CAM*;

Timetable – the timetable set out in Schedule 2 to the *Framework Alliance Agreement* and updated in accordance with clause 2.6 stating agreed deadlines, gateways and milestones in respect of the *Framework Programme*, achievement of the *Objectives* and the timescales for *Alliance Activities*;

User – any person or party using a *Project*;

Willful Default or Default – means in respect of any *Alliance Member*:

- a) a purposeful act or omission, substantiated by cogent evidence of a deliberate intent, carried out with conscious or calculated disregard for the consequences by the relevant *Alliance Member*, any director,

officer, employee, agent or representative of the relevant *Alliance Member* on the *Core Group*, *AMT* or any *Supply Chain* member of the relevant *Alliance Member*;

- b) any act or omission involving deceit or fraud by the *Alliance Member*, any director, officer, employee, agent or representative of the relevant *Alliance Member* on the *Core Group* or *AMT* or any *Supply Chain* member of the relevant *Alliance Member*;
- c) unilateral withdrawal or abandonment of the *Framework Alliance Contract* by the relevant *Alliance Member*, but does not include any error of judgement, mistake, act or omission, whether negligent or not, which is made in good faith by:
 - (i) the *Alliance Member*;
 - (ii) any director, officer, employee or agent of the *Alliance Member*;
 - (iii) any representative of the *Alliance Member* on the *Core Group*, *AMT* or *Alliance Design Team*;
or
 - (iv) any *Supply Chain* member of the *Alliance Member*;

Working Day – any day other than a weekend or public holiday recognised in the country where the *Framework Programme* is located.

Working Premises – means the office or offices provided by the *Client* in accordance with the *Framework Brief*;

Works – means any works, services, supplies and obligations to be performed by an *CAM* as part of a *Framework Programme*;

Works Status Reports – mean the monthly reports prepared by the *AMT* and submitted by the *Alliance Manager* to the *Core Group* in accordance with the *Framework Brief*.

[*The following definitions relate to *BIM* and the application of ISO19650#; they are used in the Drafting Notes:

Definition		Source
appointed party	‘provider of information concerning works, goods or services’	As defined under ISO 19650-1 clause 3.2.3
appointing party	‘receiver of information concerning works, goods or services from a lead appointed party ’	As defined under ISO 19650-1 clause 3.2.4
asset	‘item, thing or entity that has potential or actual value to an organization’	As defined under ISO 19650-1 clause 3.2.8
common data environment (CDE)	‘agreed source of information for any given <i>Project</i> or asset for collecting, managing and disseminating each information containers through a managed process’	As defined under ISO 19650-1 clause 3.3.15

Definition		Source
<i>delivery phase</i>	'part of the <i>life cycle</i> , during which an <i>asset</i> is designed, constructed and commissioned'	As defined under ISO 19650-1 clause 3.2.11
<i>delivery team</i>	' <i>lead appointed party</i> and their <i>appointed parties</i> '	As defined under ISO 19650-1 clause 3.2.6
<i>information container</i>	'named persistent set of information retrievable from within a file, system or application storage hierarchy'	As defined under ISO 19650-1 clause 3.3.12
<i>lead appointed party</i>	'an <i>appointed party</i> identified for each <i>delivery team</i> '	As defined under ISO 19650-1 clause 3.2.3
<i>life cycle</i>	'life of the <i>asset</i> from the definition of its requirements to the termination of its use, covering its conception, development, operation, maintenance, support and disposal'	As defined under ISO 19650-1 clause 3.2.10
<i>master information delivery plan (MIDP)</i>	'plan incorporating all relevant <i>task information delivery plans (TIDP)</i> '	As defined under ISO 19650-2 clause 3.1.3.3
<i>task information delivery plan (TIDP)</i>	'schedule of <i>information containers</i> and delivery dates, for a specific <i>task team</i> '	As defined under ISO 19650-2 clause 3.1.3.4
<i>task team</i>	'individuals assembled to perform a specific task'	As defined under ISO 19650-1 clause 3.2.7

APPENDIX 2

FORM OF JOINING AGREEMENT

(see clauses 1.12 and 14.8)

THIS JOINING AGREEMENT is made the _____ day of _____

IN RELATION TO _____

(the *Framework Programme*)

BETWEEN _____ (the *Additional Alliance Member*) and the *Alliance Members* named below to a Framework Alliance Contract dated _____ (the *Framework Alliance Contract*)

WHO AGREE that words and expressions in this *Joining Agreement* shall have the same meanings as in the *Framework Alliance Contract*, and that with effect from _____ the *Additional Alliance Member* shall be a party to the *Framework Alliance Contract* and that the *Additional Alliance Member's* role, expertise and responsibilities, its *Core Group* member, its agreed insurances and any additional and amended *Framework Documents* shall be as follows:

The role, expertise and responsibilities of the *Additional Alliance Member* are:

The *Core Group* member nominated by *Additional Alliance Member* is:

The insurances of *Additional Alliance Member* are:

The additional and amended *Contract Terms* and other *Framework Documents* are:

[Executed by the *Client*, the *Additional Alliance Member* and all other *Alliance Members*]

APPENDIX 3

INSURANCE POLICIES

1 *Alliance Members' liability for breach of professional duty*

In respect of the *Works* performed during the *Design Phase*, the *Client* shall effect and maintain professional indemnity insurance and all other insurances required by the laws of the countries where (any part of) the *Works* are being carried out for the *Alliance* without unusual or onerous conditions or excesses against liability arising out of any act, error or omission by the *CAMs* in carrying out the design obligations, and against any act, error or omission by the *Client*, if they shall carry out any part of the design, in an amount agreed by the *Core Group*, with a limit of indemnity of not less than EUR [*amount in numbers (*amount in words)], for any one occurrence and in the yearly aggregate.

Such professional indemnity insurance shall also indemnify the *CAMs* against liability arising out of any act, error or omission by the *CAMs* in carrying out the design obligations that results in the *Works* (or section or major item of plant, if any), when completed, not being fit for the purposes for which they are intended.

The *Client* shall maintain this insurance for the period specified by the *Core Group*.

2 *Other insurances*

The *CAMs* and the *Client* may provide the insurances other than the ones mentioned above in clause 1 of this *Schedule*, and their cost shall be considered to be included in the *Overheads*.

APPENDIX 4

Part 1

DISPUTE BOARD RULES

1 Dispute Board Rules

- 1.1. Disputes shall be resolved by a dispute avoidance and adjudication board (“**DAAB**”) in accordance with this Appendix. The current rules only apply to disputes under the *Collaborative Agreement* as per clause 15.2. Disputes under *Project Contracts* will be regulated by rules within each individual agreement.
- 1.2. The governing principles applied by the *Alliance Members*, the *Core Group* and the *DAAB* members in handling any dispute under the *Collaborative Agreement* shall be those listed in the *Alliance Charter* as well as fast resolution, commitment to no-blame culture, joint satisfaction and consensus.
- 1.3. If the dispute cannot be resolved by the *Core Group* as per clause 15.1, in at least two separate *Core Group* meetings, any of the *Alliance Members* involved in the dispute can give a notice to the other *Alliance Members* involved in that dispute of its referral to a *Dispute Board*.
- 1.4. The *Core Group* shall jointly appoint the *DAAB* within [*28 (twenty-eight) calendar days] after entry into force of the *Framework Alliance Contract*.
- 1.5. The *DAAB* shall comprise of three members. At least one of the *DAAB* members should have previous proven experience in collaborative construction projects. The other two *DAAB* members can be chosen from the [**FIDIC President's List of Approved Dispute Adjudicators*] or other similar professional body’s list, agreed by the *Core Group*.
- 1.6. The *Core Group* shall decide who shall be appointed to act as a chairman.
- 1.7. If a *DAAB* member needs to be replaced due to death, illness, disability, resignation or termination of appointment, a replacement *DAAB* member shall be appointed in the same manner as the replaced member was required to have been appointed. All actions taken by the *DAAB* prior to the replacement of the *DAAB* member shall remain valid.
- 1.8. If the *Core Group* fails to appoint any of the members of the *DAAB* within the period under Article 1.4 above or, in the case of an appointment of a replacement member, within a period of [*14 (fourteen) calendar days] from the date when a request for a replacement is made by an *Alliance Member*, the *DAAB* member who has not been appointed, or all of the *DAAB* members, in case no *DAAB* member has been appointed, shall be appointed by [**ICC International Centre for ADR*] **[Drafting Note: it is recommended to contact the Centre to confirm that they will be willing to make appointments under the Contract, alternatively another appointing authority may be indicated]** upon the request of any *Alliance Member* involved in the dispute.
- 1.9. Each *DAAB* member must be and remain impartial and independent from the *Alliance Members*.
- 1.10. All the *Alliance Members* involved in the dispute must enter into a dispute adjudication agreement with the appointed members of the *DAAB* on terms defined in Appendix 4, Part 3. The *DAAB* shall be deemed to be constituted on the date that the *Alliance Members* involved in the dispute and the members of the *DAAB* have all signed the dispute adjudication agreement. If the *DAAB* members have been appointed but such appointment cannot be effected because one or more of the *Alliance Members* fail to sign the dispute adjudication agreement, the appointing authority under Article 1.9 above shall, after due consultation with the *Alliance Members* and the appointed *DAAB* members, set the terms of appointment of the *DAAB* members. Thereafter, these terms shall be final and conclusive and the *Alliance Members* involved in the dispute and the *DAAB* members shall be deemed to have

signed and be bound by the dispute adjudication agreement.

1.11. The appointment of any *DAAB* member may be terminated by mutual agreement of all *Alliance Members* involved in the dispute, but not by one or several of the *Alliance Members* acting alone.

1.12. The following provisions shall apply to the dispute resolution process before the *DAAB*:

1.12.1. Within [*21 (twenty-one) calendar days] after the notice of referral of the dispute to the *Dispute Board* the *Alliance Member* that gave a notice of referral of the dispute to must deliver to the *DAAB* a notice setting out the dispute, together with particulars, with a copy to all *Alliance Members* involved in the dispute;

1.12.2. The *Alliance Members* involved in the dispute must:

1.12.2.1. comply with all the principle under 1.2 in this Appendix

1.12.2.2. cooperate in good faith with the *DAAB*;

1.12.2.3. copy all other *Alliance Members* involved in the dispute when sending communications to the *DAAB*; and

1.12.2.4. provide the *DAAB* with all of the information, documents and assistance necessary for the *DAAB* to make a decision in respect of the dispute within the period under Article 1.13 below and ensure that such information is made available to all of the other *Alliance Members* involved in the dispute;

1.12.3. The *DAAB Members* and the *DAAB* shall:

1.12.3.1. not act as arbitrator(s);

1.12.3.2. act impartially and may take the initiative in ascertaining the facts and the law

1.12.3.3. establish the procedure to be applied in reaching decisions and proceed in any manner the *DAAB* thinks appropriate

1.12.3.4. decide on the *DAAB's* own jurisdiction, and the scope of any dispute referred to the *DAAB*;

1.12.3.5. conduct site visits and inspections upon the giving of reasonable notice to the *Alliance Members* involved in the dispute;

1.12.3.6. make use of a *DAAB* member's own knowledge and expertise;

1.12.3.7. collaborate transparently with *Alliance Members* in ascertaining the facts

1.12.3.8. appoint one or more experts (including legal and technical expert(s), with the agreement of the *Alliance Members* involved in the dispute;

1.12.4. The *DAAB* may, if it thinks appropriate, arrange to meet or otherwise have discussions with the *Alliance Members* involved in the dispute, together but not separately, and in connection with any such meetings or discussions:

1.12.4.1. an *Alliance Member* may be accompanied by legal or other advisors; and

1.12.4.2. the *Alliance Members* agree to be bound by such procedural directions as may be given by the *DAAB*, both in preparation for and during the course of the meeting or discussions;

1.12.5. The *Alliance Members* involved in the dispute agree and undertake to produce such information and documents as the *DAAB* may from time to time direct in such place and at such time as the *DAAB* may direct;

- 1.12.6. if any of the *DAAB* members becomes aware of any circumstance which might reasonably be considered to adversely affect his or her impartiality or independence, the *DAAB* member will immediately inform the *Alliance Members* involved in the dispute and the other *DAAB* members.
- 1.13. The *DAAB* shall give its decision concerning the dispute within [*84 (eighty-four) calendar days] from receiving the notice under Article 1.13.1 above, or such extended period as may be proposed by the *DAAB* and agreed by the *Alliance Members* involved in the dispute. The *DAAB* decision shall be binding on the *Alliance Members* involved in the dispute who shall promptly comply with it irrespective of whether an *Alliance Member* gives a notice of dissatisfaction with respect to such decision under Article 5.11 below.
- 1.14. The *DAAB* decision shall be binding until the dispute is finally determined by legal proceedings, by arbitration or by agreement.
- 1.15. Any notice of dissatisfaction against the *DAAB* decision must be sent by an *Alliance Member* to the other *Alliance Members* involved in the dispute within [*28 (twenty-eight) calendar days] of receiving the decision.
- 1.16. *Alliance Members* shall not be entitled to commence arbitration under Part 2 below in relation to a dispute under the *Collaborative Agreement* unless a notice of dissatisfaction against that dispute has been issued in accordance with this Article.
- 1.17. The costs of dispute adjudication shall be borne by all the *Alliance Members* involved in the dispute adjudication equally, unless they agree otherwise. These costs will not be treated as *Actual Costs*.

PART 2

ARBITRATION

(see clause 15.3)

1. If, upon receipt of a *DAAB* decision, any *Alliance Member* that is subject to such decision is dissatisfied with such decision, then such *Alliance Member* may give notice of dissatisfaction to the other one or more *Alliance Members* in dispute, within [*28 (twenty-eight) calendar days] upon receipt of the decision, requiring that the matter be referred to the arbitration of an individual to be appointed under this procedure.
2. The *Alliance Member* giving notice may require the matter to be referred to arbitration by one or more arbitrators, in accordance with the rules and at the location as are stated in the *Framework Alliance Agreement*.
3. If, in the opinion of any *Alliance Member* in dispute, any dispute to be referred to arbitration under the *Framework Alliance Contract* raises matters which are connected with matters raised in another dispute between the same and/or other *Alliance Members* that has already been referred to arbitration under the *Framework Alliance Contract*, then the *Alliance Members* in dispute shall arrange for their dispute to be referred to the arbitrator(s) first appointed who shall have the power to deal with all those connected disputes as he or she or they think most just and convenient.
4. The arbitrator(s) appointed under the *Framework Alliance Contract* shall have full power to open up, review and revise any notice, decision, consent, approval, valuation, opinion or instruction of any *Alliance Member*, and his or her or their award shall be final and binding on the *Alliance Members* in dispute.

PART 3

MODEL DISPUTE ADJUDICATION AGREEMENT

Drafting Note: Any text within square brackets highlighted in yellow in this Model Dispute Avoidance and Adjudication Agreement is for use in preparing the form and should be deleted from the final text.

This *DAAB Agreement* is made on [*insert date], between:

[*Add below the name and contact details of all Alliance Members involved in the dispute that has been referred to adjudication]

Name and contact details of the *Alliance Member*: [*insert name and details of the Alliance Member, including address, telephone and e-mail],

Name and contact details of the *Alliance Member*: [*insert name and details of the Alliance Member, including address, telephone and e-mail],

Name and contact details of the *Alliance Member*: [*insert name and details of the Alliance Member, including address, telephone and e-mail]

(together the “*DAAB Alliance Members*”) and

Name and contact details of the *DAAB Member* [*insert name and details of the DAAB Member, including address, telephone and e-mail].

Whereas:

- A. The *Alliance Members* have entered into a *Framework Alliance Contract* for *Integrated Fusion Project Delivery* (the “*Contract*”);
- B. Under the *Contract*, the *DAAB* shall comprise three members appointed in accordance with the procedure set out in the *Dispute Board Rules* [Appendix 4 Part 1] of the *Contract*;
- C. The *DAAB Alliance Members* desire jointly to appoint the above-named *DAAB Member* to act on the *DAAB* as the chairman of the *DAAB*;
- D. The *DAAB Member* accepts this appointment.

The *DAAB Alliance Members* and the *DAAB Member* jointly agree as follows:

- 1. The conditions of this *DAAB Agreement* comprise:
 - (a) Clause 10.3 and 10.4 of the *Contract*, and any other provisions of the *Contract* that are applicable to the *DAAB*’s activities.
- 2. The *DAAB Member* shall be paid in accordance with the provisions below. The currency of payment shall be [*specify currency].
 - (a) The *DAAB Member* shall be paid a daily fee in the amount of [*specify an amount].
 - (b) The daily fee shall be considered as payment in full for each day spent on travelling in carrying out its duties, attending hearings or in preparation for such hearings, including studying the written documentation and arguments from the *Alliance Members* submitted to the *DAAB* and communicating with the other *DAAB Members*, attending meetings with the *DAAB Alliance Members*, and making site visits.
 - (c) All reasonable expenses, including travel expenses (including air fare, hotel and subsistence and other direct travel expenses) incurred in connection with its duties, as well as the costs of

telephone or video calls, courier charges and faxes. The *DAAB Member* shall provide the *DAAB Alliance Members* with a receipt for each item of expenses.

- (d) The *DAAB Member* shall submit invoices for payment of the daily fees and for its other expenses following the conclusion of a hearing, site visit or a meeting. All invoices shall be accompanied by a brief description of the *DAAB Member's* activities performed during the relevant period.
 - (e) The *DAAB Alliance Members* shall pay each of the *DAAB's* invoices within [*28 (twenty-eight) days] after receiving each invoice.
- 3. In consideration of the above fee and other payments to be made to the *DAAB Member*, the *DAAB Member* undertakes to act as *DAAB Member* in accordance with the terms of this *DAAB Agreement* and the *Contract*.
 - 4. The *DAAB Alliance Members* shall be jointly and severally liable for the *DAAB Member's* fees and other payments to be made to the *DAAB Member*.
 - 5. This *DAAB Agreement* shall be governed by the law of [*specify the governing law] (if not stated, the law that governs the *Contract* under Clause 15.5 [Law and jurisdiction] of the *Contract*).

For and behalf of *Alliance Member* [insert name of the *Alliance Member*]

Signature: [signature]

Name [insert name and capacity]

Date [insert date]

For and behalf of *Alliance Member* [insert name of the *Alliance Member*]

Signature: [signature]

Name [insert name and capacity]

Date [insert date]

For and behalf of *Alliance Member* [insert name of the *Alliance Member*]

Signature: [signature]

Name [insert name and capacity]

Date [insert date]

For and behalf of *DAAB Member*

Signature: [signature]

Name [insert name of the *DAAB Member*]

Date [insert date]

APPENDIX 5

FORM OF PARENT COMPANY GUARANTEE

[*Official name of the third party and address of registered office], (the “**Third Party**”), represented for the purpose of signature of this undertaking by [*name, surname and position within the economic operator’s organisation], duly authorised to represent and act on behalf of the Third Party.

Recognises that [*official name of the contractor] – the *Contractor Alliance Member* (the “**CAM**”) of contract [*reference] (the “**Framework Alliance Contract**”) relies on the financial capacities of the *Third Party*.

Therefore the *Third Party* shall put at the disposal of the *CAM*, for performance of the *Framework Alliance Contract*, all financial resources necessary for the fulfilment of the contractual obligations under the *Framework Alliance Contract*.

As a consequence, the *Third Party* hereby expressly commits:

1. to ensure that the *CAM* performs all its contractual obligations in conformity with the provisions and within the limits of the *Framework Alliance Contract* according to their true intent and meaning;
2. to provide the *CAM* with such financial support and assistance as may be required to ensure the fulfilment of all its obligations under the *Framework Alliance Contract* and within the limits of the *Framework Alliance Contract*;
3. if the *CAM* fails to so perform its obligations or assume its liabilities under the *Framework Alliance Contract*, to indemnify the other Alliance Members to the *Framework Alliance Contract* against and from all damages, losses and expenses (including legal fees or expenses) which arise from any such failure for which the *CAM* is liable to the other *Alliance Members* to the *Framework Alliance Contract* under the *Framework Alliance Contract*.

It is understood and agreed that the obligations and liabilities of the *Third Party* under this undertaking shall be concurrently reduced and discharged by the amount and to the extent of the *CAM* obligations duly fulfilled by the *CAM* and paid and discharged by the Client pursuant to the *Framework Alliance Contract*.

Nothing herein shall be construed as imposing greater liabilities on the *Third Party* than are imposed on the *CAM* under the Contract. The *Third Party* shall be entitled to all defences, limitations and exclusions of liability available to the *CAM* under the *Framework Alliance Contract*.

The *Third Party* and the *Client* under the *Framework Alliance Contract* may not assign or otherwise transfer their obligations or rights under this undertaking to any other party without the prior consent of the *Third Party* or the *Client* under the *Framework Alliance Contract* as the case may be, the exercise of which shall be in the *Client’s* under the *Framework Alliance Contract* or the *Third Party’s* sole discretion which shall not be unduly retained.

This undertaking shall become effective upon the date the *Framework Alliance Contract* between the *CAM* and the *Client* under the *Framework Alliance Contract* enters into force and shall remain in full force and effect until the end of the warranty period as defined in the *Framework Alliance Contract*.

The commitments entered into by the *Third Party* through signature of this undertaking are firm, irrevocable and unconditioned for the same period of time.

This undertaking is governed by the law governing the *Framework Alliance Contract*. Any dispute that may arise between the *Client* under the *Framework Alliance Contract* and the *Third Party* under this undertaking shall be dealt with in accordance with the provisions for settlement of disputes of the *Framework Alliance*

Contract.

Name and position

Duly authorised to represent and act on behalf of the *Third Party*

Name of the company/organisation

Date and signature

APPENDIX 6

PART 1

FORM OF DECLARATION OF FOREGROUND INTELLECTUAL PROPERTY OR
INFORMATION

Drafting Note: The Schedule includes a template that shall be adapted and aligned with the particular needs of the specific Project.

Contract Ref.	XXX-XX
Title of the Contract	
Declaring company/entity	<input type="checkbox"/> CAM: <input type="checkbox"/> Subcontractor:
Contact person of the declaring company/entity	Name: E-mail address:
List of items included in this Foreground declaration	1. Item #1 2. Item #2 3. Item #3
List of Confidential items included in this Foreground declaration	1. Item #1 2. Item #2
Signature of the present Foreground declaration by the declaring company/entity	Signature: Name and position of the Undersigned: Date and place of the signature:

Contract Ref.:

1. ITEM #1			
Confidential	<input type="checkbox"/> YES <input type="checkbox"/> NO		
Technology Code (4 digits)			
Description	Description of the Item		
<table border="1"> <tr> <td>Contract Ref.:</td> <td>Item: Item #1</td> </tr> </table>		Contract Ref.:	Item: Item #1
Contract Ref.:	Item: Item #1		

Owner	<input type="checkbox"/> Client
Type of protection (check more than one box if necessary)	<input type="checkbox"/> Patent Publication/Application no.: <input type="checkbox"/> Patent is being considered. <input type="checkbox"/> It is not patentable (does not accomplish legal requirements for patentability). <input type="checkbox"/> Trade secrets, it is kept confidential. <input type="checkbox"/> Protection via copyright. <input type="checkbox"/> Other:
Publications (e.g. scientific papers, conferences)	<input type="checkbox"/> YES, Publication References: <input type="checkbox"/> NO
Is it related to any deliverable of the contract?	<input type="checkbox"/> YES, references: <input type="checkbox"/> NO
Does it depend on declared items in the Background declaration? (check more than one box if necessary)	<input type="checkbox"/> YES, own prior IP: <input type="checkbox"/> YES, belonging to a third party, e.g. Licenses granted to CAM /Subcontractor: <input type="checkbox"/> NO
Does the CAM/Subcontractor want to use the Foreground?	<input type="checkbox"/> YES, for the Project only <input type="checkbox"/> YES, for own business of the CAM/Subcontractor (written permission from the Client is needed) <input type="checkbox"/> NO
Possible applications beyond the subject matter of the Contract	<input type="checkbox"/> <input type="checkbox"/>

Contract Ref.:	Item: Item #2
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3. ITEM #2	
Confidential	<input type="checkbox"/> YES <input type="checkbox"/> NO
Technology Code	
Description	Description of the Item

Contract Ref.:	Item: Item #3
-----------------------	----------------------

Owner	<input type="checkbox"/> Client
Type of protection (check more than one box if necessary)	<input type="checkbox"/> Patent Publication/Application no.: <input type="checkbox"/> Patent is being considered. <input type="checkbox"/> It is not patentable (does not accomplish legal requirements for patentability). <input type="checkbox"/> Trade secrets, it is kept confidential. <input type="checkbox"/> Protection via copyright. <input type="checkbox"/> Other:
Publications (e.g. scientific papers, conferences)	<input type="checkbox"/> YES, Publication References: <input type="checkbox"/> NO
Is it related to any deliverable of the contract?	<input type="checkbox"/> YES, references: <input type="checkbox"/> NO
Does it depend on declared items in the Background declaration? (check more than one box if necessary)	<input type="checkbox"/> YES, own prior IP: <input type="checkbox"/> YES, belonging to a third party, e.g. Licenses granted to CAM /Subcontractor: <input type="checkbox"/> NO
Does the CAM/Subcontractor want to use the Foreground?	<input type="checkbox"/> YES, for the Project only <input type="checkbox"/> YES, for own business of the CAM/Subcontractor (written permission from the Client is needed) <input type="checkbox"/> NO
Possible applications beyond the subject matter of the Contract	<input type="checkbox"/> <input type="checkbox"/>

Contract Ref.:	Item: Item #3
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2. ITEM #3	
Confidential	<input type="checkbox"/> YES <input type="checkbox"/> NO
Technology Code	
Description	Description of the Item

Contract Ref.:	Item: Item #2
-----------------------	----------------------

Owner	<input type="checkbox"/> Client
Type of protection (check more than one box if necessary)	<input type="checkbox"/> Patent Publication/Application no.: <input type="checkbox"/> Patent is being considered. <input type="checkbox"/> It is not patentable (does not accomplish legal requirements for patentability). <input type="checkbox"/> Trade secrets, it is kept confidential. <input type="checkbox"/> Protection via copyright. <input type="checkbox"/> Other:
Publications (e.g. scientific papers, conferences)	<input type="checkbox"/> YES, Publication References: <input type="checkbox"/> NO
Is it related to any deliverable of the contract?	<input type="checkbox"/> YES, references: <input type="checkbox"/> NO
Does it depend on declared items in the Background declaration? (check more than one box if necessary)	<input type="checkbox"/> YES, own prior IP: <input type="checkbox"/> YES, belonging to a third party, e.g. Licenses granted to CAM /Subcontractor: <input type="checkbox"/> NO
Does the CAM/Subcontractor want to use the Foreground?	<input type="checkbox"/> YES, for the Project only <input type="checkbox"/> YES, for own business of the CAM/Subcontractor (written permission from the Client is needed) <input type="checkbox"/> NO
Possible applications beyond the subject matter of the Contract	<input type="checkbox"/> <input type="checkbox"/>

APPENDIX 6 PART 2**FORM OF DECLARATION OF BACKGROUND INTELLECTUAL PROPERTY OR INFORMATION**

Contract Ref.	XXX-XX
Title of the Contract	
Declaring company/entity	<input type="checkbox"/> CAM: <input type="checkbox"/> Subcontractor:
Contact person of the declaring company/entity	Name: E-mail address:
List of items included in this Background declaration	1. Item #1 2. Item #2 3. Item #3
List of Confidential items included in this Background declaration	3. Item #1 4. Item #2
In case there would be no Background Intellectual Property to be declared	<input type="checkbox"/> I declare that I have no background intellectual property to declare for this contract
Signature of the present Background declaration by the declaring company/entity	Signature: Name and position of the Undersigned: Date and place of the signature:

Contract Ref.:

1. ITEM #1	
Confidential	<input type="checkbox"/> YES <input type="checkbox"/> NO
Technology Code (4 digits)	
Description	Description of the Item

Contract Ref.:	Item: Item #1
-----------------------	----------------------

Owner	<input type="checkbox"/> CAM <input type="checkbox"/> Subcontractor <input type="checkbox"/> Third Party
Type of protection	<input type="checkbox"/> Patent Publication/Application no.: <input type="checkbox"/> Trade secrets, it is kept confidential. <input type="checkbox"/> Copyright (e.g. database, software, drawings, etc.) <input type="checkbox"/> Other:
Publications (scientific papers, conferences, etc.)	<input type="checkbox"/> YES, Publication References: <input type="checkbox"/> NO
Does it depend on other declared items in this Background declaration?	<input type="checkbox"/> YES, OWN IP: <input type="checkbox"/> YES, BELONGING TO A THIRD PARTY: <input type="checkbox"/> NO
Licenses granted	<input type="checkbox"/> YES, with following details (licensor, licensee, exclusivity, scope, etc.): <input type="checkbox"/> NO

Contract Ref.:

2. ITEM #2	
Confidential	<input type="checkbox"/> YES <input type="checkbox"/> NO
Technology Code (4 digits)	
Description	Description of the Item

Contract Ref.:	Item: Item #2
-----------------------	----------------------

Owner	<input type="checkbox"/> CAM <input type="checkbox"/> Subcontractor <input type="checkbox"/> Third Party
Type of protection	<input type="checkbox"/> Patent Publication/Application no.: <input type="checkbox"/> Trade secrets, it is kept confidential. <input type="checkbox"/> Copyright (e.g. database, software, drawings, etc.) <input type="checkbox"/> Other:
Publications (scientific papers, conferences, etc.)	<input type="checkbox"/> YES, Publication References: <input type="checkbox"/> NO
Does it depend on other declared items in this Background declaration?	<input type="checkbox"/> YES, OWN IP: <input type="checkbox"/> YES, BELONGING TO A THIRD PARTY: <input type="checkbox"/> NO
Licenses granted	<input type="checkbox"/> YES, with following details (licensor, licensee, exclusivity, scope, etc.): <input type="checkbox"/> NO

Contract Ref.:

3. ITEM #3	
Confidential	<input type="checkbox"/> YES <input type="checkbox"/> NO
Technology Code (4 digits)	
Description	Description of the Item

Contract Ref.:	Item: Item #3
-----------------------	----------------------

Owner	<input type="checkbox"/> CAM <input type="checkbox"/> Subcontractor <input type="checkbox"/> Third Party
Type of protection	<input type="checkbox"/> Patent Publication/Application no.: <input type="checkbox"/> Trade secrets, it is kept confidential. <input type="checkbox"/> Copyright (e.g. database, software, drawings, etc.) <input type="checkbox"/> Other:
Publications (scientific papers, conferences, etc.)	<input type="checkbox"/> YES, Publication References: <input type="checkbox"/> NO
Does it depend on other declared items in this Background declaration?	<input type="checkbox"/> YES, OWN IP: <input type="checkbox"/> YES, BELONGING TO A THIRD PARTY: <input type="checkbox"/> NO
Licenses granted	<input type="checkbox"/> YES, with following details (licensor, licensee, exclusivity, scope, etc.): <input type="checkbox"/> NO

APPENDIX 6 PART 3
ESCROW AGREEMENT TEMPLATE
ESCROW AGREEMENT

BETWEEN

[*insert name of escrow agent] (“**Escrow Agent**”) AND

[*insert name of customer] (“**Principal**”) AND

[*insert name of supplier] (“**Supplier**”)

Agreement dated: [*]

BACKGROUND

- A. By agreement dated [*] the Supplier has agreed to licence to the Principal the use of certain software.
- B. The Supplier and the Principal have agreed to appoint an escrow agent and the Escrow Agent has agreed to act as escrow agent and to hold the Source Code to the Software on the following terms and conditions.

AGREED TERMS

1 INTERPRETATION AND DEFINITIONS

1.1 In this Agreement unless the contrary is clearly intended:

- 1.1.1. “**Licence Agreement**” means the agreement between the Supplier and the Principal as detailed in Appendix 1;
- 1.1.2. “**Commencement Date**” means the date specified in Appendix 1;
- 1.1.3. “**Escrow Fee**” means the fee set out in Appendix 1;
- 1.1.4. “**Software**” means the software, including software tools, described in Appendix 1;
- 1.1.5. “**Source Code**” means the Software, including software tools, expressed in human-readable language which is necessary for the understanding, maintaining, modifying, correcting and enhancing of the Software specified in Appendix 1;
- 1.1.6. “**Supporting Material**” means all the material and data developed and used in and for the purpose of creating the software including but not limited to compiled object code, tapes, operating manuals and other items listed in Appendix 1.
- 1.1.7. Other terms defined in the Agreement have the same meaning in this Agreement.

1.2 In this Agreement unless the contrary intention appears:

- 1.2.1 the Clause headings are for convenient reference only and have no effect in limiting or extending the language of the provisions to which they refer;
- 1.2.2 a cross reference to a Clause number is a reference to all its Sub-clauses;

1.2.3 words in the singular number include the plural and vice versa;

1.2.4 words importing a gender include any other gender;

1.2.5 a reference to a person includes a partnership and a body, whether corporate or otherwise;

1.2.6 a reference to an Annexure or Schedule is a reference to an Annexure or Schedule to this Agreement;

1.2.7 where a word or phrase is given a particular meaning, other parts of speech and grammatical forms of that word or phrase have corresponding meanings;

1.2.8 monetary references are references to euros;

1.2.9 references to natural persons include corporations and vice versa; and

1.2.10 the plural includes the singular and vice versa.

- 1.3 Where an obligation is imposed on a party under this Agreement, that obligation shall be deemed to include an obligation to ensure that no act, error or omission on the part of the party's employees, agents or sub-contractors or their employees or agents occurs which prevent the discharge of that party's obligation.

2 DURATION

- 2.1 This Agreement commences on the Commencement Date and continues until either the Source Code is released in accordance with this Agreement, or this Agreement is terminated under Clause 9.

3 APPOINTMENT OF ESCROW AGENT

- 3.1 The Escrow Agent is appointed jointly by the Principal and the Supplier to hold, retain and deal with the Source Code in accordance with the terms of this Escrow Agreement.

4 SUPPLIER'S OBLIGATIONS

- 4.1 The Supplier must deliver to the Escrow Agent one (1) copy of the Source Code, within [*seven (7) calendar days] of the date of this Escrow Agreement.
- 4.2 Within seven [*(7) calendar days] of the Supplier making any Upgrade or New Release in relation to the Software available to the Principal, the Supplier must deliver to and deposit with the Escrow Agent, one copy of the Source Code for that Upgrade or New Release or where appropriate, the Source Code for the whole of the Software including that Upgrade or New Release.
- 4.3 If the Source Code is lost, stolen, damaged or destroyed after delivery to the Escrow Agent the Supplier must deliver another copy of the Source Code as soon as practicable after notification of the loss, theft, damage or destruction.
- 4.4 All copies of Source Code delivered to and deposited with the Escrow Agent must be clearly labelled with the name of the Supplier, the name of the Principal, a description of the Source Code (for example where Source Code for an Upgrade only is delivered) and the date.

- 4.5 The Supplier warrants that all Source Code delivered to and deposited with the Escrow Agent will be free from any virus or device which would prevent it being used for the understanding, maintaining, modifying, correcting or enhancing of the Software, or which would prevent or impede a thorough and effective verification of the Source Code.
- 4.6 The Supplier further warrants that all Source Code delivered to and deposited with the Escrow Agent will be an accurate and complete expression of the Software (in its then current version) in human readable language.

5 ESCROW AGENT'S OBLIGATIONS

- 5.1 The Escrow Agent must accept delivery of the Source Code on the date of delivery and hold the Source Code in trust, on the terms and conditions of this Agreement.
- 5.2 The Escrow Agent must take all necessary steps to ensure the preservation, care, maintenance, safe custody and security of the Source Code while it is in the possession, custody or control of the Escrow Agent, including storage and in a secure receptacle and in an atmosphere which does not harm the Source Code.
- 5.3 The Escrow Agent must provide written confirmation to both the Supplier and the Principal of all items deposited and released pursuant to this Agreement.
- 5.4 If the Source Code is lost, stolen, destroyed or damaged while it is in the possession, custody or control of the Escrow Agent, the Escrow Agent must:
 - 5.4.1 immediately notify the Supplier and the Principal;
 - 5.4.2 at its own expense fully co-operate in the replacement of the lost, damaged or destroyed Source Code; and
 - 5.4.3 fully indemnify the Supplier and the Principal in respect of costs and expenses incurred as a result of such loss, damage or destruction.
- 5.5 The Escrow Agent is not obliged to determine the nature, completeness or accuracy of any Source Code lodged with it.

6 ESCROW FEE AND EXPENSES

- 6.1 The Principal must pay the Escrow Fee annually in advance, the first payment being due [*seven (7) calendar days] after the date of this Agreement and fees for subsequent years being due on each anniversary of the date of this Agreement.

7 TESTING AND VERIFICATION

- 7.1 The Principal may analyse and conduct such tests in relation to the Source Code as the Principal considers reasonably necessary, to verify that the Source Code deposited pursuant to this Agreement accords with the description of the Source Code in this Agreement or as represented by the Supplier.
- 7.2 The Principal may engage an independent assessor to undertake analysis and tests of the Source Code on the Principal's behalf.

- 7.3 The costs of the independent verification must be borne by the Principal, unless the verification demonstrates that the Source Code does not accord with its description in this Agreement or with the Supplier's representations, in which case the costs of the independent verification must be borne by the Supplier.
- 7.4 The Supplier consents to the release of the Source Code to the Principal or the Principal's agent for the purposes of testing and verification under this clause.

8 RELEASE OF THE SOURCE CODE

- 8.1 The Escrow Agent must not release, or allow access to, the Source Code except in accordance with the provisions of this Agreement.
- 8.2 The Escrow Agent must release the Source Code to the Principal not less than [*five (5) business days] and not later than [*ten (10) business days] after receipt of a written request signed by or on behalf of the Principal and accompanied by a Statutory Declaration by an officer of the Principal declaring that:
 - 14.5.1. the Principal has the right to terminate the Agreement for breach by the Supplier; or
 - 14.5.2. the Supplier has become or threatens to become or is in jeopardy of becoming subject to any form of insolvency administration; or
 - 14.5.3. the Supplier is unable or has failed to rectify a Defect in the Software in accordance with the Licence Agreement and that the Principal has elected to exercise its right to correct the Defect itself or through a third party.
- 8.3 The Principal must provide a copy of the written request and accompanying Statutory Declaration to the Supplier at the same time, and by the same method of delivery, as it is provided to the Escrow Agent.

9 TERMINATION

- 9.1 The Principal and the Supplier may jointly terminate this Agreement on [*thirty (30) calendar days] notice in writing to the Escrow Agent.
- 9.2 If this Agreement is terminated pursuant to this clause 9, the Escrow Agent must deal with the Source Code in accordance with written directions endorsed by both the Supplier and the Principal.
- 1.6. If this Agreement is terminated under this clause 9 and the effective date of termination is other than an anniversary of the date of this Agreement, the Escrow Agent must within [*thirty (30) calendar days] of the date of termination make a pro rata refund to the Principal of any Escrow Fees paid in advance.

10 CONFIDENTIALITY

- 10.1 No party may, except as permitted by this Escrow Agreement, make public or disclose to any person any information about this Escrow Agreement or the Source Code.
- 10.2 The Escrow Agent must not reproduce the Source Code or cause it to be reproduced unless the Escrow Agent reasonably believes that reproduction of the Source Code is necessary to carry out the Escrow

Agent's obligations under this Escrow Agreement.

- 10.3 The obligations under this clause shall survive the termination or expiry of this Escrow Agreement.

11 INSURANCE

- 11.1 The Escrow Agent must, to the extent specified in Appendix 1, be insured in respect of potential liability, loss or damage arising at common law or under any statute in respect of claims for property damage, personal injury, public liability and professional indemnity relevant to the performance of the Escrow Agent's obligations pursuant to this Agreement.
- 11.2 The Escrow Agent must produce evidence on demand, to the satisfaction of the licensee or licensor as the case may be, of the insurance effected and maintained in accordance with this clause.

12 INDEMNITY

- 12.1 The Escrow Agent releases and indemnifies the other Alliance Members, their servants and agents against all actions, claims and demands (including the cost of defending or settling any action, claim or demand) which may be instituted against either or both of the other Alliance Members arising out of a breach of this Agreement by the Escrow Agent or the negligence of the Escrow Agent, its agents, employees or sub-contractors or of any other person for whose acts or omissions the Escrow Agent is vicariously liable.
- 12.2 The Escrow Agent releases and indemnifies the other Alliance Members against any action, claim or demand by the Escrow Agent's servants, employees or agents or their personal representatives or dependants arising out of the performance of this Agreement.

13 COMPLIANCE WITH LAWS

- 13.1 The Escrow Agent must comply with the provisions of any relevant Statutes, Regulations, By-Laws and the requirements of any State or local authority in carrying out its obligations under this Agreement.

14 APPLICABLE LAW

- 14.1 This Agreement is governed by and must be construed in accordance with the laws from time to time in force in [*Country] and the Alliance Members agree that the courts of that State have jurisdiction to entertain any action in respect of or arising out of this Agreement.

15 VARIATION AND WAIVER

- 15.1 No variation of this Agreement is binding unless it is in writing and signed by all Alliance Members.
- 15.2 No right under this Agreement is waived or deemed to be waived except by notice in writing signed by the party having the benefit of that right.
- 15.3 A waiver by one party of a breach of a provision of this Agreement does not constitute a waiver in respect of any other breach of the same or any other provision of this Agreement.
- 15.4 No forbearance, delay or indulgence granted by one party to another will be construed as a waiver of the first party's rights under this Agreement.

16 ASSIGNMENT AND SUB-CONTRACT

- 16.1 Neither the Principal nor the Supplier may assign their rights under this Agreement without the prior written consent of the other.
- 16.2 The Escrow Agent may not assign its rights nor subcontract its obligations under this Agreement without the prior written consent of the Supplier and the Principal.

17 SEVERABILITY

- 17.1 If any provision of this Agreement is held invalid, unenforceable or illegal, the offending provision shall be severed from this Agreement and the remaining parts of this Agreement remain in full force and effect.

18 NOTICES

- 18.1 Notices must be in writing, signed by or on behalf of the party giving notice as set out in Appendix 1.

EXECUTED AS an agreement

[*INSERT APPROPRIATE FORMS OF EXECUTION]

APPENDIX 7

RADIOLOGICAL DAMAGE INDEMNITY

[*Legal name], whose headquarters are located at [*address] represented by [*representative's name and position] (hereinafter referred to as the “**Declarer**”) has been designated or recognized by [insert the competent public authority] as the operator of the [*brief description of the *Facility*] (hereinafter referred to as the “**Facility**”), hereby grants an indemnity regarding the *Radiological Damage* that may be caused by a *Radiological Incident* arising out of or in connection with the operation of the *Facility* to:

- [*A], represented for the signature of the *Framework Alliance Contract* by [*], with its seat at [*],
- [*B], represented for the signature of the *Framework Alliance Contract* by [*], with its seat at [*]; and

([*together] referred to as the “**Client**”)

- [*CAM 1], a company registered in [*] (company number [*]) whose registered office is at [*] (the “**CAM 1**”);
- [*CAM 2] a company registered in [*] (company number [*]) whose registered office is at [*] (the “**CAM 2**”);
- [*CAM 3] a company registered in [*] (company number [*]) whose registered office is at [*] (the “**CAM 3**”); and
- [*],

(the *CAM1*, the *CAM2*, the *CAM3* and [*] together referred to as the “**CAMs**” and each of them individually as the “**CAM**”)

(the *Client* and the *CAMs* will be referred to as the “*Beneficiaries*” and each of them individually as the “**Beneficiary**”).

The *Declarer*, the *Client* and the *CAMs* being *Alliance Members* to the *Framework Alliance Contract* for *Integrated Fusion Project Delivery* (ref. [*contract reference], hereinafter referred to as the “**Framework Alliance Contract**”).

The *Declarer* will indemnify and hold harmless the *Beneficiaries* for any claims for compensation filed by third *Alliance Members* against them under the following conditions:

1. Capitalised terms in this *Radiological Damage Indemnity* shall have the meaning given to them under the *Framework Alliance Contract*, unless otherwise defined in this *Radiological Damage Indemnity* and/or the context otherwise requires.
2. The *Declarer* is the *Operator* of the *Facility*, and for the purpose of this *Radiological Damage Indemnity*, shall be strictly and exclusively liable for *Radiological Damage* caused by a *Radiological Incident* arising out of or in connection with the operation of the *Facility* up to the amount of EUR 70,000,000.00 (seventy million).
3. The *Declarer* shall be exclusively liable for *Radiological Damage* or any other type of damage caused to the *Facility* itself and to any other installation used or to be used in connection with the *Facility* or fusion facility, including an installation or fusion facility under construction, on the site where the *Facility* is located.
4. The *Operator* will indemnify and hold harmless the *Beneficiaries*, any of their affiliates, directors, employees and with respect to these companies and its affiliates, any of their sub-suppliers of every

tier and kind, including licensors and suppliers of information and services (hereinafter referred to as “**Sub-suppliers**”) against any and all claims for *Radiological Damage* by third *Alliance Members*, including claims of insurers, when such *Radiological Damage* are caused by a *Radiological Incident* occurring at the *Facility* or involving *Radioactive Substances* coming from or going to the *Facility*, whether such claims are based on contract, tort, strict liability or otherwise. The *Operator* will be exempted from this obligation if the *Radiological Damage* caused by a *Radiological Incident* results from an act or omission of an individual done with intent to cause damage, in which case the *Operator* will have a right of recourse against such individual acting or omitting to act with such intent.

5. The *Declarer* represents that the insurers of the *Declarer*, if any, shall have no rights of recourse or rights of subrogation against the *Beneficiaries* and their *Sub-suppliers* for a *Radiological Damage* caused by a *Radiological Incident* at the *Facility*, except when the *Radiological Damage* is caused by a *Radiological Incident* that results from an act or omission done by an individual with intent to cause damage.

The provisions of this *Radiological Damage* Indemnity shall:

- apply to any *Radiological Damage* caused by a *Radiological Incident* occurring at the *Facility* or during the carriage of *Radioactive Substances* from coming or going to the *Facility*;
- be in effect for as long as the *Facility* is in operation and thereafter until all *Radioactive Substance* has been removed from the site of the *Facility*; and
- be unaffected by any completion, termination or cancellation of the *Framework Alliance Contract* or any part hereof and shall apply notwithstanding any other provisions of the *Framework Alliance Contract*.

Signed in [*number of copies] copies in English.

Signature:

Date:

Place:

Framework Brief

forming part of Model Conditions of Collaborative Contract for Integrated Fusion Project Delivery

The ***Framework Brief*** is setting out the *Client's* technical, management and commercial requirements including the required approach to design, *Supply Chain* engagement, costing, *Risk Management* and programming and all other relevant procedures and expected outcomes and where appropriate the required approach to *BIM*.

Drafting Note: Below template to be populated with applicable information. It shall be adapted and aligned with the particular needs of the specific Project or Projects comprising the Framework Programme.

The Framework Brief is a document prepared by the Client. It sets out the project deliverables to be achieved by the Alliance and the success criteria by which it will ultimately be judged. This is crucial for establishing what is meant by “Best-for-Project”.

Part I: Framework Programme

1 Scope and value for money

1.1 Framework Programme divided into Projects

- 1.1.1 [*Provide a full description of the *Framework Programme*, i.e. the scope of design services and construction *Works*, divided into *Projects*]

1.2 Benchmarking the performance of the Alliance Members

- 1.2.1 It is the fundamental obligation of the *Alliance Members* to demonstrate, ensure and deliver value for money in performing the *Works*. To demonstrate that value for money outcomes are and will be achieved, the *Client* may benchmark the performance of each *Alliance Member* against the performance of other entities delivering other works or projects similar to the *Projects*.
- 1.2.2 [*How will the establishment of the *Target Cost* and then ongoing delivery of the *Framework Programme* be benchmarked? Describe the proposed approach to benchmarking]
- 1.2.3 Details are set out in the *Framework Alliance Agreement* Schedule 7.

2 *Framework Programme* risks and Risk Management

2.2 Key Framework Programme risks

- 2.2.1 [*Describe the key *Framework Programme* risks]

2.3 Community, stakeholders and environmental risks

- 2.3.1 [*Outline key community, stakeholders and environmental risks and obligations, and how these risks will be managed.]

2.4 Key external risks

- 2.4.1 [*Identify and describe any external risks to the *Framework Programme*, and how these risks

will be managed.]

2.5 Project timelines

2.5.1 [*Provide an outline of the proposed timeframe for the *Framework Programme* (including any key *Framework Programme* milestones, gateways and interfaces), and describe the applicable time commitments for the *Client* and the other *Alliance Members*.]

2.5.2 Details are set out in the *Framework Alliance Agreement* Schedule 3.

2.6 Critical interfaces

2.6.1 [*Identify any external conditions and/or timelines that are critical for the success of the Alliance Framework Programme.]

2.6.2 Critical interfaces are set out in the *Timetable* at *Framework Alliance Agreement* Schedule 2.

3 *Success Measures*

3.2 Success Measures for the Framework Programme;

3.2.1 [*Provide a brief summary of the *Client's* critical outcomes that will determine judgements of success or failure of the *Framework Programme*]

3.2.2 *Success Measures* and *Targets* for the *Framework Programme* and the *Alliance* are set out in *Framework Alliance Agreement* Schedule 7.

Part II: The Client's Standards and Requirements

4 **Client's requirements**

Drafting Note: The below requirements shall include, amongst others, requirements related to *Budget* and *Timetable*, as are referred to in clause 4.7 of the *Contract Conditions*.

4.2 Requirements for each of the stages of the design of the Framework Programme:

4.2.1 Stage 1: design consolidation;

[*requirements]

4.2.2 Stage 2: value engineering;

[*Preliminary value engineering and systems engineering feasibility studies completed by all relevant supply chain entities that incorporates: key constraints, design/delivery risk, interface points, long lead items, preliminary construction sequence, logistic constraints, etc. for which the detail design process needs to consider. Early preconstruction sequencing and commissioning plan. Acceptance of integrated engineering process by all relevant entities.]

4.2.3 Stage 3: preliminary design;

[*requirements]

4.2.4 Stage 4: detailed design;

[*Detail design complete]

4.2.5 Stage 5: construction/manufacturing design;

[*Construction sequence agreed, key construction method statements agreed and approved, commissioning strategy agreed (factory acceptance test, system test, facility handover), detailed construction proposal (cost and schedule) submitted]

4.2.6 Stage 6: *Projects Proposal*

The *Projects Proposal* shall be in compliance with all the requirements of the *Framework Brief*. The scope of the *Projects Proposal* is defined in clause 5.1 of the *Contract Terms*.

4.2.7 Only when the design performed in the given stage has been approved by the *Client*, the following design stage shall commence.

4.3 Sections

4.3.1 Division of the *Projects* comprising the *Framework Programme* into Sections. (Providing that, for the avoidance of doubt, the *Alliance Members* are responsible for determining and including within the relevant *Sections* in the *Projects Proposal* the extent and nature of all services and/or work required to deliver that *Section*, and the *Client* is not responsible for any error or omission in such summary.)

4.3.2 Requirements for completion of *Sections*

4.3.2.1 A *Section* identified in the *Projects Proposal* shall meet the following requirements
[*requirements]

4.4 Criteria for the evaluation of the *Projects Proposal* by the *Client*

4.4.1 The *Client* shall review and evaluate the *Projects Proposal* against the following evaluation criteria
[*requirements]

4.5 Requirements for tests on Plant, Materials, and workmanship and tests on completion

4.5.1 [*requirements]

4.6 Requirements relating to health, safety, environment and governance

4.6.1 Accident frequency reports and safety statistics

4.6.2 [*requirements]

4.7 Requirements for preparation, control, submission and storage of documents

4.7.1 [*requirements]

4.8 Requirements for consultations

4.8.1 [*requirements]

5 **Quality**

5.2 Quality metrics

5.2.1 [*Describe the expected regime for measuring the quality of the Works performed by the CAMs, to be further detailed in Schedule 7 of the *Contract Terms*.]

6 **Standards and regulations**

6.2 Applicable organisational specific standards

6.2.1 [*Identify any relevant organisational specific standards that the *Client* expect will apply to the *Projects* comprising the *Framework Programme* (e.g. established technical specifications or design standards for network integration or whole-of-life outcomes; travel costs, accommodation, and the *Client's* procurement policy)]

6.3 Applicable (regulatory) technical and engineering standards

6.3.1 [*Identify any relevant construction standards that the *Client* expect will apply to the design and construction of the *Project* or *Projects* comprising the *Framework Programme*]

6.4 Outside business-as-usual standards

6.4.1 [*Identify any *Project* specific requirements that are outside the *Client's* business-as-usual standards or practices]

6.5 Compliance with laws

6.5.1 [*insert any specific requirements]

6.6 Protection Important Components

6.6.1 [*insert any specific requirements]

6.7 BIM standards, procedures and requirements

6.7.1 [*insert any specific requirements]

6.8 Any other Project Management standards and procedures

6.8.1 [*insert any specific requirements]

7 Reports, records, access and audit

7.2 Progress reports

7.2.1 [*Describe the expected processes and audiences for reporting on the progress of the *Alliance*, including the content of the= Status Reports to be submitted by the *Alliance Manager* to the *Core Group*]

7.3 Progressive information required from the *Alliance Members*

7.3.1 [*Identify the inputs required from the *Alliance Members* in relation to reporting, including how the provision of such inputs will be managed (e.g. timing)]

7.4 Cost control and recording

7.4.1 [*insert]

7.5 Minimum scope of audit by the Alliance Auditor

7.5.1 [*insert]

8 Professional services

8.2 The *Client's* independent consultants

8.2.1 [*Where relevant, identify the professional services to be engaged by the *Client* in relation to its management of the *Alliance*]

8.3 The Alliance's engagement of professional services

8.3.1 [*Identify and describe the *Client's* preferences and any procurement requirements related to the *Alliance's* engagement of professional services]

Framework Prices

forming part of Model Conditions of Collaborative Contract for Integrated Fusion Project Delivery

The FAC-1 ***Framework Prices*** comprise the documents forming part of the *Framework Alliance Contract* describing the prices of each *Contractor Alliance Member* in response to the *Framework Brief*.

Drafting Note: The Framework Prices shall be adapted and aligned with the particular needs of the specific Project.

Section A. Project Budget

1. The *Client's Project Budget*

[*Breakdown of direct/indirect costs, contingencies, escalations, *Contractor Alliance Member* fee, etc.]

2. Developing the *Target Cost*

[*Outline the anticipated process for development, verification and approval of the *Target Cost*]

3. Independent verification of ongoing Project(s)' costs

[*Describe how *Project* scope and costs will be reviewed, verified and managed during the *Alliance* term. Note: If an independent estimator will be engaged, explain the scope of the independent estimator's role]

Section B. Actual Cost

Drafting Note: The Schedule shall be adapted and aligned with the particular needs of the specific Project(s)

1 Definition of *Actual Cost*

- 1.1 Subject to specific exclusions contained in the *Framework Alliance Contract*, all costs which are reasonably and actually incurred by the *Alliance Members* in connection with the *Design Phase* of the *Framework Programme* (excluding any corporate overhead component not specific to the *Works* and any profit or mark up of any kind) will be recoverable by the *Contractor Alliance Members*, subject to and in accordance with this Section B.
- 1.2 For the avoidance of doubt, the *CAMs* shall be paid for the performance of *Works* during the *Construction Phase* based on relevant *Project Contracts* and this Section B shall be applicable for payments under the *Project Contracts* only if it is decided so under the relevant *Project Contract*.

2 Exclusion of overheads and profit from *Actual Cost*

- 2.1 It is a fundamental underlying principle of the *Framework Alliance Contract* that, except for the *Overheads* and *Profit*, no *Alliance Member* will derive any mark up, overhead, profit or unreasonable advantage from the utilisation of their resources for any works or services or supplies forming part of any *Project* (together the ‘*Works*’). Therefore, apart from the agreed *Overheads* and *Profit* arrangements, the *Alliance Members* will not gain further additional returns from applying additional mark ups to *Actual Cost*, inter- company transfers, or hidden profit or overhead allowances contained in the schedule of tendered rates. Only *Actual Cost* will be paid (and such a payment may be modified subject to the audit outcome).

3 Allocation of cost elements

- 3.1 Tables A to I at Annex 1 to these *Framework Prices* (“*Cost Element Allocation Tables*”) allocate various cost elements between *Actual Cost*, *Overheads* or *Profit*.

4 The *Core Group* may determine *Actual Cost*

- 4.1 The *Core Group* may determine that any cost should be an *Actual Cost*.

5 Exclusions from *Actual Cost*

- 5.1 The following costs incurred by the *Alliance Members* will not be *Actual Cost* (and to the extent that they have previously been recognised as *Actual Cost* will be credited against *Actual Cost*):
 - 5.1.1 any costs incurred by an *Alliance Member* in performing any *Works* which are not directly referable to the *Framework Brief*, the *Projects Proposal*, the scope of a *Programme* and the assumptions adopted by the *Alliance Members* in developing the *Target Cost* or which do not otherwise form part of the *Works*;
 - 5.1.2 any legal costs incurred by an *Alliance Member* in defending any prosecution or claim brought against an *Alliance Member* by a relevant authority by reason of an alleged breach of any law, except where the *Core Group* determines otherwise by notice in writing to the other *Alliance Members*, having regard to the nature of the breach and the effect of the breach on the *Project*, the *Works* and the *Client*;
 - 5.1.3 any costs, liabilities or payments incurred or made by an *Alliance Member* in indemnifying another *Alliance Member* in accordance with the *Framework Alliance Contract*;
 - 5.1.4 any costs, liabilities or payments incurred by an *Alliance Member* in defending or prosecuting lawsuits for claims (including payment of judgments, awards, orders, damages, restitution,

- compensation or interest) by or against another *Alliance Member* in accordance with the *Framework Alliance Contract*;
- 5.1.5 any costs incurred by an *Alliance Member* in providing insurance to supplement the insurances referred to in the *Framework Alliance Contract*;
- 5.1.6 any and all costs, losses, damages and expenses suffered or incurred by the *Defaulting Alliance Member* arising out of or in connection with a *Default* and/or exclusion and/or termination under the *Framework Alliance Contract*;
- 5.1.7 any corporate or personal income tax or capital gains tax imposed on an *Alliance Member*;
- 5.1.8 VAT, unless *CAM* provides evidence that they will not be able to recover that VAT through any legitimate means;
- 5.1.9 any penalties or fines in respect of the payment of any fees, charges, duties royalties, licences and statutory charges of any kind imposed with respect to the *Works*;
- 5.1.10 any cost or expense incurred by an *Alliance Member* prior to the date of the *Framework Alliance Contract*, including:
- 5.1.11 tendering, proposal or submission costs; or
- formulation and execution of the *Framework Alliance Contract*;
 - any costs incurred by a *Contractor Alliance Member*, or to be incurred by a *Contractor Alliance Member*, which were excluded from Actual Cost as part of any *Projects Proposal*; and
- 5.1.12 any costs incurred by an *Alliance Member*, or to be incurred by an *Alliance Member*, specifically excluded under the *Framework Alliance Contract* as being Actual Cost.

Annex 1**Cost Element Allocation Tables**

Table A Contractor Alliance Member's general / overhead and home office* costs			
Ref	Cost element	Cost category	
		Actual Cost	Overhead
A.	Head office and corporate overhead costs	-	X
B.	Divisional overhead costs of any type within the same legal entity	-	X
C.	Franchises, royalties, licences	-	X
D.	Taxes	-	X
E.	Interest, financing charges, banking charges	-	X
F.	Company accounting / auditing	-	X
G.	Research and development	-	X
H.	Any costs incurred by an Alliance Member in providing insurance to supplement the insurances referred to in the Framework Alliance Contract or Project Contract(s)	-	X
I.	Home office* stationery	-	X
J.	Marketing, sales, exhibitions	-	X
K.	General fees paid on a regular basis (excluding project specific general fees instructed by the Client)	-	X
L.	Legal advice, fees and services (excluding project specific advice, fees and services instructed by the Core Group)	-	X
M.	Advertising including agency fees and publication costs	-	X
N.	Home office* management, technical, administration and service staff and non-project-specific staff including HR, finance, commercial, accounts, purchasing, HSQE and IT	-	X
O.	All home office* accommodation costs including all services, administration, maintenance, furniture, equipment, rent, rates, taxes, telephone, fax, reprographics, couriers, postage	-	X
Q.	Company cars, where not allocated directly to project specific staff, including all costs and expenses (except for expenses pre-authorised by the Core Group)	-	X
P.	Home office* computer hardware and software systems	-	X
R.	Head office recruitment both staff and agency costs and redundancy	-	X
S.	Tendering costs (except where expressly permitted under the Framework Alliance Contract or approved beforehand by the Core Group)	-	X
T.	Charitable donations and entertaining unless approved beforehand by the Core Group	-	X
U.	Training	-	X
V.	Bank guarantee	-	X
W.	Trade bodies and professional fees	-	X

* Home office means any office where the Alliance Member operates its business from that is not a Working Premises. It includes the Alliance Member's main office as well as any regional or subsidiary offices.

Table B Designated project specific** Contractor Alliance Member's employed staff – Including AMT members			
Ref	Cost element	Cost category	
		Actual Cost	Overhead
A.	Contractor Alliance Member's staff who are carrying out work for the Programme and those detailed on the staff organogram (and approved by the Core Group)	X	-
B.	Secretarial/clerical personnel as detailed on the staff organogram (and approved by the Core Group)	X	-
C.	Staff payroll burden consisting of: <ul style="list-style-type: none"> i. actual salaries and other emoluments including contractual bonuses (excluding bonuses related to the profitability of the Non-Client Alliance Member's business) ii. pre-authorised overtime, weekend or bank holiday allowances and sick pay iii. subsistence and lodging allowances including location allowances iv. fares, daily travelling allowances, car and fuel allowances and expenses v. private medical, permanent health and life insurance as per the personnel's contract of employment vi. employer's contributions to approved pension schemes (excluding special pension contributions that the employer may have to make to the pension fund to make up any shortfall) vii. employer's national insurance contributions viii. project specific** training inclusive of time spent and course fees, subject to prior authorisation by the Core Group 	X	-
D.	All costs for company cars for project specific** staff (where allocated directly to staff) including motor vehicle insurance, tax, depreciation, maintenance and non-recoverable VAT. Fuel to be reimbursed in accordance with the conditions of employment for individual members of the Contractor Alliance Member's project specific** staff	X	-
E.	Staff employee benefits	X	-
F.	Travel, accommodation and subsistence costs for site and non-site based personnel, to site and other authorised project specific** destinations, subject to the cost and other limits set out in the Contractor Alliance Member's expenses policy	X	-
G.	Maternity payments (and any other similar payments to persons arising from any statutory re-enactment or modification or new legislation made or effective after the effective date) in excess of statutory payments where the recipient has been engaged on the Works for a reasonable period of time	X	-
H.	Statutory maternity payments (and any other similar payments to persons arising from any statutory re-enactment or modification or new legislation made or effective after the effective date) where the recipient has been engaged on the Works for a reasonable period of time	X	-
I.	Maternity or paternity support pay (and any other similar payments to persons arising from any statutory re-enactment or modification or new legislation made or effective after the commencement date) of up to 2 weeks full pay where the recipient has been engaged on the Works for a reasonable period of time	X	-
J.	Long term sickness payments up to 3 months' pay where the recipient has been engaged on the Works for a reasonable period of time	-	X
Table B Designated project specific** Contractor Alliance Member's employed staff – Including AMT members			
Ref	Cost element	Cost category	

		Actual Cost	Overhead
K.	Long term sickness payments in excess of 3 months' pay (unless approved by the Core Group as Actual Cost)	X	-
L.	Recruitment payments relating to work on the Works and approved by the Core Group	X	-
M.	Redundancy where the recipient has been engaged on the Works for a reasonable period of time and approved by the Core Group (no full redundancy cost of individuals will be paid but only a proportion of the employees' time engaged on the Works)	X	-

** Project specific means staff members who carry out work of any description for the Programme with the prior approval of the Core Group, excluding staff who fall within the definition of home office staff. No distinction shall be made between staff working for different divisions within the same legal entity.

Table C Contractor Alliance Member's site labour			
Ref	Cost element	Cost category	
		Actual Cost	Overhead
A.	Labour costs burden consisting of: i. Workpeople's total earnings, including pre- authorised overtime and including contractual bonuses (excluding bonuses related to the profitability of the Contractor Alliance Member's business) ii. Payments in respect of public holidays and pre-authorised periodic leave iii. Sickness or injury payments iv. Pre-authorised bonus or incentive payments (excluding bonuses related to the profitability of the Contractor Alliance Member's business) v. Employer's contributions to annual holiday credits, pensions, death benefit and other welfare schemes (excluding special pension contributions that the Contractor Alliance Members (as employer) may have to make to the pension fund to make up any shortfall) vi. Employer's national insurance contributions vii. Fares, daily allowances, transportation allowances or pre-authorised accommodation allowances (not relocation allowances) viii. Tool allowances (paid to employee?) ix. Medical examinations where approved by the AMT x. Protective clothing xi. Project specific** training inclusive of time spent and course fees, subject to prior authorisation by the Core Group	X	-
B.	Labour only subcontract	X	-
C.	Redundancy where the recipient has been engaged on the Works for a reasonable period of time and approved by the Core Group	X	-

Table D Contractor Alliance Member's site establishment and site charges (Contractor Alliance Member's equipment)			
Ref	Cost element	Cost category	
		Actual Cost	Overhead
A.	Offices stores and workshops etc.	X*	-
B.	Partitioning, racking and fitting out	X*	-
C.	Temporary foundations and services	X*	-
D.	Installation and running costs of utilities including water, gas, electricity and other services	X*	-
E.	Documentation, printing, photocopying and consumables	X*	-
F.	Computer hardware and software systems	X*	-
G.	Cleaning and maintenance	X*	-
H.	Safety requirements including first aid, clothing, training, protection systems, inspecting and all other measures required to satisfy current legislation	X*	-
I.	Telephones, mobile phones, site communication systems, fax	X*	-
J.	Security and CCTV	X*	-
K.	Consumables, tea, coffee, paper and the like	X*	-
L.	Furniture, fixtures, fittings and equipment	X*	-
M.	Stationery, postage, courier services and the like	X*	-
N.	Photography	X*	-
O.	Temporary roads and hard-standings	X*	-
P.	Temporary fencing, hoarding and security	X*	-
Q.	Petty cash	X*	-
R.	Welfare facilities, canteens, drying and messing rooms as may be required including maintenance	X*	-
S.	Road-sweeping, waste disposal	X*	-
T.	Technical equipment for surveying and testing etc.	X*	-
U.	Rent (including other lease costs incurred by virtue of a property lease approved by the Core Group), rates, taxes, and other local authority and statutory charges.	X*	-
V.	Any other related site establishment and site charges not included in the above (to be listed by the AMT)	X*	-

X* May be charged at agreed quoted rates subject to approval by the Core Group.

Table E Other Contractor Alliance Member's machinery equipment and plant			
Ref	Cost element	Cost category	
		Actual Cost	Overhead
A.	Plant purchased for incorporation within the Works	X	-
B.	Machinery, tools, consumables and equipment required for the design, installation, testing, commissioning and management of the Works, either purchased, hired or leased (including track installation and tamping plant; cranes; wheeled and tracked machinery; engineering trains; locomotives and wagons)	X	-
C.	Own 'internal' Contractor Alliance Member's machinery equipment and plant. Where the equipment is purchased specifically for use by the Non- Client Alliance Member to execute the Works, the cost is the purchase price or the first cost if the Contractor Alliance Member assembled, fabricated or otherwise produced the item of equipment. The cost is credited with residual values, as actually realised or if not, as approved by the Core Group after that equipment is no longer required by the Non- Client Alliance Member to execute the Works. Where the equipment is hired by the Contractor Alliance Member from an affiliate undertaking, the costs should be at reasonable market hire rates approved by the Core Group. Where the equipment is owned by the Contractor Alliance Member but not purchased specifically for use by the Contractor Alliance Member to execute the Works, the costs should be at reasonable market hire rates approved by the Core Group	X	-
D.	Hired 'external' Contractor Alliance Member's machinery equipment and plant	X	-
E.	Transportation, erection and dismantling, fuels oils and other consumables for Alliance Member's own and hired Contractor Alliance Member's machinery equipment and plant	X	-
F.	Spare parts, tax, maintenance and insurance for Contractor Alliance Member's own and hired machinery equipment and plant	X	-
G.	Site transport (if specified)	X	-

Table F Materials			
Ref	Cost element	Cost category	
		Actual Cost	Overhead
A.	Materials for incorporation as part of the Works including transportation of materials and insurance whilst in storage and transit. Also included is the cost of samples and tests and providing and removing packaging. The cost is credited with payments received for the disposal of materials and return packaging	X	-
B.	Subcontractor's materials	X	-
C.	Materials for temporary works including formwork, earthwork support etc.	X	-

Table G Miscellaneous			
Ref	Cost element	Cost category	
		Actual Cost	Overhead
A.	Small tools (picks, shovels, barrows, buckets and similar non-mechanical tools, including small portable power tools)	X	-
B.	Tipping, including all taxes and charges, haulage	X	-
C.	The cost of scrap recovery where undertaken by the Contractor Alliance Member shall be credited with the payments received for scrap sold or held by the Contractor Alliance Member	X	-
D.	Consumables (e.g. welding rods, oxyacetylene, protective clothing etc.)	X	-
E.	Project expenses, (except where incurred for the furtherance or promotion of the individual Contractor Alliance Member's business or other interests outside the Alliance), either purchased, rented, leased, or hired and approved by the Core Group	X	-
F.	Team building events and other special team functions approved by the Core Group	X	-
G.	Manufactured products and goods at the lowest discounted market price current at the date of their supply. The cost is credited with payments received for the disposal of materials and return packaging	X	-
H.	Cost of employing the Independent Advisor in accordance with the Framework Alliance Contract	X	-
I.	Customs' Duties	X	-
J.	Exchange rate related costs	X	-

Table H Costs payable to the Contractor Alliance Members for Subcontractors (including consultants, agency staff and specialists)			
Ref	Cost element	Cost category	
		Actual Cost	Overhead
A.	Design supply and construct	X	-
B.	Supply and construct	X	-
C.	Construct only	X	-

D.	Design only	X	-
E.	Supply only	X	-
F.	Labour only	X	-
G.	Implementation Works contracts	X	-
H.	Specialist contractors including legal advisors engaged for the purposes of making or defending a claim in connection with the Project against any supplier or Subcontractor and where specifically approved by the Core Group	X	-
I.	Consultants and agency staff ***	X	-

*** Consultants and agency staff means any person who is not engaged by the Alliance Member under a contract of employment

Table I Profit				
Ref	Cost element	Cost category		
		Profit	Actual Cost	Overhead
A.	Profit / return for the Contractor Alliance Member	X	-	-
B.	Loss of potential profit/return arising from the performance of the Works and the actual recovery of Actual Cost, overhead and profit in accordance with the Framework Alliance Contract being less than the amount the Contractor Alliance Member had anticipated or budgeted on recovering in respect of profit/return at the commencement date as result of the project, performance and business risks borne by the Non- Client Alliance Member under or in connection with the Framework Alliance Contract	X	-	-
C.	Loss of potential profit/return arising from the performance of the Works and the actual recovery of Actual Cost, overhead and profit in accordance with the Framework Alliance Contract being less than the amount the Contractor Alliance Member could had recovered had it been able to utilise all or part of the resources undertaking the Works to undertake other works or services in the market	X	-	-
D.	Bonuses paid to staff and labour which is related to the profitability of the Contractor Alliance Member's business	X	-	-

Section C. Fee

1. Overhead

The total *Overheads* payable by the *Client* under the *Design Phase* to:

- CAM 1 is [*insert percentage]% of the relevant CAM's Actual Cost payable under the *Design Phase*, but no more than:
 - (a) [*insert number] EUR for stage 1: design consolidation;
 - (b) [*insert number] EUR for stage 2: value engineering;
 - (c) [*insert number] EUR for stage 3: preliminary design;
 - (d) [*insert number] EUR for stage 4: detailed design; and
 - (e) [*insert number] EUR for stage 5: construction/manufacturing design;
- CAM 2 is [*insert percentage]% of the relevant CAM's Actual Cost payable under the *Design Phase*, but no more than:
 - (a) [*insert number] EUR for stage 1: design consolidation;
 - (b) [*insert number] EUR for stage 2: value engineering;
 - (c) [*insert number] EUR for stage 3: preliminary design;
 - (d) [*insert number] EUR for stage 4: detailed design; and
 - (e) [*insert number] EUR for stage 5: construction/manufacturing design;
- CAM 3 is [*insert percentage] of the relevant CAM's Actual Cost payable under the *Design Phase*, but no more than [*]

2. Profit

The total *Profit* payable by the *Client* under the *Design Phase* to:

- CAM 1 is [*insert percentage]% of the relevant CAM's Actual Cost payable under the *Design Phase*, but no more than:
 - (a) [*insert number] EUR for stage 1: design consolidation;
 - (b) [*insert number] EUR for stage 2: value engineering;
 - (c) [*insert number] EUR for stage 3: preliminary design;
 - (d) [*insert number] EUR for stage 4: detailed design; and
 - (e) [*insert number] EUR for stage 5: construction/manufacturing design;
- CAM 2 is [*insert percentage]% of the relevant CAM's Actual Cost payable under the *Design Phase*, but no more than:
 - (a) [*insert number] EUR for stage 1: design consolidation;
 - (b) [*insert number] EUR for stage 2: value engineering;
 - (c) [*insert number] EUR for stage 3: preliminary design;
 - (d) [*insert number] EUR for stage 4: detailed design; and
 - (e) [*insert number] EUR for stage 5: construction/manufacturing design;

- CAM 3 is [*insert percentage]% of the relevant CAM's Actual Cost payable under the *Design Phase*, but no more than [*].

3. Percentage and limit amounts

- a. The percentage figures specified above will apply for the duration of the *Design Phase* and will not be adjusted, split, modified or altered in any way for any reason or purpose.
- b. The limit amounts specified above may be adjusted only due to acknowledgement by the *Client* of a *Scope Variation* or otherwise agreed by the *Core Group*.

4. Payment Procedure

- a. The procedure for payment of *Overheads* and *Profit*, during the *Design Phase*, shall be in accordance with the clause 8 Payment.

5. Overhead is inclusive of corporate overheads

- a. The *Alliance Members* agree that *Overheads* are, unless agreed otherwise, inclusive of all corporate overhead costs.

6. Construction Phase

- a. The amounts payable by the *Client* to *CAMs* during the *Construction Phase* are calculated under the relevant *Project Contract*.

Section D. Target Price

1 Determination of Target Prices

- 1.1. The *Programme Target Price* shall be set out in the *Projects Proposal* and shall be the sum of the *Project Package Target Prices*.

2 Sufficiency of the Target Price

- 2.1 The *Alliance Members* shall use their best endeavours to:
 - 2.1.1 Have satisfied themselves as to the correctness and sufficiency of the *Programme Target Price*; and
 - 2.1.2 have based the *Programme Target Price* on the data, interpretations, necessary information, inspections, examinations and satisfaction as to all relevant matters and data relevant to the *Works*.
- 2.2 Unless otherwise stated in the *Framework Alliance Contract*, the *Programme Target Price* covers all the relevant *Alliance Members' Construction Phase* obligations under the *Framework Alliance Contract* and the relevant *Project Contracts* and all things necessary for the proper execution and completion of the *Programme* and the remedying of any *Defects*.
- 2.3 The *Alliance Members* shall use their best endeavours to obtain all information necessary for the *Works* and shall include in the *Programme Target Price* sufficient allowances for all risks, contingencies, local and national conditions, the *Laws*, customs, policies, practices, and other conditions affecting the *Works*.
- 2.4 Save to the extent otherwise specified in the *Framework Alliance Contract*, the *Programme Target Price* is inclusive of any applicable duties and taxes which may be payable in relation to the relevant *Alliance Members' obligations* under the *Framework Alliance Contract* and the relevant *Project Contracts*.
- 2.5 Subject to section 2.6 below and unless otherwise stated in the *Framework Alliance Contract* and subject to the total of the *Programme Target Price* of all *CAMs* covers all the *Alliance Members' obligations* under the *Construction Phase* of the *Framework Alliance Contract* and the *Project Contracts* and all things necessary for the proper certification, manufacturing, testing, installation, and commissioning of the *Project* or *Projects* comprising the *Framework Programme*, and the remedying of any *Defects*, and the provision of all related services.
- 2.6 The amounts payable under any *Project Contract* shall be subject to adjustment in accordance with the provisions of that *Project Contract* and shall be subject to any changes agreed by the *Alliance Members* in accordance with the *Framework Alliance Contract*.

Section E. Application for Payment

Drafting Note: This Section shall include the requirements and template for the application for payment by the Alliance Members.

Alliance Charter

forming part of Model Conditions of Collaborative Contract for Integrated Fusion Project Delivery

Drafting Note: Below template is an exemplary *Alliance Charter* only. The *Alliance Charter* should not be prescribed in advance, but it should be a declaration of the *Alliance Members'* values and principles that is agreed by them jointly as one of the early *Alliance Activities* after the *Framework Alliance Contract* is entered into.

The *Alliance* principles are:

- 1) all *Alliance Members* win, or all *Alliance Members* lose, based on achieved project outcomes;
- 2) *Alliance Members* aim to achieve at least *MCOS Performance* for each *Success Measure*;
- 3) *Alliance Members* have a peer relationship where each *Alliance Member* has an equal say in decisions of the *Core Group*;
- 4) subject to the terms of the *Framework Alliance Contract*, risks and responsibilities are shared and managed collectively by the *Alliance Members*, rather than allocated to individual *Alliance Members*;
- 5) disputes are avoided by adopting a no blame culture;
- 6) risks and rewards are shared among *Alliance Members*;
- 7) *Alliance Members* provide 'best-in-class' resources and make best efforts to maintain these resources on the *Project* during the *Design Phase* and the *Construction Phase*, if applicable;
- 8) *Alliance Members* act consistently according to these *Alliance Principles*;
- 9) *Alliance Members* are committed to developing a culture that promotes and drives collaboration, innovation and outstanding performance;
- 10) the *Alliance Members* empower the *Core Group* and the *AMT* to make decisions and take actions under the *Framework Alliance Contract*;
- 11) all financial and commercial transactions related to the *Project* or *Projects* comprising the *Framework Programme* are fully open book;
- 12) *Alliance Members* are committed to developing a 'communication culture' and being transparent in all of their dealings with each other;
- 13) *Alliance Members* share all information in accordance with the *Framework Alliance Contract* and do not hold back ideas;
- 14) communication between all *Alliance Members* is open, straight and honest so as to enable informed decision making;
- 15) each *Alliance Member* is committed to ensuring that each other *Alliance Member* understands any documentation prepared in respect of the *Project* or *Projects* comprising the *Framework Programme*;
- 16) ethical and responsible behaviour is required from the *Alliance Members* at all times;
- 17) learnings of the *Alliance Members* are identified and shared and capability is developed; and decisions are made, and processes and systems are adopted, on a *Best- For-Project* basis.

Alliance Manager Payment Terms

forming part of Model Conditions of Collaborative Contract for Integrated Fusion Project Delivery

Drafting Note: Alliance Manager Payment Terms shall be agreed confidentially between the Client, any Additional Clients and the Alliance Manager.

Projects Proposal

forming part of Model Conditions of Collaborative Contract for Integrated Fusion Project Delivery

Drafting Note: The *Projects Proposal* shall become a *Framework Document* once the *Construction Option* is exercised by the *Client*.

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